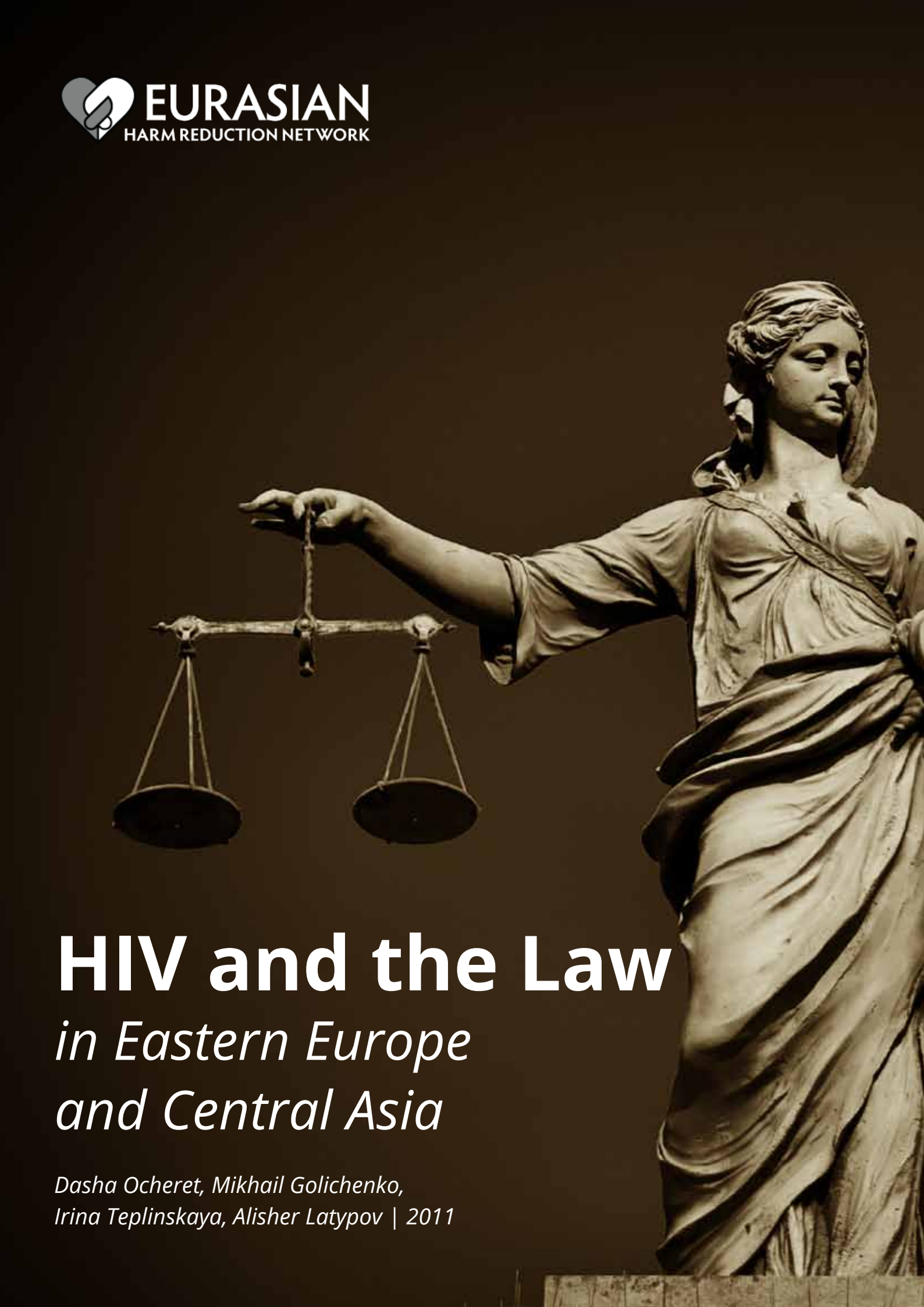
EURASIAN
HARM REDUCTION NETWORK



HIV and the Law

in Eastern Europe and Central Asia

Dasha Ocheret, Mikhail Golichenko, Irina Teplinskaya, Alisher Latypov | 2011

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Eurasian Harm Reduction Network

The Eurasian Harm Reduction Network (EHRN) is a regional network with a **mission** to promote humane, evidence-based harm reduction approaches to drug use, with the aim of improving health and protecting human rights at the individual, community, and societal level.

The Eurasian Harm Reduction Network was founded in 1997 and currently brings together 340 specialists, activists and organisations working in the field of harm reduction from 29 countries of Central and Eastern Europe and Central Asia (CEECA). Members of the Network include communities (in particular, of drug users and people living with HIV), researchers, experts, drug treatment facilities, HIV service providers and governmental bodies. Activities of the Network are determined by its Steering Committee. The Network Secretariat is based in Vilnius, Lithuania.

EHRN has built up solid experience in the areas of harm reduction in CEECA, drug policy reform, HIV, tuberculosis, hepatitis C and overdose prevention. EHRN's activities include information services, training, advocacy and technical support aimed at assisting the implementation of non-discriminatory policies towards drug users, as well as improving the range and quality of harm reduction services in CEECA.

Address:	Švitrigailos 11B, Vilnius, LT-03228, Lithuania
Telephone:	+370 5 269 1600
Fax:	+370 5 269 1601
Email:	info@harm-reduction.org
Website:	www.harm-reduction.org

Authors
Dasha Ocheret, Mikhail Golichenko, Irina Teplinskaya, Alisher Latypov

Translation
Katya Smirnova

Design
Tim Berezin

Layout
Natalia Ludwig

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Foreword

To read this report is to drown in a tsunami of rage. The behavior of the governments of Eastern Europe and Central Asia towards people who use drugs --- and there is not a single country without some degree of culpability --- is both brutal and diabolical. I can scarcely believe what these pages yield. It is as though we were thrown back to medieval times when agony on the rack was the punishment for the most trifling of so-called crimes.

But in contemporary terms it's much worse. The testaments in this monograph flow from people struggling desperately with illness - not crimes by any sane definition - but illness that has been criminalized with malicious intent. It is to weep. What in God's name is wrong with governments that they should so savage basic human rights?

Conventional wisdom says that societies should be judged by the way in which they treat the most disadvantaged in their midst. If that is so, the AIDS pandemic has given us much by which to judge our societies and the policies and laws that are the expressions of our collective values. From its beginnings, AIDS has represented a clear choice for governments – to use policy and law to protect those at high risk of contracting HIV or to fail to do so – or, even worse, to allow law and policy to be an additional burden to people already disadvantaged by discrimination and stigma.

Thirty years into the pandemic, we can report that some countries have struggled with and met this challenge in ways that do credit to their commitment to the rights and dignity of all people. Some countries have removed harsh and senseless criminal laws against homosexuality, perhaps sooner than would have been the case had AIDS not brought the situation of men who have sex with men to the policy foreground. These countries have learned the fundamental lesson that protecting the rights of those living with or at risk of HIV is also the most effective way to contain the epidemic.

It is unfortunately only a minority of countries that have made a commitment to legal protections of the rights of people who use drugs and have provided legal grounding for basic health services for them. It is apparently politically acceptable – even politically advantageous – that people who use drugs are allowed to suffer without basic health care, to be stripped of their dignity by repressive policing, and to die from preventable deaths. The heart-breaking accounts in this report from the real experiences of people who use drugs in Eastern Europe and Central Asia epitomize this scandal.

As I read these moving and maddening accounts, I am overwhelmed by how unnecessary is the suffering documented here. No one can claim ignorance of what works and doesn't work when it comes to reducing HIV transmission linked to drug use and ensuring access to services for people who use drugs. The continued resistance of some governments to ensuring access to clean injection equipment and to evidence-based and humane treatment for drug dependence is beyond comprehension. It is nothing short of criminal that states enable police to interrogate people in a state of drug withdrawal, to arrest people for possession of a syringe, and to gain what is virtually a second income by extortion of people who possess small quantities of drugs.

My colleagues on the Global Commission on HIV and the Law and I have been in awe of those who have been courageous enough to step forward to tell us their stories. When societies condemn drug use as a moral failing and governments treat drug addiction as a high crime, it is no small thing for people who use drugs to recount publicly the experiences of their daily lives. This report itself is a testament to the initiative and courage of people who use drugs, and I am grateful to the Eurasian Harm Reduction Network for the work of compiling these exceptional stories.

There will be a tendency, on reading this report to be paralyzed by the despair that is inevitably felt in the face of such a compendium of abuse. Somehow, we must all in our own ways be advocates for the fundamental reforms that are desperately needed to ensure that laws and policies on illicit drug use become instruments of justice and human dignity.

Stephen Lewis

Co-Director, AIDS-Free World
Commissioner, Global Commission on HIV and the Law

This report is the result of collaboration among communities of drug users from Eastern Europe and Central Asia on monitoring violations of civil and human rights in the region, as well as on developing recommendations to address urgent issues in the sphere of HIV and to improve access to prevention and care. The information for this report was gathered as part of the project 'Involving Drug Users in the Activities of the Global Commission on HIV and the Law' which was conducted by the Eurasian Harm Reduction Network (EHRN) from April to October 2011 with support from the Open Society Foundations.

Key findings

- In EECA countries, drug policy is based on stigma and discrimination against drug users, which blocks any open dialogue with people who use drugs and hinders adequate decision-making impacting their lives.

- Criminal liability for drug use and possession of small doses of drugs for personal use is applied contrary to and to the detriment of proven harm reduction approaches, not resulting in reduced levels of drug use and violating the right to health.

- Punishing drug dependent people for use and possession of drugs without intent to sell is equal to punishing them for a disease and its symptoms, and it contradicts the UN Convention against Torture and Other Forms of Cruel, Inhumane or Degrading Treatment and Punishment.

- By failing to provide political and financial support to harm reduction programmes, governments turn their backs on commitments declared in the 2001 Declaration of Commitment on HIV/AIDS and ignore UN recommendations.

- Drug users in EECA have limited access to opioid substitution therapy. Strict requirements imposed on substitution therapy clients – such as the need to pick up medications in a special drug treatment facility on a daily basis, year after year – are groundless, ruinous for the proper integration of drug users and discourage their access to medical services.

- Discrimination against drug users within healthcare systems results in low access to HIV, TB and HCV treatment and, consequently, increases mortality rates in the community. The situation is further compromised by failure to initiate or continue life-saving treatment of HIV, TB and/or drug use in correctional facilities.

- Stigma, discrimination and repressive legislation against people who use drugs hinder enforcement of their civil and social rights, increase their vulnerability to HIV and obstruct achievement of universal access to HIV prevention and treatment in Eastern Europe and Central Asia.

Involving drug users in decision making

According to the International Covenant on Civil and Political Rights, signed by all countries of Eastern Europe and Central Asia (EECA), "every citizen shall have the right and the opportunity, /…/ without unreasonable restrictions, /…/ to take part in the conduct of public affairs, directly or through freely chosen representatives."[1] The Covenant prohibits restrictions of civil or political rights on the grounds of any medical diagnosis, including HIV and drug dependency.[2]

The idea of promoting the active involvement of people living with HIV (PLHIV) in decision-making processes that impact their lives was first voiced in Denver in 1983. In 1994, the Paris AIDS Summit endorsed Greater Involvement of People with AIDS as the key principle in tackling the HIV epidemic (the GIPA principle).[3]

Today, HIV-related stigma remains the biggest barrier to effective implementation of this principle. In EECA countries, where most people living with HIV were infected through injecting drug use[4], the obstacles facing community mobilisation efforts are greatly increased by the policy of intolerance that underlies drug legislation.

People who use drugs are afraid to stand up for their rights and lobby for drug policy reforms: such manifestations of a civil position often trigger unethical, degrading public statements from the authorities, who often ridicule suggestions for new approaches, and react with threats and repressions (for instance, by planting drugs or fabricating criminal cases).

> **"A complaint on failure to provide substitution therapy as drug treatment in Russia was submitted by Irina Teplinskaya to the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Alexander Treschev, a plenipotentiary representative of the European Union Chamber of Lawyers in Russia, assessed it as 'absolutely without prospects'. 'This complaint was lodged by a drug user – a person who can hardly be considered competent, as drug addiction implies that this person requires quarantine and treatment.' According to Mr. Treschev, a complaint made by a drug addict 'would just sound like a joke to the UN'.**[5]

> **"Two months after E.K., a drug user from Ekaterinburg, Russia, told a federal-channel TV programme about abuse he had suffered in a rehabilitation centre run by the public organisation 'City without Drugs', staff from this organisation conspired with the police, planted drugs on him and charged him with a crime carrying a penalty of three to ten years in prison. A witness involved in the seizure of evidence was an employee of 'City without Drugs' who had taken part in the TV programme."**
>
> *E.K.'s criminal case files (Ekaterinburg, Russia)*

[1] International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49, available at: http://www2.ohchr.org/english/law/ccpr.htm

[2] Canadian HIV Legal Network, "Nothing About Us Without Us." Greater, Meaningful Involvement of People Who Use Illegal Drugs: A Public Health, Ethical, and Human Rights Imperative. Second edition (2006), p. 5, available at: www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=67

[3] UNAIDS, The Greater Involvement of People Living with HIV (GIPA). Policy Brief, available at: http://data.unaids.org/pub/BriefingNote/2007/jc1299_policy_brief_gipa.pdf

[4] R. Stuikyte and S. Schonning, Achieving Universal Access in Eastern, South East Europe and Central Asia–2010. An HIV Community Perspective (Vilnius: Eurasian Harm Reduction Network), p. 12, available at: www.harm-reduction.org

[5] Русская служба новостей, "Жалоба российской наркоманки в ООН не имеет никаких перспектив," 22 октября 2010, доступно на: www.rusnovosti.ru/news/116266 The Russian News Service, No Prospect of Success for Complaint of a Russian Drug User, 22 October 2010, available at: www.rusnovosti.ru/news/116266

Unbalanced governmental drug policies

In Eastern Europe and Central Asia, governments mostly focus their drug policies on punitive measures and prohibition of drug use.[6] In order to implement laws based solely on repressive measures, additional expenditure is needed to bolster up law enforcement and penitentiary systems, to the detriment of public healthcare.

- Russia's state budget annually allocates more than $55 million to the institution of criminal proceedings related to possession of drugs without intent to sell (excluding funds spent on detention and incarceration).[7] In 2011, about $18 million was budgeted for HIV prevention programmes for all population groups.[8]

- In 2008, Georgia spent at least $11 million from its state budget on street testing for drugs.[9] These funds would be sufficient to provide HIV treatment to all those in need, yet Georgia purchases ARV medications out of a grant from the Global Fund to Fight AIDS, Tuberculosis and Malaria.[10]

- Millions of dollars are spent annually in Tajikistan to counter illegal drug trafficking and strengthen its border controls. While national law enforcement budgets are confidential, it is known that in 2004-2010 the EU Border Management Programme in Central Asia (BOMCA) supplied Tajikistan with technical support estimated at about $16 million.[11] In addition to funds allocated in previous years, the US government has also confirmed a commitment to assign $7 million to strengthening Tajikistan's law enforcement and security for the years to come.[12] In contrast, the overall budget for the country's federal and regional drug treatment centres amounted only to €153, 400 in 2008.[13]

Repressive drug policies and extensive use of punitive measures not only fail to decrease drug use, but also lay the foundations for drug-related harms.[14] In effect, such measures criminalize a significant proportion of the population. This issue deserves special attention, as the process of deciding verdicts and sentencing often ignores the presumption of innocence and bypasses human rights regulations. The label 'criminal' significantly restricts the individual's future life opportunities, as well as hindering social development.

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[6] R. Stuikyte, D. Otiashvili, S. Merkinaite, A. Sarang and A. Tolopilo, The Impact of Drug Policy on Health and Human Rights in Eastern Europe: 10 Years after the UN General Assembly Special Session on Drugs (Vilnius: Eurasian Harm Reduction Network, 2009), available at: www.harm-reduction.org

[7] European Harm Reduction Network, Count the Costs Project Report, forthcoming.

[8] Andrey Rylkov Foundation for Health and Social Justice, Additional Information to the Report to the International Committee on Economic, Social and Cultural Rights on Implementation by the Russian Federation of Article 12 of the International Covenant on Economic, Social and Cultural Rights as It Relates to Access of People Who Inject Drugs to Drug Treatment and HIV Prevention, Care and Treatment Programs.

[9] David Otiashvili, How Effective is Street Drug Testing? Policy Brief (Tbilisi: Alternative Georgia, 2010).

[10] The Global Fund to Fight AIDS, Tuberculosis and Malaria, Georgia – Grant Portfolio, available at: http://portfolio.theglobalfund.org/ru/Country/Index/GEO

[11] UNDP Tajikistan, "BOMCA: Assistance in Border Management," Cooperation – Special Enclosure to Asia-Plus, No. 15 (2010), p. 1, available at: http://www.undp.tj/files/UNDP_15_eng(1).pdf

[12] United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, International Narcotics Control Strategy Report. Volume I, Drug and Chemical Control (2011), p. 520, available at: http://www.state.gov/p/inl/rls/nrcrpt/2011/vol1/index.htm

[13] С. Нидоев, А. Норов, М. Одинаев, Н. Мирсалимова, Д. Садуллоев, З. Нурляминова, Наркоситуация в Республике Таджикистан в 2008 году (Душанбе: Проект «Мониторинг эпидемиологии потребления наркотиков ДАМОС–2» Программы предотвращения распространения наркотиков в Центральной Азии, 2009)
. S. Nidoev, A. Norov, M. Odinaev, N. Mirsalimova, D. Sadulloev, Z. Nurlyaminova, The Drug Situation in the Republic of Tajikistan in 2008 (Dushanbe: 'Drug Abuse Monitoring Systems DAMOS-2', Central Asian Drug Action Programme, 2009), p.14, available at: www.cadap.eu/sites/default/files/AR%202008%20for%20Tajikistan.pdf

[14] Global Commission on Drug Policy, War on Drugs. Report of the Global Commission on Drug Policy (2011), p.2, available at: http://www.globalcommissionondrugs.org/Report

"During my time as a drug user, I was prosecuted four times, but I was never offered medical care, such as treatment for abstinence syndrome or drug dependency."

From an appeal to the Global Commission on HIV and the Law (Togliatti, Russia)

Fear of repression leads to an increase in risky drug practices, in turn leading to transmission of HIV and other infections, higher overdose mortality rates, and, quite expectedly, a rising prison population.[15]

"Before 2002 Lithuania had one of the lowest HIV prevalence rates in Europe, until it doubled following an HIV outbreak in a prison facility.[16] Although today Lithuania is among the countries with the highest burden of HIV[17], its Ministry of Justice still hinders implementation of needle and syringe programmes and substitution therapy in the penal system.

"In many countries, emergency medical workers are obliged to inform law enforcement authorities about overdose cases, thus discouraging many overdose witnesses – who are often fellow users – from seeking medical assistance. /…/ If an overdose is not fatal, police interference may result in criminal or administrative charges for the victim and witnesses, as well as their mandatory enlistment on the drug treatment register."[18]

Unbalanced drug policies and repressive law enforcement drive drug users further underground, where they use low-quality drugs and dangerous substances. This is not a new problem, but a response is still yet to appear: comprehensive evidence-based programmes for users of home-made drugs have still not been developed.

"When they started fighting drugs, channels for distribution were blocked, while drug treatment opportunities remained limited. The only solution for many was home-made desomorphine produced from codeine-containing medications available over the counter. In December 2009, I was hospitalized with osteomyelitis of the lower jaw. After three years of desomorphine use my health was in a miserable state: acute osteomyelitis, trophic ulcers, multiple septic wounds and hepatitis C."

From an appeal to the Global Commission on HIV and the Law (Orsk, Russia)

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[15] K. Malinowska-Sempruch, J. Hoover and A. Alexandrova, Unintended Consequences: Drug Policies Fuel the HIV Epidemic in Russia and Ukraine. For Consideration by the UN Commission on Narcotic Drugs and National Governments (Open Society Institute, International Harm Reduction Development, 2003), available at: http://www.drugpolicy.org/docUploads/CNDConferencePaper.pdf

[16] International Harm Reduction Association, Human Rights and Drug Policy. Harm Reduction in Places of Detention. Briefing 3, available at: www.ihra.net/files/2010/11/01/IHRA_BriefingNew_3.pdf

[17] The Global Fund to Fight AIDS, Tuberculosis and Malaria, Joint PSC-PIC Report on the Review of the Global Fund's Eligibility, Cost Sharing and Prioritization Policies and Recommendation for a New Integrated Policy. Twenty-third Board Meeting, Geneva, Switzerland, p.11-12.

[18] Ж. Атаянц, А. Латыпов, Д. Очерет, Передозировка: Обзор ситуации и ответные меры в 12 странах Восточной Европы и Центральной Азии (Вильнюс: Евразийская сеть снижения вреда, 2011). J. Ataiants, A. Latypov, D. Ocheret, Overdose: Review of the Situation and Responses in 12 Countries of Eastern Europe and Central Asia (Vilnius: Eurasian Harm Reduction Network, 2011), p.28, available at: www.harm-reduction.org

Criminal liability of drug users

In most countries of Eastern Europe and Central Asia, drug use is either an administrative offence (as in Russia) or a criminal act (as in Georgia). Drug possession without intent to sell is classified as a criminal act punishable by imprisonment.

The lower threshold amounts for possession of narcotic drugs, arbitrarily established by subordinate legislation, also involve criminal liability or other repressive measures. In Uzbekistan, for instance, possession of more than 0.001 gram of heroin is a criminal offence.[19]

> **"One of the criminal charges against me (one and a half years of incarceration) was the result of a badly rinsed syringe and spoon: they found a residue of heroin weighing 0.0000026 of a gram."**
>
> *From an appeal to the Global Commission on HIV and the Law (Kaliningrad, Russia)*

> **"The expert's opinion stated that the amount of pure substance (diacetylmorphine) in each of the seized samples was not more than 0.65%, and that the total weight of all illegal substances in the mixture (acetyl codeine, 6-monoacetylmorphine and diacetylmorphine) did not exceed 1.3%. At the trial, drug treatment specialists who were questioned as witnesses indicated that, when injected, an exempted mixture containing such low proportions of active substances could not cause any drug intoxication and could only have a psychological effect on the drug user and help against withdrawal symptoms. Yet the judge convicted the defendant to seven years of incarceration in a strict regime colony."**
>
> *From Denis Matveyev's appeal (Tatarstan, Russia) to the UN Working Group on Arbitrary Detention*

In all countries of Eastern Europe and Central Asia, the legal framework allows for alternative punitive measures that do not involve social isolation, but most drug convictions still result in prison sentences. Terms of imprisonment for drug possession without intent to sell or involving sale of very small amounts are disproportionate to the seriousness of offences, violating the principles of legality and proportionality. As a result, large numbers of people are incarcerated for drug use or drug-related offences.

- In 2010, 13% of people convicted for drug crimes in Tajikistan had a 'drug dependency' diagnosis. For the previous years, this figure was as follows: 7.7% in 2009, 17.4% in 2008, 10.9% in 2007, and 8.2% in 2006.[20]

[19] United Nations Office on Drugs and Crime, Canadian HIV/AIDS Legal Network, Accessibility of HIV Prevention, Treatment and Care for People who Use Drugs and Incarcerated People in Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan: Legislative and Policy Analysis, Recommendations for Reform (Ashgabat: United Nations Office on Drugs and Crime, Representative Office in Central Asia, 2010), available at: www.unodc.org/centralasia

[20] А. Латыпов, Барыги, наркобароны и нарко/бойцы/дельцы: Наркопреступность и рынки наркотиков в Таджикистане (2011), в процессе публикации. A. Latypov, Drug Pushers, Drug Lords and Drug Fighters/Dealers: Drug Crimes and Drug Markets in Tajikistan (2011), forthcoming.

"I was summoned to the Department of Internal Affairs and searched. In my pocket they found a dose of heroin, less than one gram. Despite the low amount and no intent to distribute the drug, I was sentenced to two years in prison, since personal use is punishable by incarceration for up to five years. The time in prison didn't cure me of my dependency, and no treatment was provided."

From an appeal to the Global Commission on HIV and the Law (Minsk, Belarus)

"Drug suspects are brought to special institutions for drug testing. Under Georgian legislation, the test should be carried out not later than three hours after detention. A rapid drug urine test is used, and if the result is positive the suspect is required to stand before a panel of judges. Initial detention is accompanied by a fine of 500 lari.[21] Repeated detention for a similar offence committed within a year of the previous one carries a fine upwards of 2,000 lari[22], or 6 months to one year in custody. Possession of small amounts of drugs is punishable by 7 to 14 years of imprisonment."

From an appeal to the Global Commission on HIV and the Law (Tbilisi, Georgia)

Violation of the right to a fair trial

Effectiveness of law-enforcement efforts is often measured in the number of detentions that reflect 'the process of fight against illegal drugs', instead of achieving tangible outcomes in terms of 'a reduction in harms to individuals and society - less crime, better health, and more economic and social development'.[23] In this context, people using drugs have become 'an easy prey'.

- The scale of drug-related repressions in Russia can be measured on the basis of the following data presented by V. Ivanov, Director of the Federal Drug Control Service of the Russian Federation, at Russia's State Council Presidium meeting on 18 April 2011: "The number of young people incarcerated for drug-related crimes has doubled compared to 2005. In total, every eighth inmate has been prosecuted for drugs. The number of drug-using offenders isolated from society by court rulings has more than doubled in the same period. In large cities, every third sentence delivered by the courts is related to drug cases."[24]

Drug users are detained on the basis of their 'external appearance' or arbitrary drug testing. They are planted with drugs, blackmailed for money and/or tortured with their own withdrawal syndrome to force confessions and self-incrimination.[25]

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[21] More than $300.

[22] More than $1,200.

[23] The Global Commission on Drug Policy, War on Drugs, p.5.

[24] Заседание Президиума Государственного совета РФ, посвященное борьбе с распространением наркотиков среди молодежи, 18 апреля 2011 года. Meeting of Russia's State Council Presidium on Fighting Drug Use among Young People, 18th April 2011, available at: www.президент.рф/news/10986

[25] A, Sarang, T, Rhodes, N, Sheon and K. Page, Policing Drug Users in Russia: Risk, Fear, and Structural Violence (with commentaries), Substance Use and Misuse 45, 6 (2010), pp. 813–864; M. Mimiaga, S. Safren, S. Dvoryak, S. Reisner, R. Needle and G. Woody, "We Fear The Police, and The Police Fear Us": Structural and Individual Barriers and Facilitators to HIV Medication Adherence among Injection Drug Users in Kiev, Ukraine, AIDS Care 22, 11 (2010), pp. 1305–1313; У. Ибрагимов, П. Джамолов, А. Латыпов, Е. Хасанова, Потребности потребителей опиатов в городе Душанбе в 2010 году: Качественная оценка (Душанбе: СПИН Плюс, 2011); И. Джалбиева, И. Ермолаева и М. Токомбаева, Ограниченность услуг и социально–психологические факторы влияющие на распространение ВИЧ среди женщин ПИН в южном регионе Кыргызстана. Отчет по результатам исследования (Бишкек: Общественный Фонд «Астерия», 2009); Латыпов, Барыги, наркобароны и нарко/бойцы/дельцы: Наркопреступность и рынки наркотиков в Таджикистане. U. Ibragimov, P. Djamolov, A. Latypov, E. Khasanova, Needs of Opiate Users in the City of Dushanbe in 2010: Qualitative Assessment (Dushanbe: SPIN Plus, 2011); I. Djalbieva, I. Ermolaeva and M. Tokombaev, Limited Access to Services and Socio-psychological Factors Influencing the Spread of HIV Among Women IDUs in the Southern Region of Kyrgyzstan. Report on Research Results (Bishkek: Public Foundation 'Asteria', 2009); A. Latypov, Drug Pushers, Drug Lords and Drug Fighters/Dealers: Drug Crimes and the Drug Markets in Tajikistan (2011), awaiting forthcoming.

"Police often burst into my house with no reason and no warrant. They often call me and demand that I appear before the Department against Illicit Drug Trafficking (OBNON). Once, when I tried to ask why I was summoned, a police officer answered: 'You'd better be friends with OBNON – unless you want OBNON as your enemy'."

From an appeal to the Global Commission on HIV and the Law (Kirovograd, Ukraine)

"All these years, since I started using drugs, I've been harassed by law enforcement officers. Illegal searches and detentions have been frequent – just because I'm a drug user. More than once, police tried to arrest me on drug intoxication charges, demanding that I gave away contacts of people who sold or used drugs, threatening to send me to jail if I didn't. Yet, I absolutely refused to cooperate. In July 2003, they conducted another search. During the search, which was marred by gross violations of procedure (without a warrant or witnesses), they allegedly found a package of cannabis in my mother's room. My mother filed an official complaint to the Prosecutor of the Minsk Region, and the case was closed, with several law enforcement officers found guilty. Thus they virtually admitted that police had planted drugs on me to hold me liable for possession."

From an appeal to the Global Commission on HIV and the Law (Minsk, Belarus)

Law enforcement bodies in Russia openly admit that they are not always able to determine the amount of a seized substance due to lack of proper equipment. Yet it is the amount of a drug that determines the gravity of an offence and, consequently, the choice of punitive measure. Courts deliver decisions on the basis of dubious examination that does not involve assessment of quantity or the effects that the confiscated mixture would have on an individual. All of this contradicts the principle of a fair trial. The possibility of sentencing people for possession of various substances without even determining the amount of active ingredients is a loophole allowing abuse of law enforcement powers: one dose is miraculously transformed to several grams, and the case is qualified as a graver offence.

"During the preliminary investigation into heroin possession charges, the examination was flawed by violations: only one method of testing was used instead of two; testing analysis was not backed up with photos of results, so there was no proof that the testing had actually been performed; and quantitative analysis of the mixture was not conducted."

E.K.'s criminal case files (Ekaterinburg, Russia)

According to constitutions and criminal codes of countries in EECA, all citizens have equal rights to a fair trial, as well as rights to freedom, security of person, freedom from torture and cruel treatment. But in reality most drug users are not able to benefit from services like free legal advice, and they are intimidated, manipulated, blackmailed and abused by law enforcement officials more often than other groups. As a result, they are forced to give false testimony or participate in provocation aimed at prosecuting other drug users.

"The judicial proceedings of drug cases permit multiple violations of defendants' rights, ignored by the court throughout legal investigation and prosecution: individuals are detained and sentenced on the basis of evidence provided under pressure by other drug users; preliminary investigations are carried out with numerous procedural breaches; defense witnesses are not interrogated; confessions are forced out of individuals suffering from withdrawal, or through physical abuse; detention is used as an extra tool for putting pressure on alleged offenders; to impute graver penalties, investigating agencies deliberately qualify drug possession without intent to sell as an offence involving sale; and special circumstances are not taken into account, such as the defendant's mental state and the fact that the offence was committed against the background of drug dependency."

Summary of information from Denis Matveyev's appeal to the UN Working Group on Arbitrary Detention (Tatarstan, Russia)

Limited access to harm reduction services

Drug users' access to sterile/disposable injecting equipment remains limited. Sharing unsterilized injecting instruments increases an individual's risk of HIV and viral hepatitis infection. Harm reduction programmes do not have sufficient capacity to reach all those in need of them. In Turkmenistan harm reduction is non-existent; in Russia it is under a constant threat of discontinuation; and in Uzbekistan harm reduction activists are jailed. Maxim Popov, a well-known harm reductionist, was incarcerated in Uzbekistan for distribution of HIV prevention brochures. According to the court's opinion, the brochure "did not encourage the development of self-responsibility among the younger generation in keeping with the idea of national independence; and promoted beliefs and behaviours that discourage attainment of physical, spiritual and moral health."

"I have hepatitis C, and I link this to the multiple risks I ran when injecting drugs with used syringes – that was before I learned about harm reduction and received information about prevention. I used to think that HIV was the only danger, and that you could kill the virus by boiling the syringe. Later, in the harm reduction project, I learned that this was not enough to disinfect it. For two years before that, I had received counselling from a drug treatment doctor, who didn't give me any advice on prevention."

From an appeal to the Global Commission on HIV and the Law (Moscow, Russia)

Coercive drug policies have an adverse effect on availability of sterile injecting equipment. In Ukraine, Russia and other EECA countries, law enforcement officials often watch pharmacies where drug users buy syringes in order to search and detain them.[26] In countries where possession of micro-doses classifies as a drug violation, harm reduction programmes face serious barriers: outreach workers detained with several used (exchanged) syringes can be prosecuted. For the same reason, drug users themselves often refuse to participate in needle and syringe programmes.

[26] A.Sarang et al., Policing Drug Users in Russia: Risk, Fear, and Structural Violence, pp. 813–835; Ибрагимов и соавторы, Потребности потребителей опиатов в городе Душанбе в 2010 году: Качественная оценка, с. 28. U. Ibragimov, P. Djamolov, A. Latypov, E. Khasanova, Needs of Opiate Users in the City of Dushanbe in 2010: Qualitative Assessment (Dushanbe: SPIN Plus, 2011).

> **"Starting from 29 October 2010, criminal liability in Ukraine applies to the possession of acetylated opium or heroin in amounts higher than 0.005 gram (with a penalty of up to three years of incarceration or other restriction of freedom). A quantity of 0.005 gram is approximately the amount that can be found from residue in several used syringes.[27] In the fourth quarter of 2010 and the first quarter of 2011, the International HIV/AIDS Alliance (an organisation that funds over 70 harm reduction projects in Ukraine) documented a continuous decrease in the number of used (exchanged) syringes, associated with fear of criminal prosecution for illegal drug possession."**
>
> *International HIV/AIDS Alliance's suit in the Kyiv Administrative Court (Ukraine)*[28]

With the exception of Kazakhstan and countries of the European Union, many harm reduction programmes in Eastern Europe and Central Asia are financed through extra-budgetary resources – primarily from Global Fund grants.[29] At the same time, the improved economic indicators of a growing number of EECA countries make them no longer eligible for funding from the Global Fund.[30] However, following the departure of international donors, governments are reluctant to invest in harm reduction, thus failing to fulfill their pledges affirmed in the Declaration of Commitment on HIV/AIDS signed in 2001.[31]

- As of September 2010, more than 40 harm reduction programmes in Russia were financed by a grant from the Global Fund to Fight AIDS, Tuberculosis and Malaria. These projects were carried out by non-governmental organizations. By mid-2011, funding for projects in 33 Russian cities came to an end.[32] The country's government not only refused to continue financing harm reduction initiatives, but also stepped down as recipient of the Global Fund's financial assistance.[33] This implies that in September 2011 Russia stopped almost all low-threshold projects for drug users.

Limited access to opioid substitution therapy

Opioid substitution therapy (OST) – an evidence-based intervention endorsed by the UN and successfully implemented in other parts of the world –is either almost inaccessible in EECA or fully prohibited (in Russia, Uzbekistan and Turkmenistan). The ban on OST violates drug users' right to quality care, as well as significantly reducing opportunities for effective HIV prevention and treatment in this group.

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[27] M. Golichenko and S. Merkinaite, In Breach of International Law: Ukrainian Drug Legislation and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Discussion Paper (Vilnius: Eurasian Harm Reduction Network and Canadian HIV/AIDS Legal Network, 2011), available at: www.harm-reduction.org

[28] Statement of Claim (Administrative Suit) on Declaring Invalid (Unlawful) the Ministry of Health of Ukraine's Decree # 634 of 29.07.2010 'On Defining Amounts of Some Narcotic Substances and Precursors'.(unofficial translation).

[29] Правительство Республики Казахстан, "Национальный доклад о ходе работы для ССГАООН. Отчетный период: январь 2008 года – декабрь 2009 года" (2010) Government of the Republic of Kazakhstan, National Report on the Progress of Work for UNGASS. Reporting Period: January 2008 – December 2009 (2010), available at: http://www.unaids.org/en/dataanalysis/monitoringcountryprogress/2010progressreportssubmittedbycountries/kazakhstan_2010_country_progress_report_en.pdf; Shona Schonning, Commitment and Finance in Europe and Central Asia, presented at the International AIDS Conference, July 18-23, 2010, Vienna.

[30] EHRN (in the framework of the Civil Society Action Team), Analysis of EECA Countries that will be able to Apply for HIV/AIDS in the Framework of the Global Fund Round 11, (2011), available at: http://www.harm-reduction.org/ru/images/stories/library/eeca_countries_eligible_for_round_11_hiv_grants_eng.pdf

[31] Declaration of Commitment on HIV/AIDS, adopted by a Special Session of the General Assembly of UN Organisations on HIV/AIDS, Resolution A/RES/S-26, 27 July 2001.

[32] Correspondence from the Timur Islamov Foundation to the Eurasian Harm Reduction Network, 2 September 2011.

[33] Группа неправительственных организаций Российской Федерации, входящих в общественный механизм по мониторингу реформы наркополитики Российской Федерации, ЕССВ, Канадская правовая сеть по ВИЧ/СПИД, Доклад о ходе выполнения Российской Федерацией Политической декларации и Плана действий по налаживанию международного сотрудничества в целях выработки комплексной и сбалансированной стратегии борьбы с мировой проблемой наркотиков, (2011) Non-governmental organisations in the Russian Federation belonging to the public mechanism for monitoring of drug policy reforms in the Russian Federation, EHRN, Canadian HIV/AIDS Legal Network, Report on the Course of Implementation by the Russian Federation of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem (2011), available at: http://rylkov-fond.ru/files/2011/03/CND-Report-Russia-NGOs-RUS18.03.pdf

"My country's legislation prohibits opioid substitution therapy with methadone and buprenorphine. In October 2010, I filed a complaint to Anand Grover, UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, asking him to demand from Russia the endorsement of substitution treatment for drug dependency. Currently I'm working on complaints to the Constitutional Court of the Russian Federation and the European Court of Human Rights. Because of my drug dependency, I've already had three interruptions to HAART. /…/ As a result, I'm now on the fourth HAART scheme, taking fourth-line medications."

From an appeal to the Global Commission on HIV and the Law (Kaliningrad, Russia)

In those EECA countries where substitution therapy with methadone or buprenorphine has been legally endorsed and is implemented as part of drug treatment, the programmes are of sub-standard quality.[34] To get their dose of medication, substitution therapy clients have to visit distribution centres on a daily basis, which is difficult to fit around work, and impossible when on business trips, undergoing in-patient treatment of other diseases in general hospitals, and/or during a vacation that takes the client away from their assigned substitution therapy centre. In other countries of the world, for example, a similar requirement is only imposed on clients during the first months of treatment. In this case, if they continue to stay off street drugs and show that they have attended their daily appointments throughout this period, clients are gradually allowed to receive weekly supplies of medication to take home.

"The substitution therapy centre is 25 km away from my town. Every day we cover 50 km, and it takes us from 2.5 to 4 hours, depending on the traffic. This therapy is very important for us, and we are ready to travel to get it, but daily two-hour trips become a real obstacle for many programme clients. It is especially difficult when you have health problems: you cannot obtain medications in advance, and they are not given out to relatives. Suffering from fever and flu, clients have to make the daily trip out of town. Many patients have serious conditions (HIV, tuberculosis, hepatitis); their health is weak and complications are common. We've been loyal to the programme for more than two years, have adhered to its regime and haven't used street drugs. We really think they could allow us to pick up medications, whenever necessary, through the local medical facilities. Yet, my country's legal framework doesn't provide for this type of practice."

From an appeal to the Global Commission on HIV and the Law (Brovary, Kyiv region, Ukraine)

[34] B. Mathers, L. Degenhardt, H. Ali, L. Wiessing, M. Hickman, R. Mattick, B. Myers, A. Ambekar, S. Strathdee for the Reference Group to the United Nations on HIV and Injecting Drug Use, HIV Prevention, Treatment, and Care Services for People who Inject Drugs: A Systematic Review of Global, Regional, and National Coverage, The Lancet 375, 9719 (2010), pp. 1014–1028; A. Latypov, Opioid Substitution Therapy in Tajikistan: Another Perpetual Pilot?, The International Journal of Drug Policy 21, 5 (2010), pp. 407–410; А. Латыпов, Д. Отиашвили, О. Айзберг и А. Болтаев, Опиоидная заместительная терапия в Центральной Азии: На пути к многообразному и эффективному лечению наркозависимости (Вильнюс: Евразийская сеть снижения вреда, 2010), доступно на: www.harm-reduction.org A. Latypov, D. Otiashvili, O. Ayzberg and A. Boltaev, Opioid Substitution Therapy in Central Asia: Towards Diverse and Effective Treatment Options for Drug Dependency (Vilnius: Eurasian Harm Reduction Network, 2010), available at: www.harm-reduction.org

Limited access to treatment of HIV, tuberculosis and hepatitis C

Existing healthcare systems take little notice of the needs of people who use drugs. Many drug users are deprived of the opportunity to obtain in-patient treatment of AIDS, tuberculosis and other diseases, since neither substitution therapy, nor detoxification services are available in hospitals, and drug use on the premises may result in expulsion from the medical facility and refusal of care.

> **"Over 80% of patients in the HIV and TB departments are people who use drugs. Many of them have other chronic co-infections, such as hepatitis. Usually they find themselves in hospitals through emergency intake, when their health is deplorable. Hospitals, however, don't provide conditions to treat drug users: they don't have drug treatment specialists or psychologists, and don't provide medical assistance to relieve withdrawal symptoms. On the edge of death, drug users have to wean themselves off drugs and solve related problems on their own, which is extremely difficult, considering that most of them have used drugs for many years and suffer from severe forms of drug dependency. Patients are denied in-patient TB services on account of their drug use, which means that they have to leave hospital and interrupt the treatment they have just started."**
>
> *From an appeal to the Global Commission on HIV and the Law (Ekaterinburg, Russia)*

EECA countries don't always stand firm in their commitments to provide equal access to treatment: due to lack of governmental funding some diagnostic and treatment services are provided only for additional payment. Most drug users, however, don't have the means to make these extra payments.

> **"From 2010, patients with HIV in Lithuania have to pay for all blood tests themselves, including CD4 count and viral load. /…/ By April 2011, the issue of providing compensations for blood tests was still not resolved, even though free blood tests for HIV patients are guaranteed by Lithuania's Ministry of Health and governmental HIV treatment protocols. In 2010, due to the lack of funding for adherence and psycho-social support programmes, officials were responsible for interrupting treatments of over 20 people with HIV, most of whom were drug users."**
>
> *From an appeal to the Global Commission on HIV and the Law (Vilnius, Lithuania)*

Even when governments recognize the need to provide HIV treatment to drug users, a wide variety of other health problems typical for this group usually remain unaddressed. In particular, they are denied the right to free hepatitis C testing and treatment, and this in a region where hepatitis C prevalence among drug users is as high as 96%.[35]

[35] ЕССВ, Призыв к действию: снижение стоимости лечения гепатита С (Вильнюс: Евразийская сеть снижения вреда, 2011) EHRN, Call for Action: Reduce Prices for Hepatitis C Treatment (Vilnius, Eurasian Harm Reduction Network, 2011), available at: www.harm-reduction.org

"In Russia, I don't have access to treatment for hepatitis C – our government does not provide free pegylated interferon and ribavirin to people who don't have HIV. I can't pay for treatment, as I have to take care of my unemployed mother and a small child. The only option for me to get HCV treatment is to enlist for a clinical trial. This would not be comprehensive treatment though, as trials do not guarantee after-care to patients once they are completed."

From an appeal to the Global Commission on HIV and the Law (Moscow, Russia)

Most EECA countries still maintain outdated approaches to TB treatment, where lack of modern diagnostic techniques and medications to treat multi-drug resistant tuberculosis further reduces hope for many drug users and people living with HIV.

"Research conducted in several Russian cities in 2010 showed that all patients who died from tuberculosis had had a triple diagnosis: TB, HIV and drug dependency. /…/ TB testing and treatment protocols run counter to WHO guidelines: their focus on X-ray methods for detecting TB leads to late diagnosis of the disease, especially among people living with HIV. Directly observed treatment, short-course (DOTS), is virtually non-existent, with patients being treated in useless isolation for the whole course, which may take from six to twelve months. /…/ All the above contributes to low uptake of TB treatment among drug users and high treatment drop-out rates. This reduces the effectiveness of treatment for simple forms of tuberculosis and results in multi-drug resistance and increased mortality in this group of patients."

From Alexey Kurmanayevsky's speech (Russia)
at the United Nations High-Level Meeting on AIDS, New York, 11 June 2011

Limited access to medical care in prisons

International and national legislation in EECA countries supports equal access to medical care for people in prisons. While these provisions exist on paper, they are barely enforced in reality. In most penal facilities inmates manage to maintain access to drugs, while there is no legal way for them to obtain sterile syringes.[36] Overcrowding and lack of harm reduction measures make prisons an extremely high-risk environment for transmission of HIV, tuberculosis and Hepatitis C.[37]

In his report, UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health stated that "failure to provide effective /…/ treatment for drug dependence in correctional settings is an infringement of the right to health."[38] In the EECA region, substitution treatment for incarcerated populations is provided only in Kyrgyzstan, Georgia and Estonia, and access to such therapy remains in need of improvement.

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[36] A. Sarang, T. Rhodes, L. Platt, V. Kirzhanova, O. Shelkovnikova, V. Volnov, et al., Drug Injecting and Syringe Use in the HIV Risk Environment of Russian Penitentiary Institutions: Qualitative Study, Addiction 101, 12 (2006), pp. 1787–1796; Ибрагимов и соавторы, Потребности потребителей опиатов в городе Душанбе в 2010 году: Качественная оценка, с. 24–26.; Латыпов, Барыги, наркобароны и нарко/бойцы/дельцы: Наркопреступность и рынки наркотиков в Таджикистане, в процессе публикации. U. Ibragimov, P. Djamolov, A. Latypov, E. Khasanova, Needs of Opiate Users in the City of Dushanbe in 2010: Qualitative Assessment, p.24-26; A. Latypov, Drug Pushers, Drug Lords and Drug Fighters/Dealers: Drug Crimes and the Drug Markets in Tajikistan (2011), forthcoming.

[37] Dublin Declaration on HIV/AIDS in Prisons in Europe and Central Asia, Dublin, Ireland, 23 February 2004.

[38] Report of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, A/65/255, available at http://ap.ohchr.org/documents/alldocs.aspx?doc_id=17520

- In 2010, the United Nations Office on Drugs and Crime issued a report on access to HIV treatment in Lithuania where it stated that: "these services [needle and syringe programmes and substitution therapy] remain absent from Lithuanian prisons", which leads to "a critical gap allowing transmission of HIV and other blood-borne infections."[39] Since the report was written, the situation has not changed.

> **"Since 2002, before I went to prison, I had been receiving methadone maintenance therapy from the Vilnius Dependency Centre. /…/ Methadone treatment was effective and helped me control my dependency. Currently my health is much worse: I have withdrawal symptoms, bone pain, constant anxiety and insomnia. I thereby request to continue my substitution treatment course in prison."**
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> *K.B.'s appeal to head of prison facility (Lithuania)*

Given the current absence of treatment for HIV, tuberculosis and viral hepatitis in prisons, a penalty of imprisonment to a drug user is virtually a death penalty.

- Haphazard supplies of medications for HIV testing and treatment are quite common in Russian prisons. In October 2010, the Andrey Rylkov Foundation prepared an appeal to Anand Grover, UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, which included 19 applications from HIV-positive Russian citizens suffering as a result of this problem. Among the applicants were inmates from three prison colonies in the Samara region. According to them, ART medications in prison are either provided occasionally or limited to one drug only, if prescribed at all.

> **"Following detention in a pre-trial centre, the woman was deprived of access to HIV treatment, although it is supposed to be guaranteed by the state. Life-saving antiretrovirals were given to her at random, at different times of the day, ignoring dietary requirements. All requests to secure regular ARV treatment were met with rude denial. For several months medication doses were twice lower than prescribed. The woman made numerous appointments to see the doctor: she waited for months, but a doctor never examined her."**
>
> *From an appeal to the Global Commission on HIV and the Law (Tomsk, Russia)*

> **"In 2008 correctional facilities in the Republic of Karelia /…/ received 570 maximum-security inmates, 270 of whom were HIV-positive, and 290 inmates for a minimum-security regime, 272 of whom had pulmonary tuberculosis. /…/ In 2008, in various penal institutions in Karelia, 39 deaths were recorded among inmates. Sixteen people died from HIV/TB co-infection, six people – from HIV, and another six – from advanced cases of TB."**
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> *From a refusal order to initiate criminal proceedings[40] (Russia)*

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[39] I. Eramova, K. de Joncheere, U. Laukamm-Josten, L. Mendao, S. Rotberga, M. Skarphedinsdottir and R. Drew, Evaluation of the Access to HIV/AIDS Treatment and Care in Lithuania (UNODC, WHO Europe, 2010), available at: http://www.unodc.org/documents/balticstates/Library/Other/Report_ART_Lithuania_EN.pdf

[40] Следственный комитет при прокуратуре РФ по Республике Карелия, от 5 августа 2010 года. Investigating Committee at the Prosecutor's Office of the Russian Federation in the Republic of Karelia, 5 August 2010.

"When I was there [in a correctional facility in the Republic of Karelia] in [200]8, only one HIV patient out of 180 received ART. /.../ By then, I hadn't taken any [antiretroviral] pills for one and a half years, and it was useless to try to resume this treatment schedule. What I needed was another medical examination (what if I had developed resistance?) and different types drugs. Yet they didn't even let the doctors come near me."

From a deathbed interview with Kostya Proletarsky[41] *(Russia)*

Other types of discrimination in healthcare

Forced exclusion of drug users and people living with HIV from medical care

Healthcare systems in most EECA countries are not ready to provide effective support to HIV-positive people who use drugs. People living with HIV and drug users in the region are often turned away and face rudeness from medical workers. Many have been in situations where they were denied medical assistance because of their drug use or HIV-positive status. Doctors who exclude drug users and people living with HIV from medical support often quote ministerial orders or internal regulations of a treatment facility.

"In November 2010, Lika felt much worse again – she had had a high fever for several days. She called an ambulance a few times, but medics never came. She was confined to bed for four days until a social worker came by and called the emergency services. Despite her grave condition, paramedics refused to hospitalize Lika: they said that the hospital would never admit an HIV-positive patient without referral from the AIDS Centre, which is usually provided only upon a personal visit. We called a doctor from a district polyclinic, but as soon he heard that she had HIV, he just turned and left. We managed to find a hospital that agreed to admit her, but soon after hospitalization Lika left the ward – she needed drugs, and the hospital didn't offer drug treatment services. Lika went home and died a few days later."

From an appeal to the Global Commission on HIV and the Law (Naberezhnye Chelny, Russia)

[41] Костя Пролетарский, "Лечение ВИЧ, ТБ, наркозависимости и соблюдение достоинства в местах лишения свободы. Предсмертное интервью," Kostya Proletarsky, Treatment of HIV, TB and Drug Dependency and Observance of Human Dignity in Prisons. Deathbed Interview, available at: http://rylkov-fond.ru/blog/lichnye-svidetelstva/proletarsky_rus/

Violation of the right to freedom from torture or degrading treatment: refusal to provide pain relief

Access of people living with HIV to pain relief, hospice and palliative care vary from country to country, but, overall, do not meet the standards set by the World Health Organization (WHO)[42]. Patients in terminal stages of HIV with acute pain syndrome are seldom prescribed analgesic drugs, in direct contradiction to WHO principles.[43] Failure to provide relief from pain is rooted in negative attitudes of health workers towards drug users on the one hand, and on the other, in excessive restrictions of legal drug turnover and legislative licensing requirements for the use of controlled drugs in medical facilities. Refusal to provide pain relievers to people suffering from acute pain contravenes the regulations of the 1961 Single Convention on Narcotic Drugs[44] and the Convention against Torture and Other Forms of Cruel, Inhumane or Degrading Treatment and Punishment.

> **"Alexey was discharged from the HIV in-patient department after new growths in his liver and lungs were diagnosed. Despite the severe pain, doctors had been refusing to prescribe pain relievers for a long time. The facility's oncologist tried to convince Alexey's social worker that 'the patient is able-bodied' and, being a drug user, 'is just trying to extort some tramadol'. When analgesics were finally prescribed, the dosage was calculated without taking into account the patient's drug dependency and long-term drug use. These weak doses didn't have any pain-killing effect. All in-patient clinics refused to take Alexey, stating that his condition required admission to a hospice, but our city doesn't have such facilities for PLHIV. After six months of constant pain, Alexey died."**
>
> *From an appeal to the Global Commission on HIV and the Law (Kaliningrad, Russia)*

Violation of the reproductive rights of women who use drugs

Women who use drugs are often given false data about adverse pregnancy outcomes in the context of HIV and drug use, refused drug treatment and persuaded that in their case abortion is necessary.[45] Evidence shows, however, that if women are provided with substitution therapy and comprehensive medical and social care, they can give birth to healthy children and bring them up.

Quite often, health workers in antenatal centres and maternity clinics do not have appropriate skills for managing pregnant women who use drugs. They are ignorant of basic facts about drug use and its impact on reproductive health and pregnancy. Meanwhile, pregnant women on drugs feel guilty and scared, anticipate humiliation, stigma and discrimination, and, as a result, avoid ante-natal care, turning to maternity clinics only for delivery. Some even prefer to give birth at home, putting at risk their own lives and the lives of their newborn babies.

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[42] World Health Organization. Cancer pain relief with a guide to opioid availability, 2nd ed. Geneva, 1996.

[43] HRW, "Please, Do Not Make Us Suffer Any More..." Access to Pain Treatment as a Human Right (New York: Human Rights Watch, 2009), p. 30.

[44] "...the medical use of narcotic drugs continues to be indispensable for the relief of pain and suffering and that adequate provision must be made to ensure the availability of narcotic drugs for such purposes," 1961 Single Convention on Narcotic Drugs as amended by the 1972 Protocol amending the Single Convention on Narcotic Drugs, 1961.

[45] S. Pinkham, Women and Drug Policy in Eurasia (Vilnius: Eurasian Harm Reduction Network, 2010), available at: www.harm-reduction.org

"Three months after Yulia started on ART and TB treatment, she found out she was pregnant. Despite the doctors' attempts to scare her with the risks of pregnancy, she refused to have an abortion. But the doctors persisted, and Yulia finally agreed – in her 12th week, upon referral from the AIDS Centre. At the local ante-natal clinic a doctor started shouting at her: 'You were too busy shooting up, weren't you? You couldn't even find time for an abortion and turned up only at 12 weeks? Now you have to pay five thousand rubles for it!' After this humiliating experience, Yulia refused enforced delivery, and supported by her husband and relatives, decided to keep the baby. In January 2011, in the 36th week of her pregnancy, she started having labour contractions and was taken by ambulance to a maternity clinic. During intake, the nurses humiliated her and made negative remarks about her HIV-status and tuberculosis. An entry in her medical records described her as a 'drug addict'. Yulia was not given proper medical assistance: the doctors gave her medication to stop the labour process, which resulted in the death of the unborn baby."

From an appeal to the Global Commission on HIV and the Law (Kaliningrad, Russia)

Disclosing HIV status

In EECA countries, information about an individual's HIV-positive status is often leaked, and in most cases healthcare workers are not held responsible for failure to protect patient confidentiality.

"As soon as an HIV-positive test result was given to me, this information was sent to law enforcement agencies, even though the law is supposed to guarantee the confidentiality of my medical records. A police official used this information to intimidate my friends, family and relatives. Several times in the period from 2006 to 2008, they were summoned to a police station to 'talk'. These talks were mostly about insulting me (for instance, they called me an 'AIDS freak') and scaring people around me with risks of HIV transmission. /…/ The same police officer visited my girlfriend's mother and told her I had HIV. After he spread this information – in a cruel and threatening way among my relatives and friends, many shunned all contact with me. I feel that I'm an outcast. Many people know I'm HIV-positive, which makes it difficult to maintain friendships and nullifies my chances of having a family of my own."

From an appeal to the Global Commission on HIV and the Law (Minsk, Belarus)

Recommendations

National governments and international organizations need to facilitate the adoption of guiding principles on humane drug policies; to facilitate adoption of such laws that protect the human rights of people who use drugs on a non-discriminatory basis, and that contribute to achieving the goals of universal access to HIV prevention and treatment, including the following:

1 To ensure the involvement of people who use drugs and clients of opioid substitution therapy programmes in international and national bodies that make decisions on legislation and policies related to HIV and drug use.

2 To facilitate the abolition of criminal and administrative liabilities for drug use and for possession of drugs for personal use.

3 To ensure that the legal rights of people who use drugs are respected, including the right to free and quality legal aid services.

4 To strengthen measures against misuse of power by drug control and law enforcement personnel and their illegal actions with regards to people who use drugs.

5 To ensure protection of the personal data of people who use drugs, including their health-related data, from disclosure to law enforcement agencies, employers or educational institutions.

6 To promote the adoption and implementation of legislation and policies that provide adequate availability, accessibility and quality of needle and syringe programmes and opioid substitution therapy programmes, including in prison settings.

7 To ensure that the national regulations of opioid substitution therapy programmes are in line with international treatment standards and guidelines, including express provisions that allow authorized treatment facilities to dispense methadone and/or buprenorphine for later use outside of the treatment facility, and that allow dispensation of these medications by prescription.

8 To strengthen the legislation on countering discrimination against people who use drugs and people living with HIV in healthcare and other settings.

9 To abolish the laws, policies and practices that restrict the reproductive and family rights of people who use drugs.

10 To ensure access to treatment of HIV, tuberculosis, viral hepatitis and reversal of drug overdose in accordance with the best international practice.