

ITALY

Statistical data

Population size of the country was estimated at 60.462.000¹⁰² (year 2020).

Estimate number of PLHIV is 137.000.

The state of the 90-90-90 treatment target in 2020¹⁰³ was as follows:

- Percentage of PLHIV diagnosed (first 90 target): 92 %
- Percentage of PLHIV on treatment (second 90 target): 94 %
- Percentage of PLHIV with undetectable viral load (third 90 target): 86 %

Main epidemiological trends¹⁰⁴

In 2020, 1.303 new HIV diagnoses were reported in Italy, equivalent to 2,2 new cases per 100.000 inhabitants. Since 2012, a decrease in the number of new HIV diagnoses may be observed in the country. This trend became more evident in the period of 2018-2020.

The highest incidence rates were reported in the regions of Valle d'Aosta, Liguria, the Autonomous Province of Trento and Lazio. Out of the reported cases, 79,9 % accounted to men. Unprotected sexual intercourse was the main reported transmission mode, constituting 88,1 % of new cases. 45,7 % of the new HIV diagnoses were attributed to men who have sex with men (MSM); in comparison, 42,4 % of new cases were attributed to heterosexual intercourse.

A slight increase was observed in the number of newly diagnosed HIV cases in people with foreign nationality, rising from 27,5 % in 2019 to 32,6 % in 2020

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 also in some soft law instruments). Apart from the constitutional level, the legislation is formulated as HIV-specific.

Constitutional level

¹⁰² UN Department of Economic and social Affairs, Population Division. *World Population Prospects 2019*. Available at: <https://population.un.org/wpp/Download/Standard/Population/>

¹⁰³ Data reported by the Italian Focal Point in the Dublin Declaration monitoring questionnaire 2021.

¹⁰⁴ Istituto Superiore di Sanità. *Notiziario dell'Istituto Superiore di Sanità: Aggiornamento delle Nuove Diagnosi di infezione da HIV e dei Casi di AIDS in Italia al 31 Dicembre 2020*. Available at: https://www.salute.gov.it/imgs/C_17_notizie_5705_0_file.pdf

The Constitution of the Italian Republic¹⁰⁵ anchors the principle of equality in its Article 3 which provides that all citizens are equal before the law without distinction of sex, race, language, religion, political opinion, personal and social conditions. Although the list of protected discriminatory grounds does not include the criterion of “health condition” or “disability”, the inclusion of “personal and social conditions” shall guarantee the protection of PLHIV.

Furthermore, Article 32 provides that the right to health represents a fundamental right of each individual and a primary interest for the community.

[Primary legislation level](#)

The Law on the Establishment of the National Health Service¹⁰⁶ also states that the National Health Service, *Servizio Sanitario Nazionale* (hereinafter “SSN”), shall ensure the right to health of every person in accordance with the principles of universality and equality – without any distinction of individual or social conditions (Chapter I, Article 1).

The Law on the Urgent Interventions Programme for the Prevention and Fight Against AIDS¹⁰⁷ represents the main HIV-specific legislative document in the Italian legal system. Article 5(5) states that HIV infection cannot constitute grounds for discrimination.

In relation to healthcare settings specifically, Article 5(1) provides that all healthcare professionals who learn about a patient’s HIV+ status have the duty to provide the necessary assistance and take any measures or precautions needed for the protection of fundamental rights and freedoms of such patient. This means that no healthcare professional can refuse a patient because he/she is HIV+. In addition, Article 5(2) prohibits any HIV testing to be done without the patient’s consent, except for reasons of clinical necessity in his/her interest.

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

No legislation that could directly or indirectly discriminate or provide basis for discrimination against PLHIV/AIDS in healthcare settings was reported.

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 Italian law. These include:

- complaint to the Public Relation Office, *Ufficio Relazioni con il Pubblico*, of the healthcare institution;
- complaint to the Court for People with Disabilities, *Tribunale del Malato*;

¹⁰⁵ Constitution of the Italian Republic. Available at:

https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf

¹⁰⁶ Law No. 833/1978, on the Establishment of the National Health Service, as amended (Italy). Available at:

<https://www.gazzettaufficiale.it/eli/id/1978/12/28/078U0833/sg>

¹⁰⁷ Law No. 135/1990, on the Urgent interventions Programme for the Prevention and Fight Against AIDS, as amended (Italy). Available at: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1990;135>

- complaint to the Guarantor for the Protection of Personal Data, *Garante per la Protezione dei Dati Personali*;
- complaint to the Order of Physicians and Dentists, *Ordine dei Medici Chirurghi e degli Odontoiatri*;
- civil action.

[Complaint to the Public Relation Office, *Ufficio Relazioni con il Pubblico* \(hereinafter "URP"\)](#)

If a patient becomes a victim of discrimination, he/she can file a complaint with the URP of the healthcare facility in question. The procedure is initiated by drawing up a request with the URP, followed by being presented with a written request in which the victim specifies the details of the case. These steps initiate the investigation that is to be carried out by the medical director, *Direttore Sanitario*. The law then requires that the URP must provide an answer to the complaint within 30 days (which can be extended by 15 days in cases of in-depth investigation).

[Complaint to the Court for People with Disabilities, *Tribunale del Malato* \(hereinafter "TDM"\)](#)

PLHIV who are exposed to discrimination may file a complaint with the TDM. The TDM consists of ordinary citizens as well as professionals who participate on a voluntary basis. Complaints can be submitted to the TDM in person, via post, e-mail, or telephone. After the TDM verifies the validity of the complaint, it proceeds to intervene. The TDM aims at both seeking compensation of the victim and redressing discriminatory practices.

[Complaint to the Guarantor for the Protection of Personal Data, *Garante per la Protezione dei Dati Personali* \(hereinafter "GPDP"\)](#)

When an instance of discrimination involves the breach of the obligation of secrecy, one can also submit a complaint to the GPDP. The GPDP supervises the adherence with the EU General Data Protection Regulation as well as the Personal Data Protection Code (Decree-law No. 196/2003).

A victim of discrimination, however, cannot claim damages or any other monetary compensation before the GPDP. Any claims for monetary compensation may only be lodged with the competent judicial authority.

[Complaint to the Order of Physicians and Dentists, *Ordine dei Medici Chirurghi e degli Odontoiatri* \(hereinafter "OMCO"\)](#)

Under Article 3 of the Code of Medical Ethics¹⁰⁸, all doctors have the duty to provide healthcare services without any discrimination. The Code of Medical Ethics also imposes the obligation of secrecy. Non-compliance with the Code of Medical Ethics, even if due to ignorance, constitutes a disciplinary offense.

A complaint filed by a patient with the OMCO serves as a request for the initiation of disciplinary proceedings. Possible sanctions include warning, censorship (i.e. statement of condemnation for the behaviour), suspension of 1 to 6 months, or removal from the register. The OMCO cannot impose financial penalties, or award compensation to the victim.

[Civil lawsuit](#)

In case PLHIV who became victims of discrimination suffer injury or damage, they can bring action before a civil court in order to make a claim for compensation for unlawful acts under Article 2043 et. seq. of the Italian Civil

¹⁰⁸ The Code of Medical Ethics (Italy). Available at: <https://portale.fnomceo.it/wp-content/uploads/2020/04/CODICE-DEONTOLOGIA-MEDICA-2014-e-aggiornamenti.pdf>

Code¹⁰⁹ which provides that any intentional or negligent act that causes unjust damage to others obliges the person who committed the act to compensate for the damage caused.

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

In Italy, there is no legal obligation for PLHIV that requires them to communicate their HIV+ status to other people, including medical professionals. No medical procedure can involve risks of transmission if all the universal hygienic protocols and rules are followed. Medical professionals must follow these rules regardless of declared or ascertained serological status of a patient, as required by the guidelines of the Ministry of Health.

Confidentiality and accessibility of personal data related to HIV

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. Adaptation of national laws to the provisions of the EU General Data Protection Regulation is ensured through the Decree-Law No. 196/2003¹¹⁰.

Electronic Health Records

Under Italian law, it is compulsory to store health records in an electronic database at the level of regions and autonomous provinces. This obligation was introduced by Decree-Law No. 179/2012. Article 12 defines electronic health records (hereinafter "EHR") as "*a set of health and socio-health digital data and documents related to present and past clinical events regarding a patient*". The EHR include information on prescriptions, services, medical reports, discharge letters, emergencies, diseases, and chronic illnesses.

The EHR aims to provide authorized individuals with necessary clinical information about each patient. However, the Italian law gives the individual in question the right to "conceal" certain categories of data. Such data that is subject to greater protection of anonymity includes HIV, voluntary termination of pregnancy, drug addiction, etc.; these categories of data are only made visible if a patient gives explicit consent.

An issue of confidentiality was reported regarding the EHR which had apparently been used improperly in some Italian Regions. Personal and health related data which shall be accessible only to the GP, the infectious disease specialist, and other few eventually authorized specialists, became visible also to pharmacists and other healthcare professionals. This issue has been addressed as a breach of confidentiality and measures were taken to prevent it from happening again.

¹⁰⁹ The Civil Code (No. 262/1942, as amended; Italy). Available at: <https://www.gazzettaufficiale.it/sommario/codici/codiceCivile>

¹¹⁰ Decree-Law No. 196/2003 (Italy). Available at: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2003-06-30;196!vig>

Prohibitions and limitations on working in specific healthcare professions for PLHIV

Under Article 5(5) of the Law on the Urgent Interventions Programme for the Prevention and Fight Against AIDS, the ascertained HIV infection cannot be a reason for discrimination, in particular for enrolment in school, for performance of sporting activities, for the access or the maintenance of jobs.

A question of constitutionality of this provision had been raised before the Italian Constitutional Court which held that there shall be an exception to Article 5(5) in relation to activities that involve risks for the health of third parties. By this ruling, the Italian Constitutional Court allowed for the prohibition for PLHIV to perform certain activities in the healthcare sector.¹¹¹ Surgeons and other professionals working in the operating rooms and intensive care units cannot be dismissed, but they are relocated to other departments of the healthcare institution.

Private insurance policies concerning PLHIV

After disclosing their HIV+ status, PLHIV in Italy are commonly denied the benefit of private health related insurance policies. In case that they do not disclose their HIV+ status prior to taking out an insurance, and it subsequently becomes evident that they hid the information, they are denied reimbursement of their medical expenses; the insurer refuses to provide insurance coverage due to a false statement given by the client at the time that the insurance policy was stipulated.

Common forms of discrimination in healthcare settings

The number of instances of discrimination against PLHIV in healthcare settings has been decreasing over the past years. In big cities, discrimination of this nature only occurs rarely.

All the common forms of discrimination indicated in the questionnaire (refusal-of-care, separation from other patients, provision of treatment at the end of office hours) were reported to occur only as isolated incidents. Provision of treatment at the end of office hours was reported as the most frequent form. Another common practice is that of dedicating special days to patients with HIV (e.g. several days during each month for examinations dedicated exclusively to PLHIV; gynaecology, ophthalmology, dermatology).

Regarding specific sites where discrimination takes place, dental care was marked as the most problematic. Stigmatizing or judgmental attitude, often due to lack of updated information on the HIV infection (e.g. U=U), was reported to be present among general practitioners (hereinafter "GP"). Many PLHIV therefore limit their visits to the GP and mostly refer to their infectious disease specialist.

The two latest studies on this matter were carried out in 2013 and 2014. Although these studies are not recent and cannot therefore be taken as an up-to-date reflection of the current situation, their results are included for context:

- "Questionaids" – a survey carried out by Lila in 2014 among 657 respondents living with HIV found that 47 % of the respondents had been discriminated against or treated unfairly in healthcare settings;

¹¹¹ Judgment of the Constitutional Court of the Italian Republic dated June 2nd, 1994. No. 218.

- “Pratiche Positive” – a qualitative research conducted by Arcigay in 2013 provided that 40 % of the respondents had been discriminated against in healthcare settings, 12 % had been discriminated by their GPs, and 17 % had been subjected to refusal-of-care.

Dental care

Complaints related to discriminatory behaviours in dental care have steadily decreased, yet this area of healthcare remains the most problematic. Several Italian regions took action to tackle this issue and offer training on HIV to dentists; using funds provided in the context of the Law on the Urgent Interventions Programme for the Prevention and Fight Against AIDS. This resulted in the improvement of dentists’ attitude towards PLHIV. Nevertheless, some cases of discrimination still take place.

Perhaps the case that best describes how the anti-discrimination mechanisms in Italy function was reported in 2018. A man in Rome contacted the national toll-free phonenumber against homotransphobia after being denied a dental visit in a private specialist doctor’s office. The doctor had presented the patient with a questionnaire in which he was asked to explicitly highlight whether he had had or suspected of having infectious diseases or being HIV positive. The doctor informed him that he was unable to proceed with the clinical examination because his HIV+ status “*would not have allowed him to avert a possible contagion of staff and other patients*”.

After the public complaint by Gay Help Line, the Order of Physicians and Dentists intervened and took the appropriate measures. This was followed by a complaint to the Guarantor for Protection of Personal Data, who on June 10th, 2021, issued a specific order in which he highlights that the doctor’s conduct did not comply with the specific rules on privacy. The Guarantor for Protection of Personal Data concluded that the request for information relating to the HIV status of each patient who goes to a doctor’s office for the first time contravenes the principle of lawfulness and minimization of the requested data. Given the illegality of the doctor’s conduct, an administrative fine of 20.000 € was imposed on him.

Case studies

No court litigation cases dealing with discrimination against PLHIV in healthcare settings, that would have significant impact on legislation, policies, or practices in Italy, were reported in the questionnaire. It was emphasised in the questionnaire that bringing a case before court is difficult in Italy, because PLHIV need to publicly disclose their HIV+ status in order to proceed. This prevents many of them from filing a lawsuit.

Good practices in the national context

Regional trainings for healthcare staff

Based on the provisions of the Law on the Urgent Interventions Programme for the Prevention and Fight Against AIDS, funding was provided for training of healthcare staff over the course of many years; particularly in the area of dental care. These training courses have undoubtedly contributed to lowering discriminatory behaviour in this context. In the last years the Italian NGOs, that provide support to PLHIV, have been receiving fewer calls related to problems encountered at the dentists’ office.

Issues and bad practices in the national context

Attitude and behaviour of healthcare workers

Bad practices which do not qualify as direct or indirect discrimination against PLHIV concern judgemental, homophobic attitudes and bad relationships with key populations. Such conduct may keep these population groups distant from prevention, treatment and care of HIV and other STIs. Hence, one of the priorities in the national context is that of educating and training healthcare staff in having non-judgmental attitude towards key populations (e.g. LGBT+, migrants, PLHIV, people who inject drugs, etc.) and building skills in addressing issues related to sexual and reproductive health and rights, drug use, mental health problems, etc.

COVID-19 impact on PLHIV

[Limitation of HIV testing and hospital visits](#)

Throughout the COVID-19 pandemic, HIV testing in hospitals was significantly reduced and PLHIV could not access their periodic visits and check-ups during lockdowns. Increasing use of “telemedics” was introduced as a measure to address the delays in treatment. Most contacts with the doctors took place via telephone or online.

That being said, PLHIV were not disproportionately impacted, since the same critical situation was experienced by all people in need of healthcare services. The difference with respect to other severe diseases and health conditions (e.g. cancer, diabetes, etc.) is that infectious disease departments, where HIV is treated, are the same departments that provide medical care to COVID-19 patients.

There were also problems regarding access to ARV medication, especially for PLHIV who are provided with treatment at hospitals outside their region (traveling between regions was prohibited for a significant time period). In such cases, community organizations helped with the delivery.

Community HIV testing was also unavailable during the 1st lockdown in March-May 2020. It was later restored but only available on appointment (to avoid overcrowding of testing sites).

[Inclusion of PLHIV in the vaccination priority categories](#)

In Italy, 5 priority categories for vaccination were introduced. People living with AIDS or PLHIV with a CD4 < 200 were included in Category 1 (highest priority). Category 4 included people below 60 years old who live with comorbidities; HIV was listed among these comorbidities, as well as hepatitis, liver diseases, and tuberculosis.

[Paid leave of absence for healthcare staff living with HIV](#)

A good practice has been introduced during the COVID-19 pandemic to protect healthcare staff living with HIV. This category of workers was included among those workers with “vulnerable conditions”, and they were allowed to request the benefit of a period of paid leave of absence via the occupational doctor or GP in order not to come into contact with COVID-19 patients.