

PRESS STATEMENT

UNAIDS welcomes Kenya High Court judgment on anti-counterfeit law

GENEVA, 20 April 2012—UNAIDS commends the High Court of Kenya for a ruling today that will safeguard access to affordable and quality life-saving generic medicines. The decision by the High Court found that the definition of “anti-counterfeit” within the 2008 Anti-Counterfeit Act was too broad.

“The Act is vague and could undermine access to affordable generic medicines since the Act had failed to clearly distinguish between counterfeit and generic medicines,” said High Court Judge Mumbi Ngugi in her ruling.

The High Court called on Kenya’s Parliament to review the Act and remove ambiguities that could result in arbitrary seizures of generic medicines under the pretext of fighting counterfeit drugs. The judgment also stated that intellectual property rights should not override the right to life and health.

“A vast majority of people in Kenya rely on quality generic drugs for their daily survival. Through this important ruling, the High Court of Kenya has upheld a fundamental element of the right to health,” said UNAIDS Executive Director Michel Sidibé. “This decision will set an important precedent for ensuring access to life-saving drugs around the world.”

At the end of 2011, about 1.6 million people in Kenya were living with HIV. An estimated 743 000 Kenyans are eligible for antiretroviral treatment, of whom 539 000 are currently receiving it. Kenya’s national HIV treatment programme relies heavily on access to generic antiretroviral medicines.

“We must have both generic drugs and strong anti-counterfeit laws,” said Mr Sidibé. “Generic drugs give more people access to life-saving treatment—while anti-counterfeit laws keep people safe.”

In low- and middle-income countries more than 80% of the antiretroviral drugs used by the 6.6 million people on HIV treatment come from generic manufacturers. Nearly 8 million additional people living with HIV were eligible for treatment at the end of 2010.

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