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Factsheet **Tajikistan**



1. HIV EPIDEMIOLOGY AND RESPONSE

1.1 HIV epidemiology in brief

Tajikistan has a concentrated HIV epidemic, with 5,242 people living with HIV officially registered (33% of the estimated number), and 2,167 of them receiving antiretroviral therapy (coverage 14% of the estimated and 41% of the registered number of people living with HIV) in 2014¹. Next to heterosexual transmission, injecting drug use is the most common way of HIV transmission. HIV prevalence among people who inject drugs (PWID)² and sex workers (SW)³ is stable. HIV prevalence among men who have sex with men (MSM) is uncertain⁴. There are significant gender (67% people living with HIV are men), age (e.g. 71% of people living with HIV are aged 19 to 39) and sub-national differences in HIV prevalence (e.g. 70% all HIV infections reported in Gorno-Badakhstan autonomous oblast were among people who inject drugs, compared with 36% in the Region of the Republican (central subordination)^{5,6}.

- 1 Republic of Tajikistan, *Report on the Progress the Country Made Against HIV Epidemic – 2015* (2015).
- 2 Republic of Tajikistan, *Report With Data Analysis of Sentinel Surveillance Among People Who Inject Drugs in the Republic of Tajikistan in 2014* (Dushanbe, Ministry of Health and Social Care and State Institution 'National Center for Prevention and Control of AIDS', 2014).
- 3 Republic of Tajikistan, *Report With Data Analysis of Sentinel Surveillance Among Sex Workers in the Republic of Tajikistan in 2014* (Dushanbe, Ministry of Health and Social Care and State Institution 'National Center for Prevention and Control of AIDS', 2014).
- 4 Republic of Tajikistan, *Report With Data Analysis of Sentinel Surveillance Among Men Who Have Sex With Men in the Republic of Tajikistan in 2014* (Dushanbe, Ministry of Health and Social Care and State Institution 'National Center for Prevention and Control of AIDS', 2012).
- 5 Republic of Tajikistan, *Report on the Progress the Country Made Against HIV Epidemic – 2015* (2015).
- 6 World Health Organisation, Regional Office Europe, *HIV Programme Review in Tajikistan* (Geneva, 2015).

Table 1: Indicators for key populations

	PWID	MSM	SW
Estimated population size	23,100	13,400	14,100
HIV prevalence (%)	12.9	1.7	3.5
Coverage of HIV testing in the past 12 months (%)	44.4	40.3	62.3
Prevention programme coverage (%)	61.3	41.4	69.5

Sources: *Report With Data Analysis of Sentinel Surveillance Among People Who Inject Drugs in the Republic of Tajikistan in 2014* (Dushanbe, Ministry of Health and Social Care and State Institution 'National Center for Prevention and Control of AIDS', 2014); *Report on the Study of Behavioral Risk of HIV Among Men Who Have Sex With Men in Dushanbe, The Republic of Tajikistan in 2011* (Dushanbe, Ministry of Health and Social Care and State Institution 'National Center for Prevention and Control of AIDS', 2012); *Report Data Analysis of Sentinel Surveillance Among Sex Workers in the Republic of Tajikistan* (Dushanbe, Ministry of Health and Social Care and State Institution 'National Center for Prevention and Control of AIDS', 2014); *Report on Project: 'Support to National AIDS Response to Scale up HIV Prevention and Care Services in Tajikistan'* (Dushanbe, APM Global Health and United Nations Development Programme, 2010); *Country Progress Report on HIV Control, 2015* (Dushanbe, Ministry of Health and Social Care and State Institution 'National Center for Prevention and Control of AIDS', 2014); *Tajikistan PR Annual Report* (Dushanbe, United Nations Development Programme, 2014); *National HIV/AIDS Strategic Plan (2015-2017)* (Dushanbe, Republic of Tajikistan, 2014); *Estimated Number of Sex Workers and People Who Inject Drugs in the Republic of Tajikistan in 2014* (Dushanbe, Ministry of Health and Social Care and State Institution 'National Center for Prevention and Control of AIDS', 2014); *Report on Size Estimation of MSM Population in Tajikistan* (Maxim Kasyanchuk, 2015).

1.2 Legal and institutional aspects of the national HIV response and the role of NGOs

In 2005, Tajikistan adopted the **Law on Countering HIV/AIDS**⁷, which provides the legal basis for carrying out response measures, while guaranteeing the rights of people living with HIV. It also addresses the issues of prevention, reducing vulnerability to infection,

- 7 Republic of Tajikistan, Закон о противодействии вирусу иммунодефицита человека и синдрому приобретенного иммунодефицита (2005).

providing qualified medical care to people living with HIV and mitigating consequences of HIV at individual and social levels.

The Law sets HIV prevention as a priority for state financing. At the same time, the Law envisages that the state guarantees "...free of charge, quality and science based qualified medical care and psychosocial support to the people living with HIV". It states that medical care to people living with HIV is provided in public healthcare institutions. Further it envisages that psychosocial support is provided in public healthcare institutions, educational establishments and social protection agencies, as well as by private medical facilities, in cooperation with NGOs and representatives of the community of people living with HIV. Importantly, the Law formally acknowledges the role of non-state organizations such as NGOs and international organizations in the development and implementation of state programmes on countering HIV.

The National Programme on Countering the HIV Epidemic in the Republic of Tajikistan for 2011-2015⁸ was adopted in 2010. Its priorities are: creating enabling legal environment for universal access to HIV prevention, treatment, care and support; implementation of prevention programmes and ensuring access to HIV services for all groups and particularly for key populations; providing antiretroviral therapy, treatment of co-infections and palliative care; integrating HIV services into primary healthcare; lowering stigmatization and improving the quality of care; ensuring social support to people living with HIV; improving surveillance, monitoring and evaluation of prevention activities. Currently a new programme on Countering HIV Epidemic in the Republic of Tajikistan (2016-2020) is being developed.

In addition, the National Coordination Committee on Countering AIDS, Tuberculosis and Malaria⁹ (hereinafter: NCC) operates under the leadership of

deputy Prime Minister. The main objectives of the NCC are: coordination of the work of local stakeholders on prevention and control of HIV, TB and malaria; improvement of the national strategy on HIV, malaria and TB; implementation of national and strategic programmes; mobilization of financial and technical resources for the programmes; recognition of UN principles in countering the three epidemics; change of public opinion on HIV, TB and malaria. Cross-sectoral task forces operate under the NCC with participation of NGOs on issues such as: monitoring and evaluation of the National Programme's implementation, harm reduction, provision of care, and others.

8 Republic of Tajikistan, Постановление Програма по противодействию эпидемии ВИЧ/СПИД в Республике Таджикистан на период 2011-2015 годы (2010).

9 Republic of Tajikistan, Постановление о Национальном координационном комитете по борьбе с синдромом приобретенного иммунодефицита, туберкулезом и малярией в Республике Таджикистан (2015).

2. SOCIAL CONTRACTING OF NGOS IN THE NATIONAL HIV RESPONSE

2.1 NGO landscape in Tajikistan

There are 2,788 NGOs in Tajikistan and 80% of them are registered as public associations (international, national and local public associations)¹⁰. Other main types of NGOs are public foundations and unions of legal entities. NGOs may be registered at both national and local levels; local registration is comparatively easier. However if an NGO wants to operate on the territory of the whole country, it needs to register as a national organization.

Different types of NGOs have different registration regimes¹¹. Currently, there is an initiative to promote a draft NGO Law that would unify the registration procedure for all NGOs to be registered by the Ministry of Justice¹².

Financial sustainability is one of the biggest challenges for NGOs in Tajikistan. The work of NGOs is supported mostly by foreign donors. The **Law on**

Public Associations (2007)¹³ lists possible sources of state support for public associations, including fiscal benefits, direct state support in the form of grants, contracts for service provision and social contracting on competitive basis. Donations from corporations or individuals are not yet a real source of income and NGO economic activities are limited¹⁴.

Since the amendment of the Law on Public Associations in summer 2015¹⁵, NGOs are required to notify the Ministry of Justice about received voluntary and charity donations, property, grants from foreign citizens, foreign legal entities and from international organizations and international movements.

2.2 Social contracting of NGOs under Global Fund grants

In the current (2013-2015) grant phase 28 NGOs received funding from the GF, with an annual average of US\$ 44,539 available per NGO (range US\$ 14,798 – US\$ 234,242) – predominantly for prevention programmes among key populations and services at municipality levels (Table 2).

10 USAID, *The 2014 CSO Sustainability Index for Central and Eastern Europe and Eurasia* (2015).

11 Public associations are registered by the Ministry of Justice and its regional offices. The process should take less than a month, but there have been examples of delays. National organizations have been requested to provide additional information that is not part of the legal requirements, e.g. naming the local representatives in the various areas they want to work in (source: USAID, *The 2014 CSO Sustainability Index for Central and Eastern Europe and Eurasia* (2015)). Other NGO forms such as public foundations and unions are registered with the local tax authorities, pursuant to the **Law on Registration of Legal Entities and Individual Entrepreneurs** (2009), (Republic of Tajikistan, Закон о государственной регистрации юридических лиц и индивидуальных предпринимателей (2009)). This registration process is much simpler, and takes five days. There are examples that tax authorities refuse to register public foundations and refer them to the Ministry of Justice to register as public associations.

12 This proposal raised concerns among NGOs as they feel that it would subject all NGOs to a more complicated and slower registration process (Source: The International Center for Not-for-Profit Law, *NGO Law Monitor Tajikistan*).

13 Republic of Tajikistan, Закон об общественных объединениях (2007).

14 USAID, *The 2014 CSO Sustainability Index for Central and Eastern Europe and Eurasia* (2015).

15 Republic of Tajikistan, Закон о внесении изменений и дополнений в Закон об общественных объединениях (2015).

Table 2: Global Fund average annual budget for NGOs (2013-2015)

Programme	Budget allocated to NGOs (US\$)	% of budget line	National/sub-national (%)
Prevention PWID	801,175	34.2	0/100
MSM	480,264	100.0	0/100
SW	208,765	100.0	0/100
Prevention subtotal	1,490,204	44.0	0/100
Treatment, care and support	51,765	5.1	0/100
TOTAL	1,541,969	23.3	0/100

Source: UNDP Tajikistan.

2.3 Government social contracting to NGOs: Legal and regulatory frameworks

Contracting of social services is regulated by the **Law on State Social Contracting (2008)**¹⁶. Social contracting is a mechanism for providing state funding for implementing socially beneficial projects or programmes at the national or local levels.

The Law on State Social Contracting sets the legal basis for preparing, announcing, financing, and implementing state social contracts funded by the state budget. According to the Law, state social contracts may be awarded to legal entities and individuals; in practice, service providers are primarily NGOs. The requests for social contracts are identified on the basis of the social programmes and projects by the Government and the local authorities¹⁷. Such programmes can be carried out in a number of areas, including healthcare (see text box).

16 Republic of Tajikistan, Закон о государственном социальном заказе (2008).

17 The funding for social contracting comes from the state budget, and there are examples when it is supported by donor funds. For example, according to the Background Paper on State Social Contracting by the International Center for Not-for-Profit Law, the Committee on Youth, Sports and Tourism used World Bank funds to provide funding to NGOs until 2011. In 2009, the EU provided support to Tajikistan's budget and one of the conditions was that the government would start using social contracting with non-state service providers. Since then there is a special budget line marked for social contracting in the state budget.

The Law describes the process, which has to be followed by the state bodies in order to use the mechanism of social contracting. According to the Law, the first step in the contracting process is to develop a programme based on the priorities of the contracting state body. The programmes are developed before the state budget for the following year is finalized. Subsequently, the respective state body announces a competition for selecting the projects that will contribute to the implementation of the programme. According to the Law, the state body that organizes the competition selects the provider, signs a contract and proposes the inclusion of the respective amount to the budget. However, the contractor has to select contractees and sign contracts before the state budget for the following year is finalized, that is before it knows whether it will receive necessary allocation from the state budget.

The 2010 **Resolution on Approval of Standard Regulations on Carrying out Competition for the Award of State Social Contract**¹⁸ (hereinafter: Social Contract Award Resolution) further details how the state social contracts should be organized. Whilst the Law on State Social Contracting provides that any legal entity or individual can be awarded a social contract, this Resolution mentions only NGOs as potential applicants.

18 Republic of Tajikistan, Постановление об утверждении типового положения о проведении конкурса на получение государственного социального заказа (2010).

Law of the Republic of Tajikistan on State Social Contracting

State social contract is a form of implementation of social programmes and projects that are aimed at tackling social problems of national and local levels funded from the State budget and resources made available through signing contract between the social contractor and the implementer (art. 1)

The goals of the state social contract are:

- ▶ Fulfilling needs of the state in the social sphere
- ▶ Solving socially significant problems of national and local levels, which are not addressed by the work of state bodies or which have emerged unexpectedly
- ▶ Using additional human, material and financial resources for tackling social problems
- ▶ Taking additional measures for social support of citizens
- ▶ Contributing for improving citizens' quality of life (art. 5.1).

State social contracting shall be implemented in the following areas:

- ▶ Science, education, culture, healthcare, social protection and employment of population
- ▶ Physical culture and sports
- ▶ Military and patriotic upbringing
- ▶ Protection of nature and environment
- ▶ Provision of population with potable water
- ▶ Work with women, strengthening the family and contributing to the solution of demographic problems and gender policy
- ▶ Protection of the mother and the child
- ▶ Support to youth policy
- ▶ Support to young scholars in implementation of investment projects
- ▶ Social support and legal protection of citizens, including improvement of economic status of low income families, people with disabilities, refugees, migrants and persons who, due to their physical and mental condition or other circumstances, are unable to enjoy their rights and legitimate interests
- ▶ Preparing the population to preventing coping with consequences of natural disasters, emergencies and to helping the affected ones
- ▶ Protection of buildings, historical monuments, objects and sites of national, state and cultural significance
- ▶ Raising political and legal education of population (art. 5.2).

According to the Resolution, NGOs that want to take part in the competition must be registered in order to receive application documents. There are two main requirements for the participants in the competition, namely

- ▶ having a bank account; and
- ▶ having at least one year of experience in the area of the competition topic.

A commission is established to make decisions on each competition. It consists of representatives of the contracting institution and external experts. At least 30% of the commission members must be external experts nominated by NGOs. In case a representative of an NGO is part of the commission, this NGO cannot apply for funding. The commission decides which projects should be funded, which projects are rejected and which projects could be supported but with less

funds. There is a list of criteria for the evaluation of the project proposals.

In addition to the social contracting mechanism, social services can be contracted through the standard public procurements mechanism, which is regulated by the **Law on Public Procurements of Goods, Works and Services** (2006)¹⁹. The Law does not explicitly exclude NGOs from the list of potential contractees, noting, however, that in order to participate in tenders an entity has to meet a number of requirements, including possession of sufficient professional and technical expertise, experience and reputation, financial resources, equipment and other material and technical possibilities needed for implementation of obligations under the procurement contract. Further, the Law envisages two types of financial guarantees: for the offer (up to 3% of the offer) and for the implementation of the contract (up to 10% of the contract). While these are not mandatory, the Law leaves it to the discretion of the contractor whether or not to request financial guarantees, and to decide on the amount when the guarantee is deemed necessary. The Law does not contain any provisions regarding NGOs; for instance, when NGOs participate in tenders for social service procurement, they have no advantages vis-à-vis other bidders.

Public procurements are further regulated by the **Regulations on Procedures of Public Procurements** (2008)²⁰; however, the document does not address the issue of NGO bidders and contractees, nor does it provide guidance on whether and in what amount to request financial guarantees.

There is another mechanism that provides grants to NGOs in Tajikistan: grants for public associations in the area of patriotic education of youth under **2005 Resolution of Cabinet of Ministers “On Establishment of Grants of the Government of the Republic of Tajikistan for Public Associations in the Sphere of Patriotic Education of Youth”**²¹. The

Resolution envisages allocation of annual grants (since 2016, 10 grants per year each worth 10,000 TJS, or app. US\$ 1,270) for NGOs. However, this mechanism is only available for one specific area and has not been scaled up to cover other social priorities.

2.4 Quality control and assurance

Detailed written mechanisms for quality control and assurance of services provided by NGOs through social contracting are yet to be developed. In principle, monitoring and control mechanism should be part of all contracts. The Law on State Social Contracting only states that the authorized state bodies and the contracting institutions exercise control. The contracting institution can also control how funds are spent and the contract can be terminated, if funds are not spent properly (Social Contract Award Resolution).

According to the **Law on State Social Standards** (2009)²², a service provider needs to comply with minimum standards for the respective service. In addition, in order to provide medical services an NGO should comply with existing medical and clinical protocols²³. In case the activity is subject to licensing (see the section below), control can be exercised by the licensing authority.

19 Republic of Tajikistan, Закон о государственных закупках товаров, работ и услуг (2006).

20 Republic of Tajikistan, Положение о процедурах государственных закупок (2008).

21 Republic of Tajikistan, Постановление об учреждении грантов Правительства Республики Таджикистан для общественных объединений в сфере патриотического воспитания молодежи (2005).

22 Republic of Tajikistan, Закон о государственных социальных стандартах (2009).

23 AIDS Foundation East and West Tajikistan, Законы и нормативные документы Республики Таджикистан.

2.5 Other prerequisites for service provision (licenses, special permissions, etc.)

There are two activities which require a license under the **Law on Licensing of Certain Types of Activity** (2004)²⁴, namely

- ▶ private provision of medical services, and
- ▶ education, specifically non-governmental educational institutions implementing programmes at all levels²⁵.

Licenses are given for a period of not less than five years. A fee in amount of four “indexes for calculation”²⁶ is levied for reviewing the documents. The issuing of a license costs ten indexes for calculation.

According to the **Regulation on Specifics of Licensing of Certain Types of Activity** (2007)²⁷, the private medical service providers have additional licensing requirements to ensure qualification trainings to the medical staff every five years and submission of reports on medical activities twice a year.

2.6 Government social contracting of NGOs: The practice

Since 2009 the Ministry of Labour, Migration and Employment (former Ministry of Labour and Social Protection²⁸) has been providing state social contracts to NGOs that are working with people with disabilities and elderly people. In 2014, the Ministry provided 1.8 million TJS (app. US\$ 274,000) in social contracts to

NGOs. Since 2014, the social protection responsibility is vested with the Ministry of Health. In addition, in 2014 two government committees – on women and family affairs and on youth, sports and tourism – provided around US\$ 230,000 to NGO projects. Only one oblast (region) provided some funding for NGO initiatives.

There is no up-to-date overview of the social services provided by NGOs. A map of social services was developed in 2011 by a project, funded by the European Union. It can provide some understanding on how services were delivered²⁹. For example, based on the review of the services in Dushanbe the following can be concluded:

- ▶ In the four districts of Dushanbe, there is a total of fifty types of services provided for various vulnerable groups
- ▶ Out of them, eighteen services are provided by NGOs and two more services jointly by NGOs and state institutions
- ▶ All of the services provided by NGOs (including the jointly provided services) are supported financially by non-state funds (usually foreign donors and for one organization there is no data for the source of funding)
- ▶ Nine of the services provided by the government are also funded by foreign donors
- ▶ The services supported by the Global Fund form a significant part of all social services provided
- ▶ There is no case in which a service provided by an NGO is supported by the state or local budget.

24 Republic of Tajikistan, Закон о лицензировании отдельных видов деятельности (2004).

25 License is not required for educational activities like trainings, seminars or roundtables where the participants should not pass the final exam and a certificate on education is not provided.

26 One index for calculation is 40 TJS.

27 Republic of Tajikistan, Постановление об утверждении Положения об особенностях лицензирования отдельных видов деятельности (2007).

28 In 2014, the Ministry was merged resulting in the establishment of the Ministry of Labour, Migration and Employment.

29 Oxford Policy Management, Техническая помощь Программе поддержки секторальной политики в области социальной защиты – Компонент по предоставлению услуг Таджикистан.

3. RECOMMENDATIONS

Legal and institutional aspect of the national HIV response:

It is important to ensure that key populations at higher risk and people living with HIV can benefit from state support and social services provided by state and non-state service providers. Prevention, treatment, care and support can be the areas where NGOs can be actively engaged. Based on competences, they can also contribute to provision of other social and medical services, including palliative care. Towards this end, the following steps could be considered:

- ▶ Amendments to the Law on Countering HIV/AIDS could be adopted to recognize NGOs as service providers in additional areas, such as medical services (subject to relevant permissions depending on type of services provided).
- ▶ NGOs should be encouraged to participate in the development of the National Programme on Countering HIV Epidemic from early stage on and their recommendations should be taken into account.
- ▶ NGOs should be recognized as one of the key partners in the implementation of the National Programme on Countering the HIV Epidemic; state and local government funds should be allocated in a transparent manner for the involvement of NGOs.
- ▶ International organizations, including UNAIDS and its co-sponsors, should support dialogues between NGOs and ministries as well as local authorities to make sure that their agendas include HIV prevention, treatment, care and support and related public health objectives as priority matters.

NGO landscape in Tajikistan:

- ▶ Government should consider removing the requirement for NGOs to register as “national organizations” in order to be allowed to operate on the territory of the whole country. This additional administrative burden has its origins in the past and is now redundant. Its removal would facilitate the provision of services and the exchange of good practices and models among NGOs.

- ▶ Government should consider reversing the policy on foreign funding for NGOs and encourage it rather than impose requirements that could potentially limit access, such as the mandatory notification on receiving foreign funds. This policy shift should take place under the strict condition that funding is provided only for activities allowed under the laws of Tajikistan.
- ▶ It is recommended to provide state incentives for philanthropy (e.g. benefits for donors) and economic activities of NGOs, in order to support the sustainability of NGOs and diversification of funding resources for social service provision.

Social contracting of NGOs for the national HIV response:

- ▶ The procedure of state social contracting should be simplified. The more frequent use of this mechanism should be encouraged. For example, NGOs should have more flexibility to respond to arising needs in case the Law on State Social Contracting allows the announcement of tenders in addition to the annual programme.
- ▶ In general, the process of social contracting as described in the Law should be revised so that contractors do not need to choose service providers and sign contracts before the budget is finalised, which may lead to the situation when no allocations are made for contracts that have already been concluded.
- ▶ Trainings could be organized to educate both NGOs and government institutions on social contracting mechanism and its benefits.
- ▶ It is recommended to review current public procurements legislation in order to clarify the criteria of whether and in what amount the financial guarantee should be requested. Given that NGOs have limited opportunities to accumulate resources, consideration should be given to lifting the requirement of a financial guarantee. Public procurements legislation should recognise non-commercial nature of NGOs when specifying requirements to bidders, to make sure that NGOs

participating in public procurements of social services are not disadvantaged *vis-à-vis* for-profit tender participants.

- ▶ The government could map out which authorities contract services to NGOs and what is the funding for these services. This could serve as a basis for a more detailed analysis and future reforms in the social contracting system in Tajikistan.

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