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# *Factsheet* Kyrgyzstan



# 1. HIV EPIDEMIOLOGY AND RESPONSE

## 1.1 HIV epidemiology in brief

Kyrgyzstan has a concentrated HIV epidemic, with 6,095 people living with HIV officially registered (65% of the estimated number)<sup>1</sup>, and 1,900 of them receiving antiretroviral therapy (coverage 20% of the estimated and 31% of the registered number of people living with HIV) in 2014. More than 60% of HIV infections in recent years were caused by sexual transmission. The HIV prevalence among people who inject drugs (PWID)<sup>2</sup> remains above 10%, is above 2% among sex workers (SW)<sup>3</sup> and has increased among men who have sex with men (MSM)<sup>4</sup> to 6%. In 2014, nearly half of all newly diagnosed HIV infections were among women<sup>5</sup>. There are significant sub-regional differences (HIV prevalence of 17% among people who inject drugs in Osh and Djalal-Abad, and 0% in Issyk-Kul)<sup>6</sup>.

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

The *Law on HIV/AIDS in the Kyrgyz Republic* (2005)<sup>7</sup> provides the overall framework for the country's national HIV response and sets forth basic guarantees for people living with HIV. The Law explicitly states that NGOs can take part in the implementation

1 2015 data and *Spectrum* estimations – 9,410.

2 Kyrgyz Republic, *Results of Sentinel Surveillance of HIV Infection Among People Who Inject Drugs in Kyrgyz Republic* (2013).

3 Kyrgyz Republic, *Results of Sentinel Surveillance of HIV Infection Among Sex Workers in Kyrgyz Republic* (2013).

4 Kyrgyz Republic, *Results of Sentinel Surveillance of HIV Infection Among Men Who Have Sex With Men in Kyrgyz Republic* (2013).

5 Kyrgyz Republic, *Country Report on Progress in Implementation of the Global Response to HIV Infection for 2014* (2015).

6 Kyrgyz Republic, *Results of Sentinel Surveillance of HIV Infection Among People Who Inject Drugs in Kyrgyz Republic* (2013).

7 Kyrgyz Republic, Закон о ВИЧ/СПИДе в Кыргызской Республике (2005).

**Table 1: Indicators for key populations**

	PWID	MSM	SW
Estimated population size	25,000	22,000	7,103
HIV prevalence (%)	12.4	6.3	2.2
Coverage of HIV testing in the past 12 months (%)	43.0	40.0	55.9
Prevention programme coverage (%)	29.0	76.3	64.9

Sources: *Results of Sentinel Surveillance of HIV Infection Among People Who Inject Drugs in Kyrgyz Republic* (Bishkek, 2013); *Results of Sentinel Surveillance of HIV Infection Among Men Who Have Sex With Men in Kyrgyz Republic* (Bishkek, 2013); *Results of Sentinel Surveillance of HIV Infection Among Sex Workers in Kyrgyz Republic* (Bishkek, 2013); *Size Estimation of People who Inject Drugs in Kyrgyz Republic* (Bishkek, Health Policy Analysis Center, 2014).

interventions listed in the Law and that the government will support them in carrying out such activities.

On a policy level, the main document that regulates Kyrgyzstan's response to HIV is the **State Programme on Stabilisation of the HIV Epidemic in the Kyrgyz Republic for 2012-2016**<sup>8</sup>. The Programme identifies five strategic goals:

- ▶ Reducing HIV infection among people who inject drugs
- ▶ Prevention of sexual transmission of HIV
- ▶ Ensuring access to treatment, care and support for people living with HIV
- ▶ Strengthening and ensuring sustainability of the healthcare system in response to the HIV epidemic
- ▶ Improving strategic coordination and programme management.

Each goal has specific objectives, expected outcomes and defined priorities for action.

8 Kyrgyz Republic, Государственная программа по стабилизации эпидемии ВИЧ-инфекции в Кыргызской Республике (2012).

The HIV response is also addressed in the broader **Den Sooluk National Health Reform Programme in the Kyrgyz Republic for 2012-2016**<sup>9</sup>. The Programme has a section on HIV, and one of the four key service areas explicitly highlights the work with NGOs and communities in prevention, treatment adherence, care and support.

NGOs also participate in cross-sector bodies. For example, the **State Multi-Sectoral Coordination Committee on Socially Significant and Particularly Dangerous Diseases under the Government of the Kyrgyz Republic**<sup>10</sup> focuses primarily on the management, coordination and optimization of the activities of state agencies, international donor community, civil society and other organizations engaged in the national HIV response. The Committee is chaired by the Vice Prime Minister, who has three deputies: Minister of Healthcare, Minister of Agriculture, Water Management and Processing Industry, and an NGO representative.

The role of NGOs in the national HIV response is also envisaged in ministerial regulations. As per **Ministry of Healthcare Ordinance on Introduction of HIV Rapid Testing Among Vulnerable Groups (2012)**<sup>11</sup>, a number of NGOs in different regions of Kyrgyzstan were involved in providing rapid testing and counselling; their number was further increased with the adoption of the **Ministry of Healthcare Ordinance on Expansion of Rapid Testing Among Vulnerable Groups of Population (2014)**<sup>12</sup>.

There is some evidence that NGOs involved in the national HIV response are becoming stronger and begin to be involved also at the policy level, but their operation depends predominantly on international donors. NGOs are listed among the actors that are

supportive of HIV policies and they can exercise influence on them<sup>13</sup>.

According to the 2015 Country Progress Report<sup>14</sup>, NGOs have participated in a number of interventions among key populations, including, among others:

- ▶ Trainings and prevention programmes
- ▶ Testing, diagnostics and treatment
- ▶ Social and psychological support.

However, the report also notes several areas that may need improvement, including increasing funding from the national budget available for contracting of NGOs, providing information about the economic efficiency of the NGO programmes, improving the integration and coordination between State bodies and NGOs, and the mechanisms for transferring state functions to NGOs. That is why the report proposes that the Ministry of Healthcare should consider how to contract NGOs and to include them in the budget for healthcare services.

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9 Kyrgyz Republic, Национальная программа реформирования системы здравоохранения Кыргызской Республики “Ден соолук” на 2012-2016 годы (2012).

10 Kyrgyz Republic, Постановление об образовании Странового многосекторального координационного комитета по социально значимым и особо опасным инфекционным заболеваниям при Правительстве Кыргызской Республики (2007).

11 Kyrgyz Republic, Приказ о внедрении тестирования на ВИЧ методом экспресс тестирования среди уязвимых групп населения (2012).

12 Kyrgyz Republic, Приказ о расширении экспресс-тестирования на ВИЧ среди уязвимых групп населения (2014).

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13 Svetlana Ancker and Bernd Rechel, “HIV/AIDS policy-making in Kyrgyzstan: a stakeholder analysis”, *Health Policy and Planning*, vol. 30, No. 1 (December 2013).

14 Kyrgyz Republic, *Country Report on Progress in Implementation of the Global Response to HIV Infection for 2014* (2015).

## 2. SOCIAL CONTRACTING OF NGOS IN THE NATIONAL HIV RESPONSE

### 2.1 NGO landscape in Kyrgyzstan

There are 14,880 NGOs registered in Kyrgyzstan. The **Law on Non-Commercial Organizations** (1999)<sup>15</sup> regulates the various types of NGOs. There are 7,160 public associations, 5,172 public foundations, 916 unions of legal entities and 1,632 institutions (organizations created to carry out various non-commercial functions, fully or partially funded by the owner)<sup>16</sup>. The registration procedure is regulated by the **Law on Registration of Legal Entities, Branches (Representative Offices)** (2009)<sup>17</sup>; the procedure is easy and inexpensive<sup>18</sup>.

NGOs struggle to ensure their financial sustainability, as most NGOs are relying mainly on foreign funding.

NGOs have the right to carry out economic activities but the resulting income is taxable, unless the NGO qualifies as a charitable organization. However, some legal requirements create operational restrictions to maintain the status of a charitable organization<sup>19</sup>.

There have been a series of legislative measures proposed in 2015, which, if passed, will negatively affect NGOs<sup>20</sup>. On the other hand, as a positive development the President signed the **Law on Public Councils of State Bodies** (2014)<sup>21</sup> which guarantees the establishment of citizen advisory bodies in all government agencies, a mechanism that can improve citizen participation and collaboration. The Law requires that all government agencies establish such bodies. As of September 2015, the Selection Commission had formed 29 out of 36 such public councils<sup>22</sup>.

15 Kyrgyz Republic, Закон о некоммерческих организациях (1999).

16 The International Center for Not-for-Profit Law, *NGO Law Monitor Kyrgyzstan*.

17 Kyrgyz Republic, Закон о государственной регистрации юридических лиц, филиалов (представительств), (2009).

18 According to the Law on Registration of Legal Entities, Branches (Representative Offices), the registration should follow the 'one window' principle and all necessary registration actions are carried out by one institution (art. 4). The Ministry of Justice and its branches are registering NGOs. Registration of NGOs costs US\$ 4 and takes approximately 10 days (art. 8(2)). The Law requires a minimum of three individuals to establish an association (art. 19). Public foundations can be established by at least one individual or legal entity or a notarized will (art. 23-24).

19 The International Center for Not-for-Profit Law, *NGO Law Monitor Kyrgyzstan*. The Tax Code of Kyrgyzstan creates a special category of NGOs – charitable organizations. These organizations enjoy various tax benefits but the status is not really used because of several limitations imposed on such organizations, for example they are required to use 98% of their income for charitable activities and only 2% for overhead expenses.

20 First, there was a proposed amendment to the NGO Law to ban unregistered organizations, which was withdrawn. According to the other legislative proposal, NGOs receiving foreign funds should be classified as 'foreign agents.' The draft Foreign Agents Law targets NGOs engaged in political activities but the definition of political activities includes "organizing and conducting political actions, dedicated to changing state policy as well as to influence public opinion for such purposes". This could cover almost any type of advocacy campaign, including awareness raising campaigns. The draft would create additional reporting requirements for foreign agents, but in addition would burden all NGOs with new reports. It would also create the possibility to conduct audits of NGOs and suspend their activities for up to 6 months if they fail to register but receive foreign funding. The draft Foreign Agents Law passed two readings and as of the time of preparing of this factsheet (November 2015) was awaiting the next reading by the Parliament before adoption.

21 Kyrgyz Republic, Закон об общественных советах государственных органов (2014).

22 The International Center for Not-for-Profit Law, *NGO Law Monitor Kyrgyzstan*.

## 2.2 Social contracting of NGOs under Global Fund grants

In 2015, twenty-eight NGOs were financed by the Global Fund, with an annual average of US\$ 44,494 allocated per NGO (range US\$ 13,338 – US\$ 106,505), predominantly for prevention programmes among key populations and services on sub-national level (Table 2).

## 2.3 Government social contracting to NGOs: Legal and regulatory frameworks

NGO inclusion in service provision is regulated under two laws: the **Law on Public Procurements** (2004)<sup>23</sup> and the **Law on State Social Contracting** (2008)<sup>24</sup>. The first Law defines the traditional procurement process of buying various types of goods, services and works by the government, while the second one regulates the contracting of NGOs to implement projects aimed at specifically social service provision.

23 Kyrgyz Republic, Закон о государственных закупках (2004).

24 Kyrgyz Republic, Закон о государственном социальном заказе (2008).

The Law defines social contracting as a form of implementation of social programmes, projects and activities and provision of services by NGOs funded from state budget. Social contracting can be used in different areas, including education, health protection and promotion, gender issues, support to vulnerable groups, human rights and other socially important areas. At present, each state authority using social contracting mechanisms determines the needs of the society or a particular category of the population at its own discretion. However, there is a need for better nationwide definitions and specifications of social services covered, including those that may be financed through the social contracting mechanism.

Any state body or local authority can use the social contracting mechanism. Several other laws (e.g. the 2009 Law on Foundations of State Youth Policy) also name this mechanism as a way of engaging NGOs in implementation of socially significant projects and activities.

In order to utilize this system, the contracting authority has to include funds for social service contracting in its budget. After it secures the funds, it has to publish an announcement about the areas in which it wants to organize a public competition. The contracting authority has to form a competition commission comprised of state officials and independent experts.

**Table 2: Global Fund annual budget for NGOs (2015)**

Programme	Budget allocated to NGOs (US\$)	% of budget line	National/sub-national level (%)
<b>Prevention</b>			
PWID	623,082	45.7	0/100
MSM	112,730	100	0/100
SW	283,171	100	0/100
Prison inmates	9,075	10.9	100/0
<b>Prevention subtotal</b>	<b>1,028,058</b>	<b>55.8</b>	<b>1/99</b>
<b>Psychosocial support subtotal</b>	<b>244,260</b>	<b>100</b>	<b>10/90</b>
<b>Enabling environment subtotal</b>	<b>22,512</b>	<b>14.7</b>	<b>100/0</b>
<b>Other programmes subtotal</b>	<b>269,360</b>	<b>8.1</b>	<b>100/0</b>
<b>TOTAL</b>	<b>1,564,190</b>	<b>25.2</b>	<b>21/79</b>

Source: UNDP Kyrgyzstan.

## Law of the Kyrgyz Republic on State Social Contracting

State social contract is a form of implementation of social programmes (projects) and activities that pursue socioeconomic objectives and are aimed at provision of services with the funding from the state budget (art. 1).

The goals of the state social contract are to:

- ▶ Tackle socially significant problems that are not addressed or are insufficiently addressed through the work of state bodies
- ▶ Attract additional human, material and financial resources from non-governmental sources into the social domain
- ▶ Increase responsibility of implementers for targeted spending of allocated funds
- ▶ Improve the targeted provision of social protection measures
- ▶ Introduce legal mechanism for effective and uninterrupted provision of services to the population
- ▶ Foster competition between social contract implementers and improve the quality of social services
- ▶ Efficient usage of public funds
- ▶ Create a market for provision of social services (art. 3).

State social contracting shall be implemented in the following areas:

- ▶ Achieving objectives in the area of education, science, information, physical culture and sports
- ▶ Protection of citizens' health, promotion of healthy lifestyle
- ▶ Protection of the environment
- ▶ Support to youth policy and children's initiatives
- ▶ Solving demographical problems
- ▶ Solving gender problems
- ▶ Support to socially vulnerable groups of population
- ▶ Assistance to orphans and children from one-parent families and families with many children
- ▶ Assistance in employment of citizens
- ▶ Protection of rights, legitimate interests of citizens and organizations
- ▶ Fostering of culture and arts
- ▶ Protection of historical and cultural heritage
- ▶ Strengthening social accord
- ▶ Other socially significant areas, which do not contradict the legislation of the Kyrgyz Republic (art. 5).

The independent experts should be nominated by NGOs and should be at least 50% of the commission membership.

According to the Law on State Social Contracting, resources for social contracting are included annually in the budget; competitions are also organized annually (an example is the Ministry of Labour and Social Development). On the other hand, the budget in Kyrgyzstan is adopted for three years; in theory it

would therefore be possible to plan funding for certain services for a longer period of time.

New legislation (a draft **Law on State Social Contracting**) has been developed and introduced to the Parliament in 2015<sup>25</sup>. If adopted, it will improve

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<sup>25</sup> Adoption of the draft law was expected by the end of 2015. If adopted, the Law will require the adoption of several implementing regulations (e.g., selection of socially beneficial projects, the system of social vouchers).

the current system and will also introduce additional mechanisms for financing the delivery of state-funded services by NGOs. The authorities that can use the Law will remain the same – central and local government bodies. The new draft proposes three mechanisms for financing services:

- ▶ Contracting services through public procurements – same as under the Law on Public Procurements
- ▶ Funding public benefit projects – to be used to address social objectives and needs that require innovative ideas or proposals, funding through grants
- ▶ Social vouchers – innovative approach that is used in some European countries, such as the Netherlands. Social vouchers will be used when there is a network or a larger number of service providers. The potential providers would be selected through a public call. Then all people in need of the respective service will receive vouchers and will be able to choose the provider from among providers pre-selected through the public call. At the end of each month the contractor will pay for the services provided by the service providers<sup>26</sup>.

## 2.4 Quality control and assurance

According to the Law on State Social Contracting, NGOs should submit narrative and financial reports. The reporting schedule is included in the social service contract. The Law states that the contracting authority can “supervise the implementation of the social contracting and conduct assessments of its quality”. State institutions have the right to carry out financial audits and monitor the performance. State authorities may also carry out inspections within the limits of their competence determined by the legislation of the Kyrgyz Republic.

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26 The International Center for Not-for-Profit Law, *Inclusion of Civil Society Organizations in Contracting of Government Tasks* (2013).

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

The **Law on Licensing and Permits System in the Kyrgyz Republic** (2013)<sup>27</sup> regulates the areas where licenses are necessary in order to carry out certain activities. Two areas fall under the scope of the Law on State Social Contracting:

- ▶ Private medical practice
- ▶ Educational activity irrespective of the level of education and ownership form (except for public institutions pursuing the pre-school and elementary education, basic and secondary education programs).

Licenses are given by “licensors: agencies authorized by the Government of the Kyrgyz Republic and self-regulatory organizations (in case of their authorization to issue licenses)”. The license shall be issued within a month after all documents have been submitted. The fee for processing the licensing application is approximately US\$15 (1,000 Soms) for legal entities and US\$7.5 (500 Soms) for individuals<sup>28</sup>.

The **Regulations on Licensing of Medical Practice in the Kyrgyz Republic** (2013)<sup>29</sup> envisages requirements that an individual or a legal entity have to meet in order to qualify for a medical practice license. Importantly, as long as an NGO complies with the requirements, there is nothing in the Law or in the Regulations preventing NGOs from receiving a license.

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27 Kyrgyz Republic, Закон о лицензионно-разрешительной системе в Кыргызской Республике (2013).

28 Kyrgyz Republic, Закон о неналоговых платежах (1994).

29 Kyrgyz Republic, Приказ о порядке проведения лицензирования частной медицинской практики в Министерстве здравоохранения Кыргызской Республики (2013).

## 2.6 Government social contracting of NGOs: The practice

The main source of domestic funding is the government social contracting, which has almost doubled since 2013 to more than US\$ 400,000 per year. However, currently only the Ministry of Labour and Social Development and the Ministry of Youth are using this mechanism to provide funds to NGOs<sup>30</sup>.

The Ministry of Social Development is the primary user of social contracting mechanism. According to the information provided by the Ministry, there were 132 applicants in 2012 and 34 organizations received funding. In 2013, the number of applicants decreased to 78; out of them 29 were selected. According to the analysis by the International Center for Not-for-Profit Law, until 2013 every project was reviewed by two independent experts from the Competition Commission (hereinafter: the Commission) evaluating the proposals received, which gave their grades. The procedure was changed in 2013 and every expert had to review all submitted applications. In some cases the Commission applied certain limitations to the project budgets that were not officially announced (e.g., limitation on administrative costs or salaries)<sup>31</sup>.

The funds may be provided in one or several tranches. However, there have been examples of delayed payments to contract winners which created challenges in the provision of the service, especially if the services had to rely on income for everyday expenses (e.g. feeding)<sup>32</sup>.

Local authorities do not have the necessary funds in order to allocate budget for social contracting. In 2014, the local NGO Development Policy Institute<sup>33</sup> received approximately US\$ 160,000 (11 million Soms)<sup>34</sup> and distributed it among local governments for social contracting. However, the money came from a foreign donor, and HIV-related services were not included.

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

31 There have been cases when projects receiving lower scores were selected by the Commission while others with higher scores were denied. See: The International Center for Not-for-Profit Law, *Analysis Procurement of Social Services in Kyrgyzstan and Recommendations to Improvement* (2013).

32 Ibid.

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33 Local civil society organisation that promotes social contracting among local self-governments.

34 This was received through GIZ – Die Deutsche Gesellschaft für Internationale Zusammenarbeit.



# 3. RECOMMENDATIONS

## Legal and institutional aspects of the national HIV response:

While NGOs are recognized as key partners to the government in delivering HIV-related services, their full potential is yet to be realised.

- ▶ It is recommended that Ministries consider possibilities of involving NGOs in provision of social services by adopting relevant regulations, similar to Ministry of Health Ordinances on introduction of HIV rapid testing among vulnerable groups (2012) and on expansion of rapid testing among vulnerable groups of population (2014).
- ▶ So far involvement of NGOs in national HIV response such cooperation has been financially supported predominantly by the Global Fund and other international donors. In order to ensure sustainability of the national HIV response, it is recommended to gradually increase domestic financing to sustain and further increase the participation of NGOs in the provision of HIV services, particularly to key populations, through social contracting mechanisms.

## NGO landscape in Kyrgyzstan:

It is important to ensure that the legal framework in Kyrgyzstan is supportive to NGOs, and that civil society actors have access to funding, including international funding. Therefore, the adoption of proposed “foreign agents” legislation should be reconsidered and abandoned. It is recommended to introduce more favorable tax regulations for NGOs. It is recommended to revise and simplify the currently overly strict criteria regarding “charitable organizations” in order to allow more NGOs to qualify and register as such. These measures would significantly support NGO engagement in public benefit activities, including in social service provision.

## Social contracting of NGOs for the national HIV response:

There is still a need to further develop the social contracting mechanism in order for NGOs to be

further involved in service provision. The following steps could be considered:

- ▶ The level understanding of contracting authorities and NGOs how the social contracting mechanism works and what its benefits are should be improved. This process will also increase the understanding of government agencies on the value NGOs can add to public service provision to key populations at high risk of HIV infection.
- ▶ The wider use of the social contracting mechanism should be ensured. Currently only two ministries apply the existing social contracting mechanism. Further, local authorities are not using it, despite the fact that they are allowed to budget for it. It is recommended that local authorities start planning funds for social contracting and that their capacity in managing social contracting is strengthened. Similarly, the Ministry of Health should start using the mechanism to contract NGOs for the national HIV response and beyond.
- ▶ Longer-term funding for social contracting should be secured. Many of the HIV-related services require long-term engagement with the key populations. Therefore, both the contractors and the service providers (NGOs) should be able to rely on secured long-term funding to cover the basic needs and be able to sign multi-annual contracts to provide services.
- ▶ It is important to ensure that the procedures for social contracting are transparent, and to reduce any unnecessary administrative burden. As an example, the existing requirement for all members of the Commission to read every document delays the overall process.
- ▶ Accountability of both contractors and service providers could be strengthened. There should be clear and transparent procedures how contractors choose specific topics for social contracting and how they evaluate the needs of the population. Providers should be transparent on how they spend funds but also what quality of services they provide.

- ▶ There are important developments that need to be monitored and local actors should be supported in their efforts. Most notably, the draft Law on State Social Contracting, if adopted, can increase opportunities for organizations of people living with HIV and HIV service providing NGOs to get further contracts and engage in areas of interest. This draft would create new mechanisms through which funding from the state could be provided to NGOs for service provision.

## NGO Social Contracting: Factsheet Kyrgyzstan 2016

**Authors: Timur Abdullaev, Predrag Đurić, Boyan Konstantinov, Christoph Hamelmann**

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Series Team: Timur Abdullaev, Predrag Đurić, Christoph Hamelmann, Boyan Konstantinov, John Macauley.

Series Editor: Christoph Hamelmann; contact: christoph.hamelmann@undp.org

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