Parliamentary Assembly
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COUNCIL OF EUROPE
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Final version

Migrants and refugees and the fight against Aids

Parliamentary Assembly

1. The right to health is a fundamental human right. Because of its universal nature, the right to health applies to all individuals, including migrants, regardless of their status. Access to care is a key aspect of the right to health.

2. Migrants, including asylum seekers and refugees, are a particularly vulnerable group in relation to the human immunodeficiency virus (HIV). Their high rate of infection is due to the epidemiological situation in their countries of origin and the problems that migrants face in accessing information and treatment for the virus once they are living in Europe.

3. The Parliamentary Assembly is concerned that migrants suffer multiple forms of discrimination and stigmatisation when they test positive for HIV/Aids. Some countries go as far as denying them entry into their territory or refusing them the renewal of residence permits. The Assembly is also concerned about policies which require obligatory HIV testing, and testing which is carried out without the consent of the migrants concerned.

4. Migrants are all too often deterred from accessing prevention and treatment services because of a range of factors. These may be linked to language, cultural and social barriers and to difficulties in accessing the labour market, social services and housing. Financial barriers are also an important factor when States impose charges for testing and treatment for HIV. Furthermore, irregular migrants face the additional problem linked to the fear of their immigration status being reported if they approach the health authorities. All these factors lead to a phenomenon of non-recourse or delayed recourse to care, or an impossibility to access care, which could have disastrous implications for both individual and public health and lead in the long term to an increase in health expenditure.

5. The Assembly notes that in most European countries there is a lack of data and information about HIV transmission among migrants. There is also a lack of psychological support and insufficient information and education given to them about testing, treatment and safe-sex practices, which may contribute to the transmission of the virus.

6. The Assembly is convinced that every person, including regular and irregular migrants, living with HIV/Aids in member States of the Council of Europe should have free access to treatment. The Assembly believes that such a measure is in the best interests of HIV-positive individuals and public health as a whole because it reduces the risk of passing the virus on to others and cuts down on the high costs of emergency and other treatment.

7. The Assembly considers that an HIV-positive migrant should never be expelled when it is clear that he or she will not receive adequate health care and assistance in the country to which he or she is being sent back. To do otherwise would amount to a death sentence for that person.

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1. *Text adopted by the Standing Committee*, acting on behalf of the Assembly, on 23 May 2014 (see Doc. 13391, report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Ms Doris Fiala; and Doc. 13431, opinion of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Ms Liliane Maury Pasquier).

8. The Assembly considers that, in view of the number of migrants, including refugees and asylum seekers, living in Europe with HIV, and the particular problems they face, it is necessary to take a number of special measures concerning this vulnerable group.

9. The Assembly therefore calls on member States to ensure that HIV programmes and services for migrants are provided on an appropriate and sufficient scale, and more particularly:

9.1. regarding legislative measures, to:

9.1.1. review and revise their legislation with the aim of removing discriminatory provisions and legal barriers which hamper preventative measures and treatment of migrants with HIV/ Aids;

9.1.2. remove provisions in domestic law which bar migrants with HIV from entering the country or which allow them to be expelled solely on account of their HIV status;

9.1.3. include in domestic law the notion of protection of seriously ill foreigners, providing for protection from expulsion where appropriate treatment is not available in the country to which they are due to be expelled or where such treatment is not realistically accessible for the person concerned in view of his or her individual situation;

9.1.4. provide that no person should be detained solely because of his or her HIV status;

9.1.5. adopt anti-discrimination provisions regarding all migrants with HIV and ensure the monitoring of the issue by specialist bodies;

9.2. regarding access to testing, treatment and preventative measures, to:

9.2.1. ensure that gender-specific HIV prevention and treatment policies are developed at national and international levels;

9.2.2. ensure that migrants have access to information concerning prevention, testing and treatment of HIV;

9.2.3. guarantee that HIV testing is provided to migrants on a voluntary and anonymous basis;

9.2.4. ensure that all migrants, regular or irregular, have free and universal access to HIV testing and counselling, as well as to sex education and awareness-raising programmes on the prevention of HIV/Aids;

9.2.5. ensure that vulnerable groups among migrants, in particular women, children, men who have sex with men and sex workers, who are particularly at risk of infection, receive special attention;

9.2.6. guarantee that the needs of refugees and asylum seekers are taken into account, in view of the traumas they may have faced and continue to face;

9.2.7. ensure that HIV drugs and treatment are affordable and available for all migrants with the virus, and that the private sector, including drugs companies, is fully involved in providing effective answers in the fight against the HIV epidemic;

9.2.8. dissociate their immigration policy from health policy, where appropriate by abolishing the obligation on health professionals to report migrants in an irregular situation;

9.3. regarding policy measures, to:

9.3.1. adopt or revise, as appropriate, national plans to fight HIV/Aids, including in the plans a specific section on migrants. This should be done with input from those affected by the virus and in consultation with representatives of civil society;

9.3.2. increase the funding of HIV/Aids services in low- and middle-income countries through member States' development and co-operation policies;

9.3.3. increase funding and support for representatives of civil society working with HIV-positive migrants.