



Ref.#: UNAIDS-ZBN-2017-06

20 June 2017

To: Kyiv Commercial Court of Appeal
Sholudenka str. 1, Kyiv, Ukraine 01601

Dear Madams and Sirs,

On behalf of the Joint United Nations Programme on HIV/AIDS (UNAIDS) let me present our compliments and share our concerns regarding the following.

On March 6, 2017 Kyiv Commercial Court dismissed the All-Ukrainian Network of People Living with HIV/AIDS (the Network) claim for cancellation of patents related to antiretroviral medicine lopinavir/ritonavir without examination their compliance to patentability requirements. To our knowledge, the claim UA court reg. No. 910/10050/16 was dismissed on the following grounds:

- the claimant didn't prove that in case of patents invalidation generic manufacturers will enter Ukrainian market with lopinavir/ritonavir and even in case they enter their prices will be lower than existing price in Ukraine;
- the Network doesn't have a right of legal standing before court considering that challenged patents do not violate any rights or protected by the law interests of claimant as a charitable organization.

UNAIDS considers such grounds for claim cancellation as controversial and incompatible with established international practices. The generic substitution is an important measure for improving access to HIV medicines which is essential for overcoming HIV epidemic worldwide, including Ukraine. Ukraine has the second biggest growing number of PLHIV in the region to be put on treatment by 2020 as a part of the global target to stop the epidemic. Monitoring of the worldwide prices on the antiretroviral medicines confirms that generic prices for medicines are significantly lower than originators prices.

It should also be noted, that submission of the patent oppositions on the behalf of civil society group, including patient organizations is a well-known worldwide practice. Patient groups in many countries around the world contributed a lot in reduction of medicines prices by cancellation of

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inadequate patent monopolies. The removal of irrelevant patents will definitely have a great effect on the Ukrainian HIV-positive community on behalf of which the Network is working. It is something that the claimant is interested in, since it will increase access to antiretroviral medicines for people living with HIV in Ukraine because of increasing of their supply within existing budget for ARV procurement. It should be added, that the Network expertise in community representation was widely recognized on the highest level, including 2016 PEPFAR Civil Society Partnership Award.

Considering abovementioned, UNAIDS calls you not to deprive the civil society organization of a right for a fair trial and to examine the opposed patents on their compliance with patentability requirements.

The UNAIDS in Ukraine avails itself of this opportunity to renew the assurances of its highest consideration.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "J. Tyszko", is written over a faint, light blue circular watermark or background.

Jacek Tyszko
UNAIDS Country Director