

**Fifth periodic report of Poland to the UN Committee on Economic Social and Cultural Rights
Briefing by the Open Society Institute Global Drug Policy Program and the International Harm
Reduction Association**

**Opioid Substitution Treatment (OST) of people who
are opiate dependent - Article 12 of the Covenant**

(Follow up to the mission to Poland of the Special Rapporteur on the Right to the Highest Attainable
Standard of Health, Anand Grover)

Background: Opioid Substitution Treatment (OST) is one of the most effective and evaluated forms of treatment for opiate dependence and for the prevention of HIV and other blood borne viruses.¹ It has also been proven to reduce deaths from overdose by up to 80%.² Both the current and former Special Rapporteurs on the Right to Health consider this treatment to be an aspect of the right to health for people who are dependent on opiates, including prevention of epidemics as specified in article 12(2).³ The Committee on Economic, Social and Cultural Rights has recently recommended in its Concluding Observations on the Ukraine that the State Party “make drug substitution therapy and other HIV prevention services more accessible for drug users” as part of its obligations under article 12 of the Covenant.⁴

Although OST has been available in Poland for 17 years, access to methadone (an essential medicine according to WHO⁵) is still very limited. Just 1,500 patients, approximately, receive the treatment, equivalent to just 6% of those dependent on opiates in the country (approximately 25,000). The European average is 20%. The average waiting time for access to one of the sixteen available programmes is sixty-two weeks.

There are regions in Poland including the northern coastal region of Pomorze, where there are a substantial number of people dependent on opiates, but no OST exists at all. Those who desperately need treatment have to travel long distances to receive their medicine in other parts of the country. If any of these patients are imprisoned (usually related to drug possession and sometimes for possession of methadone), they are refused their treatment and left with substandard medical assistance.

The lack of wide accessibility to the best treatment method for opiate dependence has many serious social and health consequences. Those refused OST in prisons, for example, often undergo withdrawal without appropriate medical assistance, causing considerable physical and mental distress. Every year, 250-300 people die from overdose. Lack of tolerance is a major contributor to overdose meaning that people leaving prison who are opiate dependent are at considerable risk. Lack of OST while in prison can contribute to that risk.

Blood borne viruses are a constant threat. Approximately 50% of the total registered HIV cases in Poland are related to injecting drug use. Hepatitis C rates among injecting drug users are 55-68%.⁶ Despite these figures, spending on harm reduction, including OST, is extremely low. In 2007, just 1.5 million euro was allocated for methadone. Only 66% of this was spent.

¹ See for example: U.S. Institute of Medicine (2006), Preventing HIV Infection among Injecting Drug Users in High Risk Countries: An Assessment of the Evidence, September 2006; World Health Organization (2004) Evidence for Action Technical Papers: Effectiveness of drug dependence treatment in HIV prevention, Geneva, World Health Organization 2004; World Health Organisation, Evidence for Action Technical Papers, Interventions to Address HIV in Prisons: Drug Dependence Treatments WHO/UNODC/UNAIDS, 2007; OST in prisons: Reviewing the evidence – Canadian HIV/AIDS Legal Network (2008): <http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=1293>; Farrel M, Gowing L, Marsden J, Ling W, Ali R. Effectiveness of drug dependence treatment in HIV prevention. International Journal of Drug Policy 2005; 16: 67-75; Stallwitz A. and Stover H The impact of substitution treatment in prisons – a literature review, International Journal of Drug Policy 18 (2007) 464–474

² Capelhorn JR, Dalton MS, Haldar F, Petrenas AM, Nisbet, JG. Methadone maintenance and addicts' risk of fatal heroin overdose. *Substance Use and Misuse* 1996;31:177-96; Marc Auriacombe, Pascale Franques & Jean Tignol, “Deaths attributable to methadone vs buprenorphine in France”, *Journal of the American Medical Association*, vol. 285(1), 2001

³ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt, Mission to Sweden, UN Doc A/HRC/4/28/Add.2, 28 February 2007 and UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Visit to Poland, 5-11 May 2009, Preliminary conclusions and observations, Warsaw, 11 May 2009

⁴ UN Doc No E/C.12/UKR/CO/5 paras 28 and 51

⁵ http://www.who.int/medicines/publications/08_ENGLISH_indexFINAL_EML15.pdf

⁶ International Harm Reduction Association, Global State of harm Reduction 2008

Anand Grover's visit to Gdansk: The UN Special Rapporteur on the right to the highest attainable standard of health, visited Poland at the beginning of May (May 4-12, 2009) to examine "sexual and reproductive health rights, HIV and harm reduction, drug dependence treatments and relevant laws, policies and practices, and their impact on the enjoyment of the right to health".⁷ He first met the Polish government representatives and – separately – NGOs working in the above mentioned fields. A visit to Gdansk (capital of Pomorze) was added to his agenda due to the volume of concerns raised about the lack of methadone especially in the northern part of Poland. The Special Rapporteur visited Gdansk on May 9, 2009 and met with local NGOs, and the municipal and regional authorities, whose common agreement is indispensable for opening a methadone program in Gdansk.

Following this visit, while commending the Government's "realization that substitution methods of treatment are urgently needed to address drug dependence" the Special Rapporteur raised a series of concerns about the lack of access to OST and about drug policies more generally. For example, he was concerned that

- "...the law still penalizes for the possession of small and minute amounts of narcotics and psychotropic substances" and that "...people undergoing treatment have been arrested and detained by officials for possession of methadone"
- "...drug free centres in certain areas remain the norm. As a result people using drugs from Gdansk who need methadone, for example, have to travel to Warsaw or Krakow to receive the treatment they desperately need"
- "...the lack of methadone maintenance treatment [in Gdansk] for persons using drugs"

Stating that he was pleased to note that that "the National Drug Bureau aims to increase accessibility of methadone to 20% of those in need by 2010" the Special Rapporteur also noted that "it must be realized, that such a goal is only minimal and efforts must continue to be ensured in order to make methadone more widely available and accessible". The Special Rapporteur therefore recommended that:

"targets must be set to ensure that those who are in need of methadone get it as soon as possible".

After meeting with local authorities the Special Rapporteur welcomed "the indication that the local authorities have committed to provide a methadone maintenance programme in Gdansk starting in September 2009" and said that he was "looking forward to hearing from both the local and national authorities that this positive decision has indeed been taken and that the centre will become operational in September." Prison authorities also claim they will make OST available for detainees and prisoners when a methadone programme is opened in Gdansk.

Although promises were made at the time and shortly afterwards a meeting with NGOs, representatives of the National Bureau for Drug Prevention, the National Health Fund and local and regional authorities was organized by the President of Gdansk (May 15, 2009), no action has been taken so far.

We urge the Committee to follow up on the Special Rapporteur's concerns and recommendations and ask the Government delegation what action has been taken since the Special Rapporteur's visit to improve access to OST in the country, and in particular in places of detention and in the Pomorze region.

We urge the Committee also to support the Special Rapporteur's recommendations in its Concluding Observations relating to the right to the highest attainable standard of health (article 12).

⁷ UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Visit to Poland, 5-11 May 2009, Preliminary conclusions and observations, Warsaw, 11 May 2009