Drug Laws and Policies in Four Regions of Eurasia

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ECECACD
Комиссия по наркополитике Восточной и Центральной Европы и Центральной Азии

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List of abbreviations

CADAP	Central Asia Drug Action Programme
CAT	The Committee against Torture
CND	UN Commission on Narcotic Drugs
CIS	The Commonwealth of Independent States
CESCR	The Committee on Economic, Social and Cultural Rights
CEDAW	The Committee on the Elimination of Discrimination against Women
CoE	The Council of Europe
CRPD	The Committee on the Rights of Persons with Disabilities
CRC	The Committee on the Rights of the Child
CSTO	The Collective Security Treaty Organization
GFATM	Global Fund to fight AIDS, Tuberculosis and Malaria,
GIZ	German Corporation for International Cooperation,
EU	European Union
IDU	Injection drug use
IHRD	International Harm Reduction Development Program of the Open Society Foundations
INCB	International Narcotic Control Board
HRCttee	Human Rights Committee
NSP	Needle and Syringe Programs
OAT	Opioid Agonist Therapy
PWID	Person (s) or people who inject drugs
PEPFAR	The US President's Emergency Plan for AIDS Relief
SCO	Shanghai Cooperation Organization
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNODC	UN Office on Drugs and Crime
DFID	UK Department for International Development
UNDP	United Nations Development Programme
WHO	World Health Organization

Introduction

There is considerable variance in how countries in the regions of Eastern, Central and Southern Europe, as well as Central Asia and Transcaucasia, are affected by "the world drug problem" and their responses to this public health challenge.[1] However, what they face in common is a high prevalence of injection drug use (IDU) and serious epidemics of HIV and HCV affecting people who inject drugs (PWID). As shown below (Table 1), according to the UN Office on Drugs and Crime (UNODC), the estimated prevalence of IDU among people aged 15-64 in countries of Eastern Europe is 1.26%, the highest prevalence in the world; this is followed by the countries of Central Asia and Transcaucasia at a prevalence of 0.63%.[2]

Table 1. Estimated prevalence of injecting drug use and of HIV/HCV among PWID[3]

Region[4]	Estimated Number of PWID	Prevalence of IDU among people aged 15-64	HIV and HCV prevalence among PWID
Eastern Europe: Belarus, Republic of Moldova, Russian Federation and Ukraine	1,730,000	1.26%	HIV: 25.2% HCV: 41-55%
Central Asia and Transcaucasia: Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan	370,000	0.63%	HIV: 7.0% HCV: 41-55%
South-Eastern Europe: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Montenegro, North Macedonia, Romania, Serbia, Turkey and Kosovo	100,000	0.11%	HIV: 4.0% HCV: 41-55%
Western and Central Europe[5]: Andorra, Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Norway, Poland, Portugal, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, Faroe Islands, Gibraltar and Holy See[6]	800,000	0.25%	HIV: 11.4% HCV: 56-60%

1 For the purposes of this brief, we follow the regional groupings used by the United Nations Office on Drugs and Crime (UNODC) in its annual World Drug Report in referencing and presenting global data.

2 UNODC, 2020 World Drug Report, Annex II, Drug use and HIV, 2020, page 45.

3 Ibid.

4 According to UNODC grouping. See UNODC, 2020 World Drug Report, Annex II, Regional Groupings, 2020, page 49.

5 Countries of Central Europe (CE) belong to the EU but these countries joined the EU in 2004. Central European drug policies are more advanced than those in the South-East Europe, Eastern Europe, Central Asian and Transcaucasian regions but at the same time it has much more repressive laws and discriminatory health care systems/less access to harm reduction than those countries of Western Europe (WE). CE has much lower prevalence of HIV than the countries of all other regions in the table, but HCV prevalence is higher than in WE countries. There are examples of progressive, pro-harm reduction drug policies in CE, that is, the Czech Republic and Slovenia, with high coverage of HR and less repressive approach to drug users. (Comment received from Peter Sarosi, Executive Director of the Rights Reporter Foundation.)

6 Of the countries of Western and Central Europe, the Czech Republic, Finland, Belgium and France report the largest numbers of people who inject drugs. See: European Monitoring Centre for Drugs and Drug Addiction, European Drug Report 2019: Trends and Developments, 2019, p. 58.

In parallel, and not coincidentally, many countries of Eastern and South-Eastern Europe, Central Asia and Transcaucasia are home to imbalanced and outdated drug laws and policies deeply rooted in the legacy of their common Soviet past. Although these countries have undergone legal and policy reforms on many fronts over the last 30 years, drug laws remain largely intact and rooted in archaic core punitive principles.[7] This is true even for the three Baltic States (Estonia, Latvia and Lithuania) that, despite having joined the European Union (EU) more than a decade ago, have nonetheless maintained drug laws similar to those in Russia and Ukraine.

The success of harm reduction

The most successful change in drug policy in these regions has been the introduction of harm reduction approaches and services, albeit still to an inadequate degree – an observation that applies to many countries and regions the world over. With the notable exceptions of Russia, Uzbekistan and Turkmenistan, all countries in these four regions have embraced harm reduction in principle and, to varying degrees, in practice. By 2021, the majority of countries had either introduced or guaranteed all nine of the harm reduction interventions recommended by the World Health Organization (WHO) as part of a comprehensive package to address HIV among PWIDs, either with state funding or with a combination of state and international funding. Some countries of Eastern and South-Eastern Europe, Central Asia and Transcaucasia, such as Armenia, Moldova, North Macedonia, Kyrgyzstan, Romania and Tajikistan have gone as far as introducing needle and syringe programs (NSP) programs in prisons, not only OAT, similar to only Switzerland, Germany, Spain and Luxembourg in Western Europe.[8]

Russia and Uzbekistan are two countries where multiple attempts by local civil society activists and international donors to introduce harm reduction have failed or met with only very limited success. In these countries the authorities tolerate NSP but strongly oppose OAT. In Russia, federal law criminally prohibits treatment of drug dependence with narcotic drugs or psychotropic substances (including, for example, prescriptions for methadone, buprenorphine, hydromorphone or heroin, all of which have been shown repeatedly to be successful treatment options in multiple studies over decades and are use in multiple countries). Uzbekistan terminated a short pilot OAT project in 2009 after an assessment of dubious quality and methodological rigour. There have been no successful attempts to introduce harm reduction in Turkmenistan.

It would not be an exaggeration to attribute the success of harm reduction in these four regions to international multilateral and bilateral organizations such as the Global Fund to fight AIDS, Tuberculosis and Malaria (GFATM), the US President's Emergency Plan for AIDS Relief (PEPFAR), German Corporation for International Cooperation (GIZ), UK Department for International Development (DFID), and private philanthropic foundations, such as the International Harm Reduction Development Program of the Open Society Foundations (IHRD). In many countries, such as Kyrgyzstan, Tajikistan or Moldova, harm reduction is still funded to a large extent by international donors. In all countries of these four regions, harm reduction interventions do not achieve the coverage recommended by the

7 M. Golichenko, "Documenting human rights violations is not enough to reform archaic drug policies in Eastern Europe and Central Asia," in D.R. Bewley-Taylor and K. Tinasti (eds), Research Handbook on International Drug Policy (Edward Elgar Publishing Ltd., September 2020).

8 Harm Reduction International, The Global State of Harm Reduction 2020, 2021. Available at: www.hri.global/global-state-of-harm-reduction-2020.

WHO.[9] Nevertheless, in the majority of these countries, access to harm reduction interventions, including NSP and OAT, either is guaranteed explicitly by national laws or arises from the combination of legal amendments that have lifted outdated legal restrictions and separate bylaws or guidelines stipulating the provision of a comprehensive package for HIV prevention among PWID. The major challenge these countries face is the sustainability of domestic funding for keeping and expanding harm reduction to the scale required.

Harm reduction efforts have yielded impressive results even in some countries in which PWIDs have been most heavily affected by HIV, such as Ukraine.[10] However, these achievements would likely have been greater if not for the negative impact of criminalization of drugs and people who use drugs.

Criminalization of drugs and discrimination against people who use drugs

Every country in each of the four regions retains and enforces punitive drug laws — an observation that also applies to the stable democracies of Western Europe. For example, seven countries of the European Union still criminalize drug *use* in addition to *possession* (e.g. Cyprus, Greece, France, Norway, Sweden).[11] Yet the severity of enforcement and punishment varies greatly due to the following major factors:

- the definition of drug offences;
- the defined threshold quantities of narcotic drugs for establishing criminal or administrative liability;
- the availability of viable alternatives to prosecution and punishment; and
- the subordination of law enforcement to public health.

Mere drug *use* is not an offence in most countries in the four regions. However, in addition to the Western European countries mentioned above, Armenia, Azerbaijan, Georgia, Estonia, Hungary[12], Latvia, Moldova and Russia still consider mere use an administrative offence. Russia alone prosecutes approximately 90,000 people for this offence annually, with more than 40,000 people sentenced to imprisonment for up to 15 days.[13] The majority of countries in all four regions also have an offence of drug use in public or being intoxicated in public.

9 WHO, UNODC, UNAIDS Technical Guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users, 2009. Available at: www.who.int/hiv/pub/idu/idu_target_setting_guide.pdf.

10 UNAIDS, "Data: Ukraine," 2020. Available at: www.unaids.org/en/regionscountries/countries/ukraine.

11 European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), "Country legal profiles," 2021. Available at: www.emcdda.europa.eu/html.cfm/index5174EN.html#.

12 Consumption was reintroduced as a criminal offence, punishable by up to two years in prison (it had beendeleted from the 2003 Criminal Code). See European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), Hungary, Country Drug Report 2017, 2017. Available at: www.emcdda.europa.eu/system/files/publications/4521/TD0616148ENN.pdf.

13 According to the official court statistics of the Judicial Department at the Supreme Court of the Russian Federation. Available at: www.cdep.ru/index.php?id=79&item=5258.

All the countries in each of the four regions prohibit simple *possession* (i.e. for personal consumption) of narcotic drugs and psychotropic substances, but the enforcement and the severity of punishment vary greatly from country to country, even within the same region.

Most countries in all four regions apply legally defined threshold quantities of drugs either to delineate administrative liability from criminal liability for simple possession, or to decide between prosecutions and employ social or medical alternatives. (See Table 2 below for examples from several countries.) Threshold quantities are also used to determine whether a charge of trafficking (or possession for the purpose of trafficking) will be laid, and the severity of sanctions for trafficking if convicted.

There is no clear guidance for countries to define the threshold quantities. Selection of the threshold quantities is very rarely based on science, even though the body defining the quantities is often part of the national public health agency.[14] In many instances, threshold quantities are set so low that they do not correspond realistically to common possession and consumption patterns and practices, undermining the ostensible objective of avoiding criminalization of people who possess drugs personal use.

Table 2. Threshold quantities delineating criminal liability (in grams)[15]

Country	Marijuana	Heroin	Cocaine	Amphetamine	Methamphetamine
Russia[16]	6	0.5	0.5	0.2	0.3
Ukraine	5	0.005	0.02	0.15	0.15
The Czech Republic	10	1.5	1	1.5	1.5
Hungary[17]	6	0.6	2	0.5	0.5
Moldova	2	0.01	0.15	0.1	0.05
Kyrgyzstan	80	1	0.03	1.5	1.5
Kazakhstan	1000	1	1	3	1.5
Portugal	25	1	2	1	1

Although the use of threshold quantities can greatly reduce the disproportionate focus of the national drug control system on petty crimes related to personal drug use rather than on drug trafficking, this is insufficient on its own to re-balance national drug policies. Other policy measures are equally important and necessary.[18]

14 D. Nutt, "The role and basis of the drug laws," Prometheus 28:3 (2010): 293-297. Available at: https://doi.org/10.1080/08109028.2010.518052.

15 Countries presented in these table are given as examples only. Other countries in the four regions have similar threshold amounts.

16 For marijuana and heroin, the amount is defined according to the whole weight of the seized mixture, regardless of how much of the psychoactive substance it contains.

17 Unlike in many other countries, in Hungary the amount of narcotic drug is defined according to the weight of the pure substance in the seized mixture. The threshold quantities in the table correspond to the pure amount. The street quantity can vary depending on is the purity of the seized mixture. Marijuana – 6 grams pure THC, 20-100 grams street quantity; Heroin – 0.6 g pure substance – 1.2 – 4 grams street quantity; Cocaine – 2 g pure / 2.5-20 g street; Amphetamine – 0.5 g / 14-1000 grams; Methamphetamine – 0.5 g / 13-100 grams. For more information see Hungarian Institute for Forensic Sciences. Available at: https://nszkk.gov.hu/content/droghelyzet/jogi-segedletek/segedlet_kabitoszer_mennyisegek_2015.pdf.

18 For more information about the threshold quantities, see G. Harris, "Conviction by Numbers: Threshold Quantities for Drug Policy," Series on Legislative Reform Drug Policies Nr. 14 (May 2011).

The International Narcotic Control Board (INCB), which monitors and advises States regarding compliance with the international drug control treaties, recommends that countries observe the principle of proportionality as part of a comprehensive assessment of the drug policy response. According to the INCB,

> *Whether or not a State's response to drug-related offences is proportionate depends in turn on how its legislative, judicial and executive arms of government respond in both law and practice. For example:*
>
> *a) Is the particular response necessary?*
>
> *b) To what extent can the response result in the achievement of the desired objectives?*
>
> *c) Does the response legitimately go beyond what is needed?*
>
> *d) Does the response comply with internationally accepted norms concerning the rule of law?*[19]
>
> *e) When the offences have international aspects, is there effective international casework cooperation between the regulatory, law enforcement, prosecution and judicial services of all the countries concerned, for example, in obtaining relevant intelligence and evidence, tracing and ultimately confiscating criminal wealth and returning fugitives of justice?*
>
> *If the answer to the above questions is no, justice may not be done, making the response to the offending manifestly disproportionate.*[20]

To illustrate the importance of other policy and practice ingredients in addition to threshold quantities, consider the examples of national drug policy responses in Portugal and Russia, two countries generally considered as substantially opposite in this regard.

Having threshold quantities that are higher than but comparable with Russia, Portugal re-balanced its national drug policy to provide for viable mechanisms for refering people who use drugs out of the criminal legal system to health-oriented responses. Russia also undertook drug policy reforms to provide for alternatives to criminal prosecution. For example, in 2013–2015 laws on administrative and criminal offences were amended to remove sanctions and to provide for the suspension of sentencing or non-custodial sentencing for the offences of drug use and drug possession of amounts less than those defined as "large" in law (i.e. less than 2.5 grams of heroin and less than 100 grams of marijuana). In this sense, Russian laws theoretically already provide for a system similar to the Portuguese model. However, unlike in Portugal, Russian drug control is dominated by law enforcement, not public health and science. The drug treatment system acts as an extension of law enforcement and for this reason is archaic and ineffective.[21] Many people who receive treatment as an alternative a criminal conviction or sentencing quickly reoffend and receive long custodial sentences. Thus, despite having a system of

19 According to the INCB, these include the absolute supremacy of laws seeking to achieve good over the arbitrary power of individuals and institutions; upholding law and order; the equality and accountability of everyone before the law for every act done without legal justification; well-functioning courts providing predictable and efficient judgements; and upholding the rights and duties of individuals under the country's constitutional law.

20 "The principle of proportionality and drug-related offences," in Report of the International Narcotics Control Board for 2007. E/INCB/2007/1. Available at: www.incb.org/documents/Publications/AnnualReports/Thematic_chapters/English/AR_2007_E_Chapter_I.pdf.

21 M. Golichenko, S.K.H. Chu, "Human rights in patient care: drug treatment and punishment in Russia," Public Health Rev 39, 12 (2018). Available at: https://doi.org/10.1186/s40985-018-0088-5.

threshold quantities and legal alternatives to punishment for drug offences comparable to Portugal, Russia lacks other criminal justice and public health programs that would be able to counter-balance law enforcement in the response to drugs. Even where there may be a wider range of effective treatment options, law enforcement dominance can be hard to dislodge: for example, the situation in Ukraine is similar to that in Russia, despite the fact that Ukraine allows opioid agonist therapy (OAT) as a treatment option whereas Russia criminalizes it.

The major drug policy issue is, therefore, not how proportionate the threshold amounts are, or how many alternatives to prosecution and/or harsh sentencing are technically in place, but who calls the shots – law enforcement or health. The prohibition of drug use, whether directly or indirectly through a prohibition on simple possession, always invites law enforcement to dominate and overpower the health bodies in making the decisions that affect the health of individuals who use drugs and public health at the societal level. When law enforcement dominates the field, concerns for public health and human rights are only mitigating factors at best. In countries where concern for public health and human rights is somewhat stronger – such as in Western Europe and to some extent in Central Europe – the domestic drug policy tends to be less harmful, as can be observed in Portugal. In Eastern and South-Eastern Europe, Transcaucasia and Central Asia, law enforcement remains an overwhelmingly powerful player in all areas of drug control, with public health agencies and concerns subordinate.

A startling example of such subordination is Ukraine. OAT and other harm reduction measures are entrenched in national laws and policies as state-funded services, and the national drug strategy consists extensive sections addressing the de-stigmatization of people who use drugs and promotion of their human rights – all of which may suggest that human rights and public health prevail over punitive responses to drug use in the country. However, despite these factors, Ukraine retains the most repressive legislation concerning threshold amounts that determine criminal and administrative liability. An order from the Ministry of Health (Order No. 188 of August 2, 2000) serves to clarify the threshold quantities of illegal drugs that are considered "small," "large" and "extra-large" in law. Although the adoption of such an order falls under the mandate of the Ministry of Health, the Ministry of the Interior always plays a major role in defining the threshold quantities. The Ministry of Justice will not register such orders from the Ministry of Health without the agreement of the Ministry of the Interior, meaning they cannot enter into force. Many attempts within the Ministry of Health to reconsider and raise the threshold amounts, thereby rendering Ukraine's drug laws less punitive, have failed because of opposition by the Ministry of the Interior. Moreover, the Ministry of the Interior has misrepresented statements of the INCB in asserting the need for low threshold quantities – which effectively maintains the criminalization of people who use drugs, including those struggling with drug dependence, amounting to discrimination.[22]

Ukraine also retains the archaic and discriminatory practice of registering people who use drugs,[23] despite including a pledge to respect human rights of people who use drugs in its national drug strategy, and despite well-documented discriminatory effects of such a drug user registry on the right to health, the right to education, the right to labour, and the right to respect for private and family life.[24] As in the case with threshold quantities, the Ministry of Interior also obstructs reforms to the drug user registry in Ukraine.

22 Report to the 67 Session of the Committee on Economic, Social and Cultural Rights on the implementation by Ukraine of Article 12 of the International Covenant on Economic, Social and Cultural Rights as it relates to access of people who inject drugs to health services. December 2019. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fCSS%2fUKR%2f41277&Lang=en.

23 Совместный приказ Минздрава, МВД, Генеральной Прокуратуры, Минюста Украины от 10.10. 1997 No 306/680/21/66/5, зарегистрировано в Минюсте Украины 5.11.1997 за N 534/2338 «Про затвердження Інструкції про порядок виявлення та постановки на облік осіб, які незаконно вживають наркотичні засоби або психотропні речовини". Available at: https://zakon.rada.gov.ua/laws/show/z0534-97#Text.

24 International Harm Reduction Development Program, "The Effects of Drug User Registration Laws on People's Rights and Health. Key Findings from Russia, Georgia, and Ukraine," 2009. Available at: www.opensocietyfoundations.org/uploads/def77bbe-43fd-46ad-9f91-b1b8bd26a221/drugreg_20091001.pdf.

Other countries in the region offer a similar lesson. One of the most successful countries in the region is Kyrgyzstan, where all nine interventions from the WHO-recommended comprehensive package have been implemented over the past 10 years. Despite this, HIV prevalence among PWID has remained around 12–14% for many years, and people who inject drugs continue to be the population most affected by the epidemic.[25] As in Ukraine, stigma and discrimination, as a result of drug criminalization and punitive, invasive measures such as the drug user registry, remain key obstacles to effective harm reduction.[26] Due to the predominance of law enforcement and the punitive focus of the national drug policy, efforts in 2017 and 2018 to "humanize" criminal and administrative laws in Kyrgyzstan led to controversial discriminatory amendments with draconian fines for drug use–related behaviour that were significantly in excess of an average monthly wage in Kyrgyzstan.[27] In 2021 Russia pledged over 5 million USD to support drug enforcement in Kyrgyzstan.[28] Neighbouring countries have witnessed flexing of law enforcement's political muscle. In Kazakhstan, the Ministry of the Interior continues to play a key role in stalling OAT.[29] In Uzbekistan, a similar opposition by law enforcement eventually led to the termination of the OAT pilot program in 2009, with the government citing the results of a dubious and sub-standard assessment by national health authorities.[30]

Consequences of the imbalanced drug policy

Despite success in legal and policy reform regarding harm reduction in some countries, laws that criminalize drugs, and people who use them, remain in place in all countries of the four regions. These laws make PWID vulnerable to human rights violations, prevent them from accessing health services, and lead to drug-use practices that pose a greater risk of overdose and of acquiring and transmitting infections such as HIV and HCV.

25 UNAIDS, "Country Factsheets: Kyrgyzstan 2019," 2019. Available at: www.unaids.org/en/regionscountries/countries/kyrgyzstan.

26 A. Deryabina and W. El-Sadr, "Uptake of needle and syringe program services in the Kyrgyz Republic: Key barriers and facilitators," Drug and Alcohol Dependence, 179(October) 2017, pp.180-186. doi: 10.1016/j.drugalcdep.2017.07.002.

27 O. Ochneva, "In Kyrgyzstan, fines for drug-related offences will grow 30-fold," AFEW International, 2018. Available at: www.afew.org/eecaaids2018/kyrgyzstan-fines-growth-eng/.

28 Россия выделила $5,2 млн МВД Киргизии на борьбу с наркотрафиком. 20 February 2021. TASS. Available at: https://tass.ru/ekonomika/10751907.

29 Parallel Submission for 62 Pre-Sessional Working Group of CESCR with respect to Kazakhstan, 2019. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fICO%2fKAZ%2f30541&Lang=en.

30 Canadian HIV/AIDS Legal Network and the Eurasian Harm Reduction Network, Report to the CESCR 52nd Session, Review of Uzbekistan, March 2013. Available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fNGO%2fUZB%2f14098&Lang=en.

Vulnerability to HIV and HCV

People who use drugs have multiple vulnerabilities to HIV, tuberculosis, hepatitis and other infectious diseases.[31] Table 1 illustrates the correlation between the prevalence of HIV/HCV and the imbalanced drug policies. The HIV epidemic in Eastern Europe and central Asia has grown by 30% since 2010; HIV transmission among PWID and their sexual partners account for the majority of HIV infections in the region.[32]

Human Rights Violations against PWID

Multiple, voluminous reports of human rights violations against PWID have been well documented globally, including in countries in these four regions. As of 2021, all UN programs and agencies, as well as numerous UN human rights treaty bodies and other mechanisms, have confirmed and criticized widespread human rights violations against PWID, and recognized the role of punitive drug laws and policies in contributing to such violations.[33] Meanwhile, a growing body of evidence confirms that the criminalization of drugs neither reduces the availability of drugs nor significantly deters drug use.[34,35]

Criminalization of drugs is a key manifestation of punitive drug laws and policies, but not the only one. Arguably, drug dependence and other drug use resulting in harms to the person using is the only health condition that, according to national laws in many countries across the four regions (and to a lesser extent in Western Europe)

31 UN Office on Drugs and Crime, "Drug Use and HIV," web page, no date. Available at: www.unodc.org/unodc/en/hiv-aids/new/drug-use_and_HIV.html.

32 UNAIDS, Miles to Go: The response to HIV in Eastern Europe and Central Asia, Global AIDS Update 2018, 2019. Available at: www.unaids.org/sites/default/files/media_asset/miles-to-go_eastern-europe-and-central-asia_en.pdf.

33 For references see Chapter "The call to decriminalize drug possession: UN human rights treaty bodies and agencies" in this volume.

34 T. C. Pratt, F. T. Cullen, K. R. Blevins, L. E. Daigle, and T. D. Madensen, "The Empirical Status of Deterrence Theory: A Meta-Analysis," in F. T. Cullen, J. P. Wright, & K. R. Blevins (eds.), Advances in criminological theory: Vol. 15. Taking stock: The status of criminological theory, (Transaction Publishers, 2006), p. 367–395.

35 D. Bewley-Taylor, C. Hallam, and R. Allen, "The Incarceration of Drug Offenders: An Overview," The Beckley Foundation Drug Policy Programme, March 2009, p. 15; D. Layton Mackenzie, "Sentencing and Corrections in the 21st Century: Setting the Stage for the Future," July 2001, pp. 21-22; S. R. Friedman et al, "Relationships of deterrence and law enforcement to drug-related harms among drug injectors in US metropolitan areas," AIDS 20 (2006) pp. 93–99; S. R. Friedman et al, "Drug Arrests and Injecting Drug Deterrence," American Journal of Public Health 101 (2011)pp. 344-349; D. G. Werb, et al, "Effect of drug law enforcement on drug-related violence: evidence from scientific review," International Center for Science in Drug Policy, 2010; L. Degenhardt, W-T Chiu, N. Sampson et al., "Toward a global view of alcohol, tobacco, cannabis, and cocaine use: Findings from the WHO World Mental Health Surveys," PLOS Medicine (2008).5:1053-67; UK Drug Policy Commission, "Consultation paper on sentencing for drug offences,", July, 2009; United States Office of National Drug Control Policy, The Price and Purity of Illicit Drugs: 1981 through the Second Quarter of 2003; P. Reuter, "Ten years after the United Nations General Assembly Special Session (UNGASS): assessing drug problems, policies and reform proposals," Addiction 104 (2009) pp. 510-7.; P. Reuter . and F. Trautmann, "A report on Global Illicit Drugs Markets 1998-2007," European Communities, 2009; Justice Policy Institute Report: The Vortex. The Concentrated Racial Impact of Drug Imprisonment and the Characteristics of Punitive Counties, December 2007, p. 11.

warrants a predominantly harsh punitive and law enforcement response instead of health and social support. People who use drugs, especially people with drug dependence, belong to a particularly vulnerable group that has suffered considerable discrimination and other human rights abuses in the past. According to the UN Special Rapporteurs, people who use drugs are often subjected to discrimination in medical settings,[36,37] and in the criminal justice system.[38] UNODC has concluded that one of the unintended consequences of drug control is that a "system appears to have been created in which those who fall into the web of addiction find themselves excluded and marginalized from the social mainstream, tainted with a moral stigma, and often unable to find treatment even when they may be motivated to want it".[39]

In many countries of Eastern and South-Eastern Europe, Central Asia and Transcaucasia, such stigma and discrimination are actively promoted by state authorities, often including the public health bodies, by way of adopting and enforcing discriminatory provisions of criminal, health, family, and labour laws. Family laws often retain a discriminatory provision for the termination of parental rights based on the sole fact that a parent "suffers chronic drug dependence." It is well documented that this family law provision, and the activities of child protection services that rely on it, negatively affect women who use drugs, including their access to health and social support services.[40] As noted above, even countries that have pledged to respect the human rights of people who use drugs in their national drug strategy, such as Ukraine, retain the discriminatory practice of drug user registration,[41] whose discriminatory effects on the right to health, the right to education, the right to labour, and the right to respect for private and family life are well documented.[42] In Russia, the drug user registry prevents people who use drugs from being employed in more than 300 industrial, educational and public health professions, including low-wage industrial positions.

36 Report of the UN Special Rapporteur on the Right to Health to the General Assembly (main focus: the right to health and international drug control, compulsory treatment for drug dependence and access to controlled medicines), A/65/255, August 6, 2010. Available at: https://www.ohchr.org/Documents/Issues/Water/ContributionsStigma/others/SPhealthI.pdf.

37 Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, A/HRC/22/53, February 1, 2013. Available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/105/77/PDF/G1310577.pdf?OpenElement.

38 Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, M. Nowak, A/64/215, August 3, 2009.

39 Antonio Maria Costa, UNODC Executive Director, Statement for the 51st session of the Commission on Narcotic Drugs., March 10, 2008. Available at: www.unodc.org/unodc/en/about-unodc/speeches/2008-03-10.html.

40 Global Commission on HIV and the Law, Родительские права женщин, употребляющих наркотики. Время действовать!, 2018. Available at: https://hivlawcommission.org/2018/11/30/%D1%80%D0%BE%D0%B4%D0%B8%D1%82%D0%B5%D0%BB%D1%8C%D1%81%D0%BA%D0%B8%D0%B5-%D0%BF%D1%80%D0%B0%D0%B2%D0%B0-%D0%B6%D0%B5%D0%BD%D1%89%D0%B8%D0%BD-%D1%83%D0%BF%D0%BE%D1%82%D1%80%D0%B5%D0%B1%D0%BB%D1%8F/.

41 Совместный приказ Минздрава, МВД, Генеральной Прокуратуры, Минюста Украины от 10.10. 1997 No 306/680/21/66/5, зарегистрировано в Минюсте Украины 5.11.1997 за N 534/2338 «Про затвердження Інструкції про порядок виявлення та постановки на облік осіб, які незаконно вживають наркотичні засоби або психотропні речовини". Available at: https://zakon.rada.gov.ua/laws/show/z0534-97#Text.

42 International Harm Reduction Development Program, supra note 24.

Misuse of police power and over-incarceration of people who use drugs

With law enforcement dominant, there is little to mitigate the inherently imbalanced and harmful laws criminalizing simple possession, leaving people who use drugs highly criminalized and disproportionately represented in police arrests and prison populations. Moreover, the crime of drug trafficking is often defined in such a way that a law enforcement officer can easily categorize the same act as simple possession or as possession with an intent to traffic. Police entrapment (police provocation) is also often employed against people who use drugs to charge them with trafficking for activities of distributing drugs among their peers in the context of common use, rather than large-scale, commercial trafficking. Police stations do not provide OAT, which also makes people with drug dependence vulnerable to egregious human rights violations as police misuse withdrawal syndrome to obtain confessions to such serious crimes as drug trafficking.[43] Because of this, people who use drugs are often charged and sentenced to lengthy prison terms as if they were large-scale drug traffickers.

For example, in Ukraine in 2018, every seventh person convicted of a criminal offence (10,144 of 73,659) was convicted of one or more drug offences. Of those, 8,513 people (84%) were convicted of the crime of simple possession for personal use (Article 309 of the Criminal Code of Ukraine).[44] Within this group, 6,482 (76%) were convicted for possession of narcotics in miniscule amounts ranging from 0.005 to 1.00 gram of heroin.[45]

In Russia, while the overall prison population is declining, the number of prisoners convicted of drug crimes is growing; 25% of all prisoners in Russia are convicted of drug crimes, 40% of all women in prisons are convicted of drug crimes.[46] More than 87% of all people convicted of drug crimes in Russia in 2019 were convicted for drug use–related behavior, not for offences related to medium- or large-scale drug trafficking.[47]

The law enforcement emphasis is also evident in European Union countries, which saw a 20% increase in the number of reported drug offences from 2007 to 2017, with an estimated 1.5 million such offences reported in 2017 alone. Of these offences, 79% were related to drug use or possession; three quarters of charges for use or possession involved cannabis. The majority of supply offences (57%) also concern cannabis.[48] However, unlike in Russia or Ukraine, the EU countries have developed a network of factors that have mitigated the law enforcement emphasis — although it is still undoubtedly harmful. Such factors include referrals of people who use drugs to

43 M. Golichenko and A. Sarang, "Atmospheric Pressure: Russian drug policy as a driver for violations of the UN Convention against Torture and the International Covenant on Economic, Social and Cultural Rights," Health and Human Rights Journal, Volume 15, No 1 (June 2013). Available at: https://cdn2.sph.harvard.edu/wp-content/uploads/sites/13/2013/06/Golichenko-FINAL.pdf.

44 Drug-related crimes without intent to sell are included as offenses under Article 309 of the Criminal Code of Ukraine and Article 44 of the Code of Ukraine on Administrative Offenses. Article 309 of the Criminal Code provides for up to eight years' imprisonment for possession, production, purchase, transportation, or sending of narcotics without intent to sell, while the same actions with intent to sell qualify for up to 12 years' imprisonment under Article 307 of CCU. Article 44 of the Code of Criminal Offences allows for arrest for 15 days in cases of possession, production, purchase, transportation, or sending of small amounts of narcotics without intent to sell.

45 Official court statistics for 2018. Available at: https://court.gov.ua/inshe/sudova_statystyka/rik_2018.

46 Official statistics of the Federal Penitentiary Service for the years 2003-2015. Available at: http://fsin.su/structure/inspector/iao/statistika/Xar-ka%20lic%20sodergahixsya%20v%20IK/.

47 Courts' statistics for 2019. Available at: www.consultant.ru/document/cons_doc_LAW_10699/c6e15d3f1ba69acd08e0639594df466ecdf1958d/.

48 European Monitoring Centre for Drugs and Drug Addiction, supra note 6, page 37.

treatment through the criminal legal system, although the referrals may also focus on people who use cannabis and thus are highly unlikely in need of any medical treatment.[49]

Police discretion matters, too. Unlike in countries of Western and Central Europe, in Eastern and South-Eastern Europe, Central Asia and Transcaucasia, police have no discretionary power, leaving it to the courts to decide the disposition of a case. The lack of discretionary power makes it much more difficult to refer people who use drugs from the criminal legal system to social support and public health responses, meaning opportunities to mitigate the negative impact of drug criminalization on human rights and public health may be missed.

Criminalization of drugs is the major driver for imbalanced drug policies, especially in regions with poor records of human rights and the rule of law. Drug policies should de-prioritize drug use–related behavior for law enforcement and replace punitive sanctions with viable public health and social tools. (See recommendations for details.)

Drug laws and access to opioid analgesics

According to the Lancet Commission on Palliative Care and Pain Relief, one of the main barriers that explains "the lack of adequate access to pain relief medicines globally is the focus on preventing non-medical use of internationally controlled substances without balancing the human right to access medicines to relieve pain".[50] None of the countries in the four regions of focus provide adequate access to pain relief medications, in part because of the unnecessary restriction of national drug laws. The average consumption of opioid analgesics in some Central and South-Eastern European countries such as Greece, Hungary, the Czech Republic, and Slovakia is about five times lower than in Germany; and in such countries as Albania, Macedonia, Moldova, Russia and Ukraine, the average consumption is about ten times lower than in Greece or Slovakia.[51]

Between 2013 and 2018, many countries in Eastern Europe and Central Asia took positive steps to lower legal and policy barriers, but access to opioid analgesics in this region remains very low. Ukraine was one of the first countries to repeal regulations that impeded access to medications for patients with moderate and severe pain. Despite this, in 2017, only 15% of qualified patients were able to access opioid analgesics.[52] In Kyrgyzstan in 2017, only 3% of the demand for opioid analgesics was satisfied.[53] In Russia in 2016, only 68% of palliative care patients in Moscow and 22% in Saint Petersburg had access to opioid analgesics.[54] In other cities, and especially in small towns and rural areas, the situation is much worse.

49 Ibid, page 68.

50 F. M. Knaul et al., "Alleviating the access abyss in palliative care and pain relief — an imperative of universal health coverage: The Lancet Commission report," Lancet 391 (2018): 1391–454.

51 International Narcotics Control Board, Availability of Internationally Controlled Drugs: Ensuring Adequate Access for Medical and Scientific Purposes, 2015, pp. 18-19. Available at: www.unodc.org/documents/drug-prevention-and-treatment/INCB_Access_Supplement-AR15_availability_English.pdf.

52 Маргарита Тулуп. Закон не знеболює. 13 березня 2018. Available at: https://lb.ua/society/2018/03/13/392319_zakon_obezbolivaet.html.

53 Марина Мирошник. "Представьте, что в животе 40 зубов и все болят". Неизлечимые больные умирают в пытках. KAKTUS MEDIA. 28 июня 2019 года. Available at: https://kaktus.media/doc/393674_predstavte_chto_v_jivote_40_zybov_i_vse_boliat._neizlechimye_bolnye_ymiraut_v_pytkah.html.

54 «Все эти бесконечные препятствия, которые стоят между пациентом и обезболиванием, должны быть уничтожены». Журнал "Коммерсантъ Власть" №19 от 20.05.2017. Available at: www.kommersant.ru/doc/3299816.

The main reason the needs for pain medications are unmet is unnecessary, burdensome drug control regulations that doctors must observe in order to prescribe pain medications containing controlled substances, including unnecessary reporting requirements. Errors in reporting may lead to criminal liability, with the real chance of imprisonment for both the doctor and patient depending on the circumstances. Doctors think twice before prescribing opioid analgesics because the ultimate assessment of that decision falls to a low-rank law enforcement officer, effectively leaving the doctor at the mercy of a person whose knowledge of narcotic drugs is based on stigma, prejudice and myths, rather than science and an awareness of good clinical practice and human rights. It is also often the case that doctors are poorly trained in pain management, creating a further barrier to adequate access to pain treatment that uses effective opioid analgesics.

Drug policy mandates of regional intergovernmental organizations.

In Western Europe, the more successful pursuit of harm reduction approaches was the result of countries' eventual commitment to science and human rights instead of the ill-conceived and unrealistic proclamation of the goal of a "drug-free world."[55] Increasingly, harm reduction is understood not only as an effort to mitigate the adverse consequences of unsafe use of controlled substances, but as a project that must aim to mitigate the adverse consequences of punitive drug policies, including the criminalization of drugs. Where human rights and science are respected, harm reduction was more easily welcomed and became part of countries' drug policy and, to varying degrees, practice.[56]

The EU is an example of a region where all national drug strategies endorse the balanced approach to drug policy (as outlined in the EU drug strategy) and provide for an integrated public health approach that respects human rights and science.[57] Arguably, the EU is the only successful intergovernmental organization that has managed to promote the idea of balanced drug policy down to the national level of its members. But even among the EU countries, the harshness of drug policies may vary depending on the certain countries' legal traditions and/or current political trends.[58]

For instance, after a decade of scaling up harm reduction programs, an ideologically motivated attack was launched by the Hungarian government against harm reduction in 2010. This led to serious budget cuts and

55 M. Jelsma, "The Unwritten History of the 1998 United Nations General Assembly Special Session on Drugs," TNI, April 1, 2003. Available at: www.tni.org/en/article/the-unwritten-history-of-the-1998-united-nations-general-assembly-special-session-on-drugs.

56 It would be a mistake to suggest that everything is just fine with harm reduction and drug policy in Western Europe. There are concerns over funding for harm reduction interventions in Western European countries as well numerous issues with respect to the availability, accessibility, and quality of harm reduction services. At the same time even with these issues, countries of Western Europe are ahead of countries in other three regions. For more information see: Harm Reduction International, The State of Harm Reduction in Western Europe 2018, 2019. Available at: www.hri.global/files/2019/05/20/harm-reduction-western-europe-2018.pdf.

57 European Monitoring Centre for Drugs and Drug Addiction, supra note 6, page 64.

58 M. Miovský, S. Miklíková, V. Mravčík, et al., "Understanding the crisis in harm reduction funding in Central and Eastern Europe," Harm Reduction Journal 17, 83 (2020). Available at: https://doi.org/10.1186/s12954-020-00428-6.

the closure of the largest harm reduction programs in 2014, despite the fact that harm reduction interventions were stipulated in national laws.[59] In Bulgaria, Greece and Romania, harm reduction remains threatened given the lack of national government commitment to fund it and conservative political trends supporting a "tough on crime" agenda that favours more punitive legal sanctions instead of evidence-based, health-oriented responses.[60,61,62] In the Baltic states, harm reduction interventions continue to exist alongside the archaic, punitive drug laws, despite 15 years of legal reforms on other fronts that countries have undergone since joining the EU in 2004.[63]

Such situations are the exception within the EU and especially in countries of Western Europe. However, they are the norm in the other three regions we're focused on here, where there has rarely been any serious attempt to move drug laws and policies away from harsh law enforcement and punishment to public health, human rights and science. Even where such reforms have had some degree of success, such as Ukraine or Kyrgyzstan, law enforcement continues to significantly overpower public health, for two major reasons:

- With just a few exceptions, such as the Open Society Foundations, large international donors have been quite timid in promoting broader drug policy reforms, even in countries who have been successful in advancing harm reduction services and a more mainstream human rights agenda.

- Regional intergovernmental organizations tend to adopt and encourage drug laws and policies that reflect those of countries that are the regional power players. Within the EU, such projections reflect the fairly balanced drug policies of countries such as Germany, Denmark, France, Spain and the UK (before it exited the EU), with the scientific support of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). Eurasian countries outside the EU, however, have felt a greater influence from such regional power players as Russia and China, whose approach to drug policy is either based purely on stigma and punishment, with profound disrespect for human rights and science as in Russia,[64] or a marginally more balanced approach of China, which actively promotes harm reduction interventions but at the same time retains harsh drug enforcement with little or no respect to human

59 Rights Reporter Foundation, The Politically Motivated Closure of Harm Reduction Programs in Hungary Violates Human Rights. Submission of the Rights Reporter Foundation to the UN Office of the High Commissioner for Human Rights (OHCHR), May 2018. Available at: www.ohchr.org/Documents/HRBodies/HRCouncil/DrugProblem/HRC39/RightsReporterFoundationHungary.pdf.

60 Harm Reduction International and Center for Humane Policy, Submission to the Committee on Economic, Social and Cultural Rights – 65th Session (18 February – 8 March 2019), 2019. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fICS%2fBGR%2f33531&Lang=en.

61 P. Sárosi, "'You Cannot Promote Safety Through Prejudice'" – Interview with Marinella Kloka On Harm Reduction in Greece," Drug Reporter, October 13, 2016. Available at: https://drogriporter.hu/en/you-cannot-promote-safety-through-prejudice-interview-with-marinella-kloka-on-harm-reduction-in-greece/.

62 L. Ferrari, "Bucharest still has an AIDS problem," Osservatorio Balcani e Caucaso Transeuropa, November 17, 2020. Available at: https://www.balcanicaucaso.org/eng/Areas/Romania/Bucharest-still-has-an-AIDS-problem-206204.

63 A. Kontautaiteet al., "Study of human rights violations faced by women who use drugs in Estonia," Harm Reduction Journal, 15(1) (2018), art 54. doi: 10.1186/s12954-018-0259-1.

64 For more information about the suppression of science by drug enforcement in Russia, see Canadian HIV/AIDS Legal Network and Andrey Rylkov Foundation, Communication to the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the UN Independent Expert in the Field of Cultural Rights regarding violation by the Government of the Russian Federation of the right to enjoy the benefits of scientific progress and its applications, 2012. Available at: www.hivlegalnetwork.ca/site/when-science-is-just-a-decoration-russian-drug-policy-the-right-to-scientific-progress/?lang=en.

> rights, including a strong commitment to such practices as public executions to commemorate the UN's International Day Against Drug Abuse and Illicit Trafficking,[65] contrary to established international human rights law regarding the death penalty.[66]

Table 3 below lists the most influential intergovernmental regional organizations with drug policy mandates. The Council of Europe (CoE) — an organization that may potentially project the drug policy principles of the EU — is counterbalanced by other regional intergovernmental organizations whose focus on military, state security and law enforcement cooperation is much stronger than that of the CoE.

The CoE's Pompidou Group is a drug policy cooperation platform that seeks to contribute to the development of multidisciplinary, innovative, effective and evidence-based drug policies in the CoE's Member States. In addition to the distribution of scientific publications and best practices, as well as convening meetings and workshops with countries' Permanent Correspondents (often drug treatment doctors or senior diplomats), the Pompidou Group runs projects aimed at the promotion of a health-focused approach, including harm reduction, in criminal legal systems, including prisons. Recent successful examples of such projects include refurbishing prison wards to accommodate therapeutic communities in Moldova and helping Georgia to develop a road map for introducing a law on alternatives to punishment.[67] Although very important, these projects do not address the core reason for the imbalanced drug policy — criminalization of drugs and of people who use drugs. These projects reduce some harms of criminalization of drugs but leave intact the whole system in which simple possession or social distribution of narcotic drugs is still considered a criminal matter rather than a potential public health concern.

Other regional intergovernmental organizations retain a stronger emphasis on drug enforcement cooperation that is often underpinned by the principles of harsh enforcement promoted by powerful countries such as Russia and China. The Commonwealth of Independent States (CIS) promotes drug laws, policies and treatment practices reflective of those in the Russian Federation. Another regional organization that serves to project Russia's drug policy approach is the Collective Security Treaty Organization (CSTO), which has a Coordination Council made up of the Heads of the Drug Enforcement Agencies from member countries and regularly runs international regional drug enforcement operations. The CSTO also runs Coordination Meetings of Chief Drug Treatment Doctors "to take joint practical measures to prevent threats to national, regional and international security associated with drug trafficking, and to improve the interaction of health authorities with the law enforcement agencies of the CSTO member states in this area".[68] Meanwhile, the Shanghai Cooperation Organization (SCO), an organization that projects the drug policies of both China and Russia, has three levels of drug law enforcement cooperation on a wide spectrum of issues from drug trafficking to drug treatment.

65 Z. Keck, "Ahead of International Drug Day, China Executes 6," The Diplomat, June 27, 2013. Available at: https://thediplomat.com/2013/06/ahead-of-international-drug-day-china-executes-6/.

66 Using the death penalty to fight drug crimes violates international law, UN rights experts warn, 7 October 2015, Geneva. Available at: https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16581&LangID=E.

67 Council of Europe and the Pompidou Group "Criminal Justice and Prison Programme," 2020. Available at: www.coe.int/en/web/pompidou/activities/prisons.

68 See the Coordination Meeting of the Chief Narcologists website, available at: https://ksgn.odkb-csto.org/en/purpose/.

Table 3. Regional intergovernmental organizations and their engagement on drug policy

Intergovernmental Organization	Member States (other)	Member States from Eastern Europe, South-Eastern Europe, Central Asia and/or Transcaucasia	Drug policy mandate
European Union	Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Portugal, Spain, Sweden	Bulgaria, Croatia, The Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia	Strong EU Agenda and Action Plan on Drugs with the focus on eight strategic priorities in supply, demand and harm reduction, with due respect for human rights.[69]
Council of Europe	Andorra, Austria, Belgium, Cyprus, Denmark, France, Germany, Greece, Iceland, Ireland, Finland, Italy, Luxembourg, Liechtenstein, Malta, Monaco, Netherlands, Portugal, Norway, San Marino, Spain, Sweden, Switzerland, United Kingdom	Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, The Czech Republic, Estonia, Macedonia, Georgia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Russian Federation, Serbia and Montenegro, Slovakia, Slovenia, Turkey, Ukraine	Fairly weak influence on national drug policies. CoE established the Pompidou Group, which promotes a balanced approach demand and supply reduction. The CoE is strong on human rights, but leaves it to the national authorities to decide on drug policy issues. The 2019 "Drug policy and human rights in Europe: a baseline study" is the first document that paves the way for the CoE to actively promote human rights–based drug policies in CoE countries.[70]
Commonwealth of Independent States[71]	none	Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan	Very strong law enforcement cooperation, inter-parliamentarian cooperation, and practice exchange between drug treatment doctors.[72] Russian and Kazakhstan laws On Narcotic Drugs and Psychotropic Substances are copied verbatim in the Model Law On Narcotic Drugs and Psychotropic Substances adopted by the CIS Inter-Parliamentary Assembly.[73]

69 European Commission, "Migration and Home Affairs: Drug policy," no date. Available at: https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/drug-control_en#:~:text=The%20objective%20is%20to%20protect,through%20a%20comprehensive%2C%20multidisciplinary%20lens.

70 Committee on Legal Affairs and Human Rights, "Drug policy and human rights in Europe: a baseline study," Draft resolution and draft recommendation adopted on November 15, 2019. Available at: http://fileserver.idpc.net/library/20191115-DrugPolicyHumanRights-EN.pdf.

71 See website at: https://cis.minsk.by/.

72 Соглашение о сотрудничестве государств-участников Содружества Независимых Государств в борьбе с незаконным оборотом наркотических средств, психотропных веществ и прекурсоров.

73 Модельный закон О наркотических средствах, психотропных веществах и их прекурсорах Принят на двадцать седьмом пленарном заседании Межпарламентской Ассамблеи государств-участников СНГ (Постановление от 16 ноября 2006 года №27-6).

Intergovernmental Organization	Member States (other)	Member States from Eastern Europe, South-Eastern Europe, Central Asia and/or Transcaucasia	Drug policy mandate
Collective Security Treaty Organization[74]	none	Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan	Very strong cooperation between drug enforcement agencies and chief drug treatment doctors, including regular policy meetings on drug enforcement and drug treatment, regular joint drug enforcement operations.
Shanghai Cooperation Organization	Members: India, China, Pakistan Observers: Afghanistan, Iran Dialogue partners: Cambodia, Nepal, Turkey, Sri Lanka	Members: Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan, Uzbekistan Observers: Belarus, Mongolia Dialogue partners: Azerbaijan, Armenia	Strong cooperation between drug enforcement agencies on drug policy and operational levels.[75]
Eurasian Economic Union[76]	none	Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russian Federation	Weak on drug policy, leaving issues of drug control to the national authorities.[77]
Organization for Security and Co-operation in Europe	57 participating States from Europe, Central Asia and North America	Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, The Czech Republic, Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia North Macedonia, Poland, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Tajikistan, Turkey, Turkmenistan, Ukraine, Uzbekistan	Strong on the promotion of human rights, rule of law, and the reform of criminal justice. Weak on drug policy. On rare occasions simply declares allegiance to the UN policy documents.[78]

The strength of direct law enforcement cooperation within the regional intergovernmental organizations that are dominated by Russia and/or China generally outweighs the quite rare and timid attempts of the CoE to promote human rights and science in areas where criminal law features heavily in drug policy.

74 Collective Security Treaty Organization, "The CSTO Structure," no date. Available at: https://en.odkb-csto.org/structure/.

75 See three levels of drug enforcement cooperation at http://rus.sectsco.org/structure/20190715/564882.html.

76 See the Eurasian Economic Union website, available at: www.eaeunion.org/?lang=en

77 Eurasian Economic Union, "Agreement on Movement of Narcotic Drugs, Psychotropic Substances, and their Precursors," October 24, 2013. Available at: www.eurasiancommission.org/en/nae/news/Pages/19-09-2014-2.aspx.

78 As an example of drug policy document, see Organization for Security and Co-operation in Europe Ministerial Council, Declaration on the OSCE Activities in Support of Global Efforts in Tackling the World Drug Problem, 2015. Available at: www.osce.org/files/f/documents/4/3/208211.pdf

Except for the Open Society Foundations, mainstream human rights donors do not fund projects aimed at drug policy reforms. A noteworthy example of a multi-year effort to promote the application of European best practices for drug prevention in Central Asia is the CADAP by the GIZ. CADAP was instrumental in the development of a new bill on narcotic drugs and psychotropic substances in Kyrgyzstan in 2020. If adopted, the bill will become the first human rights– and science-oriented law on narcotic drugs in the Central Asian region. Other bilateral donors should follow the example of GIZ. Until that happens, there are no other players that will be able to promote drug policy reform outside the EU countries in the four regions as organizations such as the Global Fund to fight AIDS, Tuberculosis and Malaria do for harm reduction interventions.

Access to information: when the language matters most

Access to accurate information about narcotic drugs is an important element of the right to the highest attainable standard of health. The *UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988* requires the States Parties to criminalize publicly inciting or inducing others, by any means, to commit drug offences or to use narcotic drugs or psychotropic substances illicitly.[79] Following an unnecessarily strict interpretation of this requirement, many countries in these four regions impose various limitations on the freedom of information concerning narcotic drugs. Russia retains and actively enforces the most severe limitations, treating such information as "drug propaganda."[80] In 2019-2020, Kazakhstan adopted, and Ukraine tried to introduce, legislation similar to Russia's propaganda laws.[81]

Apart from the criminal offence of incitement to drug use, the Russian *Code of Administrative Offences* further provides for significant fines for offences of drug propaganda. The definition of "drug propaganda" is so vague that any information about narcotic drugs may qualify. Russia regularly monitors websites that contain information about narcotic drugs, and law enforcement agencies have the legal power to order the internet service providers to block such sites. A ministerial order stipulates that information that aims to create a "positive image" of those who make or use drugs should be blocked.[82] Russia blocks about 20,000 webpages or web domains annually.[83] In 2020, the reach of Russian enforcement of drug laws extended to a Ukrainian organization (Alliance of Public Health, Ukraine), a Lithuanian organization (Eurasian Harm Reduction Association), and one in the UK (Release). All these organizations received orders from a Russian agency in charge of information control (Roskomnadzor)

79 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Treaty Series, vol. 1582, Art. 3(2), November 25 to December 20, 1988, p. 95.

80 Russian Civil Society Mechanism for Monitoring of Drug Policy Reforms in Russia, Report to the UN Human Rights Committee for the List of Issues in relation to the review of the 8th Periodic Report of the Russian Federation, CCPR/C/RUS/8, May 2020. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2flCO%2fRUS%2f42106&Lang=en.

81 Eurasian Harm Reduction Association, A review of legislative initiatives on the liability of drug-related advocacy (propaganda) in Russia, Ukraine, and Kazakhstan during the second half of 2019 and early 2020 and possible risks for social programmes aimed at working with people who use drugs, 2020 Available at: https://harmreductioneurasia.org/a-review-of-propaganda/.

82 Приказ Роскомнадзора, МВД РФ, Роспотребнадзора, ФНС РФ от 18.05.2017 г. № 84/292/351/ММВ-7-2/461@. Текст доступен на Портале правовой информации по адресу: http://pravo.gov.ru/proxy/ips/?docbody=&nd=102437295.

83 Russian Civil Society Mechanism for Monitoring of Drug Policy Reforms in Russia, supra note 80.

to delete several webpages from their sites for allegedly containing drug propaganda. Russia effectively creates a void on the Russian-language internet and fills this void with state-sponsored propaganda promoting its drug policy approach, which focuses on promoting stigma and applying harsh punishment. As a result, polls show that about 80% of Russians support mandatory drug dependence treatment, and more than 50% support the introduction of criminal liability for mere drug use.[84] This is true even for people living in Moscow, whose residents have the best access to information in the country.[85]

In countries where law enforcement and drug treatment doctors speak Russian (and do not speak English or other European languages), the influence of Russia's state-sponsored anti-drug propaganda is strong. For example, in Kazakhstan, law enforcement officials and politicians oppose OAT and other harm reduction measures, relying on pseudo-scientific arguments actively promoted by Russia.[86] In 2009, the similar opposition led to termination of Uzbekistan's OAT pilot program.[87] Across Eastern Europe and Central Asian countries, arguments to prevent or terminate OAT programs are based on false information from Russian sources. These claims create an environment of distrust, often discouraging people who may benefit from OAT from entering the program, sometimes out of fear that OAT might be terminated.

It would be a mistake to believe that only Eurasian countries are susceptible to Russian pseudo-scientific anti-drug propaganda. Russia actively promotes its anti-scientific, "tough on drugs" agenda internationally beyond these regional bodies, including through intergovernmental organizations and fora such as the CND, the main policy-making body of the UN.[88] And in 2019, the European Court for Human Rights accepted more than 4,000 pages of blatantly false statements from the Russian Government about OAT and granted Russia the widest possible "margin of appreciation" in allowing it to maintain a blanket legal ban on OAT despite the documented devastating impact of such decision on the right to private life of people living with drug dependence.[89] The readership of the Strasbourg Observer, which monitors the Court's jurisprudence, declared the judgment the worst of the European Court in 2019.[90] The Russian government actively promotes this judgment through the regional intergovernmental organizations, such as the CSTO, as the European Court's approval of Russia's abstinence-based drug treatment methods.[91]

84 Почти 80% россиян выступают за принудительное лечение наркоманов – опрос. Интерфакс. 26 августа 2014. Available at: www.interfax-russia.ru/center/novosti-podmoskovya/pochti-80-rossiyan-vystupayut-za-prinuditelnoe-lechenie-narkomanov-opros.

85 «Мнение москвичей о путях борьбы с наркоманией, алкоголизмом, табакокурением и о пропаганде здорового образа жизни». Информационно-аналитический отчет о результатах социологического исследования. Университет «Синергия». Москва, 2015. Available at: www.mos.ru/upload/documents/files/1676/zozh.pdf.

86 Parallel Submission for 62 Pre-Sessional Working Group of CESCR with respect to Kazakhstan. 2019. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fICO%2fKAZ%2f30541&Lang=en.

87 Canadian HIV/AIDS Legal Network and the Eurasian Harm Reduction Network, supra note 30.

88 M. Golichenko, A. Sarang, K. Tinasti and I. Barbosa), "Drug Policy in the Russian Federation: Do Control Policies Produce More Harm than Drugs?", in A. Klein and B. Stothard (eds.), (Emerald Publishing Limited, 2018), pp. 133-149. https://doi.org/10.1108/978-1-78756-487-920181006.

89 Никита Сологуб. 4 000 страниц и «Ставропольский край в добром здравии». Как Россия убедила ЕСПЧ, что заместительная терапия не нужна. 29 ноября 2019. Медиазона. Available at: https://zona.media/article/2019/11/29/no-therapy.

90 V. Junod and O. Simon, "Abdyusheva and Others v. Russia: A Sadly Missed Opportunity," Strasburg Observers, January 8, 2020. Available at: https://strasbourgobservers.com/2020/01/08/abdyusheva-and-others-v-russia-a-sadly-missed-opportunity/.

91 Coordination Meeting of the Chief Narcologists, "On October 6, 2020, the Coordination Meeting of the Chief Narcologists of the CSTO member states was held in Moscow," October 6, 2020. Available at: https://ksgn.odkb-csto.org/en/news/6-oktyabrya-2020-g-v-moskve-sostoyalos-koordinatsionnoe-soveshchanie-glavnykh-narkologov-gosudarstv-/.

The call to decriminalize drug possession: UN human rights treaty bodies and agencies

All countries in the four regions have legal systems that stipulate that domestic laws and law enforcement must respect international laws.[92] This also follows from the 1969 *Vienna Convention on the Law of Treaties*.[93] The respect for international treaties extends to both the UN drug control conventions and international human rights treaties (global and regional).[94] National constitutions in these countries explicitly or implicitly guarantee all human rights stipulated in the core global human rights treaties, including the right to health and the right to be free from discrimination based on health status.[95]

The interpretation of domestic laws, including those on drug control, should benefit from the implementation of international human rights treaties and guidance from the associated treaty bodies, including their decisions in individual cases as well as their observations, recommendations and general comments as to how countries can respect, protect and fulfill the human rights guaranteed by the treaties. Via resolutions adopted by the CND and the UN General Assembly, Member States have also repeatedly, unanimously declared their commitment to respecting, protecting and promoting all human rights, fundamental freedoms and the inherent dignity of all individuals and the rule of law in the development and implementation of drug policies.

As early as 1999, the UN human rights treaty bodies, as well as the Special Procedures of the UN Human Rights Council, started paying attention to human rights promotion and protection in the context of drug control.[96] By January 2021, CESCR, CEDAW, HRCttee, CAT, CRPD and CRC had all made drug policy recommendations, with a particular emphasis on countries of Eastern Europe and Central Asia.[97]

From 2011 to 2020, CRC and CESCR issued recommendations to decriminalize drug use and drug possession for personal use to Benin, Estonia, Kazakhstan, Norway, Philippines, the Russian Federation and Ukraine (twice in this last case).

In January 2019, the UN Chief Executives Board for Coordination, representing the heads of all UN agencies and programs, unanimously issued the United Nations system common position that includes a commitment to promote "alternatives to conviction and punishment in appropriate cases, including

92 R. Elliott, J. Csete, E. Wood, T. Kerr, "Harm Reduction, HIV/AIDS, and the Human Rights Challenge to Global Drug Control Policy," Health and Human Rights 8(2) 2005: 104-38. Available at: https://cdn1.sph.harvard.edu/wp-content/uploads/sites/2469/2013/07/13-Elliott.pdf.

93 Vienna Convention on the Law of Treaties, 1969. Done at Vienna on 23 May 1969. Entered into force on 27 January 1980. United Nations, Treaty Series, vol. 1155, p. 331.

94 D. Barrett, R. Lines, R. Schleifer, R. Elliott, D. R. Bewley-Taylor. "Recalibrating the Regime: The need for the human rights-based approach to international drug policy," The Beckley Foundation Drug Policy Programme and the International Harm Reduction Association, March 2008. Available at: www.hr-dp.org/contents/169.

95 UN Human Rights Office of High Commissioner, "The Core International Human Rights Instruments and their monitoring bodies," web page. Available at: www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx.

96 M. Golichenko, S. Stolz, T. Ezer, "Addressing Human Rights Abuses against People Who Use Drugs: A Critical Role for Human Rights Treaty Bodies and Special Procedures," Journal of Human Rights Practice, 10, 1 (2018): pp. 83–102. https://doi.org/10.1093/jhuman/huy011.

97 See Annex I to this brief with all recommendations given by human rights treaty bodies to EECA countries from 2008 to 2020.

the decriminalization of drug possession for personal use."[98] A similar commitment had been previously expressed by 12 UN agencies and programs.[99]

In March 2019, the WHO, the UNAIDS and UNDP co-sponsored the launch of the International Guidelines on Drug Policy and Human Rights. The Guidelines recommend the national authorities use the available flexibilities in the UN drug control conventions to decriminalize the possession, purchase or cultivation of controlled substances for personal consumption.[100] In 2019, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the CoE referred to these International Guidelines as part of its drug policy study.[101]

These recommendations should help countries to interpret their drug laws and policies according to international human rights standards. Decriminalization in particular would help immediately shift the focus of drug policy from law enforcement to public health.

Understanding "decriminalization" and removing all punitive sanctions

Drug use and related behavior, such as simple possession, should be decriminalized. However, "decriminalization" is a term can be understood and defined differently in legal systems of different countries. Even more difficulties arise from the ambiguous application of the term decriminalization to different types of behavior. Often, international experts apply interchangeably such wording as "decriminalization of drug use," "decriminalization of possession of drugs for personal use" and "decriminalization of possession of small quantities of drugs for personal use." Such inconsistent language is unclear, misleading and ultimately counterproductive for the purpose of ensuring a human rights–based and proportionate approach to drug policy. Below are just a few examples of such inconsistencies in the use of legal language, in this case by the CESCR.

In 2016 and 2017, CESCR recommended that the Philippines and Russia decriminalize possession of drugs for personal use. These were timely recommendations, appropriate to the context of both countries. However, in Russia, non-medical use of drugs is not a crime, but rather an administrative offence, punishable by up to 15 days' imprisonment or a fine. CESCR unfortunately failed to recommend that Russia remove both criminal and administrative sanctions for drug use, despite information from civil society organizations about the negative health and human rights effects of administrative sanctions for drug use and the negative effects of both administrative and criminal sanctions for drug possession for personal use. If one doubts the negative

98 UN System Chief Executive Board for Coordination. Second regular session of 2018. Manhasset, New York, 7 and 8 November 2018. CEB/2018/2. includes the Executive Heads of the United Nations, its 12 Funds and Programmes, the 15 Specialized Agencies, and 3 Related Organizations.

99 UNAIDS, UNCHR, UNICEF et al., Joint UN statement on ending discrimination in health care settings, June 2017. Available at: www.who.int/gender-equity-rights/knowledge/ending-discrimination-healthcare-settings/en/.

100 United Nations, International Guidelines on Human Rights and Drug Policy, March 2019. Available at: https://www.humanrights-drugpolicy.org/.

101 Committee on Legal Affairs and Human Rights, supra note 70.

impacts of administrative sanctions, such as fines, on human rights, including health, the case of sex work offers another good example. The existence of comparatively light administrative sanctions make sex workers vulnerable to the misuse of power by police, including extortion and gender-based violence. This is the reason the CEDAW recommends repealing administrative sanctions for sex work.[102] Punishing drug use or simple possession, which can and should be addressed more effectively by public health measures, is neither suitable nor warranted. Laws should provide a clear delineation between the activities related to drug use, including social sharing or small-scale selling of limited quantities for subsistence, and those related to large-scale drug trafficking for the purpose of systematic profit. Only the latter warrants punitive sanctions.

With this in mind, the recommendation should have been that Russia remove both administrative sanctions for drug use and administrative and criminal sanctions for drug possession for personal use. However, CESCR limited its recommendation to Russia to the "decriminalization" of drug possession, as if CESCR was satisfied with Russia maintaining both non-medical drug use and the possession of limited quantities of drugs with no intent to sell as administrative offences, despite the harms that flow from such unwarranted, punitive measures.

In March 2019, CESCR recommended that Kazakhstan "consider decriminalization of drug use." This recommendation was the result of civil society submissions that informed CESCR about the negative health and human rights consequences of the criminalization of possession of narcotic drugs for personal use, as well as the criminalization of drug use. The context of Kazakhstan is not very different from that of the Russian Federation. Non-medical use of drugs is a misdemeanor (*prostupok*), punishable by up to 20 days' imprisonment. A misdemeanor is still a criminal offence, although its implied seriousness is similar to an administrative offence in Russia. Depending on the quantity, possession of drugs with no intent to sell could be a misdemeanor, punishable by up to 40 days' imprisonment, or a crime punishable by up to seven years' imprisonment. The most consistent and appropriate recommendation would have been that Kazakhstan lift any punitive sanctions for drug use and drug possession for personal use. However, once again, CESCR limited its recommendation to Kazakhstan only to the decriminalization of drug use.

Also in March 2019, with respect to Estonia, CESCR noted with concern "the excessive fines imposed on drug users, leading to a de facto criminalization of drug use as many drug users cannot afford to pay the fine and end up in prison," and recommended that Estonia "reduce the fine on drug use". Taken together, CESCR's concern and recommendation to Estonia give the impression that CESCR approves of fines for drug use in principle, and its concern arises only because such fines are "excessive." CESCR also did not address the fact that, similar to Russia, non-medical use of drugs is an administrative offence in Estonia, punishable by fine or detention; possession of drugs for personal use can be a minor offence or a serious crime, depending on the quantity of drugs possessed. As with Russia and Kazakhstan, the most appropriate recommendation to Estonia would have been to lift sanctions for both drug use and drug possession for personal use. However, CESCR limited its recommendation to Estonia only to "excessive fines imposed on drug users".

Thus it is important to clarify that the concept of decriminalization of drug use and simple possession (for personal use) should include lifting all punitive sanctions, including both the administrative and criminal sanctions. Only full decriminalization would truly deprioritize a law enforcement response to drug use and related concerns, and instead respond to these as health concerns with science- and human rights-based measures.

102 UN Committee for the Elimination of Discrimination against Women, Concluding observations on the eighth periodic report of the Russian Federation, CEDAW/C/RUS/CO/8, November 2015, para 26.

Conclusions and recommendations

Drug laws and their enforcement are too often focused on people who use drugs, rather than those who are engaged in other harmful criminal activity in the context of commercial drug trafficking. Punitive drug laws and their enforcement practices **do not** lead to the reduction of drug supply or demand, but do result in the increase of prison populations, massive violations of human rights, and growing epidemics of HIV, viral hepatitis, drug-resistant tuberculosis and, in some settings, overdose from increasingly toxic illegal drug supplies.

Drug laws and policies should provide for **socio-medical and human rights-based approaches to drug use, including harm reduction and overdose prevention programs rather than punitive law enforcement methods. Drug policy reforms should include the following:**

- **Remove all criminal and administrative sanctions for drug use, possession of drugs for personal use, and possibly social distribution of drugs in the context of social use.***
- **Limit the scope of so-called "drug propaganda" laws, so that they do not prevent public access to accurate information about drugs and possible ways to reduce harm from their use.**
- **Immediately provide legal, political and financial support to make available, accessible, acceptable and of good quality, for all those in need, all the interventions in the WHO-recommended comprehensive package for HIV prevention among people who inject drugs.**
- **Stop the widespread practice of immediate, automatic termination of parental rights of parents who use drugs or who are drug dependent and provide such parents and families with social and medical support as a first-line response.**
- **Repeal laws that discriminate against people with drug dependence based on their diagnosis, including the practice of mandatory registration of people who use drugs and the subsequent disclosure of their registration to law enforcement, employers, and educational and licensing institutions.**
- **Amend laws, regulations and policies to increase access to controlled essential pain relief medications.**
- **Formulate guidelines that provide direction to relevant actors on taking a human rights–based approach to drug control, and devise and promote rights-based indicators concerning drug control and the right to health.****[103]
- **Consider the creation of an alternative drug regulatory framework, based on a model such as the Framework Convention on Tobacco Control.***[104]

103 Report of the UN Special Rapporteur on the Right to Health to the General Assembly, supra note 36, para 77.

104 Ibid.

* Lifting sanctions for the drug use-related behaviour:

- **Repeal criminal, administrative and other discriminatory laws** that punish in any way behavior related to drug use, including non-medical use, possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption.
- Significantly restrict the application of criminal laws to only large-scale commercial drug trafficking, by introducing a note such as the following to relevant articles in national Criminal Codes: "This article does not apply to acts of distribution of narcotic drugs or psychotropic substances in the amounts equal to or less than 10 days' worth of average daily use, if the intent to distribute for systematic enrichment is not proven beyond a reasonable doubt. The size of the average daily dose should be determined based on the tolerance of the person who declares this intended personal use purpose in a given case."[105]

** Adopt the following indicators for the impact assessment of drug policy on the right to health:

Structural indicators:

- Availability of OAT, needle and syringe programs and other harm reduction interventions, in both community and prison settings.
- Adoption and operationalization of an essential medicines list that includes controlled substances prescribed for medical purposes in accordance with internationally recognized good clinical practice.
- Availability of those essential medicines.
- Implementation of diversion or similar legislation for people with drug dependence who encounter the criminal legal system.

Process indicators:

- Percentage of detention centres in which a comprehensive package of harm reduction interventions is implemented and accessible, in accordance with international good practice standards.
- Percentage of people who use drugs who are receiving effective treatment for HIV, viral hepatitis and/or tuberculosis as clinically indicated.
- Percentage of people who are dependent on drugs receiving appropriate treatment for drug dependence (as outlined by UNODC/WHO).

105 Establishing a daily dose based on the individual's tolerance requires having the purity of the substance established by a chemist, followed by obtaining a doctor's expert opinion regarding the person's tolerance. If liability for possession for personal use is repealed, the establishment of the pre-determined threshold quantities of narcotic drugs and psychotropic substances for purposes of criminal or administrative liability loses meaning. Ten daily doses should be established based on the circumstances of the case, not by the act of the Government. In such a system, it is equally difficult for the prosecution to prove the distribution of a gram and the distribution of a kilogram. This will improve guarantees for people who use drugs from arbitrary arrest and detention. It would be difficult to prove the purpose of distribution if there is a presumption that ten daily doses or less imply the purpose of possession.

Outcome indicators:

- Prevalence and incidence of HIV, HCV and tuberculosis among people who use drugs.
- Prevalence and incidence of HIV, HCV and tuberculosis among people in prisons and other places of detention.

*** Consider creating an alternative drug regulatory framework, based on such models as the

Framework Convention on Tobacco Control:

- Consider alternatives to the current drug control system with a paradigm shift in developing a regulatory strategy to address addictive substances, which protects the rights of people who use and are dependent on drugs while minimizing associated harms. A new regulatory framework concerning drugs other than tobacco would require assessment of the scientific evidence of a drug's effects or potential effects on the individual and the public. Inclusion into the scheme would occur on a case-by-case basis, with consideration on the anticipated effects on health and other human rights.
- Consider non-prices measures such as regulation of drug content, education and awareness-building, and measures concerning dependence reduction and cessation. Implementation of these measures would secure the right to health by, *inter alia*, ensuring supply of unadulterated drugs, increasing individual and community awareness to minimize risk, and ensuring access to appropriate treatment, where necessary.
- Allow traditional, cultural use of drugs, whose public health impact has been shown to be very limited, such as coca leaves in Bolivia and various forms of cannabis in India[106]

106 Report of the UN Special Rapporteur on the Right to Health to the General Assembly, supra note 36, paras 73-75.

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