



# Legislation and Judicial Systems in relation to HIV and AIDS

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# Seminar background

Part of series organised by AIDS Action Europe.

Agreed outputs:

- 🎗️ Pre-seminar survey and report
- 🎗️ Seminar attended by a wide range of delegates from across EU and the wider WHO European region
- 🎗️ Report of seminar proceedings including pointers for 'best practice'

# Pre-seminar survey and report

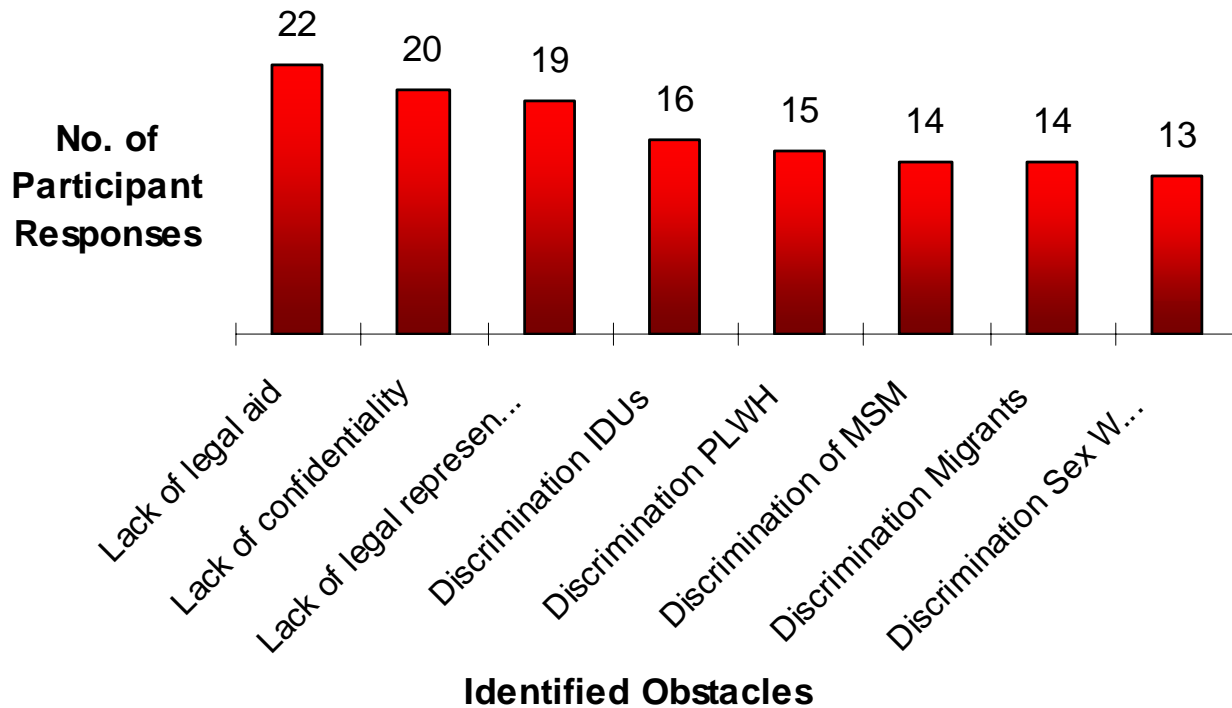
- ⦿ 43 survey responses were received (36 countries, including 24 EU member states)
- ⦿ Pre-seminar report published March 2007 – available at [www.nat.org.uk](http://www.nat.org.uk)
- ⦿ Key survey issues:
  - ⦿ Legal protection from discrimination
  - ⦿ Confidentiality and privacy rights
  - ⦿ Accessibility and Implementation of rights
  - ⦿ Role of voluntary sector organisations
  - ⦿ HIV training for legal and judicial systems
  - ⦿ Awareness of legal rights

# Findings from the pre-seminar survey 1

- ⦿ Significant levels of legal protection in statute against discrimination for PLWH across Europe
- ⦿ But also significant differences in the nature of that protection (e.g HIV-specific, generic equality, disability)
- ⦿ Lack of legal protection in accommodation, migrants' access to healthcare and financial services

# Findings from the pre-seminar survey 2

## Perceived Obstacles to People Living with HIV Accessing their Legal Rights



# Findings from the pre-seminar survey 3

‘a huge disproportion between reality and what the law is in theory’






- ❧ Low levels of trust in and use of legal redress to protect rights
- ❧ In majority of countries the voluntary sector does not engage effectively with the legal system
- ❧ Few countries have HIV training for lawyers, judges and court staff
- ❧ Majority of countries say PLWH’s knowledge of their rights is low

# Seminar participation

- 🎗️ Held in London 19 to 21 April 2007, with support from European Commission, Bristol-Myers Squibb, GlaxoSmithKline and the Levi Strauss Foundation
- 🎗️ 38 participants – including representatives from 29 European countries (19 EU member states)
- 🎗️ Evaluation showed it was well received
- 🎗️ Information on EU and ECHR law was especially valued, as were the networking opportunities








# The seminar agenda: plenary sessions

## Plenary presentations on:

-  EU discrimination law;
-  the relevance of the European Convention on Human Rights [ECHR];
-  privacy and data protection;
-  NGOs and litigation;
-  work of the Commission and European Parliament

# The seminar agenda: workshops

## Workshops on:

-  insurance and financial services;
-  migration, mobility and travel issues;
-  rights for IDUs, prisoners and sex workers;
-  confidentiality in healthcare settings and legal proceedings;
-  the role of ombudspersons/human rights commissioners;
-  the role of NGOs in legal proceedings;
-  knowledge of rights amongst PLWH and knowledge of HIV in the legal system

# Key plenary messages

- ⦿ EU discrimination law – HIV not specifically addressed and not clear how it comes within the concept of disability
- ⦿ 2007 ‘European Year of Equal Opportunities for All’
- ⦿ ECHR – use of Arts 3, 8, 14, 6
- ⦿ Poor Europe-wide implementation of data protection law – need to engage with the EU data protection working group on HIV issues
- ⦿ NGOs need to identify sources of support to engage with legal processes

# Some workshop conclusions 1

- ⦿ Discrimination against PLWH in goods and services must be made illegal
- ⦿ Financial services such as insurance should only be refused on the basis of proven actuarial evidence
- ⦿ Improved training necessary on confidentiality in healthcare settings, better knowledge amongst PLWH of their rights, real prospects for complaint and redress
- ⦿ Improved and accessible reporting restrictions necessary for court cases, and an end to the irrelevant mention of HIV status in court

## Some workshop conclusions 2

- ⦿ Capacity development and training are necessary to enable NGOs to engage effectively with legal systems
- ⦿ The need to engage with ombudsmen/Human Rights Commissioners
- ⦿ Europe-wide awareness campaigns are necessary to inform PLWH of their rights and how to access help
- ⦿ Legal and penal systems need greater and sustained information and training on HIV, both the clinical facts and social/discrimination issues



# ‘Three priorities’: question at end of seminar

“From all the issues discussed at this seminar, please write down what you believe should be **our three top priorities for action and change** across the European region”

28 responses from 25 countries

# Privacy and Data Protection

10 responses focussed on data protection and privacy issues:

- 6 responses specifically referred to strengthening data protection legislation at the EU level
- 3 responses singled out confidentiality issues in healthcare settings

# Developing NGO capacity

9 responses focussed on NGO capacity in this area:

- 🎗 Best practice to be developed for European NGOs on how to advocate and litigate around HIV human rights issues
- 🎗 Linked to that were calls for financial support, and mentoring for non-EU NGOs

# European coordination

8 responses stressed the need to improve networking on legal, judicial and human rights issues:

- 🎗 2 responses mentioned the particular importance of this in relation to migrants, especially with the end of the AIDS & Mobility network
- 🎗 Suggestions of a database, use of the internet, a 'forum', a 'regional structure'
- 🎗 A comparative review of existing legislation for advocacy purposes; monitoring violation of treaties

# Other issues

- ⌘ Access to treatment (7 responses esp. for migrants)
- ⌘ Raise awareness of rights amongst PLWH (6)
- ⌘ Raise awareness of HIV amongst courts, judges, police and lawyers (6)
- ⌘ Non-discrimination in goods and services/insurance (5)
- ⌘ End criminal prosecutions for HIV transmission (4)
- ⌘ Agree European best practice on testing (4)
- ⌘ Create 'model anti-discrimination law' re HIV (3)

# Taking this work forward

- What are the next steps for progressing these priorities?
- What is the role for the CSF in this process?

Thank you.