Legal opportunities for scaling up HIV treatment access using government use and compulsory licensing: recommendations based on legal framework analysis in the countries of the Eurasian Economic Union

Co-auteurs
M. Shibaeva * (1), S. Golovin (2) (1) Treatment Preparedness Coalition in Eastern Europe and Central Asia

BACKGROUND: TRIPS flexibilities, including compulsory and government use licenses, have proven to be effective to improve treatment access. The antiretroviral therapy coverage in the Eurasian Economic Union (EEU) is below 90% of those knowing their status, partly because of high prices for key medicines,(e.g. dolutergavir), due to patent monopolies. The COVID-19 pandemic reiterated the need to assess legal provisions related to compulsory licenses and government use of inventions for medicines. We analyzed national and regional regulatory framework in the EEU to demonstrate opportunities for govenment use or compulsory licensing to impove access to antiretroviral medicines and beyond.

Country	Government use	Court	Use of patent not considered as patent infringement
Armenia		national security; health (including lack of access to medical products); unfair use of patent rights by restricting competition; non-use or insufficient use	national security (issuing authority n/a)
Belarus		non-use or insufficient use	epidemics (issuing authority n/a)
Kazakhstan		national security; health protection; abuse of patent rights; non-use	
Kyrgyzstan	national security; epidemics	non-use or insufficient use	epidemics (issuing authority n/a)
Russia	national security; protection of life and health of citizens	non-use or insufficient - use	

CONCLUSIONS: The key finding is that Armenia, Belarus and Kazakhstan lack provisions related to government use of inventions without patent holder consent, which limits opportunities for rapid actions to close treatment access gaps. In Belarus and Kazakhstan, this could have had a negative impact on increasing access to patented dolutegravir. The media reported that the Kazakh government intended to seek compulsory license for dolutegravir through court. Countries are recommended to revise their regulatory framework to include provisions enabling government use of inventions for medicines in a variety of situations to improve access to essential medicines.