

The HIV and AIDS Recommendation, 2010 (No. 200)

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1. What is the effect of Recommendation No. 200?

The [Recommendation](#) is an international labour standard developed and adopted by the International Labour Conference through an extensive consultation process over a three year period. It was adopted almost one decade following the adoption and successful dissemination and implementation of the [ILO Code of practice on HIV/AIDS and the world of work](#), 2001. It builds and expands the key principles of the ILO Code to protect workers and to provide for their access to prevention, treatment, care and support measures.

Recommendation No. 200 is a comprehensive new tool for the international community which establishes the foundation for a rights-based approach to the HIV pandemic at the international, regional and national levels. As an international labour standard, Recommendation No. 200 forms part of international human rights law. The development of Recommendation No. 200 also included organizations representing persons living with HIV and other [UNAIDS](#) cosponsors. The Recommendation's status is enhanced by this inclusive process, which led to its adoption by overwhelming majority vote at the ILO's International Labour Conference on 17 June 2010.

2. Why is it important to include the workplace and world of work actors?

Nine out of ten of those most affected by the HIV pandemic are of productive age (15-49). The workplace is an effective entry point to facilitate access to prevention, treatment, care and support services for this population. Recommendation No. 200 calls for the workplace and world of work actors to be involved as key to the HIV response at international, regional and national levels.

As an overarching key principle, the Recommendation recognizes that the HIV response contributes to the realization of human rights and fundamental freedoms and gender equality for all and extends these rights to workers, their families and dependants.

3. What does Recommendation No. 200 ask for?

Recommendation No. 200 calls for the development, adoption, implementation and monitoring of national tripartite policies and programmes on HIV and AIDS and the world of work. These are to be integrated into national AIDS strategies aiming of making the workplace an active and visible participant in the national response.

The development of these policies and programmes should be inclusive, involving consultations with organizations of persons living with HIV and relevant sectors, including the health sector.

The policies should take account of the following **key principles** established in Recommendation No. 200:

- **Non-discrimination**

Recommendation No. 200 provides that there should be no discrimination or stigmatization of workers, particularly job applicants and jobseekers in either access to employment or occupation, terms and conditions of work or the right to remain in employment. The Recommendation also protects “persons belonging to regions of the world, or to segments of the population, perceived to be at greater risk or more vulnerable to HIV infection”, thereby addressing concerns of persons from high prevalence countries—including migrant workers—as well as other vulnerable and at-risk groups. Recommendation No. 200 invites governments to consider extending protection equal to that available in the ILO’s fundamental labour standard on equality of opportunity and treatment—the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) — to prevent discrimination based on real or perceived HIV status. Recommendation No. 200 includes specific sections focussing on women and girls, migrant workers, children and young persons.

- **Gender Equality**

The Recommendation recognizes the gender dimension of the pandemic, calling for measures to be taken in the workplace to reduce the transmission of HIV and alleviate its impact by ensuring gender equality and the empowerment of women, preventing harassment and violence in the workplace, promoting the active participation of both women and men in the response to the pandemic, and promoting the protection of sexual and reproductive health and sexual and reproductive rights of both women and men. It calls for the empowerment of all workers regardless of their sexual orientation and whether or not they belong to a vulnerable group.

- **Prevention of all means of HIV transmission is a fundamental priority**

The Recommendation makes prevention of HIV transmission a top priority and provides that the workplace should facilitate access to all means of prevention. These means include comprehensive education programmes for men and women to reduce the risk of transmission, including mother-to-child transmission, measures to encourage workers to know their HIV status through voluntary counselling and testing, guaranteeing the availability of necessary supplies, including condoms and post-exposure prophylaxis, measures to reduce high-risk behaviours and harm reduction strategies.

- **Equal access to HIV prevention, treatment, care and support**

Advancing the principle of universal access, Recommendation No. 200 provides that workers, their families and their dependants should have access to prevention, treatment, care and support services in relation to HIV and AIDS. This should include access to: anti-retroviral treatment as well as treatment for opportunistic infections and other HIV-related illnesses, including tuberculosis, psychosocial support and proper nutrition consistent with treatment.

- **HIV testing and confidentiality**

HIV testing or screening should not be required of workers, including migrant workers, jobseekers and job applicants and they should not be required to disclose the results of HIV tests or their HIV status in general. At the same time, the Recommendation recognizes that everyone should be encouraged to know their HIV status through voluntary counselling and testing and that testing results should be strictly confidential.

- **The right to reasonable accommodation**

Retention in work and recruitment of persons living with HIV should be promoted, and programmes of care and support should include measures of reasonable accommodation in the workplace. Work should be organized in such a way as to accommodate the episodic nature of HIV and AIDS, as well as possible side effects of treatment.

- **The right to a safe and healthy work environment for all**

Recommendation No. 200 establishes that the working environment should be safe and healthy for all workers. Safety and health measures should include “universal precautions” to protect workers from contracting HIV and tuberculosis. Such precautions include use of protective barriers, such as gloves, gowns, masks, safe disposal of waste contaminated with blood and body fluids, proper disposal and disinfection of needles and other sharp objects and instruments. Safety measures also include accident and hazard prevention measures and post-exposure prophylaxis.

Where there is a risk of exposure at work, training and prevention measures should be taken to prevent HIV transmission. Occupational transmission of HIV should be recognized as an occupational accident or disease. In March 2010, both HIV and tuberculosis – often associated with HIV - were added to the List of Occupational Diseases Recommendation, 2002 (No. 194).

- **The principle of social dialogue**

Workplace policies and programmes on HIV and AIDS should be developed and implemented through inclusive social dialogue, consulting employers and workers and their representatives, governments, persons

living with HIV, local communities, international organizations and other actors in civil society.

4. What will happen now?

Implementation

Effect to Recommendation at the national level can be given through one or a combination of the following: adoption of laws and regulations, collective agreements, national and workplace policies and programmes of action or sectoral strategies.

National actions under Recommendation No. 200 should include measures to address any breaches of the rights protected, as well as having in place easily accessible dispute resolution procedures in the workplace for any alleged violations of testing, privacy and confidentiality issues.

Follow-up

A national mechanism should either be established or making use an already existing one to monitor developments with respect to their actions taken under Recommendation No. 200 and should include representatives of employers and workers on equal footing. In addition, the Global Action Plan calls for dissemination and implementation measures to be taken.

At the international level, all member States, in consultation with employers and workers, should submit Recommendation No. 200 within one year after its adoption to their national competent authority (before 18 June 2011). They should report back to the ILO on which competent authority it was submitted and what measures this authority decided to take to give effect to the Recommendation.

In addition, all member States can be requested by the Governing Body to report at appropriate intervals the position of their national laws and policies to give effect to Recommendation No. 200 (article 19 reports - General Surveys). HIV and AIDS could also be integrated into reporting obligation under ratified Conventions and Recommendations (article 22 reports). World of work action should also, as appropriately, be included in other international reporting obligations, such as under the UN Declaration of Commitment on HIV/AIDS of 2001 (so-called UNGASS reports) and reporting obligations under other international or regional instruments.

It is important to highlight that on Friday 10th June 2011, the United Nations member States recognized the ILO Recommendation concerning HIV and AIDS and the World of Work, 2010 (No. 200) as a key human rights instrument in the global HIV response in the final Political Declaration of the [High Level Meeting on AIDS that took place in New York](#).