



Executive
Summary

The Legal Environment Assessment for TB in Ukraine



UNITED NATIONS DEVELOPMENT PROGRAMME,
STOP TUBERCULOSIS PARTNERSHIP

THE LEGAL ENVIRONMENT ASSESSMENT FOR TB IN UKRAINE

Executive Summary

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Work on the project

The Legal Environment Assessment for TB in Ukraine was conducted on the initiative and funding of UNDP and the Stop Tuberculosis Partnership between November 2017 and March 2018 based on the Legal Environment Assessment for TB prepared by UNDP and the Stop Tuberculosis Partnership in July 2017.

The Legal Environment Assessment for TB in Ukraine was carried out by the team of national and international consultants: Sergiy Kondratyuk, Natalia Spivak, Khrystyna Demchenko, Timur Abdulayev; HHD Regional Team leader Dr Rosemary Kumwenda; Regional HHD Programme Specialist John Macauley; National Programme Specialist Natalya Lukyanova and Programme Associate Kateryna Denysova from UNDP Ukraine.

The main human rights and legal barriers which were identified by the Tuberculosis (TB) Legal Environmental Assessment (LEA) in Ukraine which impede an effective response to the epidemic are the accessibility of TB prevention, diagnosis, and treatment for key populations and people with TB. To address the identified barriers, a team of researchers has developed recommendations.

Key population

The majority of key informants indicated that the list of key populations in Ukraine is outdated and needs updating. The representative of the State Institution "Public Health Center of the Ministry of Health of Ukraine", noted that a new list of key populations will be defined in the new protocol on medical care provision.

RECOMMENDATIONS TO:

Ministry of Health

1. Update the national list of key populations for TB, taking into account the results of recent research and statutory criteria.

Stigmatization and discrimination

The majority of interviewed experts and focus group participants noted that stigma created significant challenges for TB control, and is quite high for people with TB and people who have been ill with TB in the past. This may be due to low awareness of the routes of transmission and tuberculosis treatment among the general population. Most manifestations of stigma are noted in non-specialized medical institutions, non-medical institutions and small towns and rural areas. There were cases reported of the refusal to provide medical care due to the fear of infection with tuberculosis. Neglecting or stigmatizing attitudes persist even after successful treatment of tuberculosis. Close relatives and friends often provide support when they find out about a positive disease status, while for more distant relationships (neighbors, colleagues), people with TB try to keep their status a secret.

RECOMMENDATIONS TO:

Ministry of Health

1. Provide wide information campaigns, including radio and television broadcasts addressing myths about tuberculosis that exist in society, in particular addressing the routes of transmission, the period during which a person with tuberculosis can transmit it, the availability of treatment, possibilities of outpatient treatment, etc;
2. Conduct training for doctors and nurses from general medical institutions on the routes and features of tuberculosis transmission, infection control regulations, medical ethics and rights of people with TB to reduce manifestations of stigma and cases of refusal to provide medical care to people with TB;

Ministry of Justice

3. Conduct training for law enforcement officers, medical and non-medical staff of temporary detention facilities, investigative isolations and prisons to create a tolerant attitude towards people with TB;

Ministry of Social Policy

4. Ensure dissemination of information about TB in the workplace.
5. Plan and conduct operational research to study the causes of stigma and self-stigmatization among different target groups (such as people with TB, their families, communities, doctors, law enforcement and penitentiary authorities, etc.) for the identification and creation of events to address stigma, reflective of the specific causes and manifestations of stigma in each of the target groups.

Confidentiality of TB status

Confidentiality of the status of people with TB or people who had TB in the past is not sufficiently regulated in Ukraine and leads to potential disclosure of information about the diagnosis without public health reason. Several instances of disclosure are reported during communication with contact persons without appropriate measures to preserve confidentiality, including when informing kindergartens and schools. Also, anti-epidemiological measures in the pesthole of tuberculosis infection lead to disclosures..

RECOMMENDATION TO:

**Verkhovna Rada, Ministry of Health, Ministry of Social Policy,
Ministry of Justice**

1. Amend legislation in order to regulate in detail the preservation of the confidentiality of the diagnosis of "tuberculosis" during the provision of medical care, notification of contact persons, conduct of epidemiological investigations and social support.

Right to work

The analysis of the current legislation of Ukraine confirms the lack of adequate legislative guarantees regarding the preservation of work for people with TB and HIV-associated TB for the period of treatment due to non-compliance of social norms to legal principles. In particular, because of the inconsistencies in law, courts restrict the legislative guarantee of preserving work for the entire period of TB treatment only to cases of contagious forms of TB, or for up to 10 months on an ad hoc basis.

Also, existing safeguards for maintaining a place of work for the entire period of treatment¹ are often not carried out by employers in practice.

¹ The Law of Ukraine "On the Protection of the Population against Infectious Diseases", Art. 25, part 2
The Law of Ukraine "On TB Response", Art. 21, part 1

RECOMMENDATIONS TO:

Verkhovna Rada and Ministry of Social Policy

1. Eliminate inconsistencies by amending the Laws of Ukraine "On the Protection of the Population Against Infectious Diseases" and "On Fighting Tuberculosis Disease" to ensure the retention of a position at work for people with TB and HIV-associated TB regardless of TB form, during the full course of TB treatment in inpatient and outpatient settings and during treatment of co-morbidities;
2. Establish a direct prohibition of unjustified denial of employment for people with TB and HIV-associated TB based on the state of their health in the Labor Code of Ukraine;
3. Amend the legislation of Ukraine to exclude the possibility of dismissal of people with TB and HIV-associated TB based on their health, as well as excluding the possibility of recognizing them as permanently unsuitable because of their health for professional or other activities and performing certain state functions;

Ministry of Social Policy

4. Elaborate and approve the National Strategy of Tripartite Cooperation on TB Control in the Labor Field.
5. Stimulate regulation of the prevention and protection of the rights of people with TB and HIV-associated TB at the level of collective agreements.
6. Organize an informational campaign among employers involving trade unions and employer associations on the guarantee of workplace preservation for people with TB;

Supreme Court

7. Reconcile judicial practice in regards to the reinstatement of employment in connection with the illegal dismissal of a person with tuberculosis through the preparation of information letters and reviews of judicial practice.

Right to education

Before the completion of treatment and the achievement of the criteria set by the Ministry of Health of Ukraine for the recovery of people with a "contagious form of tuberculosis", it is prohibited to visit any educational institutions or children's facilities for health and recreation². The Ministry of Education of Ukraine, in agreement with the Ministry of Health of Ukraine, had to approve the organization of the education³ of people with TB, but this was not done. Instead, children infected with TB, including with inactive forms of TB, are guaranteed (i) access to studying in special educational institutions, so-called sanatorium schools (boarding schools), and (ii) to receive food according to the norms established by the Cabinet of Ministers of Ukraine⁴. Since these schools are full-time boarding schools, prolonged separation of children from their parents by placing them in these schools does not take into account the best interests of the child and violates the right of the child to education in a family environment. Also, experts of the National Preventive Mechanism of the Commissioner noted that the placement of children from well-off families in boarding schools is a common practice and may be a sign of corruption.

Moreover, according to the Law of Ukraine "On Fighting Tuberculosis Disease" in the case of a "dysfunctional epidemic situation" of TB, the number of these boarding schools should increase⁵. The abovementioned law is not based on WHO recommendations, nor is it consistent with the provisions of the National Strategy for the Reform of the Institutional Care and Nursing System for 2017-2026. The latter reduces the number of specialized boarding schools by 5% annually and instead provides children with social support services.

RECOMMENDATIONS TO:

Ministry of Education and Science, Ministry of Justice and Verkhovna Rada

1. Amend the legislation of Ukraine in the field of education and fighting discrimination to include the following additional grounds for non-discrimination: nationality, state of health, special needs of a person, sexual orientation, gender identity; concepts and guarantees against multiple discrimination.

² The Law of Ukraine "On TB Response", Art. 13, part 1

³ The Law of Ukraine "On TB Response", Art. 13, part 2

⁴ The Law of Ukraine "On TB Response", Art. 21, part 3..

⁵ The Law of Ukraine "On TB Response", Art. 21, part 3.

Ministry of Justice and Verkhovna Rada

2. Amend the Civil Procedural Code of Ukraine in order to establish in judicial cases on discrimination a valid presumption of discrimination and to transfer the burden of proof to the party that allegedly discriminates .

Ministry of Education and Science

3. Conduct an examination of children's rights in sanatorium schools (boarding schools).

Ministry of Education and Science, Ministry of Health and Verkhovna Rada, regional state administrations

4. Analyze the expediency of using sanatorium boarding schools for children with small and inactive (phase of extinction) forms of tuberculosis and consider other models of providing education for such children.
5. Amend part 3 of Article 15 of the Law of Ukraine "On Protection of the Population against Infectious Diseases" in order to ensure children with inactive forms of TB have the right to study in general educational institutions taking into account the provisions of the National Strategy for Reforming the Institutional Care and Upbringing of Children for 2017-2026 for the reduction of institutions of care and upbringing of children.
6. Approve the procedure for organizing the return of people with active forms of TB and HIV-associated TB to educational institutions. Develop clear criteria which patients must meet to return to study, outline under what conditions this will be possible, and which forms of training they may access (for example, predominantly distant forms of education at early stages of the disease or in the case of poor tolerance to antimycobacterial therapy).

Criminalization

The criminalization of people with TB, people living with HIV and people who inject drugs leads to increased stigma in society, devalues the importance of personal dignity, makes it challenging to detect TB and HIV in many cases because of the fear of being prosecuted and this, in turn, violates the right to health.

Thus, article 130 of the Criminal Code of Ukraine stipulates criminal responsibility for intentional contamination, "knowingly putting another person in danger of contracting HIV or any other incurable infectious disease dangerous to life" and the "infection of another person to HIV or any other incurable infectious disease by person who knew that he or she is the carrier of this virus." This article is also applied by courts to people with TB by interpreting TB as "incurable infectious disease", and can lead to the unwillingness of people with TB to start or return to treatment. The draft law "On amendments to some legislative acts of Ukraine in the area of counteracting the spread of HIV-associated illnesses", which was recently published by the MoH Ukraine for public consultation, places criminal liability on persons only for "intentionally infecting another person with an incurable infectious disease that is dangerous to human life" with a qualifying attribute "committed against two or more persons or a minor". However, it does not eliminate the possibility of misinterpretation of "incurable infectious disease that is dangerous to human life", as some may not consider TB on the list of such diseases. According to the Criminal Code "Illegal production, manufacture, acquisition, storage, transportation or transfer of narcotic drugs, psychotropic substances or their analogues without the purpose of sale" (hereinafter referred to as "drugs") is a crime in accordance with Article 309 of the Criminal Code of Ukraine, the highest punishment for which may be imprisonment for up to 8 years⁶. 75% (10.7 thousand people⁷) of all persons prosecuted for crimes related to drugs in 2016 committed a crime in accordance with Article 309 of the Criminal Code of Ukraine⁸, and therefore criminal liability was mainly applied to people who use drugs, and not to those who commercially benefit from drug use.

RECOMMENDATIONS TO:

Ministry of Internal Affairs and Verkhovna Rada

1. Decriminalize (i) putting at risk the infection and (ii) unintentional transmission of HIV and TB, leaving criminal liability only for cases of intentional HIV and TB infection.
2. Decriminalize the storage of narcotic drugs without the purpose of sale.

⁶ Criminal Code of Ukraine, Art. 309, part 3

⁷ Ibid., Art. 133

⁸ National report for 2017 on the narcotic situation in Ukraine (according to 2016). An in-depth review of the drug situation in Ukraine for the European Monitoring Center for Drugs and Drug Addiction. State Institution "Ukrainian Monitoring and Medical Center for Drugs and Alcohol of the Ministry of Health of Ukraine", Art. 138.

In the area of respect for family life

In accordance with Part 1 of Art. 3 of the Convention on the Rights of the Child and Part 7 of Art. 7 of the Family Code of Ukraine, when making a decision, any state institutions and the court should proceed from the priority of ensuring the best interests of the child. The current legislation of Ukraine establishes mechanisms aimed at protecting children's right to health by removing children from parents with active forms of TB, but they do not provide sufficient protection of this right. At the same time, these mechanisms interfere with the family life of people with TB and HIV-associated TB and may contribute to their stigmatization and social isolation. Long-term hospitalization of people with active forms of TB may lead to divorce, loss of communication and support⁹. In addition, NGOs report that doctors do not always provide parents with sufficient information about possibilities for treatment at ambulatory care model, while placing children in institutions for contact children.

Additionally, contrary to the requirements of Part 1 of Art. 10 of the Law of Ukraine "On Fighting Tuberculosis Disease", as well as Part 1 of Art. 44 "The Fundamentals of Ukrainian Legislation on Health Care" the Ministry of Health of Ukraine has not yet developed and approved a separate, unified clinical protocol for primary, secondary (specialized) and tertiary (highly specialized) medical care for children with tuberculosis. Although it is possible to apply international clinical recommendations as of December 29, 2016, this has not been done in practice and needs to be implemented.

RECOMMENDATIONS TO:

Chief doctors of TB facilities

1. Emphasize outpatient TB treatment unless hospital treatment is required.

Ministry of Social Policy, local executive power authorities and local self-governing authorities

2. Provide social support and support to people with TB and HIV-associated TB, as well as their families based on an assessment of individual needs.

⁹ Charter of Patients for TB Treatment (World Medical Council, 2006): "The right to quality health care in a decent environment, with psychological support from family, friends and society."

Access to Justice, Free Legal Aid

The current legislation of Ukraine guarantees financial access to the court for certain categories of people and cases where the court fee is not enforced, for example, in cases of compensation for damages caused by injury or other health damage, in wage compensation and job reinstatement. However, people with TB and low-income individuals who are at risk of TB are not exempt from paying court fees. People with TB and HIV-associated TB are required to pay court fees when establishing facts of legal significance, in particular establishing a fact of birth, on the basis of which for example Roma people, persons without a permanent residence and representatives of other vulnerable groups may receive a birth certificate. Also, people with TB and HIV-associated TB are not exempt from court fees in cases of protecting their rights and legitimate interests during treatment in anti-TB institutions, especially in cases of involuntary isolation.

At the same time, free-of-charge state legal aid is not directly provided by the current legislation for the protection of rights during treatment in anti-TB health care facilities, in particular, in cases of involuntary isolation (compulsory treatment or forced hospitalization). Thus, such risk groups as PWID, people living with HIV, alcohol abusers, health workers who come in contact with tuberculosis patients, elderly people, persons in psychiatric and geriatric institutions and Roma people may receive free benefits only if their income level is lower than the subsistence level. It should be noted that representatives of the risk groups and those who became ill with tuberculosis have a limited awareness of the availability of free legal aid since although the right to legal aid exists, it is not implemented in practice due to high costs.

Human rights activists point out the unwillingness of people to complain, which may be associated with distrust of the state system, a paternalistic perception of the state, fear of disclosure of the diagnosis, etc. According to interviewed human rights activists, criminal proceedings on medical issues are very difficult to lead to successful resolution, as victims may experience informal pressures.

RECOMMENDATIONS TO:

Ministry of Justice and Verkhovna Rada

1. Relieve people living with TB and poor people who are at risk from court fees in establishing the fact of birth and in cases concerning the protection of rights and legitimate interests within involuntary isolation in anti-TB institutions by amending first part of Article 5 of the Law of Ukraine "On Court Fees".

2. Guarantee and ensure the provision of free legal assistance to people with TB and HIV-associated TB during involuntary isolation in anti-TB facilities.

**Ministry of the Interior, National Police, Prosecutor's Office,
the Commissioner**

3. Ensure effective investigation of cases of non-provision of medical care, especially in instances of the deprivation of freedom.

Access to Medical Care

Vaccination

According to the Public Health Center of the Ministry of Health of Ukraine, as of 01.01.2017 the implementation of the TB vaccination plan for children of the first year of life with the BCG vaccine was 75.5% (compared with WHO recommendations - 95%). Accordingly, there is a need to increase the levels of TB vaccination coverage in children, which should be provided at the national and local levels.

Until recently, legislation stipulated that TB revaccination should be carried out for children of 7 years old, not infected with Mycobacterium TB, and with negative results of the Mantoux test. Revaccination was performed with the BCG vaccine¹⁰.

At the same time, WHO recommendations clearly state that it is not necessary to carry out revaccination if the first vaccination was carried out by BCG¹¹. The indicated recommendation was taken into account in the order of the Ministry of Health of Ukraine № 947 "On Making Changes to the Calendar of Preventive Vaccinations in Ukraine" dated from May 18, 2018. This order **canceled BCG revaccination**.

However, the Instructions for the use of tuberculous BCG and BCG-M vaccine¹², which requires a second revaccination of children of 14 years old is still in force. The specified legal act is outdated and needs to be amended or canceled.

¹⁰ Calendar of preventive vaccinations approved by Order of the Ministry of Health of Ukraine No. 595 dated September 16, 2011.

¹¹ WHO Statement on BTG revaccination for TB Control, WHO Bulletin, 1995, 73 (6): 805-810, Article 806.

¹² Order of the Ministry of Health No. 233 dated July 29, 1996, "On Approval of Instructions on the Provision of Health Care to Patients with Tuberculosis."

RECOMMENDATIONS TO:**Ministry of Health**

1. Increase the level of TB vaccination coverage of children, including through information and awareness campaigns at national and local levels.
2. Bring in compliance the Instruction on the Use of Tuberculous BCG and BCG-M Vaccine with the Order of the Ministry of Health of Ukraine dated May 18, 2018, No. 947 concerning the cancellation of revaccination at the age of 14 years.
3. Harmonize the legislation of Ukraine with the Resolution of the Cabinet of Ministers of Ukraine dated March 29, 2017 No. 348 "Some Issues of the State Sanitary and Epidemiological Service", which eliminated the State Sanitary and Epidemiological Service, by excluding all references to it.

Detection and diagnosis of TB

The main issues identified during the assessment include:

- I. at the regional level, HCFs continue to spend money on mandatory general preventive examinations¹³, while these inefficiently spent funds could be directed to the purchase of treatment for adverse reactions of anti-TB drugs;
- II. insufficient training of the general-medical network and a lack of knowledge of the algorithm for detecting cases of tuberculosis by doctors at the level of primary health care;
- III. delays in diagnosis and errors during the diagnosis of tuberculosis (especially extrapulmonary forms or in HIV-infected patients) in primary health care facilities and in non-specialized tuberculosis medical facilities which may be caused by the violation of the algorithm for the detection of tuberculosis, the complexity of the interpretation of fluorography, etc.
- IV. the algorithm of tracing contact persons is poorly regulated; it is necessary to regulate in more detail the procedure of checking the contact persons and to define the roles and functions of each of the services when tracing contacts;

¹³ While spending for annual obligatory fluorography screening constitute up to 1 003 000 000 UAH or 38 USD (approximately 16 mln examinations conducted with average cost of 1 fluorography approx. 50 UAH or 2 USD). PHC MoH Ukraine. Tuberculosis in Ukraine: analytical and statistical book, 2018, p. 49 <https://phc.org.ua/uploads/files/%D1%84%D1%96%D0%BD%D0%B0%D0%BB%20%D0%BF%D1%80%D0%BE%D0%B5%D0%BA%D1%82%20%D0%B4%D0%BE%D0%B2%D1%96%D0%B4%D0%BD%D0%B8%D0%BA%D0%B0%20%D0%A2%D0%91%202018.pdf>

- V. due to underfunding, inefficient use of available funds and corruption, the use of outdated equipment for fluorography and X-rays from the Soviet times and the lack of availability of diagnostic tools at the primary level (X-rays, CT, MRI), people with TB and HIV-associated TB are forced to pay for X-ray films and services for computed tomography and MRIs;
- VI. during microscopy of sputum on mycobacterium in the laboratory at the primary level, unreasonable three-day to one-week delays occur, although they should be completed on the same day;
- VII. insufficient availability of molecular genetic tests (for example, GeneXpert MTB / RIF) as the primary method of diagnosis of TB, namely the lack of documents regulating the use of molecular genetic tests not only for drug susceptibility testing but also as a method of primary diagnosis.
- VIII. insufficient availability of linear probes (LPA) testing (e.g. Genotype® MTBDRsl assay, Hain Lifescience);
- IX. Drug susceptibility testing to main first and second line drugs is not readily available. Due to obsolete or remote equipment and the inefficiently organized logistics of the samples, the duration of the establishment of the drug resistance profile can take from 2-3 weeks to 1.5-2 months, and determination of resistance to rifampicin using molecular methods (e.g. GeneXpert) can take from 2 to 14 days in some oblasts of Ukraine¹⁴.
- X. Unified clinical guidelines do not oblige health facilities to carry out TB diagnosis using modern diagnostic testing methods such as the widespread application of genetic-molecular diagnostic methods (e.g. GeneXpert MTB/RIF) and testing with linear probe analysis (LPA) (for example, Genotype® MTBDRsl assay, Hain Lifescience). In addition, due to the limited and inappropriate state funding for TB control, funding from the state budget for purchasing systems for genetic-molecular biology Diagnostic units (for example, GeneXpert MTB/RIF), LPA testing (for example, Genotype® MTBDRsl assay, Hain Lifescience) and consumables are insufficient. The purchase of this diagnostic equipment was carried out only at the expense of international organizations for a small number of health facilities.

RECOMMENDATIONS TO:

Ministry of Health

1. Develop mechanisms for the implementation and strict adherence to new diagnostic algorithms by introducing innovative models of state funding for the active detection of TB cases by primary health care physicians;

¹⁴ According to the statements of the participants of the focus groups of people who suffered from tuberculosis from Kiev (2 days), Nikolaev (4.5 days), Chernihiv (14 days), Dnepr (3 days), Kramatorsk (3 days).

2. Amend the sub-normative acts regulating TB diagnosis using modern diagnostic testing methods, in particular, genetic-molecular diagnostic methods (for example, GeneXpert MTB / RIF) and linear probe analysis (LPA) (for example, Genotype® MTBDRsl assay, Hain Lifescience).
3. Determine the details of the procedure for tracing contact persons and the roles and functions of each of the services.
4. Align the Resolution of the Cabinet of Ministers of Ukraine dated May 23, 2001, No. 559 "On Approval of the List of Professions, Productions and Organizations whose employees are subject to compulsory preventive medical examinations, the order of conducting these reviews and the issuance of personal medical books" with the liquidation of the State Sanitary and Epidemiological service;

**Ministry of Health, local executive power authorities,
local self-governing authorities**

5. Enhance the use of technologies for rapid TB diagnosis and drug susceptibility testing (including GeneXpert MTB / RIF and Genotype® MTBDRsl assay, Hain Lifescience) at the expense of state and local budgets;
6. Ensure installation of systems for linear probe assay (LPA) where it is possible to use them with the greatest efficiency;
7. Improve the transportation of sputum or patients for rapid testing of drug susceptibility.

Ministry of Health, Ministry of Finance, and Verkhovna Rada

8. Include diagnostics of TB (including expensive methods, e.g. CT, MRI) among risk groups for the list of medical services provided at the expense of budgetary funds under the state medical guarantees program;

The State Audit Office of Ukraine, NGOs

9. Strengthen state and public monitoring of the use of funds for the purchase of consumables for diagnostic tools (X-ray films) and informal payments in medical institutions;

NGOs

10. Establish an NGO co-operation with local diagnostic centers to redirect patients and receive discounts for persons suspected of having tuberculosis from the poorest segments of the population.

Treatment

The main treatment challenges identified during the assessment include: (i) unreasonably long-term hospitalization; (ii) improper conditions for staying in anti-TB health care facilities; (iii) malnutrition; (iv) insufficient use of fixed combinations; (v) insufficient supply of medical products (masks, novocaine, syringes, etc.) and medicinal products for adverse reactions; (vi) improper organization of infection control; (vii) incompetence, manifestations of stigma and low motivation of some doctors in anti-TB facilities due to low rotation of staff; (viii) low levels of responsibility of some patients for adherence to the treatment regimen; (ix) informal payments; (x) lack of proper material and financial support for patients during treatment; (xi) lack of social and psychological support to increase adherence to treatment; (xii) delays in the supply of certain medicinal products; (xiii) regulatory system which does not regulate the system of centralized and simultaneous procurement of anti-TB drugs by a single tender for different departments (Ministry of Health, National Academy of Medical Sciences, State Criminal Execution Service, Ministry of Defense); (xiv) lack of access to new generation anti-TB drugs (bedaquiline and delamanid); (xv) remoteness of drugs dispensaries and associated transport costs for patients; (xvi) low availability and quality of palliative care.

RECOMMENDATIONS TO:

Ministry of Health, Ministry of Finance, Cabinet of Ministers and Verkhovna Rada

1. Include drugs for the treatment of adverse reactions in state drug reimbursement programs;
2. Develop normative proposals on combining the procurement of anti-TB medicines in one tender by harmonizing the nomenclature and combining the volumes to obtain the most favorable conditions from suppliers at the expense of the Ministry of Health, the State Criminal Execution Service, the Ministry of Defence and the National Academy of Medical Sciences;
3. Ensure the transition to 100% state financing of drug procurement for the treatment of MDR-TB and XDR-TB.

Ministry of Health, Ministry of Social Policy, Ministry of Finance, Cabinet of Ministers and Verkhovna Rada

4. Provide financial support to people with TB from low-income populations in order to increase adherence to treatment;

5. Expand state financing of food rations, food costs and travel to the hospital for people with TB from low-income populations based on a preliminary survey of the needs of these people;
6. Eliminate the legal barriers to providing paramedical services such as drug delivery, tuberculosis screening, etc. by social workers from state social services and NGOs;

Ministry of Health

7. Evaluate the implementation of the anti-TB regulations by the Order of the Ministry of Health of 29.12.2016 № 1422 concerning medical care for children with tuberculosis using international or foreign clinical guidelines.
8. Strengthen control over adherence to protocols in health care settings and cancel centralized approval of the diagnosis and appointment of treatment by the Central Medical Advisory Commissions, except for cases of pre-XDR and XDR TB.
9. Include in the program and regulatory documents on combating tuberculosis components of social and psychological support to improve adherence to treatment;
10. Ensure alignment with international standards of state building codes for hospitals, infection control standards and health standards;
11. Approve the state strategy for antibacterial resistance and its implementation;
12. Increase awareness of best practices for infection control of the main doctors of anti-TB facilities and encourage them to improve infection control in anti-TB facilities;
13. Stimulate medical institutions to create isolated box-rooms in hospitals that meet the standards of infection control through establishing competitive conditions of contracts for financing services that will be concluded by National Health Service with anti-TB and infectious hospitals;
14. Clarify in the normative acts the possibility of diagnosis: "nosocomial infection";
15. Monitor implementation of strict linkage between licensing of anti-TB institutions and compliance with the standards of infection control.
16. Align the procedure for keeping the register of patients with tuberculosis, approved by the order of the Ministry of Health of Ukraine dated October 19, 2012 No. 818, with the current legislation of Ukraine in the field of personal data.

Ministry of Health, local self-governing authorities, local anti-TB facilities

17. Ensure the prioritization of outpatient and home-based treatment for people with TB, limiting inpatient treatment to complicated cases and expand ambulatory care at the primary care level;
18. Ensure the proper flow distribution of people with TB and HIV-associated TB in hospitals to prevent cross infection and nosocomial infection.
19. Implement a component of outpatient treatment of tuberculosis in undergraduate and postgraduate medical training at the primary care level.
20. Implement mechanisms for paying primary health care providers and anti-TB facilities doctors bonuses for conducting or successfully completing treatment of each case of tuberculosis during inpatient and outpatient treatment at the expense of the state budget;
21. Expand remote DOT-therapy models, such as video-DOT, which will improve the quality of patients life, reduce stigma and improve their adherence to treatment, while ensuring more adequate control of patients taking medication;
22. Involve NGOs in the delivery of medicines in an outpatient treatment model for PLWH and other groups for whom it is difficult to visit dispensing facilities on a daily basis, or there is a risk of non-adherence to treatment;
23. Provide brochures for people with TB in anti-TB facilities to increase understanding of the diagnosis and treatment process and increase adherence to treatment;
24. Implement a wider use of bedaquiline and delamanid in strict compliance with treatment protocols and infection control standards;
25. Expand patient support programs on a "peer-to-peer" basis. People who are infected with TB and HIV can share their treatment experience, thus eliminating fears and ignorance of patients and supporting mutual assistance groups for people with TB;
26. Improve the sanitary and hygienic conditions of anti-TB facilities, food, etc. through the reform of the network of anti-TB facilities, stimulating the rational and transparent use of funds;

27. Establish transparent mechanisms for budgeting and financing for state and local funding of NGO projects on social support and support of people with TB and HIV-associated TB, as well as their families, based on assessing individual needs, and to encourage the use of such mechanisms by NGOs.
28. Ensure optimization of the hospital rooms of anti-TB facilities to the single location of the patient in the ward;

Local executive power authorities, local self-governing authorities, anti-TB facilities

29. Use existing TB coordination councils at the oblast level or implement coordination mechanisms (in the absence of a local coordinating council) for joint planning of activities, budgeting and implementation with the participation of local executive power authorities, local self-governing authorities, anti-TB facilities, NGOs and the community of people affected by TB.

Problems of access to diagnosis and treatment among key populations

People living with HIV

The main challenges for PLWH during diagnosis and treatment of tuberculosis are related to the clinical features of tuberculosis in PLWH (the spread of extrapulmonary forms) and injection drug use, both which affect adherence to treatment and can cause stigmatizing attitudes held by healthcare workers.

Stigma among the general population and healthcare workers remains a significant problem, which is manifested in the form of intolerant attitudes towards people living with HIV and denial of care.

RECOMMENDATIONS TO:

Ministry of Health

1. Lift the ban to people living with HIV on child adoptions.
2. Raise awareness among health care providers, including anti-TB facilities on HIV, ethics and rights;
3. Raise awareness among the general population in order to form tolerant attitudes towards PLHIV.

Ministry of Health, local governments, anti-TB facilities

4. Strengthen the personnel and logistical potential of the anti-TB system in diagnosing and treating extrapulmonary TB in people living with HIV.

Persons held in temporary detention centers

Persons placed in temporary detention isolation facilities are not adequately screened for TB, in particular, it is reported that they do not undergo a special TB screening interview, fluorography, tuberculin test, etc. The legislation requires that detainees and persons who are taken into custody undergo a primary medical examination in the health institutions of the Ministry of Health of Ukraine before they are placed in a temporary holding isolator to identify persons who constitute an epidemic threat to the environment or need emergency medical care¹⁵. However, in contravention of international standards¹⁶, in staff charts there is no medical officer (paramedic) or person responsible for saving a person's life in critical condition. Many temporary holding isolators are not equipped with the necessary medical equipment, do not fulfill the recommendations of doctors from healthcare facilities and PWID do not receive uninterrupted SMT due to lack of knowledge of the regulatory framework by temporary holding isolators employees¹⁷. Logs with complaints of individuals, as well as logs of medical assistance to people are not always kept or are inappropriately conducted¹⁸. The procedure for interactions of temporary detention facilities with health facilities for the provision of anti-TB care and confidentiality of HIV testing is not regulated.

¹⁵ Rules of the internal order in the temporary detention isolators of the bodies of internal affairs of Ukraine, approved by the order of the Ministry of Internal Affairs of Ukraine, dated 02.12.2008, No. 638, p. 9.3.

¹⁶ European prison rules, CoE, p. 41.1

¹⁷ Annual Report of the Ukrainian Parliament Commissioner for Human Rights on the state of observance and protection of human rights and freedoms in Ukraine for 2016, pp. 243, 246

¹⁸ Annual Report of the Ukrainian Parliament Commissioner for Human Rights on the state of observance and protection of human rights and freedoms in Ukraine for 2016, p. 246

In its 2017 report, the CoE Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment highlighted the violations related to non-observance of the terms of detention of persons in temporary detention isolators, as there were repeated re-transfers of people from investigative isolators to temporary detention isolators and back.¹⁹

RECOMMENDATIONS TO:

Ministry of Interior Affairs, Ministry of Justice and Verkhovna Rada

1. Determine maximum periods of detention in temporary detention facilities in accordance with international recommendations.
2. Prohibit and ensure the termination of the practice of repeatedly re-transferring people from the investigatory isolator to temporary detention isolators and back.

Ministry of Interior Affairs, National Police, Ministry of Health

3. Regulate the order of interaction of temporary detention isolators with health facilities to ensure early detection, timely diagnosis, chemoprophylaxis and continuity of treatment for people with TB and HIV-associated TB and contact persons;
4. Ensure proper sanitary and epidemiological conditions and infection control in temporary detention isolators.
5. Determine the position of the medical officer (assistant medical officer) responsible for saving and preserving the life of a person in critical condition in the staffing charts of all temporary detention isolators.
6. Provide financing for the medical personnel of temporary detention isolators, their training on TB and HIV-associated TB, substitution maintenance therapy, excluding the practice of conducting medical examinations/screening of persons placed in temporary detention isolators in the form of interviews with non-medical personnel;
7. Provide all health care temporary detention centers with an exemplary list of questions for TB screening interviews;
8. Prohibit access to medical records by non-medical personnel of temporary detention isolators to ensure confidentiality;
9. Introduce legal basis for confidential HIV testing in temporary detention isolators;
10. Conduct a check of subway stations regarding the presence of illegal places of detention (metal cages).

¹⁹ Report on the implementation of the recommendations and observations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as set forth in the report of the Government of Ukraine based on the results of the visit to Ukraine from 21 to 30 November 2016, pp. 13-14

Persons detained in penitentiary institutions, investigative isolators and premises with functions of investigative isolators

For imprisoned and convicted prisoners with TB in detention centers, forced isolation may also be applied in special clothing in non-suitable non-medical premises, including single punishment cells, as a form of punishment for refusal to undergo treatment²⁰.

During medical examinations and temporary stays in isolation facilities, prior to referral to health facilities, there is no distribution of flows of convicted people with TB and HIV-associated TB to avoid complications in the form of drug-resistant forms of TB or proper provision of the right to health care and life of these convicts.

Contrary to international recommendations²¹ and in accordance with the current legislation of Ukraine, preventive medical examinations are not carried out to all convicts twice a year; the type of fluorographic equipment to be used is not determined by legal framework (it should be digital for image clarity) and it is not guaranteed that diagnostic tests will be performed with genetically-based molecular tests (for example, GeneXpert MTB/RIF) to people who are convicted with relapsed TB, pulmonary TB or living with HIV for the timely detection of multi-resistant TB. Also, the issue of identifying contact persons among convicts is not regulated.

Diagnosis in the system of State Criminal-Execution Service

Among the factors in prisons which may contribute to TB morbidity, the following were highlighted: overcrowding, high humidity, improper temperature regime during the winter period in barracks and at the workplaces of prisoners, heavy workload without adequate consideration of the health status of the prisoners, corruption, theft and disparaging and inattentive attitudes held by the staff in prisons.

In addition, low qualifications and sometimes indifferent and negligent attitudes of medical staff in prisons, as well as shortages of medical personnel in connection with the reformation and underfunding of penitentiary institutions were reported.

In investigative isolators, there is an unmet need for equipment for fluorography and GeneXpert systems. Diagnostic equipment in prisons is lacking and is rather outdated. The medical parts of the prisons are equipped with microscopes and in the pre-trial detention centers, fluorographs installed during Soviet times are used to diagnose tuberculosis.

²⁰ The rules of the internal order of the investigative detention facilities of the State Penitentiary Service of Ukraine, approved by the Order of the Ministry of Justice of Ukraine dated March 18, 2013, No. 460/5, Section VIII, paragraph 7, subs. 7.2.

²¹ Guidelines for Tuberculosis Control in Prisons, WHO, 1998, Art. 35; Prisons and health. WHO Regional Office in Europe. 2014, st.st. 60-63. http://www.euro.who.int/__data/assets/pdf_file/0005/249188/Prisons-and-Health.pdf

Significant delays in diagnosis were reported, as in some prisons there is no tuberculosis specialist who can diagnose TB and prescribe treatment. In such cases, the prisoners who are suspected to have TB are sent to prisons with anti-TB hospitals to be examined and begin treatment. Sending persons who are suspected to have TB from a prison without a TB hospital to a prison with a TB hospital usually takes place 3 times a month, and the transit can be quite lengthy.

Transit from one prison to another only for diagnosis of tuberculosis can last up to 3 months.

Prisoner transportation is problematic from the point of view of infection control, as all healthy and TB suspects are carried in one car (up to 20 persons) and are then placed into railroad trains where there are 10-15 people in each cell.

Treatment in the system of State Criminal Execution Service

In anti-TB prison hospitals, participants in the focus groups of former convicts noted the lack of drugs for the treatment of adverse reactions. Also, in general, there was an insufficient availability of generic medicines, medical devices and medical equipment in medical units in prisons.

Cases of untimely provision or refusal to provide medical care were reported.

There were repeated cases of convicted and detained persons with active TB being kept together with healthy prisoners which leads to the transmission of TB and decreases the possibility of obtaining an adequate judicial remedy.

RECOMMENDATIONS TO:

Ministry of Justice, State Penitentiary Service

1. Review the system of transportation of TB suspects or people with tuberculosis between prisons, to include direct delivery with sanitary transport, the establishment of clear time limits of transportation and strict compliance requirements of infection control;
2. Prohibit the detention of prisoners and convicts with TB and HIV-associated TB to a single disciplinary isolator and change the rules on hygienic procedures in a single disciplinary isolator;
3. Ensure proper conditions for the detention of prisoners, including the proper functioning of the ventilation system, to abolish the practice of placement of convicts in overcrowded general prison cells without ensuring the minimal space permissible in accordance with international standards;

4. Develop a long-term strategy for ensuring infection control in temporary detention centers and prisons and to bring infectious isolators of investigative isolators into compliance with the requirements of infection control;
5. Ensure TB screening for newly arrived prisoners and convicts;
6. Conduct a preventive medical examination for all convicts twice a year using mobile fluorographic units.
7. Identify measures for the prevention, early detection and diagnosis of TB in contact persons among convicts.
8. Conduct diagnostic tests for prisoners with more modern methods, such as genetic-molecular tests (e.g. GeneXperts) and systems for linear probe assays for the early detection of TB and MDR-TB;
9. Review the medical indications for release from prison due to disease in order to eliminate the cases when seriously ill convicts cannot use this mechanism due to too narrow requirements for such release;

Ministry of Justice, NGO

10. Extend the support of human rights lawyers to prisons by increasing their visits during which legal advice would be provided to convicts.

Ministry of Justice, Ministry of Health

11. Regulate cooperation between prisons where there is no doctor of phthisiology and anti-TB facilities of the general medical system for the diagnosis and prescription of the initial treatment scheme and for the provision of the necessary treatment with anti-TB drugs for the period of transition to the appropriate prison with the TB department.
12. Conduct training for tuberculosis specialists of the State Criminal Execution Service to increase their awareness of the necessary psychological support for TB patients;

**Ministry of Justice (Office of Penitentiary Inspections),
Ministry of Health, the National Preventive Mechanism
of the Commissioner**

13. Increase the effectiveness of monitoring and investigation of cases of non-provision or inadequate provision of treatment in prisons;

Ministry of Justice, the Cabinet of Ministers, and Verkhovna Rada

14. Implement a national mechanism for rapid response to non-provision of medical care, similar to Rule 39 of the Rules of Court of the European Court of Human Rights, by considering preventive measures for expedited transfer of a seriously ill patient to a general healthcare facility in the absence of access to treatment in prisons.
15. Increase financing of procurement of medicines for the system of State Criminal Execution Service;

Ministry of Social Policy, Ministry of Health

16. Provide medical and social support for recently released prisoners who continue to receive treatment for tuberculosis or have completed such treatment;
17. Develop and implement an algorithm for conducting a periodic preventive examinations of convicted in correctional centers in the healthcare facilities subordinated to the Ministry of Health of Ukraine, and to regulate this procedure by appropriate orders.

People who inject drugs

In total, the dispensary record in early 2017 indicated there were 42,247 people who used injecting drugs²². At the same time, as of 01.12.2017, only 10,053 people who used injecting drugs received substitution maintenance therapy medicines, among which there were 1,672 people with TB²³. Available evidence suggests that access to substitution maintenance therapy in different regions of Ukraine is uneven and in most cases does not meet the needs of all people who use injecting drugs.

In the case of treatment, people who inject drugs may face restrictions on the implementation or violation of their right to privacy, their right to freedom from discrimination, and their right to personal integrity due to the legal provisions on compulsory medical examination, registration and treatment of drug addiction based on court decisions. For example, a court decision on the referral of a person who uses injecting drugs to compulsory treatment is the reason for his/her dismissal from work or discontinuation of education²⁴.

²² National report for 2017 on the narcotic situation in Ukraine (according to 2016). An in-depth review of the drug situation in Ukraine for the European Monitoring Center for Drugs and Drug Addiction. State Institution "Ukrainian Monitoring and Medical Center for Drugs and Alcohol of the Ministry of Health of Ukraine", Art. 75

²³ Information on quantitative and qualitative non-functional characteristics of substitution maintenance therapy patients as of December 1, 2017. http://phc.org.ua/pages/diseases/opioid_addiction/stat-docs.

²⁴ Law of Ukraine "On Measures to Combat Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors and Their Abuse", Art. 21; Code of Labor Laws of Ukraine, Art. 36, p. 9.

Most of the anti-TB facilities do not have substitution maintenance treatment rooms in which controlled substitution maintenance therapy and access to integrated services for medical and socio-psychological support are provided. NGOs report that in the absence of substitution maintenance therapy in anti-tuberculosis facilities, people who inject drugs with active TB are forced to leave the hospital for a "dose search". This, in turn, is recognized by doctors as a violation of the rules of stay in an anti-TB institution and results in the discharge and termination of treatment. On the other hand, people who inject drugs with active TB may receive refusals at substitution maintenance programs due to the risk to the health of other PWIDs receiving substitution maintenance therapy.

Although the current legislation of Ukraine establishes the procedure of interaction between law enforcement officers and healthcare institutions and defines the complex of their duties to ensure the continuity of substitution maintenance therapy to persons in custody, the detained and convicted prisoners²⁵ who have already received substitution maintenance therapy²⁶, there are certain disadvantages. Thus, "continuation of substitution maintenance therapy is organized in case if the health care facility providing substitution maintenance therapy is located within the same administrative-territorial unit (city, district)" where these persons are located²⁷. The list of these health care facilities determined by the current legislation²⁸ is small, and it does not cover the majority of cities and districts in Ukraine.

As a consequence, detainees and convicted PWID receiving substitution maintenance therapy are deprived of substitution maintenance therapy in pre-trial detention and correctional centers and are subjected to detoxification as a single, non-alternative measure to stop withdrawal syndrome. Substitution maintenance therapy is not provided in prisons.

RECOMMENDATIONS TO:

Ministry of the Interior Affairs, Verkhovna Rada

1. Decriminalize the storage of narcotic drugs without the purpose of selling.

²⁵ The order of interaction of health care institutions, internal affairs bodies, investigative detention centers and correctional centers with regard to ensuring the continuity of treatment with substitution maintenance therapies, approved by the joint order of the Ministry of Health of Ukraine, the Ministry of Internal Affairs of Ukraine, the Ministry of Justice of Ukraine, the State Service of Ukraine for Control for drugs from 22.10.2012 № 821/937/1549/5/156.

²⁶ Ibid., P. 2.1. and 2.2.1.

²⁷ Ibid., P. 2.2.4.

²⁸ List of health facilities where substitution maintenance therapy is implemented Appendix 1 to the List of health care establishments where substitution maintenance therapy approved by the joint order of the Ministry of Health of Ukraine, the Ministry of Internal Affairs of Ukraine, the Ministry of Justice of Ukraine, the State Service of Ukraine on drug control dated 22.10.2012 № 821/937/1549/5/156.

**Ministry of the Interior Affairs, General Prosecutor's Office,
Ministry of Justice**

2. Cancel the procedure for the detection and registration of persons who illegally use narcotic drugs or psychotropic substances, approved by a joint order of the Ministry of Health of Ukraine, the Ministry of Internal Affairs of Ukraine, the General Prosecutor's Office of Ukraine, the Ministry of Justice of Ukraine of 10.10.1997, No. 306/680/21/66/5, which does not comply with the current legislation of Ukraine.

**Ministry of Health, Ministry of Internal Affairs, the State Service of
Medicines, Ministry of Justice**

3. Eliminate the requirement of the joint order No. 821/937/1549/5/156 that the continuation of substitution maintenance therapy is organized in the event that the substitution maintenance therapy institution is located within the territorial unit (city, district) where the detainees are located, detained, arrested and sentenced.

**Ministry of Health, Ministry of the Interior Affairs, Ministry of Justice,
NGO**

4. Conduct training with doctors, law enforcement officials and State Criminal Execution Service to create a tolerant attitude towards people who use injection drugs;

Ministry of Health, Ministry of Internal Affairs, and Verkhovna Rada

5. Cancel the administrative responsibility for "avoiding medical examination by a person who abuse drugs or psychotropic substances".
6. Abolish the taking of persons who evade medical examination into custody by National Police.
7. Cancel the grounds for the dismissal or termination of the education of people who use injection drugs based on court decisions on ongoing forced treatment of drug addiction.
8. Align the terminological apparatus of the current legislation of Ukraine with international standards in the part of counteracting the stigma and discrimination of people who inject drugs.

**The Office of the Human Rights of the National Police, the Office
of Penitentiary Inspections of the Ministry of Justice, the National
Preventive Mechanism of the Commissioner**

9. Jointly monitor the provision of substitution maintenance therapy in pre-trial detention centers and temporary detention facilities;

Ministry of Justice, Ministry of Health, Cabinet of Ministers, Verkhovna Rada

10. Stipulate in law and ensure the implementation of substitution maintenance therapy for convicts in prisons.

Ministry of Health, local executive power authorities, local self-governing authorities, TB facilities

11. Pilot models of integrated TB care and SMT and ensure the expansion of the most effective integrated care models in areas with a high burden of tuberculosis and injecting drug use.²⁹

Homeless person

Homeless people are among the most socially vulnerable and stigmatized groups denied access to medical care, not only on the basis of a lack of identification documents, but also as a manifestation of discrimination and corruption.

At the same time, the attitudes of the police to homeless people create cause for concern. In July 2015, thanks to video recordings taken by witnesses, the illegal detention and beating of a homeless person in Kyiv was documented, and the involved police officers were dismissed³⁰. Non-governmental organizations report that such detentions are not uncommon and are committed for the purpose of crime detection statistics.

At the legislative level, homeless people are guaranteed the renewal or receipt of identity documents³¹ and should be assisted by the authorized persons of the passport centers³². However, they are required to pay a state fee³³ of 34 hryvnias³⁴, and in the case of repeated loss of the passport within a year, a fine of up to 51 UAH should be paid³⁵. When a birth certificate is lost (one of the mandatory documents

²⁹ For the implementation of the recommendation, it is expedient to consider existing models of integration of services from other countries, for example, Portugal http://www.euro.who.int/__data/assets/pdf_file/0005/165119/E96531-v6-Eng.pdf.

³⁰ <https://ua.112.ua/suspilstvo/rezonansni-zatrymannia-patrunloi-politsiieiu-bomzhiv-u-kyievi-zakinchylisia-zvilneniamy-zhuladze-262865.html>.

³¹ The Law of Ukraine "On Fundamentals of Social Protection of Homeless Persons and Homeless Children", Art. 8.

³² The procedure of interaction between the entities providing social services to the homeless is approved by the order of the Ministry of Labor and Social Policy of Ukraine, the Ministry of Ukraine for Family, Youth and Sports, the Ministry of Health of Ukraine, the Ministry of Internal Affairs of Ukraine, the State Committee of Ukraine for Nationalities and Religions, The State Department of Ukraine for the Execution of Sentences of 19.02.2009, No. 70/411/101/65/19/32, section II, subsection 2.2, paragraph 2.2.3.

³³ Decree of the Cabinet of Ministers of Ukraine "On State Duty" of January 21, 1993, No. 7-93, Art. 5

³⁴ Decree of the Cabinet of Ministers of Ukraine "On State Duty" of January 21, 1993, No. 7-93, Art. 3, para. 6, pp. "a".

³⁵ Code of Ukraine on Administrative Offenses, Art. 197, part 2

for obtaining a passport³⁶), a precondition for obtaining a passport is most often an appeal to a court.

At the legislative level in Ukraine, there is no specific legal basis of social support for TB diagnostics and treatment (referral only with consent to the examination), social support of treatment adherence.

In violation of the right to privacy and confidentiality of health status, certificates with sensitive information (results of X-ray examination of the chest cavity, laboratory tests, medical records consultation, etc.) are stored in personal files in an institution for homeless people and non-medical employees of shelters for homeless people have unwarranted access to this information. Moreover, special requirements for an order to process such personal data are not set out in regulations for such institutions³⁷.

RECOMMENDATIONS TO:

Ministry of Justice, Verkhovna Rada

1. Cancel article 197 of the Code of Ukraine on Administrative Violations as it is an obstacle to receiving identity documents by homeless persons.

Ministry of Social Policy

2. Provide social support services to homeless people in the context of TB treatment;

Ministry of Social Policy, Ministry of Health

3. Pilot the provision of paramedic services in TB ambulatory care to homeless people by state social workers. Provide and ensure the establishment of conditions for proper infection control in state social protection institutions and empower social protection institutions to provide homeless people with tuberculosis and HIV-associated TB outpatient care.

Ministry of Health

4. Prohibit access to the medical documents of homeless persons by the non-medical staff of social protection institutions and ensure the storage of these documents in accordance with the current legislation on the protection of personal data.

³⁶ The procedure for the registration and issuance of a passport of a citizen of Ukraine, approved by the order of the Ministry of Internal Affairs of Ukraine dated April 13, 2012, No. 320, p. 1.3.

³⁷ The procedure of interaction between the entities providing social services to the homeless is approved by the order of the Ministry of Labor and Social Policy of Ukraine, the Ministry of Ukraine for Family, Youth and Sports, the Ministry of Health of Ukraine, the Ministry of Internal Affairs of Ukraine, the State Committee of Ukraine for Nationalities and Religions, State Department of Ukraine on Enforcement of Sentences dated 19.02.2009 No. 70/411/101/65/19/32, section II, subsection 2.3, paragraph 2.3.4.

Cabinet of Ministers

5. Simplify the placement of housing and social records for homeless people.

Persons who abuse alcohol

Alcohol abuse not only increases the risk of developing tuberculosis, but it can lead to low adherence to and discontinuation of treatment. At the same time, participants in the focus groups (Rivne city) noted the lack of psychological assistance to people with TB on overcoming alcohol addiction.

RECOMMENDATIONS TO:

Cabinet of Ministers, Verkhovna Rada

1. Empower local governments to impose additional restrictions, prohibit the sale of alcoholic beverages, in particular, in small architectural forms (temporary structures) and in common premises of shops, not separated by separate entrances and time limits.
2. Establish the responsibility of advertisers of alcoholic beverages to spend at least 5% of funds, spent by them on advertising, on the production and distribution of social advertising on the harms of tobacco and alcohol abuse, in Article 27 of the Law of Ukraine "On Advertising" and the Procedure for imposing fines for violating the legislation on advertising, approved by the decision of the Cabinet of Ministers of 26.05.2004 № 693.
3. Increase the excise duty on alcoholic beverages and target the funds received to finance public health activities, including the fight against the TB epidemic.

Ministry of Social Policy, local executive power authorities, TB healthcare facilities

4. Provide access to psychological counseling services for people with TB to overcome alcohol dependence;

Migrants and internally displaced persons, persons without documents / illegal migrants

The current legislation of Ukraine establishes the duty of a person applying for an immigration permit to submit "a document that the person is not sick with chronic alcoholism, substance abuse, drug addiction or infectious diseases" according to a defined list³⁸, and if not submitted, it is grounds for refusal to issue the permission³⁹. The Ministry of Health of Ukraine⁴⁰ introduced an active form of TB⁴¹ to the list of infectious diseases.

Internally displaced persons are not included in the groups of high risk or increased risk of TB in the List of Persons Belonging to the Groups at Increased Risk of the Disease for Tuberculosis⁴². Accordingly, they do not undergo compulsory primary medical examinations for TB when arriving from occupied territories and there are no preventive measures such as screening questionnaires when seeking medical care. Internally displaced persons do not undergo a screening survey for TB in social services because they often lack the necessary knowledge and personal protective equipment. In practice, assistance to internally displaced persons is limited to the issuance of a certificate of registration of internally displaced persons and short-term payment of material assistance to meet basic needs. Due to the territorial principle of financing medical assistance in Ukraine, internally displaced persons face challenges in accessing medical care and frequent redirections from hospital to hospital.

RECOMMENDATIONS TO:

Ministry of Justice, Verkhovna Rada

1. Amend the Law of Ukraine "On Immigration" in the part of the submission of "a document that the person is not a patient with chronic alcoholism, substance abuse, drug addiction or infectious diseases" as a condition for issuance of immigration permit.

Ministry of Health, Ministry of Justice

2. Abolish the List of infectious diseases that serve as grounds for the refusal to grant a permit for immigration to Ukraine, approved by the order of the Ministry of Health of Ukraine of 19.10.2001 № 415.

³⁸ The Law of Ukraine "On Immigration" dated 07.06.2001 No. 2491-III, Art. 9, part 5, paragraph 5.

³⁹ The Law of Ukraine "On Immigration" dated 07.06.2001 No. 2491-III, Art. 10, part 1, paragraph 3.

⁴⁰ The Law of Ukraine "On Immigration" dated 07.06.2001 No. 2491-III, Art. 8, part 1

⁴¹ The list of infectious diseases, the diseases on which are grounds for refusal to grant the permit for immigration to Ukraine, approved by the order of the Ministry of Health of Ukraine of 19.10.2001, number 415, paragraph 1.

⁴² The List of Persons Belonging to the Groups at Increased Risk of the Disease for Tuberculosis, approved by the order of the Ministry of Health of Ukraine on May 15, 2014 № 327.

Ministry of Health

3. Include internally displaced persons in the groups of high and increased risk of TB in the List of persons belonging to the groups at high risk of TB, approved by the order of the Ministry of Health of Ukraine dated May 15, 2014 No. 327.

Romani people

Among other people in Ukraine, Roma people are more often confronted with manifestations of discrimination and stigmatization ("the index of social distance from the Roma ethnic group in Ukrainian society is the highest among other national minorities - 5.7 on the Bogardus scale"⁴³) including by the Ukrainian police and doctors. When trying to find work, Roma people are confronted with hostility⁴⁴, as well as the manifestations of violence based on nationalistic motives⁴⁵, in particular by the police⁴⁶.

The lack of identity documents for Roma people is a significant barrier to access to social services, including health care services for TB and social security benefits⁴⁷. According to the Commissioner of the Verkhovna Rada of Ukraine on Human Rights, the number of Roma without such documents is about 20% in Ukraine⁴⁸, while the European Commission against Racism and Intolerance has reported about 30-40%⁴⁹. This is associated with complex procedures for obtaining documents, pay, frequent lack of evidence of Roma people about the existence of a permanent residence (registration) and a birth certificate. The latter can be obtained through a court⁵⁰, which also requires considerable material costs and is sometimes accompanied by discriminatory practices regarding the filing of additional documents not provided by the current legislation.

⁴³ State of implementation of state policy on Roma. Report on the results of monitoring the implementation of the Action Plan for the Strategy for the Protection and Integration of the Roma National Minorities in Ukrainian Society until 2020. Article 6

⁴⁴ Annual report of the Ukrainian Parliament Commissioner for Human Rights on the state of observance and protection of human rights and freedoms in Ukraine for 2017, Kyiv-2017, Art. 108-109.

⁴⁵ European Commission against Racism and Intolerance. Report on Ukraine (Fifth Monitoring Cycle) CRI (2017) 38. Accepted on June 20, 2017, Art. 9

⁴⁶ Report on the assessment of the situation of the Roma in Ukraine and the impact of the current crisis. OSCE. August 2014 Warsaw. Art. 17

⁴⁷ Final report. OSCE. An Expert Seminar on Roma Access in Ukraine to Identification Documents and Certificates of Registration of Civil Status Acts. Kyiv, Ukraine, November 19-20, 2015,

⁴⁸ <http://rozvitok.org/6903-2/>.

⁴⁹ European Commission against Racism and Intolerance. Report on Ukraine (Fifth Monitoring Cycle) CRI (2017) 38. Accepted on June 20, 2017, p. 66.

⁵⁰ Report on assessment of the situation of Roma in Ukraine and the impact of the current crisis. OSCE. August 2014 Warsaw, para 21

Low levels of education (24% of Roma do not have any education at all⁵¹) and a lack of knowledge of the state language (23% of Roma do not know how to read Ukrainian⁵²) leads to their lack of awareness of TB and the unpaid medical care of TB, and causes the failure of many Roma people to diagnose and treat the disease. Also, poverty prevents access to medical care, since in practice it is not provided free of charge as declared by the Constitution of Ukraine⁵³.

On the other hand⁵⁴, it was reported that cultural differences lead to low integration and to a certain degree self-isolation of the Roma national minority that requires a different approach to ensuring their basic rights and freedoms.

RECOMMENDATIONS TO:

Local executive power authorities, local self-governing authorities and TB health care facilities in communities with compact Roma living conditions

1. Include Romanian health and social intermediaries to staffing charts of health care facilities and provide for financing of their work;

Ministry of Social Policy

2. Conduct information campaigns to reduce stigma and discrimination against Roma peoples;

Ministry of Health

3. Conduct training among primary care physicians and TB doctors to create a tolerant attitude towards Roma people.

Poor residents of cities and villages

Due to the widespread lack of proper oversight by primary and secondary health care institutions (the monitoring/reporting systems for non-appearance of potential TB patients for diagnostic tests is lacking), fear of losing work, suffering discrimination, contracting TB-related illnesses, possible ineffective and long-term hospitalization, corruption (so-called "voluntary contributions" in health care facilities) and poverty, all necessary TB examinations, diagnosis and treatment are

⁵¹ Status of implementation of the state policy on Roma. Report on the results of monitoring the implementation of the Action Plan for the Strategy for the Protection and Integration of the Roma National Minorities in Ukrainian Society until 2020. Art. 18

⁵² Status of implementation of the state policy on Roma. Report on the results of monitoring the implementation of the Action Plan for the Strategy for the Protection and Integration of the Roma National Minorities in Ukrainian Society until 2020. Art. 9

⁵³ Report on assessment of the situation of Roma in Ukraine and the impact of the current crisis. OSCE. August 2014 Warsaw.

⁵⁴ International charity organization "Romani Women's Foundation" Chirikli".

not always carried out for people with TB and HIV-associated TB. Also, the lack of guarantees for the reimbursement of transportation costs significantly affects the decisions of people with TB to get the diagnostic test and subsequent treatment for TB.

RECOMMENDATIONS TO:

Ministry of Health

1. Develop and implement an effective mechanism for the redirection of patients with suspicion of TB from primary health care physicians to TB facilities;

Ministry of Health, Verkhovna Rada

2. Provide funding for the transportation costs of people with TB and HIV-associated TB, particularly those from remote villages.

Ministry of Health, Parliament, local self-governing authorities

3. Provide financing from the state and local budgets to social support for people with TB.

Elderly (retired people)

According to NGO reports, malnutrition and the social insecurity of elderly people lead to the spread of TB among this population. Thus, among those who first became ill with tuberculosis in 2017, pensioners accounted for 13.2%.⁵⁵ In this case, the average size of the appointed monthly pension by age was only 1808,9 UAH (approx. 68 USD)⁵⁶ in 2017.

RECOMMENDATIONS TO:

Ministry of Health, Ministry of Social Policy, Ministry of Finance, Cabinet of Ministers and Verkhovna Rada

1. Provide financial support to elderly people from low-income populations in order to increase adherence to treatment;

⁵⁵ Tuberculosis in Ukraine. Analytical and statistical guide. Public institution "Public Health Center of the Ministry of Health of Ukraine", 2018,p.37 <https://phc.org.ua/uploads/files/%D1%84%D1%96%D0%BD%D0%B0%D0%BB%20%D0%BF%D1%80%D0%BE%D0%B5%D0%BA%D1%82%20%D0%B4%D0%BE%D0%B2%D1%96%D0%B4%D0%BD%D0%B8%D0%BA%D0%B0%20%D0%A2%D0%91%202018.pdf>

⁵⁶ Information without regard to the temporarily occupied territory of the Autonomous Republic of Crimea in the city of Sevastopol and part of the zone of the anti-terrorist operation. <http://www.ukrstat.gov.ua/>.

2. Expand the state financing of food rations, food costs and travel to the hospital for people with TB from low-income populations based on a preliminary survey of the needs of these people;

Ministry of Health, Ministry of Social Policy, local self-governing authorities, TB facilities

3. Involve state social services and NGOs in the delivery of medicines in an outpatient treatment model for the elderly who find it difficult to visit health facilities daily for daily outpatient treatment.

Health care workers who come in contact with people with TB and HIV-associated TB

The List of Occupational Diseases envisions that TB is recognized as a professional-related disease for work⁵⁷ in medical facilities-legal entities (infectious, anti-TB, donor centers, etc.).

Thus, according to the legislation, institutions that are covered by state insurance for occupational diseases only include TB or general healthcare facilities that are legal entities. Accordingly, therapists/family physicians, as well as other persons who, because of their work responsibilities, are at increased risk of contracting TB and rendering services not within the legal entity are deprived of the corresponding additional social guarantees in the event of a professional-related case of tuberculosis.

In addition, the majority of occupational diseases in Ukraine are not investigated and reported properly, including tuberculosis. This may be explained by employers who are not interested in attracting the attention of inspection bodies with cases of nosocomial infection.

⁵⁷ List of occupational diseases, approved by the resolution of the Cabinet of Ministers of Ukraine dated November 08, 2000 No. 1662, section V, paragraph 1.

RECOMMENDATIONS TO:

Ministry of Health, Ministry of Social Policy, Ministry of Finance

1. Extend social guarantees to the level of primary medical care in the context of medical reform (including those who work as physical persons-entrepreneurs under the medical license), as well as other health care providers who, because of their work responsibilities, have an increased risk of contracting TB.
2. Ensure annual updates to the insurance payments according to the growth rates of average wages in Ukraine in order to increase the minimum insurance payments to victims of an occupational disease which causes disability.

Ministry of Health, Ministry of Social Policy, Cabinet of Ministers

3. Develop and approve the Concept and the State Target Program for the Restoration of Labor Medicine in Ukraine, providing the implementation of preventive measures to prevent occupational diseases, in particular, TB.
4. Review the regulations for the investigation of occupational diseases by simplifying the order of investigations with regards to the confirmation of occupational diseases.
5. Review the regulations on TB control, in particular the establishment of TB as a professional-related disease, in order to update the law in light of the abolishment of the State Sanitary and Epidemiological Service in Ukraine and the redistribution of its functions between different state bodies (the function of the epidemiological supervision is entrusted to the Ministry of Health of Ukraine).

Military personnel from the anti-terrorist operation (ATO/JFO) zone

Despite the difficult situation in NGCA and in the adjacent areas that are controlled by Ukraine which are characterized by reports of a shortage of drinking water and food, absence of proper sanitary and hygienic conditions⁵⁸ and other "extreme conditions of the front line"⁵⁹, including stresses, large crowds of people, overcooling⁶⁰, as well as WHO recommendations for the inclusion of military personnel in possible risk groups⁶¹, soldiers from the anti-terrorist zone are not included in the groups of high or increased risk of TB in the List of persons belonging to the groups at increased risk of TB disease, approved by the MoH Ukraine⁶². Thus, the current legislation of Ukraine does not stipulate that this category of persons undergoes compulsory medical examinations after returning from the ATO/JFO zone.

The conditions for screening and diagnosis of TB in the area of anti-terrorist operation are not available, X-rays and sputum smear microscopy, as well as fluorographs, remain inaccessible. In particular, the material and technical base of most of the health facilities in Donetsk and Luhansk oblasts are in poor condition⁶³. In addition, in the Donetsk region which is the closest to the line of contact, health facilities including anti-TB facilities are situated in NGCA. Primary health care facilities are funded from the district budget which is calculated with reference to the population of the respective district. Thus, free medical care including screening, diagnosis and treatment is available only at the place of residence of troops from the ATO/JFO zone⁶⁴.

RECOMMENDATIONS TO:

Ministry of Health, Ministry of Defense

1. Develop and approve a joint order on conducting preventive medical examinations, including on TB, of all soldiers and volunteers from the ATO/JFO zone upon returning from the combat zone;

⁵⁸ <https://health.unian.ua/country/1861606-na-donechchini-ta-luganschini-znachno-zrosli-pokazniki-zahvoryuvano-sti-na-tuberkuloz-ta-gostri-kishkovi-rozladi-moz.html>

⁵⁹ Report on the results of the study "Determining the level of access of internally displaced persons and participants in the anti-terrorist operation to detect TB in Kyiv". LHSI. Kyiv - 2016, p. 3

⁶⁰ Ibid, p. 7

⁶¹ Operational guidelines for systematic screening for active TB, WHO, 2015, p. 8

⁶² List of persons belonging to the groups at increased risk of TB disease, approved by the order of the Ministry of Health of Ukraine on May 15, 2014 No. 327.

⁶³ Medical support of the antiterrorist operation: scientific-organizational and medical-social aspects. Collection of scientific works, Kyiv-2016, p. 248.

⁶⁴ Report on the results of the study "Determining the level of access of internally displaced persons and participants in the anti-terrorist operation to detect TB in Kyiv". LHSI. Kyiv - 2016, p. 12

Verkhovna Rada

2. Extend eligibility for social benefits for all volunteers from the zone of ATO;

Ministry of Social Policy, anti-TB facilities

3. Involve the ATO/JFO soldiers' association in providing peer-to-peer counseling.

Persons staying in psychiatric and geriatric institutions

Many psychiatric and geriatric institutions do not conduct regular medical examinations and fluorographic examinations⁶⁵, therefore, TB is detected at later stages in active forms. It is worth noting that the procedure and amount of medical care to be provided to persons who are detained in geriatric institutions is not defined by Ukrainian legislation. Also, the procedure for the establishment and functioning of private geriatric institutions is not approved.

Due to the scarce financing of geriatric institutions from local budgets, funds are allocated on a residual basis and often do not take into account the actual needs of persons who are kept in geriatric institutions in terms of food, clothing and medicines. The absence of a regulatory framework contributes to the lack of proper medical records kept in geriatric institutions, and in psychoneurological boarding schools, illegitimate physical restrictions and isolation are applied. Due to the lack of appropriate licenses and accreditation, physicians who are employees of geriatric institutions do not have the right to provide proper medical care to those who are staying in geriatric institutions which violates the latter's right to health and medical care⁶⁶.

RECOMMENDATIONS TO:

Ministry of Health, Ministry of Social Policy

1. Develop and approve the procedure for the provision of medical care to persons who are living in geriatric institutions.

⁶⁵ Annual report of the Ukrainian Parliament Commissioner for Human Rights on the state of observance and protection of human rights and freedoms in Ukraine for 2016, 2017, p. 321

⁶⁶ Annual report of the Ukrainian Parliament Commissioner for Human Rights on the state of observance and protection of human rights and freedoms in Ukraine for 2016, 2017, p. 317-322.

2. Develop and approve the procedure for the establishment and operation of private geriatric institutions.

Commissioner on Human Rights

3. Increase monitoring of the observance of the right to health in psychiatric and geriatric institutions by the National Preventive Mechanism.

TB treatment protocols

Public health experts and doctors who gathered during the assessment of the challenges to the compliance of TB doctors with unified clinical protocols when providing TB diagnostics and treatment services expressed significant concerns. It was reported that there is a persisting problem with prescribing anti-TB treatment which deviates from the clinical protocol which may be caused by delays in the delivery of anti-TB drugs, a lack of competence, the irresponsibility of some doctors and the practice of consiliums – centralized collective decision-making on the prescription of even first-line treatment regimens. It was reported that such “consiliums” (central medical advisory commissions) do not always consist of practicing TB doctors.

On April 28, 2017, the Order of the Ministry of Health of Ukraine No. 1422, dated December 29, 2016, entered into force, allowing Ukrainian doctors to use international clinical guidelines in their work. For use of international clinical guidelines, health care institutions or individual doctors need to translate the chosen international clinical guidelines and have their use as a new clinical protocol approved by the internal order.

RECOMMENDATIONS TO:

Ministry of Health

1. Evaluate the implementation of the order of the Ministry of Health of 29.12.2016 № 1422 concerning medical care for children with tuberculosis by TB facilities using international or foreign clinical guidelines.
2. Strengthen monitoring of compliance with protocols in health care facilities and abolish centralized approval of diagnosis and treatment, except for pre-XDR and XDR cases.

Involuntary isolation

Although forced hospitalization takes place under judicial control, courts do not always adhere to the terms of such compulsory isolation, which is minimal to achieve the goals set, either vague ("for the period of existence of the epidemiological danger from patient"⁶⁷), or a longer term (6 months)⁶⁸, or not set at all⁶⁹. Based on a court's decision, the Law allows the extension of the term of compulsory isolation to a term determined by the court "taking into account the conclusion of the doctor who carries out the treatment of this patient"⁷⁰. These rules do not comply with WHO recommendation to minimize required isolation time only to period needed to achieve the goals of isolation⁷¹.

In addition, the participation of people with TB in court hearings is not ensured, since representatives of TB facilities indicate their danger to others. There are a number of cases when the interests of people with TB are not represented by other uninterested persons⁷², despite the requirement for the mandatory participation of their representatives during the trial. Also, judicial proceedings do not always take place with the participation of two people's judges⁷³ as explicitly provided for by the Civil Procedural Code⁷⁴.

Also, there are cases when courts do not check the proportionality of the measures taken in relation to the goal of preserving public health. In some analyzed decisions⁷⁵, there was no consideration or reference to the living circumstances of persons with TB, in particular, regarding the availability of proper conditions for isolation at home as it was not established whether they were offered to undergo outpatient treatment after being refused hospitalization.

⁶⁷ Decision of Kreminsky district court of Luhansk region dated August 14, 2014 in Case number 414/1377/14-ts.

⁶⁸ Decision of Rokitnyansky District Court of Kyiv Region dated June 21, 2013 in Case number 375/1022/13-ts.

⁶⁹ The decision of the Moscow district court of Kharkiv city dated June 27, 2013 in the case No. 643/9761/13-ts.

⁷⁰ The Law of Ukraine "On Fight against Tuberculosis Disease", Art. 11, part 4

⁷¹ WHO Guidelines for Implementation of the WHO Strategy to End TB, p. 38

⁷² The decision of the Oryhivsky district court of Zaporizhzhia region dated August 30, 2013 in the case No. 323/3221/13-ts; the decision of the Khmelnytskyi city court from 08.04.2013 in the case No. 686/6692/13-ts; the decision of the Dzerzhinsky District Court of Kharkiv dated May 20, 2013 in the case No. 638/5380/13-ts; the decision of the Moscow District Court of the city of Kharkiv from 05/26/2014 in the case No. 643/6292/14-t; the decision of the Zavodsky district court of the city of Dneprodzerzhinsk, Dnipropetrovsk region, dated February 18, 2013 in the case No. 208/898/13-ts; The decision of the Zavodsky District Court of Dneprodzerzhinsk, Dnipropetrovsk Region, dated June 7, 2017 in the case No. 208/1886/17; Obolonsky district court of Kyiv from 02/24/2017 in Case number 756/2540/17; the decision of the Obolonsky decision of the district court of Kyiv dated January 27, 2017 in Case No. 756/1162/17; the decision of the Zavodsky district court of the city of Dneprodzerzhinsk, Dnipropetrovsk region, dated June 7, 2017 in the case No. 208/2616/17.

⁷³ Case Law Analysis of examination by courts of cases of forced hospitalization to an anti-TB institution. The Highest Specialized Court of Ukraine for Consideration of Civil and Criminal Cases, January 12, 2017.

⁷⁴ Civil Procedural Code of Ukraine, Art. 234, part 4; Part 2, paragraph 10.

⁷⁵ The decision of the Zavodsky District Court of Dneprodzerzhinsk, Dnipropetrovsk Region, dated June 7, 2017 in the case No. 208/1886/17; decision of Obolonsky district court of Kyiv dated March 20, 2017 in Case number 756/1233/17; decision of Obolonsky district court of Kyiv dated 02/24/2017 in Case number 756/2540/17; the decision of Obolonsky district court of Kyiv city dated January 27, 2017 in Case number 756/1162/17; the decision of the Zavodsky district court of the city of Dneprodzerzhinsk, Dnipropetrovsk region, dated 07/06/2017 in the case No. 208/2616/17; 191/1276/17; the decision of the Vinnytsia City Court of Vinnytsia region dated September 29, 2017 in the case No. 127/20709/17.

Several decisions indicated there was no alternative to stationary treatment for people with infectious forms of TB⁷⁶.

Moreover, the procedure for involuntary isolation, as well as the consequences of non-enforcement of the decision on involuntary isolation, indicate that it is not used to protect the population from the spread of TB and the implementation of the right to health, but as a means of punishment.

RECOMMENDATIONS TO:

Ministry of Health, Verkhovna Rada

1. Harmonize with the WHO recommendations⁷⁷ on involuntary isolation and ensure the application of this mechanism only in exceptional cases as a last resort;

In particular, when making amendments to the legal regulation of forced isolation, the WHO's ethical guidance on the implementation of the WHO TB control strategy should be taken into account. The guidance determines that forced isolation should under no circumstances be a part of the overall TB control strategy⁷⁸, and may only be applied if awareness of such effects and compliance with the principle of transparency is based on and in accordance with the procedure established by the law, by the decision of the health authority and not the curator, and with proper judicial control⁷⁹, as a last resort⁸⁰ in cases when:

- It is known that the person is contagious, refuses to receive effective treatment, and all reasonable measures have been taken to ensure that his/her adherence was unsuccessful; OR
- It is known that the person is contagious, has agreed to outpatient treatment, however, he/she has no possibility to introduce infection control at home and refuses inpatient treatment; OR

⁷⁶ The decision of the Moscow district court of Kharkiv city dated 04.10.2017 in the case No. 643/12703/17; decision of Obolonsky district court of Kyiv dated 02/24/2017 in Case number 756/2540/17; the decision of Obolonsky district court of Kyiv city dated January 27, 2017 in Case number 756/1162/17; the decision of the Zavodsky district court of the city of Dneprodzerzhinsk, Dnipropetrovsk region, dated June 7, 2017 in the case No. 208/2616/17.

⁷⁷ For example, Ethics guidance for the implementation of the End TB strategy. Geneva: World Health Organization; 2017

⁷⁸ Ethics guidance for the implementation of the End TB strategy. Geneva: World Health Organization; 2017, p. 36

⁷⁹ Ethics guidance for the implementation of the End TB strategy. Geneva: World Health Organization; 2017, p. 37

⁸⁰ Ethics guidance for the implementation of the End TB strategy. Geneva: World Health Organization; 2017, p. 36

- There is a high probability that the person is infectious (based on laboratory evidence) but refuses to evaluate his/her infectious status, while doing everything possible to interact with the patient to establish a treatment plan that meets his/her needs.⁸¹

In addition, coercive isolation is permissible only if it is not used as a form of punishment or for convenience, and also:

- isolation is necessary to prevent the spread of TB, AND
- there is evidence that isolation is likely to be effective in this case, AND
- the patient refuses to remain in isolation, despite being sufficiently informed about the risks and the significance and reasons for isolation, AND
- failure of the patient is putting others at risk, AND
- all less restrictive measures were taken prior to the use of forced isolation, AND
- all other rights and freedoms (such as basic civil liberties), except for the right to freedom of movement, are protected, AND
- proper processes and all appropriate appeal mechanisms are available, AND
- the basic needs of the patient are provided, AND
- the specified isolation time is the minimum necessary to achieve desired goals.⁸²

In particular, with the use of institutional care, a person with a contagious form of TB should first undergo outpatient treatment with isolation at home⁸³, which avoids increased restrictions on the person's rights. Forced detention "in non-medical places of deprivation of liberty such as a prison cell or a general prison" is inadmissible in all circumstances.⁸⁴

Ministry of Justice, Verkhovna Rada

1. Guarantee the provision of free legal aid to people with TB and HIV-associated TB during the process of involuntary isolation.

⁸¹ Ethics guidance for the implementation of the End TB strategy. Geneva: World Health Organization; 2017, p. 37

⁸² Ethics guidance for the implementation of the End TB strategy. Geneva: World Health Organization; 2017, p. 38

⁸³ Ethics guidance for the implementation of the End TB strategy. Geneva: World Health Organization; 2017, p. 37

⁸⁴ Ethics guidance for the implementation of the End TB strategy. Geneva: World Health Organization; 2017, p. 36

TB response in non-government controlled areas

The provision of medical care, including TB care, in non-government controlled areas (NGCA) has deteriorated in comparison with the pre-conflict situation due to the cessation of financing from the state budget of Ukraine for medical infrastructure in uncontrolled territories, the cessation of centralized supplies of medicines and medical devices including drugs for the treatment of tuberculosis, reported outflow of skilled healthcare personnel, unsatisfied basic needs of the local population, etc.

Most barriers to accessing medical TB care in uncontrolled territories are experienced by former convicts, people living with HIV, persons who often cross the line of separation, people who inject drugs, people who abuse alcohol and persons without a definite place of residence who have lost their housing and means of subsistence during hostilities.

The regulation of the transit of goods through the line of contact⁸⁵ limits the quantity of medicine to be transported to only 5 packs of each trade name, which may negatively affect the availability of medicines in NGCA.

RECOMMENDATIONS TO:

Ministry for Temporary Occupied Territories and Internally Displaced Persons

1. Coordinate the assistance of international organizations and NGOs in the TB response in NGCA.
2. Consider reviewing the limitations on the quantity of medicine allowed to be transported through the collision line;
3. Ensure that free legal aid is available for persons crossing the collision line for receiving temporary accommodation, restoring documents, obtaining the status of internally displaced persons, etc.

⁸⁵ See order of the Ministry of Temporary Occupied Territories and Internally Displaced Persons, dated 24.03.2017 № 39 "On approval of the list and volumes of goods allowed to move to/from the humanitarian and logistics centers and through the collision line".

