FRANCE

Statistical data

Population size of the country was estimated at 65.274.000[59] (year 2020).

Estimate number of PLHIV is 170.000.

The state of the 90-90-90 treatment target in 2020[60] was as follows:

- Percentage of PLHIV diagnosed (first 90 target): 86 %
- Percentage of PLHIV on treatment (second 90 target): 76 %
- Percentage of PLHIV with undetectable viral load (third 90 target): 74 %

Main epidemiological trends

In France, the statistics show that although HIV affects people of all backgrounds, HIV prevalence is concentrated among key populations and differences can also be observed between regions. Demographically, according to data from 2018, 42 % of the new diagnoses were among men who have sex with men (MSM). The second most affected population group were people born abroad; people born in sub-Sahara Africa accounted to 39 % of new HIV diagnoses.

Geographically, not all French regions are equal. In 2018, 40 % of the new diagnoses were reported in the Île-de-France region, the vast area surrounding Paris. This region represents only 18 % of the French population. Another highly affected territory is French Guiana, with the high number (compared to the very small population) of 109 new cases per 100.000 inhabitants.

According to the latest available data, the number of new HIV+ people was estimated at 6.200 in France, in 2018 (translating into a 7% reduction, compared to 2017). Among France-born MSM, the number of new cases has shrunk over the years (-16 % in 2018 compared to 2013). However, this rate has been rising among France-based MSM who were born abroad (+38 % in 2018 compared to 2013). Regarding the specific group of France-based PLHIV who are heterosexuals and were born abroad, the numbers have lowered among men (-14 % in 2018 compared to 2013) but remained the same among women of this category (over that same period).

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[59] UN Department of Economic and social Affairs, Population Division. *World Population Prospects 2019*. Available at: https://population.un.org/wpp/Download/Standard/Population/

[60] As reported by AIDES.

Relevant anti-discrimination legislation applicable in healthcare settings

Legislation that shall protect PLHIV against discrimination in healthcare settings can be found at all legislation levels (constitutional level, primary legislation, secondary legislation) and in soft law. The legislation is not formulated as HIV-specific; protection is provided through general anti-discrimination provisions.

Constitutional level

The list of prohibited discriminatory grounds in Article 1 of **the French Constitution**[61] only includes 3 distinctive criterions; namely origin, race, and religion. "Health status" or "disability" is therefore not directly protected by the French Constitution and people with these characteristics must rely on protection through laws and decrees of a lower legal value.

Nonetheless, a new instrument of protection included in the French Constitution was introduced during the constitutional modifications in 2008. The question of efficiency of protection against discriminatory practices was raised and resulted in the introduction of Article 71-1 of the French Constitution which established an official body, acting independently from the government, that oversees protection against discrimination – the Defender of Rights (*Défenseur des droits*)[62]. The Defender of Rights shall ensure the due respect of rights and freedoms by state administrations, territorial communities, public legal entities, as well as by all bodies carrying out a public service mission or by those that the relevant institutional act decides fall within his remit.

Primary legislation level

At the primary legislation level, anti-discrimination clauses relevant to the healthcare sector are included in various legal sources.

The Act on Patients' Rights of March 4th, 2002 (commonly known as the "Kouchner Law")[63] provides that access to care is a constitutional right. Article 3 of the Kouchner Law states that health must be preserved, and that nobody can be exposed to discrimination in one's quest to protect his/ her own health. This right is applied through prevention, access to the most suitable personal treatment, the continuation of such treatment and the best hygienic safety standards possible.

In addition, also **the French Public Health Code**[64] anchors the principle of the right to health and equal treatment in multiple articles. Under Article L.1110-3 of the French Public Health Code, no one shall be submitted to discrimination in access to prevention or care. Article L.1100-3 directly refers to the list of discriminatory grounds in Article 225-1 of the French Criminal Code. Other provisions of the French Public Health Code that shall ensure the effectivity of protection against discrimination include:

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[61] Constitution of France (dated October 4th, 1958). Available at: https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/anglais/constiution_anglais_oct2009.pdf

[62] Article 71-1 of the Constitution of France (as introduced by the amendment of Constitutional Law No. 2008-724, on the Creation of a Defender of Rights). Available at: https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/anglais/constiution_anglais_oct2009.pdf

[63] The Act on Patients' Rights (France). Available at: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000227015/

[64] The Public Health Code (France). Available at: https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006072665?init=true&page=1&query=Code+de+la+sant%C3%A9+publique&searchField=ALL&tab_selection=all

- Article L.4122-1 which establishes committees within the various National Boards of health professionals[65] that assess the compliance of its members with the principle of non-discrimination.
- Article R.4127-7 which provides that a doctor must hear out, examine, advise to, or treat all people regardless their origin, customs, family situation, ethnic origin, nationality, religious beliefs, <u>disability</u>, <u>state of health</u>, reputation, or his/her feelings towards the patient.[66]

Discrimination may constitute a criminal offense under Articles 225-1 and 225-2 of **the French Criminal Code**[67] and may be sanctioned by imprisonment of up to 3 years or a fine of up to 45.000 €. Unlike in the French Constitution, the health status of an individual is a recognised protected characteristic under the French Criminal Code.

<u>Secondary legislation level</u>

With **the Decree No. 2016-1009**[68], dated July 21st, 2016, the competence to evaluate the nature and extent of a refusal-of-care by healthcare professionals was given to the committees established within the National Board of Physicians, the National Board of Dentists, and the National Board of Midwives (Article D.4122-4-2 of the French Public Health Code).

The committees may use all means they deem appropriate; in particular, these include studies, situation testing, and patient surveys. They may release the results of their activities through publishing statistics and recommendations. Each commission hands out yearly report to the Ministry of Health. The committees, however, cannot rule on individual situations.

The composition of the committees is laid down in Article D.4122-4-3 of the Public Health Code Besides the members of the National Board of medical practitioners, the commission consists of representatives from authorised associations (acting in the healthcare sector), as well as agents from the social security system.

Legislation that may provide basis for discrimination against PLHIV in healthcare settings

Although the French legal system provides an extensive anti-discrimination framework, it also includes some provisions that may provide basis for discrimination.

<u>Primary legislation level</u>

A refusal of care is not always illegal. A patient cannot forcibly demand a treatment from a health practitioner. In legal terms, access to care is not the only element that needs to be evaluated in a medical situation.

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[65] A National Board of medical practitioners is a legal entity that gathers members of the same profession within a territory (mostly private healthcare practitioners). There are National Boards for doctors, dentists, midwives, as well as pharmacists, medical nurses, physiotherapist, etc. The National Boards apply their own disciplinary rules and may sanction their members who have violated the rules of medical ethics.

[66] Similar rules exist for dentists.

[67] The Criminal Code (France). Available at: https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006070719?etatTexte=VIGUEUR&etatTexte=VIGUEUR_DIFF

[68] Decree No. 2016-1009. Available at: https://www.legifrance.gouv.fr/loda/id/LEGIARTI000032929854/#LEGIARTI000032929854

There are two types of situations in which a healthcare professional can legally deny a medical treatment. Unfortunately, the 2 reasons for refusal can be twisted and exploited against PLHIV.

Firstly, under Article R.4127-47 of the French Public Health Code, a doctor has the right to refuse care to a patient for "personal or professional reasons". This right cannot be invoked only in cases of emergency or in those cases in which the doctor would fail to fulfil his/her duties of humanity. A similar provision exists in relation to dentists (Article R.4127-232 of the French Public Health Code). Consequently, the justification for the denial of care may be both professional and personal. Such situation allows for quite a wide margin of discretion and possibly exploitation.

Secondly, a doctor has the obligation to refuse to provide treatment when the required therapy exceeds his/her abilities, e.g. in the events of incompetence given the specificity of a disease.

Whatever the circumstances, the continuity of care for patients must be ensured – the doctor has the obligation to redirect the patient to a colleague or a competent healthcare provider.

Secondary legislation level

Without stating a pointed denial, and by indirect means, healthcare professionals can exert pressure on a patient, so that he/she will try to seek treatment elsewhere. This indirect pressure can be most easily spotted in the two following practices.

1) Increase of medical fees

For doctors exceeding the basic medical fee, the easiest way to achieve an indirect refusal-of-care is through their consultation price. Some PLHIV simply cannot afford a medical expense that goes above the statutory fee.

In France, the social security system reimburses medical expenditures, including the expenditures of private doctors. However, the payback is larger if the healthcare professional stays within the so-called Sector 1 and Sector 2. These private professionals are referred to as "doctors under contract".

Sector 1 physicians can apply additional fees only exceptionally, if a patient requests a treatment out of the ordinary. Sector 2 physicians decide the amount of medical fees themselves. Sector 2 physicians sometimes generate extra expenditures, that are not always covered by social welfare, or even by the patient's own insurance policy.

Beside these 2 sector levels, which the social security system covers fully or at least partially, there is a Sector 3 with limited payback, and then the "not under contract" doctors with extremely low reimbursement.

2) Administrative obstacles

The second easiest option for a de-facto refusal-of-care are excessive administrative requirements. The extra welfare paperwork, imposed on undocumented people or people with a low-income, is often a reason why a patient is not successful when seeking treatment.

Non-naturalized PLHIV with a precarious residency situation usually benefit from a basic social security system named AME (*Aide Médicale d'Etat*). This welfare protection is attributed to undocumented foreigners living in France. These persons can also benefit from the C2S, a free insurance system that completes the expenditures not covered by the basic social security scheme.

One must note that the cumbersome paperwork, needed to take full advantage of the AME and the C2S, can sometimes induce the patients themselves not to pursue a treatment

Means of reporting discrimination in healthcare settings (legal and other remedies)

When PLHIV come across discrimination in healthcare settings, several means of protection are available to them under French law. These include:

- complaint to the Users' Committee;
- conciliation procedure for victims of discriminatory refusal-of-care;
- request for individual support of the Regional House for Disabled People (for PLHIV who suffer an HIV-related health impairment);
- formal notice to the Regional Health Authority;
- complaint to the Defender of Rights;
- legal interventions.

Complaint to the Users' Committee

If a problem arises with a healthcare institution (both public or private) regarding the handling or admission of a patient, one can reach out to the Users' Committee. This official body is present in every hospital or clinic, and aims at enforcing the rights of clients (i.e. patients), and assists them in various procedures (Article L.1112-3 of the French Public Health Code).

The Users' Committee is composed of one legal representative of the hospital, a mediation health practitioner, a non-doctor mediator and 2 other members that represent the clients. All members obey the obligation of medical secrecy. The Users' Committee meets at least once in 3 months to examine any submitted patients' complaints and, if necessary, to inform the potential victims about the mediation process, possible recourses, and remedies.

Any patient can also directly reach out to the medical mediator of the healthcare institution.

Conciliation procedure for victims of discriminatory refusal-of-care

In October 2020, a new act that mandates a conciliation procedure for victims of any discriminatory refusal by healthcare professionals was adopted (under Articles R.1110-11 and R.1110-12 of the French Public Health Code).

A victim of discriminatory refusal-of-care can lodge a complaint to the director of the local social security body, or the regional representative of the relevant National Board of medical practitioners. Reaching out to one of these institutions is equivalent to officially pressing charges.

This can be done either by the patient in person, or by a certified association active in the healthcare sector, if such association obtained a mandate from the patient. The patient may also provide a lawyer with a mandate in this matter.

A conciliation commission, composed of representatives of the social security body and officials from the relevant National Board of medical practitioners, must meet within 3 months of the receival of the complaint. During this meeting, both sides are heard by the conciliation commission. The right to be represented or supported by a chosen individual is guaranteed.

If the parties to the dispute succeed to reach an amicable resolution of the conflict, the complaint is removed. If no agreement between the two parties is reached, the president of the National Board of medical practitioners forwards the issue to its own disciplinary commission. Consequently, a duty to decide on the matter is transferred to that disciplinary commission.

Request for individual support of the Regional House for Disabled People

PLHIV suffering from a severe HIV-related disease can access special rights and are eligible for additional social services. This status most notably applies to "Physically Impaired Workers" (i.e. people with a limited range of work opportunities, due to their health condition). Another possibility of legal recognition is the status of a "Physically Impaired Adult", which guarantees a minimum earning for victims of a severe health condition with low or no income.

In every province of France, a Regional House for Disabled People supports disabled individuals and their caregivers. This is a *one-stop-shop* for all paperwork leading to the recognition of one's situation (official status, financial compensation, access to services).

People that suffer from HIV-related impairments can reach out to their Regional House for Disabled People and request the information and support provided by this local entity.

Formal notice to the Regional Health Authority

The Regional Health Authorities, *Agences Régionales de Santé* (hereinafter "ARS"), are regional bodies that enforce the national health regulations on a local basis. They act under the supervision of the Ministry of Health.

One can request the ARS to publish a statement regarding specific issues such as citizens' well-being, health, environment, security, or social issues (including issues concerning disabled citizens). These formal requests submitted to the ARS are aimed at finding an agreeable solution to a problematic situation without any financial compensation.

Complaint to the Defender of Rights

The Defender of Rights, *Défenseur des droits*, is an independent authority established to facilitate citizens' rights and to protect against potential abuse from public administrative bodies.

One can reach out to the Defender of Rights if he/she feels discriminated against by an administrative body, local authority, state-related company, or any other public entity. The Defender of Rights can request an explanation of a contentious situation from any natural person or legal entity, both of whom have an obligation to answer.

The Defender of Rights can make any recommendation to ensure the rights and freedoms of the discrimination victim. Such recommendation shall find a solution of the matter and prevent any relapse of the problem. The Defender of Rights aims to find an agreeable solution for both parties through a mediation process. This is achieved by helping the victims of discrimination to build their case and by providing guidance throughout the entire process.

Beyond the guidance provided in a specific case, the Defender of Rights may propose modifications of laws and rulings. Regarding any issue related to its expertise, the Defender of Rights may also be consulted by the prime minister, the president of the National Assembly or the president of the Senate.

Legal interventions

Refusal-of-care or segregated medical treatment of PLHIV due to their HIV+ status is a criminal offense under Article 225-2 of the French Criminal Code. Such crime is punishable by imprisonment of up to 3 years or a fine of up to 45.000 €.

Any victim of such refusal-of-care or similar unfair practice can file a complaint at a police station (potentially, a complaint can also be submitted in writing directly to the public prosecutor).

Civil lawsuit

In France, proceeding with the remedies offered by criminal law is a privileged option to address discrimination in general. The difficulty in civil law litigation relates to evidence.

In criminal law, the implementation of public action relieves the victim of the burden of proof. The public prosecutor has the investigative powers that will allow for easier search for the truth. It is therefore suggested that victims of discrimination should initiate criminal proceedings prior to any civil action in order to benefit from the evidence obtained by the criminal judicial authorities. This evidence can later be used in support of the civil action even if the criminal action does not succeed.

In labour law, there is an adjustment in the context of evidence and burden of proof. A system of sharing of the burden of proof between the plaintiff (victim of discrimination) and the defendant (perpetrator) has been introduced. Victims of discrimination in the workplace are therefore encouraged to refer to the Labour Court.

In the case of state-of-health discrimination, there is no specific measure in civil law. In the case of discrimination by a healthcare professional, it would be possible to engage his professional responsibility. To do this, it is necessary to demonstrate fault, damage consequences, and the causal link between fault and damage. In such case, the judge may order damages to compensate for the harm caused.

Obligation of PLHIV to disclose their HIV+ status in healthcare settings

In France, PLHIV do not have any legal obligation to inform medical professionals about their HIV+ status. Standard recommended precautions are sufficient to prevent any transmission of the disease (both ways). Healthcare workers have a strict obligation to avoid any contamination by adhering to universal preventive measures. They must obey strict rules and follow medical protocols regarding hygiene, asepsis, and the handling of medical waste. Additional regulations exist regarding the exposure to blood.

Confidentiality and accessibility of personal data related to HIV

General obligation of secrecy regarding all medical information

Article 9 of the French Civil Code provides that "*everyone has the right to respect for his/her private life*." This provision, which protects all individuals against arbitrary actions, also includes the protection of privacy regarding one's medical information. Similarly, under Article L.1110-4 of the French Public Health Code, a doctor cannot share one's medical information with a third party without the consent of such patient.

All healthcare professionals that have access to patient data are under obligation of secrecy. This, of course, includes a patient's HIV status. That said, healthcare professionals may share medical information with each other if this is necessary for the patient's treatment.

The obligation of secrecy regarding medical information is absolute and cannot be broken. No exceptions are allowed, even in cases in which the information would be provided to entities that have their own privacy policy.

The breach of the obligation of secrecy in the medical field is a punishable criminal offence under Article 226-13 of the French Criminal Code. Sanctions of imprisonment of up to 1 year or a fine of up to 15.000 € may be imposed.

Specific legal provisions regarding infectious diseases

HIV is one of the 36 diseases that are subject to the *duty to report* under Article L.3113-1 of the French Public Health Code. Clinicians and biologists (both from the public and private sector) must inform specific health authorities about new diagnoses of HIV and AIDS. The *duty to report* exists for the purposes of compiling national statistics about the development of HIV prevalence, adjusting the prevention methods, and assessing the effectivity of the testing schemes. It also allows to evaluate the progress achieved through the public HIV policies.

Reports are made to the National Public Health Agency, *Santé Publique France*, which is responsible for the handling of the medical information and has the duty to protect the privacy of such data. All healthcare professionals and employees of the National Public Health Agency must also obey the obligation of secrecy.

The EU General Data Protection Regulation

As institutions dealing with personal data, all healthcare institutions must adhere to the EU General Data Protection Regulation which lays down rules relating to the processing of personal data (e.g. collection, recording, organisation, structuring, storage, etc.). Any data concerning health (including the HIV status) is classified as sensitive personal data under the EU General Data Protection Regulation and is protected as such.

Shared Medical File system

France has adopted a *Shared Medical File* system, *Dossier Médical Partagé*. This system is an electronic tool to inform other healthcare practitioners about specific aspects of one's medical situation (i.e. treatments, medical exams, allergies, etc.). With the permission of the patient, only health professionals can access this electronic file: personal doctors, medical nurses, and pharmacists. This computerised system follows the regulations regarding general privacy protection and medical secrecy.

The *Shared Medical File* system is currently being retooled and will be relaunched in 2022 under a new name.

Prohibitions and limitations on working in specific healthcare professions for PLHIV

Under French law, there are no legal restrictions for the employment of PLHIV in the healthcare sector. Protection against the transmission of HIV, both from doctors to patients and *vice versa*, are ensured by strict adherence to medical protocols regarding hygiene, asepsis, handling of blood and handling of medical waste.

Private insurance policies concerning PLHIV

The healthcare system in France is a component of the social security system with compulsory national insurance scheme providing universal coverage. The statutory health insurance covers access to healthcare and provides compensation for healthcare costs. It can be supplemented by an optional insurance, called "complementary health" or "mutual health", which covers what the statutory health insurance does not compensate for (e.g. certain costs which remain chargeable to the patient in the event of hospitalization). This complementary health insurance comes under the private insurance policy option and is at the patient's choice. It is not necessary to answer a health questionnaire to subscribe to it. There are therefore no specific issues for PLHIV.

Regarding private life and health-related insurance policies, the situation differs based on the time of HIV diagnoses (in relation to the time when the insurance policy was taken out). If a person living with HIV had taken out life insurance (e.g. with death coverage) before he/she was diagnosed with HIV, there are no consequences on the insurance conditions. If a person living with HIV applies for a new life insurance, and such insurance provides death or disability coverage, their HIV+ status will have consequences. Generally, the insurance provider presents the potential client with a medical questionnaire in which a question regarding one's HIV status is included. The insurance provider can then adapt the insurance premiums or modify the conditions of the insurance policy.

Common forms of discrimination in healthcare settings

In 2015, the French association AIDES carried out a nation-wide testing regarding the refusal-of-care and discriminatory treatment due to serophobia (aversion to or fear of PLHIV) in order to assess the extent of discrimination occurrence in the healthcare sector (hereinafter "AIDES Testing"). The motivation for conducting the AIDES Testing were the planned amendments to the healthcare regulations of the French legal system. These amendments were being adopted to fight situations in which patients were denied treatment.

The AIDES Testing involved a sample of 440 dentist clinics and 154 gynaecology clinics. The findings were quite concerning.

Refusal of care

Refusal-of-care remains to be the most common discriminatory practice in France. The most frequently indicated reason for refusal-of-care was the need to change schedule due to specific needs of patients living with HIV (i.e. different or longer treatment in comparison to other patients). Other indicated reasons for refusal-of-care were overbooking, veto on admission of new patients or extremely remote availability. These reasons were not brought up when appointments were being booked by patients who did not disclose their HIV status.

In the case of gynaecologist facilities, PLHIV were occasionally accepted if they provided their medical file and restated their HIV+ status during the appointment. Regardless, also in this specialised field of healthcare, the justification of "overbooking" was the most common reason provided for the refusal-of-care.

Various forms of denial of services were reported:

- Outright refusal-of-care: this unfair treatment was directly connected to the patient's HIV status (and explicitly stated as such or via an unclear excuse); such conduct did not affect patients who had chosen to conceal their HIV+ status;
- Disguised denial of health services, i.e. using dubious and unethical reasons for refusal-of-care by:
    - discouraging patients through inconvenient appointment hours, medical fees exceeding the statutory price, or requests for information regarding the patient's financial situation;
    - redirecting the patient to a colleague or a hospital due to a claimed lack of knowledge about HIV and the handling of the disease or due to the need for special medical materials that are fit for this pathology (i.e. justification in the sense that the patient will be better treated elsewhere).

Other discriminatory practices

Apart from the refusal-of-care, according to the AIDES Testing, PLHIV often encountered other forms of discriminatory behaviour of medical professionals and their staff. These behaviours can be divided into 3 groups:

- usage of excessive sanitary protocols when treating a patient with HIV (overly long duration of treatment, provision of treatment at the end of office hours, etc.) that goes beyond the standard recommended practices and shows the lack of understanding of transmissibility of HIV;
- disclosure of a patient's HIV+ status constituting a breach of the obligation of secrecy;
- bad patient-doctor relationship due to the medical professional's limited knowledge regarding HIV;

Out of the above-mentioned groups of discriminatory behaviour other than refusal-of-care, the most common undesirable practice is the provision of treatment at the end of office hours by dentists. Such practice is contrary to the ethical rules of the High Council of Public Health which provide that "*no order of passage is necessary for patients with HIV, HCV or HBV, who request invasive medical surgery*". Applying standard precautions and respecting medical protocols shall be deemed sufficient to prevent transmission of HIV.

Situation in dental care

The AIDES Testing clearly showed that dental care is the most problematic area regarding the refusal-of-care. The denial of access to care often came from medical secretaries. In the case of disguised refusal-of-care, such refusal came from medical secretaries in 78 % of the tested instances (e.g. only 22 % of disguised refusal-of-care statements came from the dentists themselves). Regarding unequal treatment between PLHIV and other clients, 82,4 % came from medical secretaries (e.g. only 18,6 % directly from the dentists).

In conclusion, the AIDES Testing provided the following statistical data in connection to discriminatory practices in dental care. The results are especially concerning if compared to treatment sought at the gynaecology clinics.

Type of discriminatory practice	Dental care clinics – percentage of occurrence	Gynaecology clinics – percentage of occurrence
Disguised refusal-of-care	30 %	4,3 %
Outright refusal-of-care	3,6 %	1,7 %
Other discriminatory practices	16,8 %	17,2 %

Case studies

No cases dealing with discrimination against PLHIV in healthcare settings, that would have significant impact on legislation, policies, or practices in France, were reported in the questionnaire. Regardless of the lack of cases that would concern individuals, the French NGOs that provide assistance to PLHIV continuously advocate for this population group and promote the rights and interests of PLHIV through various public channels. These initiatives will be described in the following section on "Good practices in the national context".

Good practices in the national context

Advocacy work towards amendment of healthcare regulations in France

The AIDES Testing of 2016 was used to build advocacy campaigns aimed at tackling discriminatory practices that occur in France. AIDES proposed amendments of various legal acts in order to achieve a clearer definition of "refusal of healthcare" which would allow for easier assessment of what does qualify as such refusal and what does not. Furthermore, the proposed amendments aimed to create functional remedies through which a victim of such refusal could successfully protect his / her rights.

AIDES' amendments included the following 5 recommendations:

- expand the legal definition of the denial of health services to any discriminatory practice or dissuasive strategy, leading to an ultimate renouncement to seek treatments;
- establish a legal framework for situation testing, based on specific mission statements, and have patients' associations participating in the process of establishing such framework;
- include more health-related services' representatives in the observatory body dedicated to assessing the refusal of care (e.g. representatives of medical patient's associations);
- introduce the *shifted burden of proof*: modify the current laws so that (in accordance with other non-discriminatory rules) it will be the duty of the healthcare provider to prove that there was no unequal treatment when a patient claims he or she was treated in a discriminatory way;
- allow for the victims of discrimination to be represented or supported by relevant associations during the legal or conciliation processes.

In reaction to the advocacy work, the National Board of Dentists took a stance and denounced any unfair treatment. It released a statement that "*No patient can be subjected to discriminatory practices in his/her access to prevention and care. Dentists who do not follow basic rights and deontological ethics may be exposed to prosecution, either disciplinary or legal*."

Following the media exposure of AIDES Testing, together with the AIDE' members mobilization, progress has been made. An amendment to the existing healthcare legislation and allowed for the creation of authoritative committees within all the various National Boards of health practitioners. These committees were given the competence to evaluate the discriminatory nature of any rules resulting in refusal of care. They may request audits and carry out studies on inequalities. The committees consist of members of the respective National Boards, representatives of the National Health Service, as well as representatives of certified associations that represent patients (including AIDES).

Although the creation of these committees has improved the situation of fighting discriminatory practices, it remains to be only a limited resolution of the problems. The committees were not given competence to resolve individual issues. Their activity mainly consists of conducting anonymous studies and releasing recommendations and guidelines.

Raising awareness among the labour unions and healthcare providers

In collaboration with AIDES, the French Union of Dentists, *Chirurgiens-Dentistes de France*[69] (hereinafter "CDF"), has devoted one issue of its internal magazine to providing dental care to PLHIV. This printed issue included a strong editorial on the topic of HIV, written by one of the union's directors, a Q&A section on how to treat PLHIV (clearly stating that the treatment does not differ from the standard procedures provided for all other clients), a

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[69] The CDF is the national body with the widest membership base of dentists and its magazine is well distributed.

testimony of a dental care assistant who is also an AIDES' volunteer and a testimony of one of the AIDES' executives. The publication increased the understanding of what treatment of PLHIV shall be achieved among dentists.

Raising awareness among patients regarding inequalities and the protective provisions under French law

AIDES regularly publishes its own magazine titled "Remaides" (released every trimester since 1990) in which it addresses the developments concerning HIV, AIDS and all types of hepatitis. The issues of this French publication report on the latest scientific and therapeutic data as well as on the ongoing actions and campaigns in this area. With 30.000 copies printed per edition, the magazine is free of charge and available in 48 countries.

Refusal-of-care remains a reappearing topic in Remaides, and the articles remind readers that discriminatory practices continue to appear in day-to-day life and provide guidance on how PLHIV can protect themselves against unfair treatment.

Issues and bad practices in the national context

Apart from the issues described in the sections "Common forms of discrimination" and the possible grounds for discrimination at the primary and secondary legislation level described in the section "Legislation that may provide basis for discrimination against PLHIV in healthcare settings", no bad practices were reported in the questionnaire.

COVID-19 impact on PLHIV

Inclusion of PLHIV in priority vaccination groups[70]

In France, PLHIV are not among those considered particularly vulnerable to COVID-19 (as long as they are receiving effective HIV treatment) and are not given priority for vaccination. Societies and associations fighting against AIDS mobilized in January 2021 to ensure that PLHIV have access vaccination as soon as possible. All immunocompromised people are considered to be particularly vulnerable to COVID-19.

Access to HIV care and testing

The mobilization of infectious disease departments in the management and care of COVID-19 has made it difficult for them to continue monitoring other infections. Thus, a survey conducted by AIDES among 250 PLHIV showed that 30 % of them indicated that communication with the medical team in charge of their HIV follow-up deteriorated during confinement, and 15 % reported a relationship of degraded confidence. 76 % of the respondents report not having been contacted by the establishment that usually took charge of HIV to discuss their follow-up.[71]

The latest available national data also shows that the impact of the COVID-19 pandemic has been strong on HIV screenings. 4.856 HIV diagnoses were made in France in 2020, with a 14 % drop in HIV tests in 2020, and a 22 % drop in diagnoses.[72]

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[70] TRT5. *VIH et COVID-19 – Pour une vaccination des PVVIH immunodéprimées*. Available at: https://www.trt-5.org/covid-19-et-vih/

[71] AIDES. *Rapport discriminations 2020.* Available at: https://www.aides.org/publication/rapport-discriminations-2020

[72] Santé publique France. *Effet de la pandémie COVID-19*. Available at: https://www.santepubliquefrance.fr/presse/2021/effet-de-la-pandemie-covid-19-le-nombre-de-depistages-et-de-nouveaux-diagnostics-du-vih-est-en-baisse-en-2020.-connaitre-son-statut-serologique-c

Access to ARV medication

To compensate for the reduced availability of health professionals and to avoid any interruption of treatment, the French public authorities have adopted measures aimed at extending the prescriptions of people suffering from chronic diseases. This allowed PLHIV to continue to obtain their ARV medication in pharmacies, even if their prescription had expired, without having to contact their doctor.

In France, pharmacies can only deliver four weeks of treatment per visit to the pharmacy. Exceptions exist for certain pathologies or treatments, but ARV medication does not belong to this group. Exemptions can be requested, for example, in the event of traveling abroad, but they are not applied in the same way everywhere in the territory and remain at the initiative of the individuals. AIDES brought together a group of actors involved in the fight against HIV in Guyana to set up a system of exemption at the local level, at the end of 2020, concerning the authorization of a quarterly dispensing of ARV medication. The evaluation of such a system is expected to provide new data on the benefits of the multi-monthly delivery of ARV medication, on which AIDES can rely in order to convince the French public authorities to put in place a new deployment system throughout the territory.