



VIOLATIONS OF KEY POPULATIONS RIGHTS IN **KYRGYZSTAN**

Evidence collected through the REAct tool during 2020

ABOUT REACT

REAct (Rights – Evidence – Action) is a tool, which was developed by the Frontline AIDS organization (Great Britain) for monitoring and response to human rights violations at the level of the communities.

In Eastern Europe and Central Asia region, REAct system is being implemented by the Alliance for Public Health in the framework of the regional project #SoS_project with The Global Fund to Fight AIDS, Tuberculosis and Malaria financial support.

REAct allows to document and respond to barriers related to human rights, access to services and HIV prevention and treatment.

REAct is being implemented in partnership with the «Partnership Network» Association and «Soros-Kyrgyzstan» Foundation in the framework of «Street Lawyers» projects that are implemented in the frames of the Global Fund / UNDP country grant and regional project «Sustainability of Services for Key populations in the Eastern Europe and Central Asia region» (2019 –2021). The cases are documented by 13 NGOs that participate in the project «Street Lawyers» and are located in different cities and regions of the country. The «Partnership Network» Association coordinates the system functioning, organizes advocacy events and training sessions. The «Soros-Kyrgyzstan» Foundation coordinates the work of the REActors, provides advocacy services to PLHIV and key populations in civil and criminal matters related to discrimination, analyzes registered cases and broadens awareness and competence of the REActors in the field of human rights. Furthermore, «Soros-Kyrgyzstan» Foundation is working with law enforcement bodies to raise awareness and commitment among the staff.



<https://react-aph.org/>

503

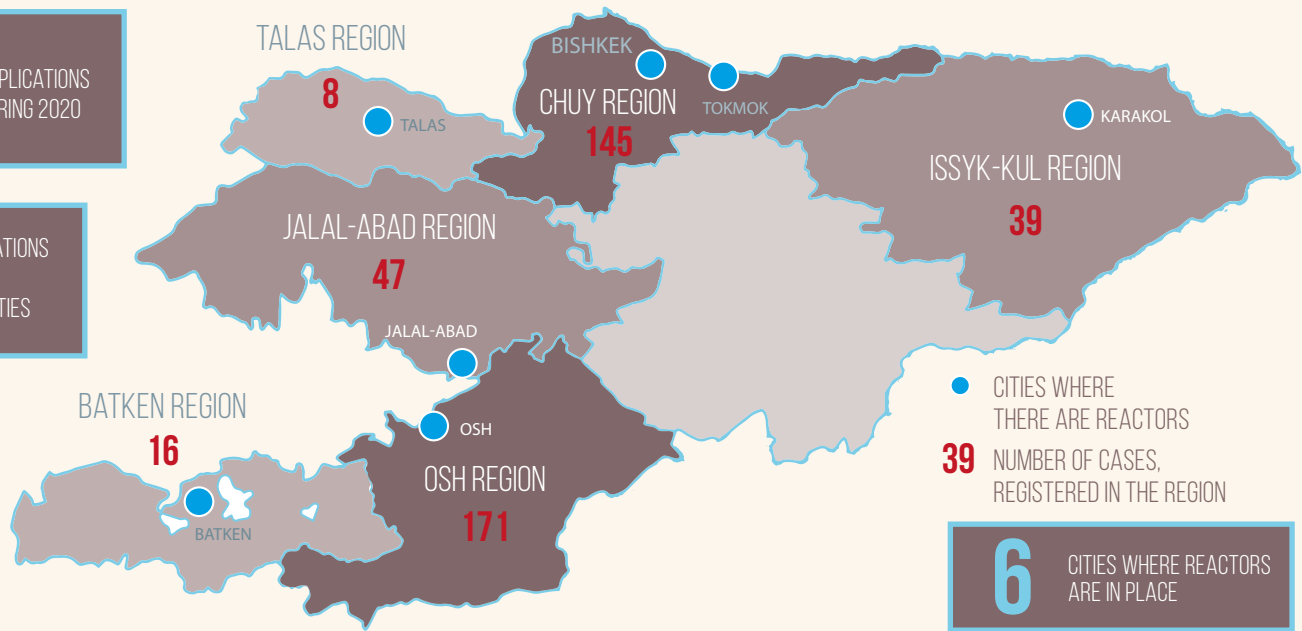
APPLICATIONS DURING 2020

13

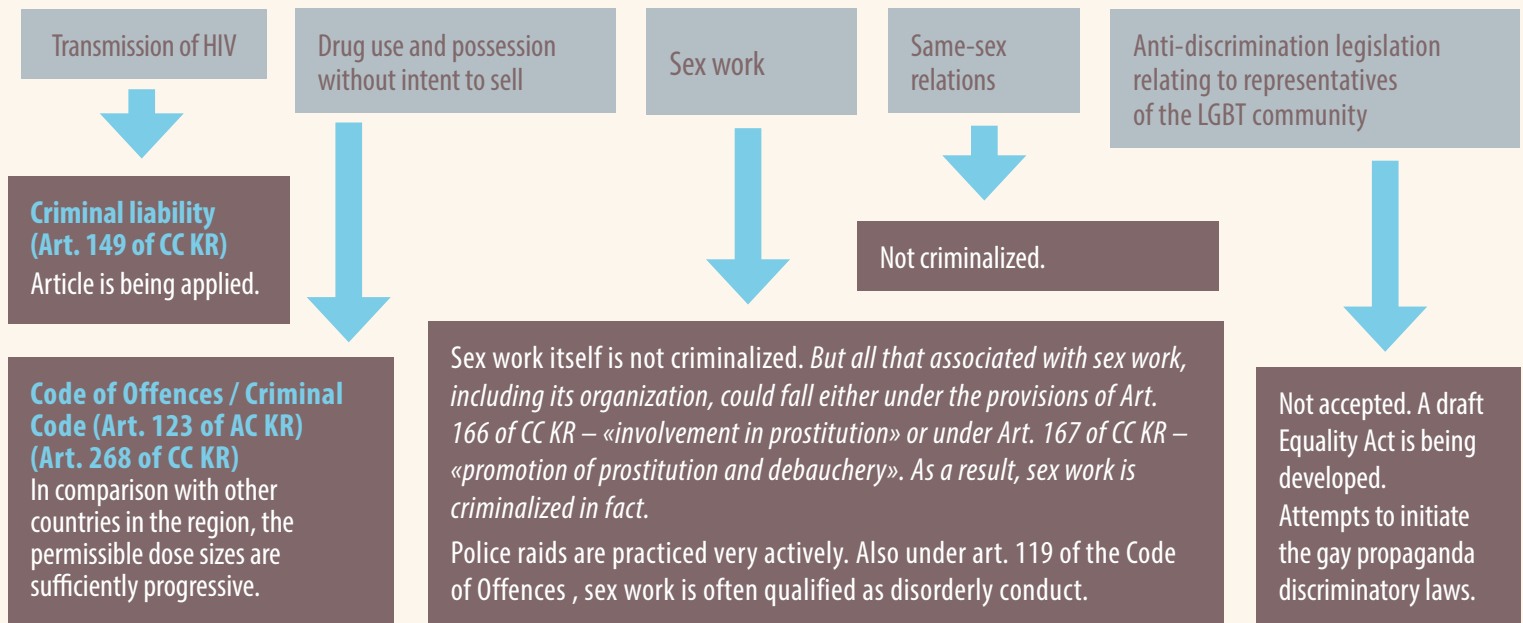
ORGANIZATIONS FROM COMMUNITIES

25

REACTORS (DOCUMENTATORS)



LEGAL ENVIRONMENT



Through the activism of civil society and the support of international donors, Kyrgyzstan became the first country in EECA region, in which all nine HIV prevention measures among people who inject drugs, including in custody, were formalized in legislation.¹ Also in Kyrgyzstan, there is no direct responsibility for sex work. Criminal and administrative drug control legislation's reforms are being held. In 2019, a new Criminal Code of the Kyrgyz Republic came into force, in which range of punitive measures for actions related to drugs without intent to sell, including fines, has been enlarged.

Kyrgyzstan has progressive Constitution that guarantees all fundamental human rights and freedoms, including the right to health and the right to be protected against discrimination.² Kyrgyzstan is the party to the principal international human rights treaties.³ In the meantime, in Kyrgyzstan the role of religious institutions has been increasing contrasted with weak institutions of State power.⁴ Community groups promoting «traditional» conservative values are developing particularly actively in Kyrgyzstan.⁵ This adversely affects the realization of human rights, especially for representatives of key populations, including women. In such circumstances, the police is mimicking the main part of the community and doesn't take any actions even when clear violations are committed in the presence of the police.

Taken in totality, these trends create unfavorable conditions for human rights realization in Kyrgyzstan. Law enforcement agencies, medical professionals and other representatives of official structures become less tolerant for representatives of key populations and less actively participate in the process of respecting, protecting and fulfilling the State's obligations in the field of human rights.

1 Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations, 2016 update. WHO/UNODC/UNAIDS. Online: <https://apps.who.int/iris/bitstream/handle/10665/246200/9789241511124-eng.pdf?sequence=8>

2 Constitution of the Kyrgyz Republic adopted by referendum (by a nation-wide vote) on June 27, 2010. Online: <http://cbd.minjust.gov.kg/act/view/ru-ru/202913>

3 Status of ratification of treaties international of Kyrgyzstan. Online: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=93&Lang=EN

4 Kyrgyzstan: fragility of the state and radicalization. Briefing of the Crisis Group on Europe and Central Asia No. 83. Osh/Bishkek/Brussels, 3 October 2016

5 2019 Country Reports on Human Rights Practices: Kyrgyz Republic. Bureau of Democracy, Human rights, and Labor. USA. Online: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/kyrgyzstan/>

CLIENTS

452

representatives of key populations sought the assistance of the REActors with regard to violations of their rights in 2020. One person might seek the assistance for several episodes, therefore more applications were registered – 503.

The largest number of clients was registered from among people who inject drugs. This is because the organizations involved in documenting of cases in REAct have a longer history of cooperation just with this key population. At the same time, occasionally, clients are simultaneously representatives of several key populations (sex worker + PLHIV, PLHIV + PWID), therefore the sum of values for key populations will exceed the total number of registered clients (452).

The clients from key populations («prisoners», «former prisoners», «people affected by tuberculosis», «people with disabilities») in 95% of cases are also PLHIV or representatives of the main 4 key vulnerable populations, therefore their cases are taken into account in statistics of main populations if violations relate specifically to HIV status, drug use, sex work or sexual orientation.

4 cases in which the victim is an HIV-positive child up to 16 years of age were registered. These cases concerned discriminatory treatment to a child in medical facility due to positive HIV status or reported barriers to access to ARV therapy during the quarantine restrictions on movement in March 2020.

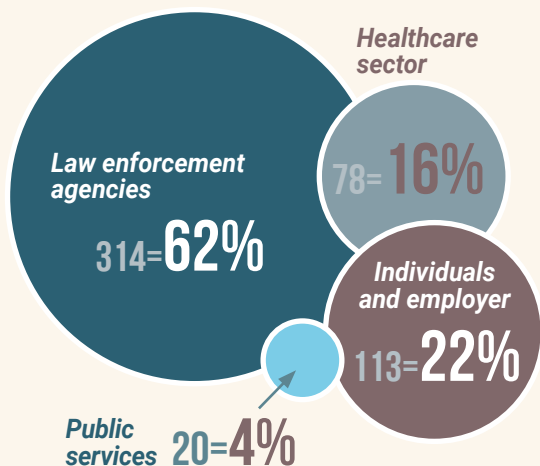
Among adolescents aged 16-18 years, one case of refusal of provision of health-care services to a patient was recorded. In the 19-35 age group women predominate (often sex workers), and in the 36-55 age group men predominate, and most often they are drug users.

ALL KEY POPULATIONS

MAIN PERPETRATORS

Number of cases and their proportion of all cases registered

NOTE: in one case, there may be several perpetrators and types of violations simultaneously, for example, domestic violence by a sexual partner and police inaction to the victim's application. That is why, in the diagram, the sum of all percentages exceeds 100%.



Individuals: sexual partner, family members, neighbors, clients of sex workers, employer, people walking along the street, unknowns.

Healthcare: doctors / institutions that specialize in HIV (infection disease doctors, laboratory staff), other doctor unrelated to HIV treatment (dentist, gynecologist, etc.), maternity hospital staff, in-patient departments personnel, narcologists and OST site staff.

Law enforcement agencies: criminal investigators, police officers, military commissariat employees, customs / migration service officers, representatives of the judicial system (judges, prosecutors, government attorneys).

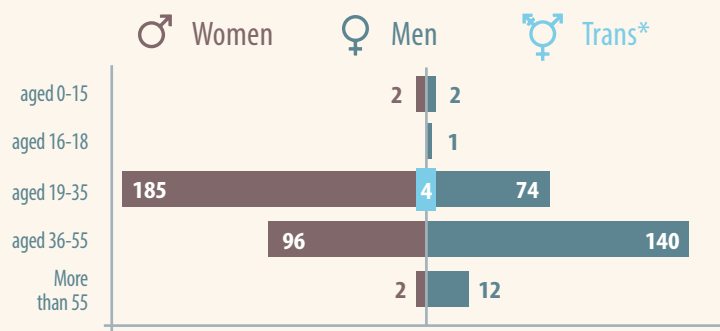
Public services: education sector, staff of the social services, tutorship and guardianship authorities.

NUMBER OF CLIENTS

For each key group

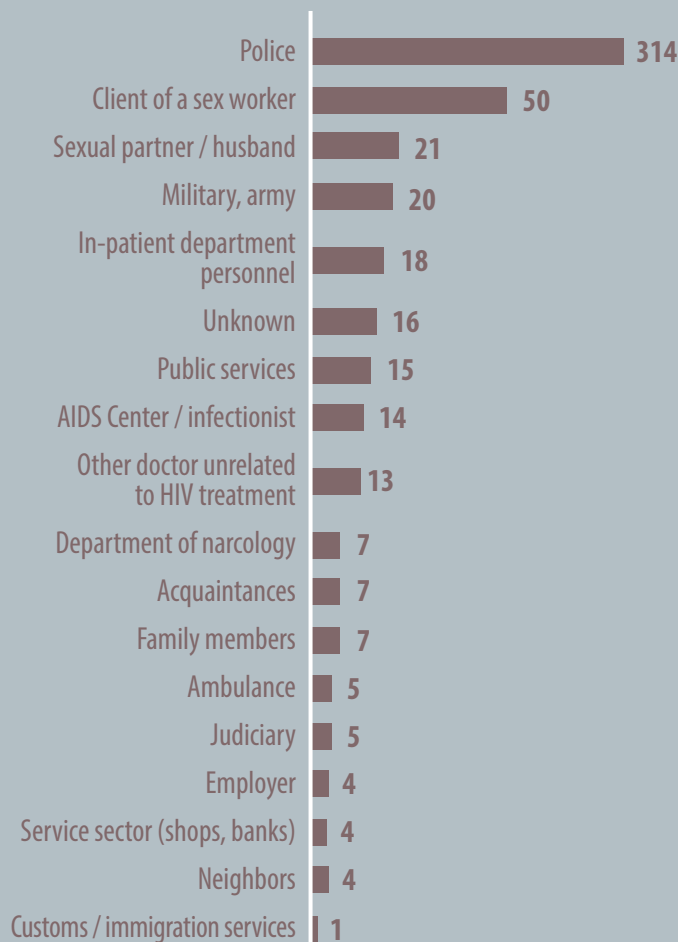


GENDER – AGE STRUCTURE



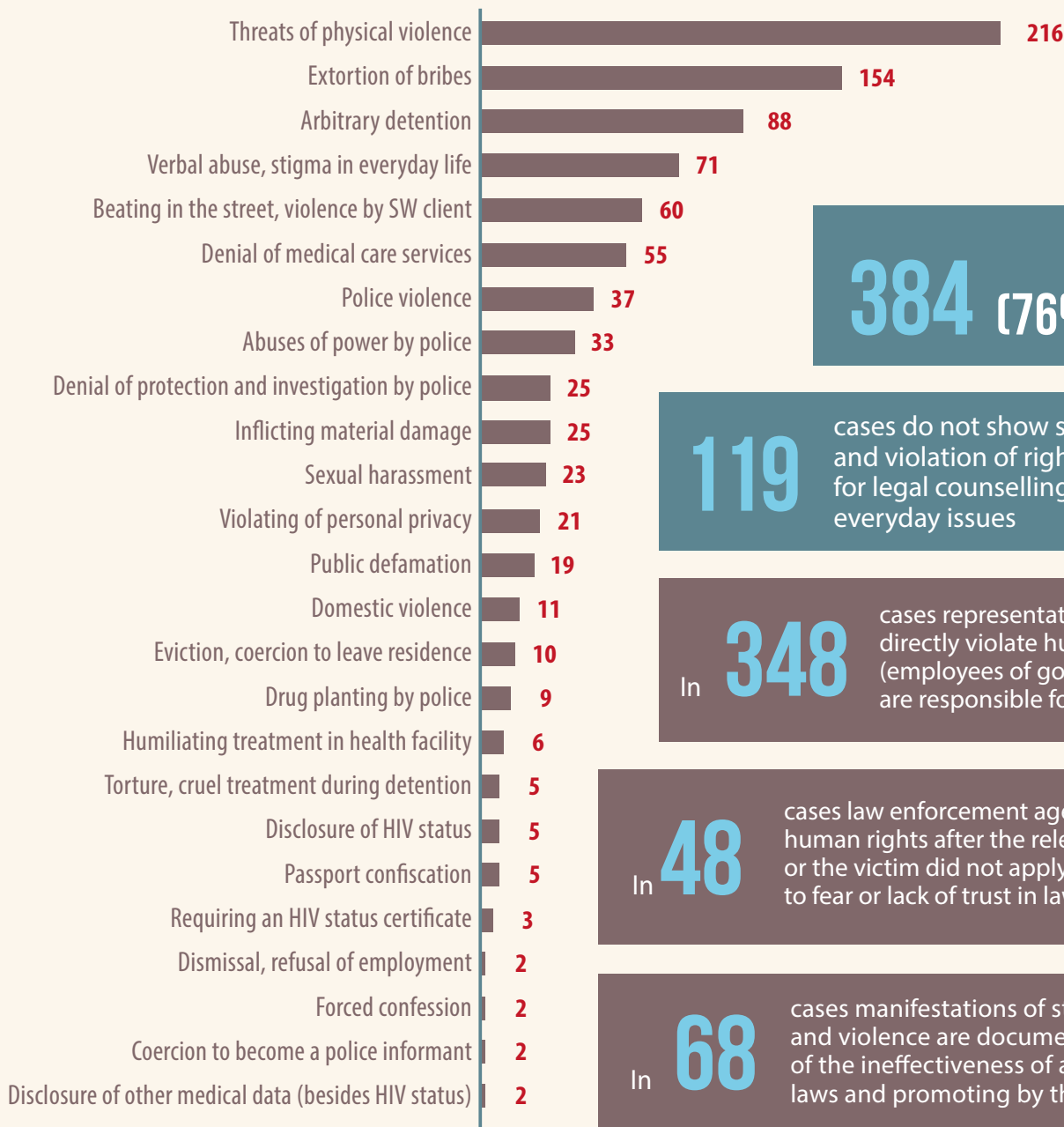
ALL PERPETRATORS OF VIOLATIONS

Number of registered cases by all key populations



ALL VIOLATIONS

Number of cases by all key populations



503

applications were registered during 2020

384 (76%)

applications were qualified as a violation of human rights

119

cases do not show signs of discrimination and violation of rights but fix the need for legal counselling of clients on everyday issues

In 348

cases representatives of the state directly violate human rights (employees of governmental institutions are responsible for incident)

In 48

cases law enforcement agencies failed to protect human rights after the relevant application or the victim did not apply for assistance due to fear or lack of trust in law enforcement bodies

In 68

cases manifestations of stigma, abuse and violence are documented as a result of the ineffectiveness of anti-discrimination laws and promoting by the state

PEOPLE LIVING WITH HIV

121 applications were registered, in which the victim is, among other things, a person living with HIV.

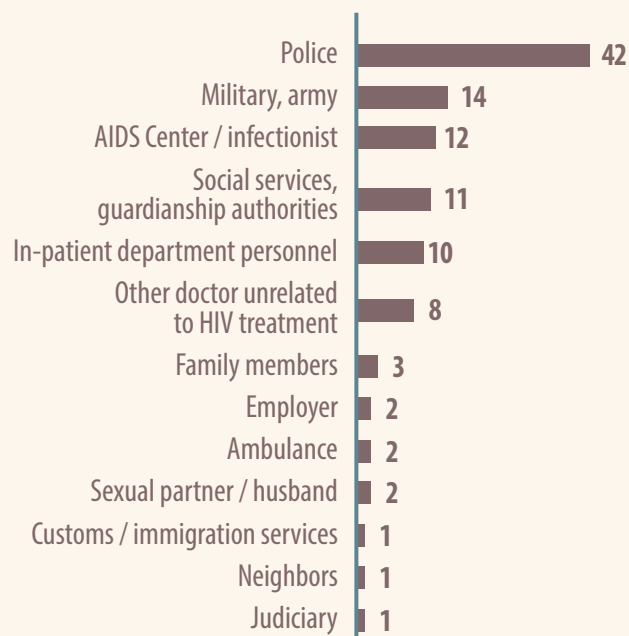
Some of the most evident manifestations of stigma and discrimination against PLHIV are **emphasized humiliating practices towards them by medical professionals, as well as refusal to provide health-care services**. REActors recorded such violations in most cases where the perpetrator is a representative of the health sector, including specialized medical facilities.

PLHIV are discriminated by wider community, in everyday life, when trying to obtain service in municipal institutions, when checking-in into social housing, in registration of tutorship.

In the context of anti-epidemic restrictions introduced in connection with the coronavirus, police officers received an additional argument to justify violations against PLHIV. On the one hand, the law-based restrictions on freedom of movement in connection with COVID-19 are excusing the police officers for controlling measures carried out in the interests of the entire community. On the other hand, police officers

PERPETRATOR OF VIOLATIONS

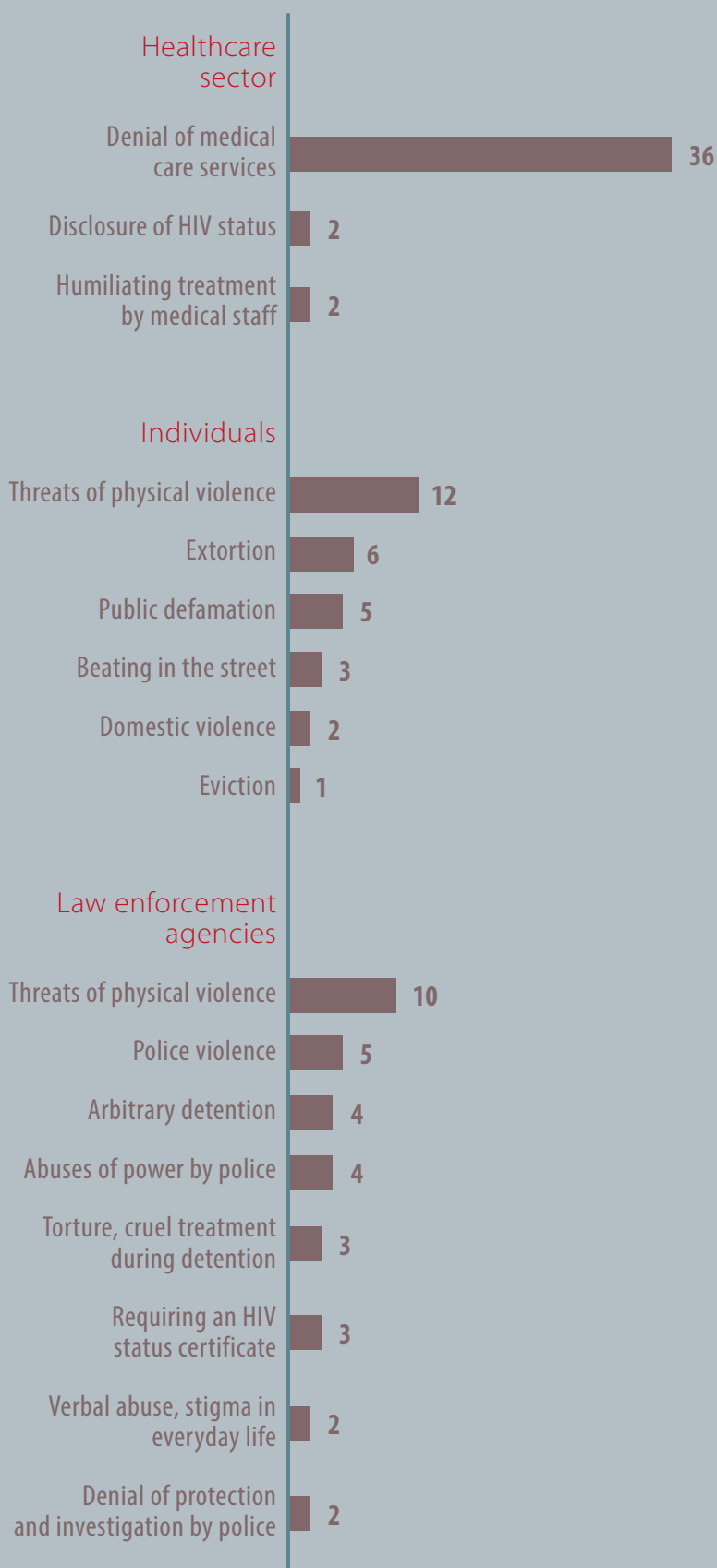
Number of cases for each violator



should receive detailed instructions on which categories of citizens can move despite the restrictions. Such citizens should also include representatives of key populations, including PLHIV, especially if their movement around the city is linked to ensuring access to life-saving drugs. Complete restriction of movement without any exceptions, including PLHIV, cannot be considered as measure rationale that is proportional to the harm to health that the state is trying to prevent in connection with the coronavirus.

TYPES OF VIOLATIONS

Key population – PLHIV



Client – man, PLHIV, 35 years old, 2020, October

After regular visit to the doctors, the client got out of the AIDS service and walked, he was stopped by a police patrol car. They asked to show documents and checked the contents of pockets. Because the client went for ARV drugs, he had two packs in his pocket for 2 months. The law enforcement officials put the client in a car and they wanted to take him away into District Department of Internal Affairs (DdoIA) to determine the nature of the drugs. The client had to disclose his status as a person living with HIV in order not to be taken to DDolA. The consultation on the topics «Know your rights» and «Behavior during detention» was provided by REActors. In this case, human rights are directly violated – police officers had overstepped their mandate. The client refused to write a complaint.



Client – young man, 17 years old, PLHIV, 2020, November

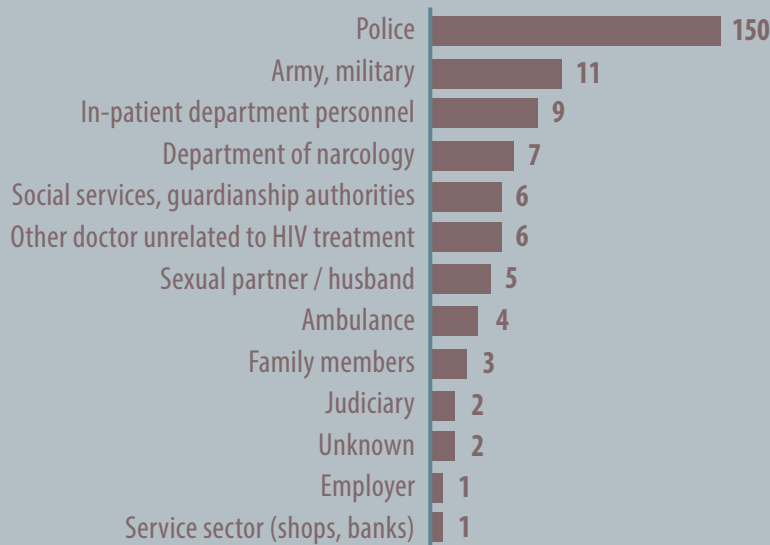


The mother of the PLHIV child applied to the Family Practice Center for vaccination as the school requested a certificate of vaccination. But the infectious diseases doctor in the Family Practice Center, where the child was registered, refused to provide medical services and referred the mother to get the certificate in the health care facility at the place of actual residence (the family was not at the residence address for some time because they were living in the village). Therefore, the child has not received proper consultations, examinations and vaccinations for a long time and also he is unable to get the tests necessary to monitor the state of his health. The mother told about this case to the doctors of AIDS Center and also applied to REActors after some time. Agreement was reached that in the event of repeat of such situation by infectious diseases doctor in the Family Practice Center at the next visit for the next examination, the mother will inform REActor about this and he, in turn, will intervene and intercede to resolve the issue. After a while, the PLHIV child with the assistance of the doctor from AIDS service was re-registered for observation in another Family Practice Center.

PEOPLE WHO INJECT DRUGS

PERPETRATOR OF VIOLATION

Number of cases for each violator



229 cases in which the victim is also a drug user were documented. 34% of the total number of those who have applied are participants of the opioid substitution therapy (OST) program.

Direct violations of the PWID rights by the police include cases of physical and mental violence, forced confession with a background of withdrawal syndrome caused by denial of access to OST, the use of slave labor (floor cleaning in the police department), as well as numerous cases of unjust detentions of PWID, often without even the slightest reason.

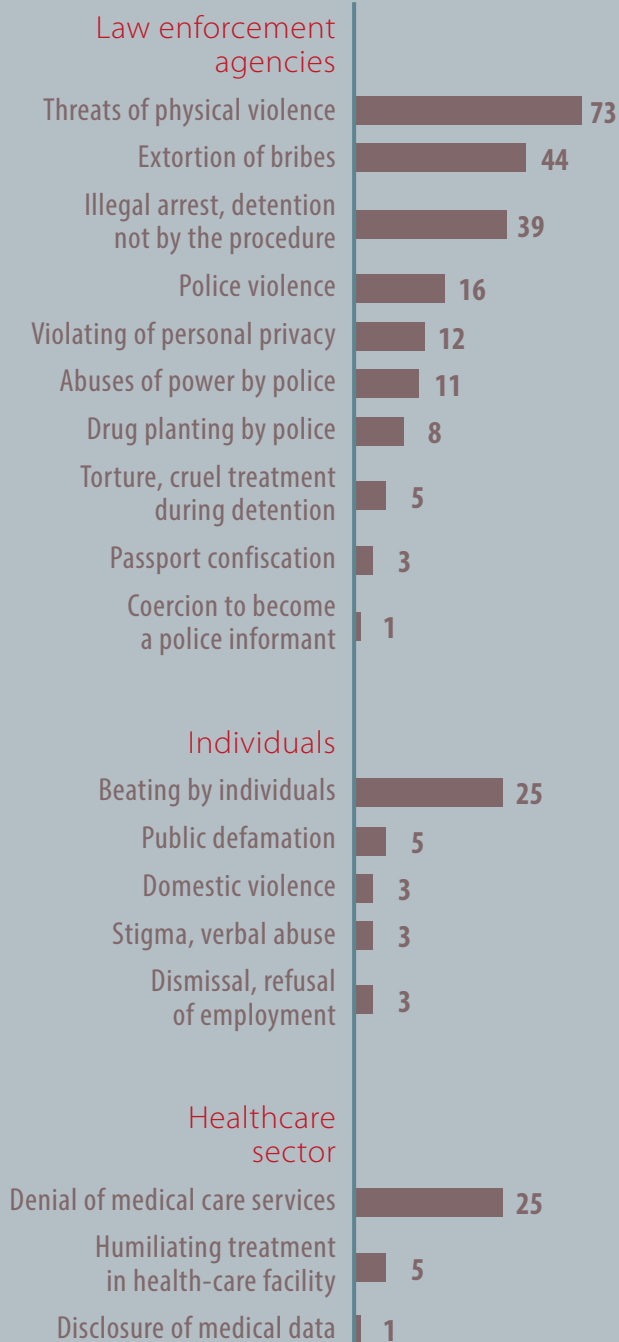
The cases of violations were documented in which police officers detain patients of OST-sites and then, with a background of restrictions in access to OST, try to obtain forced confessions. Such violations have all signs of torture, which are prohibited by the Constitution of the Kyrgyz Republic and by international treaties of the Kyrgyz Republic.

The cases of forced cleaning in the police department have all signs of the right to freedom from slave labor violations. There were at least eight such cases documented.

At least 12 cases of unjust detentions of OST patients who had medical methadone obtained legally in OST-site were documented in REAct system. In all such cases, the police officers show stigmatizing attitudes towards PWID and try also to take advantage of the vulnerable position of PWID to obtain confessions for crimes not committed or to assist in detection of crimes, or to extort money, including to reimburse supposedly the cost of gasoline for fueling the squad car.

TYPES OF VIOLATIONS

Key population – PWID



Client – PWID, man, 37 years old, 2020, December



On a typical day, the client was walking in the direction of his house from OST site of the RNC building. Police officers stopped him near the supermarket, put the man in a car without explanation and took him away to the DDoIA. On the way, in the car, they beat the client on the head and verbally abused him. They brought him to the DDoIA, humiliated, threatened to plant drugs and make a case against the client. Forced the client to do exercises, push-ups, derided. Then, they forced the client to clean the territory, held him in the DdoIA for more than 4 hours and released him.

The client refused the offer of REActor to write a complaint, did not give a reason. The consultation on the topic «Know your rights» was provided by REActor, and he referred the client to a psychologist.

Client – man, 40 years old, PWID/PLHIV, 2020, July



In July 2020, the REActor was contacted by a client who complained that a list with open data of a number of clients (full name) was hanging at the OST site. There was a demand to pass tests for HV and CD4, as well as a threat that if the people in the list refuse to pass tests dispensing of methadone would be stopped for them. The photo of the list was also provided. The REActor addressed to the chief doctor, shown him the photo of this list. The chief doctor called the head of the dispensary department and the doctor who did it. The internal investigation was carried out, and then the list was soon removed.

SEX WORKERS

PERPETRATOR OF VIOLATION

Number of cases for each violator



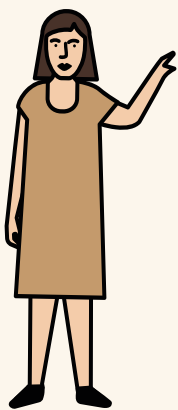
From **234 registered cases** for sex workers, law **enforcement officials are responsible for incident in 135 cases**. Under the pretext of morality combating or allegedly for the purposes of HIV infection prevention, police officers practice raids and one-off events focused on sex workers. Because of the acute vulnerability of sex workers, their actual defenceless from the arbitrary exercise, there are frequent cases of sexual and physical violence, blackmail, threats and extortion of bribes.

In **107 cases, extortion of money by police officers** was testified using violence or threats of violence, or in the context of actions clearly beyond the official powers of a police officer. In this respect sex workers are so defenseless from the arbitrary exercise of the police that they are not ready to try to seek for legal assistance.

In **33 cases of violence by clients**, there are signs of hatred towards sex workers. Such behavior may be related to the cumulative effect of the State-driven stigma against sex workers, as well as the conservative religious attitude towards women based on the stereotyped gender roles in society that is increasing in the Kyrgyz Republic. In addition to this, in such cases, either police officers show inaction and violation of the obligation to protect or they supplement the violation by themselves, directly or indirectly justifying the actions of the violator.

TYPES OF VIOLATIONS

Key population – Sex workers



Client – 28 years old, SW,
2020, September

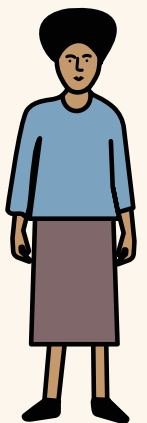
The client appealed to REActor in NGO for assistance in provision of certificate on HIV status as she was previously convicted for hooliganism, and during registration at the district police department the officer required a certificate of HIV status. The client is afraid that the information goes any further from him. She has been advised

that this requirement of the district police officer is illegal and if he continues to insist, the REActors will help to deal with this issue. The client was given legal advice that she used. The district police officer was no longer demanding a certificate of HIV status. The actions of the district police officer were not lawful.

Client – 38 years old, SW, 2020, October

The client was sitting in the salon, the client called her on the phone, she agreed to provide services.

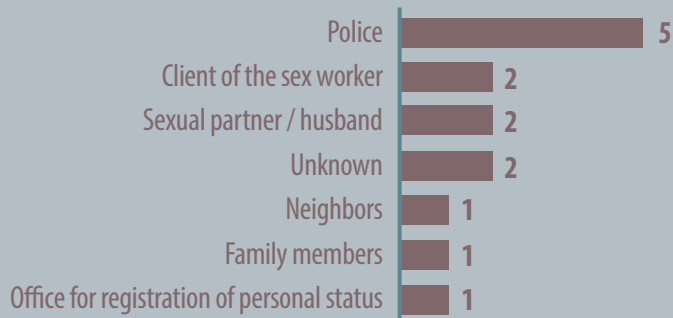
When SR client arrived and went into the salon, other two men came in with him, showed the police officers' identification cards. They told her to get ready and go with them. The client was brought into DDoIA and put into the room, they did not hold for long, took fingerprints and began to enter data into the computer. Thereafter, the police officers began to demand 20,000 soms from her under the pretext that she keeps a disorderly house. SW said that she works for herself and can only give 2,000 soms because she has no more. Thereafter, the chief said that the SW should bring 2000 soms once a week for gasoline and coffee. Thereafter, the client was released and she went home. The client doesn't want any troubles and refused to solve the case.



MEN WHO HAVE SEX WITH MEN AND TRANS* PEOPLE

PERPETRATOR OF VIOLATION

Number of cases for each violator



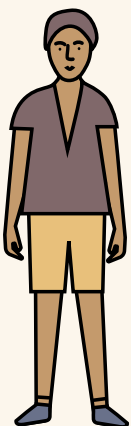
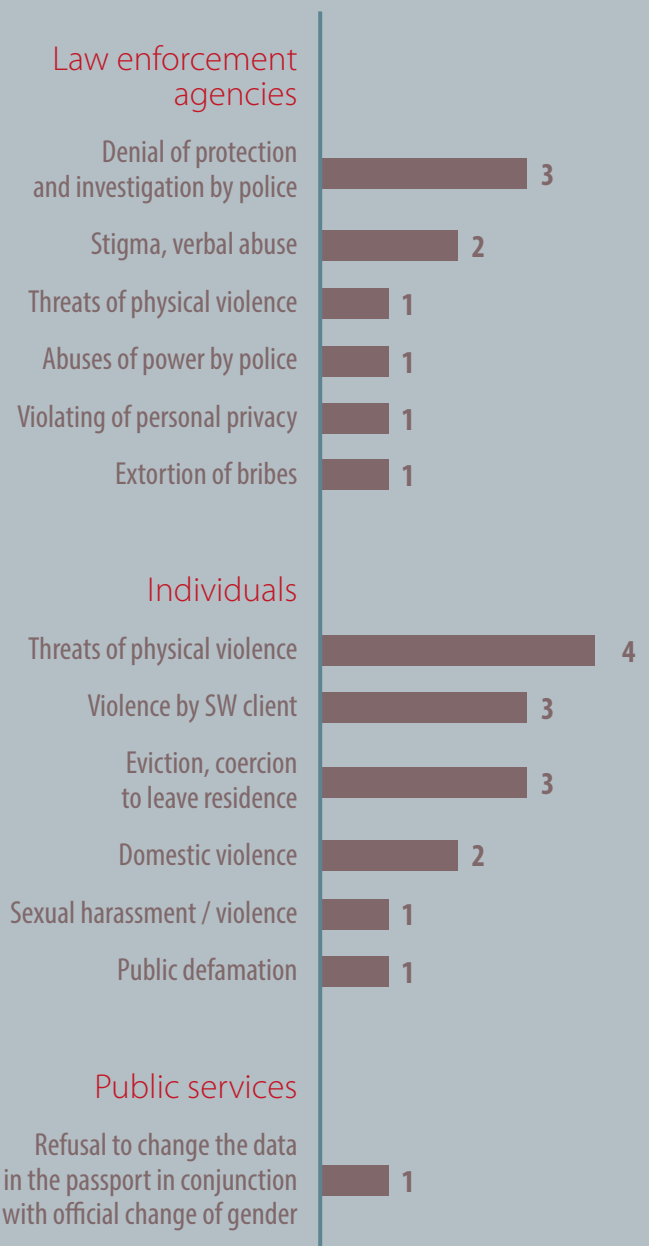
The representatives of the LGBT community are not under direct prohibitions or direct discriminatory norms. However, the cases of LGBT rights violations are recorded in the Kyrgyz Republic annually, including on discriminatory grounds related to sexual orientation and gender identification. With the background of the narrowing space for civil society organizations, legislative proposals pertaining to forbid non-traditional sexual relations propaganda, as well as increasing conservative and religious trends, LGBT people are subjected to discriminatory treatment, promotion of hatred and violence, as well as denial of protection by government officials. Adoption of special anti-discriminatory legislation, as well as creation of a system for LGBT people protection against hate crimes and awareness-raising of police officers in the area of the specifics of working with LGBT people will serve to improve the situation.

12 cases were recorded in the REAct system in which the victim is either a man who has sex with men or a trans* person. Most cases refer to **hate-motivated violence, threats, or stigma by individuals**. In three of such cases, the victims applied to law enforcement agencies, but never received an appropriate response from them.

In one case, discrimination based on gender identity was recorded by officials from the office for registration of personal status who refused to change the data in the passport of a trans* woman.

TYPES OF VIOLATIONS

Key population – Men who have sex with men and trans* people

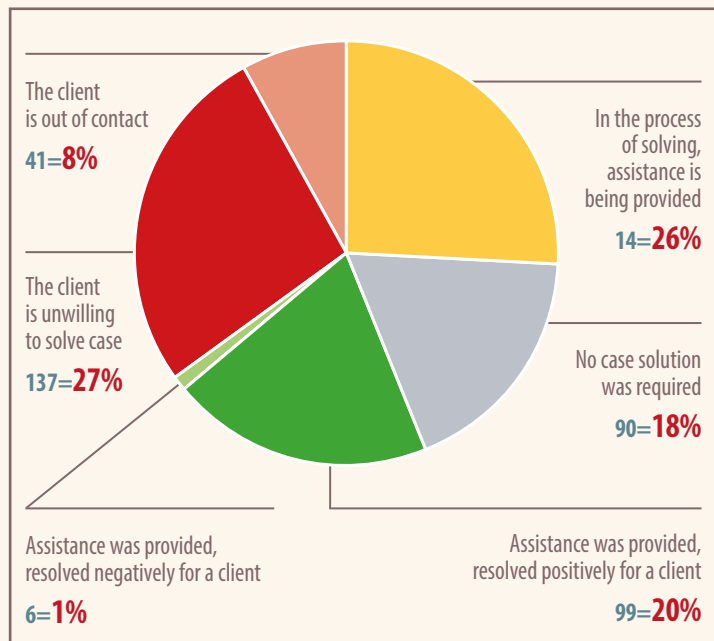


Client - trans* woman, 32 years old,

2020, October

There was a case in public transport with two trans women. There was a verbal altercation between the trans* women and other passengers. The driver of the public taxi bus began demanding that they get out of the public taxi bus and the male passengers abused trans* women using obscene lexicon. The driver grabbed the victim's friend by the hair and threw her out from public taxi bus and other passengers began to beat her. Then the trans* woman - victim came out and mass brawl began, the men beat up the trans* women. Trans* woman was hit with a stone. The stone hit the car window and the woman's shoulder. After brawl, the driver brought the trans* women to town police department. The driver and the passenger filed an application; the incident was reported to the URCM. Trans* women were not aware of their rights, not offered an opportunity to invite their lawyer but the investigator invited a lawyer from the Legal Assistance Guaranteed by the State. The criminal investigators abused trans* women and one of the investigators mentioned her old name. Trans* women were detained for 48 hours. For this case, the REActor provided legal advice, legal services and an attorney was engaging. The trial had lasted for 6-7 months. The case had been discontinued due to consenting parties to withdraw the applications.*

RESPONSE TO VIOLATIONS



REActors document and resolve cases of rights violations and are paralegals, peer counselors, outreach workers in organizations that provide HIV prevention and treatment, as well as harm reduction services.

Medical – social assistance to the victim is provided in the form of consultations, referral and guiding to partner organizations or health facilities to get other necessary services for prevention and treatment.

Primary legal aid by REActors is to advice on legal matters and assistance in the preparation of complaints or applications. However, both the victims and REActors themselves (also being representatives of vulnerable populations) are afraid to interact with police officers yet again because of the negative experience of such interaction in the past, as well as due to fear for their safety.

Legal support of the case by REActor, first of all, is in **intermediation** between the victim and the perpetrator. In this way, most cases are resolved where the perpetrator is a medical professional, a representative of the education sector or other services, as well as neighbors and family members. REActors give enlightening talk with the perpetrator with a view to educating about HIV and reduce stigma. If a client is ready to defend his rights or he needs the **protection of professional attorney** (cases on criminalization) then such client is referred to specialized lawyers.

Regrettably, one third of cases still remain without appropriate response, because **the victims themselves do not hesitate to defend onwards their rights** and refuse legal assistance from REActors or attorney due to fear of interaction with law enforcement agencies and lack of trust in justice system in general. Victims also prefer to tolerate systematic violation of their rights rather than disclose their HIV status, sexual orientation or belonging to key populations in the course of legal proceedings.

RECOMMENDATIONS FOR THE PUBLIC AUTHORITIES OF THE COUNTRY ON THE PERFORMANCE OF DUTIES IN THE HUMAN RIGHTS

1. Consider the issue of further decriminalization of people who use drugs, including complete de-penalization of drug possession without intent to sell. Consider the possibility of applying non-punitive measures to people involved in the illicit drug traffic, including social and medical assistance, as well as opportunities of referral for people who use drugs from the justice system to organizations that provide harm reduction services, social and medical support services.
2. Provide for the inclusion of stigma, discrimination and human rights issues as mandatory components for training, retraining and advanced training of law enforcement officials, social protection and support bodies, as well as health workers, with a particular focus on the practical application of norms on rights to key populations in the work of these bodies and institutions. Provide for the mandatory involvement of representatives of vulnerable populations to develop, evaluate and participate in such events.
3. Consider the issue of destigmatization of regulations in the context of HIV, including through the abolition of the discriminatory part 1 of Art. 149 of the Criminal Code of the Kyrgyz Republic ('Putting another person in danger of contracting the human immunodeficiency virus or other incurable infectious disease, dangerous to human life, if infection has not occurred'), restrictions on the rights of PLHIV in the labor and family sphere.
4. Consider adopting special antidiscrimination legislation, as well as creating a system to protect LGBT people from hate crimes and raising awareness among police officers about the specifics of working with LGBT people when committing hate crimes.

STRATEGIC STEPS IN THE FRAMEWORK OF REACT FOR 2021

Apart from documenting human rights violations and assisting victims at the individual level, the following activities are planned:

- Continue expanding the network of organizations and institutions to refer victims of human rights violations for medical, legal, social and psychological assistance.
- To improve the use of analytical capabilities of REAct for use in advocacy purposes.
- Consider a system of sustainable interaction between REAct and paralegals from human rights projects, as well as lawyers providing free legal aid guaranteed by the state.
- To successfully respond to systemic and massive violations of human rights, consider the possibility of sustainable interaction with the Office of the Ombudsman of the Kyrgyz Republic.
- Consider the system for the implementation of systematized information on the results of the REAct work in interaction with the Public Councils of state bodies within the framework of the Law of the Kyrgyz Republic dated May 24, 2014 No. 74 'On public councils of state agencies'.
- Consider the possibility of coexistence of REAct with other existing systems for documenting human rights violations, so that REACT complements, but does not destroy the fragile mechanisms of the work of civil society and promotes low-threshold documentation of human rights violations with the involvement of volunteers and on a voluntary basis.
- Media coverage of strategic cases with a view to reducing stigma towards PLHIV and representatives of key populations.
- Ensuring financial stability and continuation of REAct component implementation once the regional #SoS_project is finished.

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More about REAct: www.react-aph.org

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