



Joint submission of the Helsinki Foundation for Human Rights (HFHR), the Harm Reduction International (HRI), the International Drug Policy Consortium (IDPC), and the Eurasian Harm Reduction Association (EHRA) to the UN Committee on Economic, Social and Cultural Rights ahead of its Review of the 7th periodic report of Poland.

76th Session (09-27 September 2024)

Introduction

HFHR, HRI, IDPC and EHRA submit this briefing to the UN Committee on Economic, Social and Cultural Rights (hereinafter, “the Committee”), in relation to the 7th periodic report of Poland.

We welcome the fact that the Committee included under the Right to Physical and Mental Health (art. 12) of the List of Issues prepared ahead of the country review a request (no. 23) to: *provide information on any follow-up measures taken, and their impact, with regard to the National Programme on Countering Drug Addiction 2016–2020. Please also provide information on any follow-up measures taken, and their impact, to increase access to opioid-substitution treatment for drug dependence.*

We note challenges in the field of harm reduction and opioid-substitution treatment as is now more commonly referred to as opioid agonist therapy (OAT) as well as the human rights consequences of drug policy in Poland. The content of this submission comes from the long-lasting monitoring of in-country situation, but is also heavily influenced by information and insights provided by local organizations during the civil society consultations conducted jointly by the EHRA and the HFHR for Human Rights between June 2023 and January 2024 with the aim of supporting the upcoming CESCR’s General Comment on Drug Policy.

1. Article 6 - the right to work

In Poland, there is a lot of stigma and misunderstanding observed around drug use and a widespread lack of knowledge about drug dependence treatment (including about OAT) among employers and the general population, resulting in decreased chances of employment for people who use drugs.

Besides the negative attitude towards people with a history of drug use, two systemic factors heavily affect their employment opportunities: the punitive drug law and the organization of the OAT system in the country.

Around the world criminalization has proven ineffective and having numerous negative consequences, including for public health and human rights, and the UN encourages member states to seek alternatives to punishment.¹ It should also be noted that the Committee has reiterated in several conclusions the need to decriminalize drug use and possession in order to facilitate access to services and respect the human rights of people who use drugs.²

Poland's drug law remains one of the most restrictive models in Europe. It is defined by the Act on Counteracting Drug Addiction, according to which possession of drugs (even small amounts for personal use) is a criminal offence punishable by up to 3 years imprisonment (what violates the principle of proportionality in sentencing and reinforces the stigmatization of people who use drugs). The National Criminal Register stores criminal records for 1 to 10 years depending on the degree of the crime³. During that time, the criminal record prevents employment in particular sectors, especially those where a high degree of responsibility is required (the criminal record certificate is a formal requirement not only during the application processes for certain jobs or professional licenses, but also in the process of child adoption, for example – see section on Article 10 below).

The criminal record related to drug use may also create other legal and financial challenges that affect employment. For example, a fine which is not paid (a frequent situation among economically disadvantaged people) leads to a debt, whose enforcement by bailiffs often creates hurdles to official employment since a significant portion of earnings might be seized to cover the debt. Therefore, people convicted in the past for drug-related crimes prefer (or are forced by the situation) to seek unofficial ways of securing income.

When it comes to the organization of the OAT system, the regiment of daily attendance in treatment centers, particularly in the early hours, complicates employment, especially at the initial stages of therapy, when daily attendance is mandatory. This structure, coupled with societal stigma, forces individuals to hide their treatment status or even a history of any drug use, complicating their work situation further.

As shared by one of the respondents during the anonymous consultations with civil society representatives active in the harm reduction field in Poland: *“OAT is organized in a way that is very problematic if patients want to work. From the beginning, when you enter treatment, you have to pick up your medication every day. Very often it means you have to be on site at 7-7:30 am in the morning. [...] The aim of the treatment is basically to let people go back to their roles and activities, but the organization of the OAT prevents you from work. And once in treatment, you hide it from the employer. People who have jobs or want to find employment would never reveal they are drug users. It goes even*

¹ Among others, in the UN System Common Position Supporting the Implementation of the International Drug Control Policy Through Effective Inter-agency Collaboration, as well as the latest report of the OHCHR on the human rights implications of drug policy: A/HRC/54/53

² See, for example: E/C.12/BRA/CO/3, E/C.12/GTM/CO/4, E/C.12/MRT/CO/2

³ As defined in the Criminal Code: <https://sip.lex.pl/akty-prawne/dzu-dziennik-ustaw/kodeks-karny-16798683>

deeper – people are strongly hiding and not talking about undergoing treatment at work. They would never admit they have a drug use history”.⁴

2. Article 9 - the right to social security

People who use drugs in Poland often struggle with accessing social services due to bureaucratic barriers and a lack of proper documentation (sometimes as basic as an identity card), further aggravated by the criminalization of drugs possession. Legal barriers to accessing social benefits include registration requirements, i.e. the need to prove residence in a certain area for a required period of time to show eligibility for support.

3. Article 10 - the right to family, protection of mothers and children

Harm reduction organization reported cases of children being taken away from mothers who use drugs, including situations of separation directly at birth even when the mother was an OAT client. *“It was last year; the child was just taken away from her [mother’s] hands. We did have contact with her before [she went to hospital] and she called us. We went to this hospital and the doctors [...], they were talking about opioid substitution treatment as if it wasn't right, as if it wasn't supposed to happen. So that was really, really dramatic. After some time, we managed to get the kid back for her, but it took like three months, so really, really terrible case. And it does happen. Not often, but it does happen”*.⁵ The stigma surrounding drug use and drug use disorders seems to be a factor, which sometimes can lead to the social services’ attempt to take the child away.

As was also shared with us during the civil society consultations, with the exception of one abstinence-based treatment center that admits mothers with children, parents who decide to enroll in an in-patient treatment program have to find a caretaker for their child for the duration of the treatment.

As mentioned above, the criminal record certificate is required for the process of a child adoption, which is a challenge for persons listed in the National Criminal Register.

4. Article 11 - the right to an adequate standard of living

Access to shelters for persons who use drugs remains limited in Poland. The situation is very difficult in case of women who use drugs (even those who are victims of violence), especially women with children (see above).

5. Article 12 - the right to health

Limited access to harm reduction services is a major obstacle in the enjoyment of the right to the highest attainable standards of health for people who use psychoactive substances in Poland.

The Political Declaration on HIV and AIDS adopted by the UN General Assembly in 2021, as well as numerous other international documents, recognize harm reduction interventions as an effective method of HIV prevention (also protecting against other blood-borne diseases and fatal overdoses). Harm reduction has been acknowledged and recommended by OHCHR, UNODC, UNAIDS, and WHO,

⁴ Source of information known to the HFHR. The personal details of the individual remain anonymous to preserve their safety.

⁵ Source of information known to the HFHR. The personal details of the individual remain anonymous to preserve their safety.

and more recently by the UN Special Rapporteur on the right to health.⁶ Harm reduction has also been promoted by the Committee repeatedly as an essential component of the right to health for people who use drugs.

Access to evidence-based, cost-effective and – most importantly – life-saving harm reduction services is particularly important in Poland due to restrictive drug law, which determines the negative consequences associated with drug use on many levels – health, social, economic, etc. But while the national drug policy and HIV prevention strategies in Poland include harm reduction measures, in practice access to services remains scarce, and outside urban areas – non-existent.

As estimated by UNAIDS, the risk of acquiring HIV is 29 times higher among people who inject drugs.⁷ According to the estimates of the National Centre for Counteracting Addictions (former National Bureau for Drug Prevention), approximately 15,000 people in Poland qualify as problem opioid users⁸. Presumably, this includes mainly people who inject opioids. But the total number of people who inject various psychoactive substances is undoubtedly significantly higher (as only 33% of clients of the needle and syringe exchange programs reported⁹). Harm reduction services are life-saving interventions that reduce the vulnerability of this key population to blood-borne diseases as well as overdose.

In Poland, however, a decrease in the number of needle and syringe programs (NSP) has been observed since the criminalization of possession of any amounts of drugs in 2000. Between 2002 and 2022 the number of NSP dropped down from 21 programs operating in 23 towns to 11 in 10 towns.

There are no official drug consumption rooms in Poland.

Drug checking services, which *enable individual drug users to have their drugs chemically analyzed, providing information on the content of the samples as well as advice, and, in some cases, counselling or brief interventions* (definition by European Union Drugs Agency¹⁰), in Poland are provided by few non-governmental organizations / harm reduction groups on a very limited scope.

Naloxone (a lifesaving opioid overdose-reversal medication) is not available outside of institutionalized healthcare. There is no take-home or in-community distribution option, which is doubly worrying with the use of fentanyl spreading globally.

OAT is available in Poland free of charge, but mainly in an outdated form of methadone-based programs (25 located mainly in big cities). The number of OAT patients increased from 750 in 2005 to 3,¹¹ but it still ensures that OAT is only available to 20-25% of people who need it. The OAT clients face a challenging and time-consuming requirement to appear at facilities on a daily basis to consume their medication (the patient may be issued home medication if he or she *'has participated in the program for at least 6 months, maintains complete abstinence from narcotic drugs and psychotropic substances not prescribed by a physician and regularly participates in the therapeutic activities provided for in the*

⁶ <https://www.ohchr.org/en/documents/thematic-reports/ahrc5652-drug-use-harm-reduction-and-right-health-report-special>

⁷ Global AIDS Strategy 2021-2026. Executive Summary, p. 10, https://www.unaids.org/sites/default/files/media_asset/global-AIDS-strategy-2021-2026-summary_en.pdf

⁸ National Centre for Counteracting Addictions (former National Bureau for Drug Prevention) „Raport o stanie narkomanii w Polsce 2020” (Annual National Report 2020), p. 22, <raport-o-stanie-narkomanii-w-polsce-2020.pdf> (kcpu.gov.pl).

⁹ According to the data collected by the National Center for Counteracting Addiction in 2021. Source: „Raport 2023. Uzależnienia w Polsce” (Report 2023. Addictions in Poland), p. 27, <Raport-2023-wersja-Internetowa.pdf> (kcpu.gov.pl)

¹⁰ See [Drug checking | www.euda.europa.eu](http://www.euda.europa.eu)

¹¹ Bogusława Bukowska „30 lat leczenia substytucyjnego w Polsce” (30 years of substitution treatment in Poland), 14.11.2022; <https://www.narkomania.org.pl/czytelnia/30-lat-leczenia-substytucyjnego-w-polsce/>

program'¹²). For that reason, many patients are forced to either constantly travel to get their medicine or, due to lack of travel funds, move to the locality providing treatment, which in turn often makes them homeless¹³. They are subjected to humiliating practices, such as urine tests (often taken in the presence of medical personnel), which may result in a client's removal from the program (or as was shared with HFHR – in dosage reduction¹⁴) if drug use is repeatedly proven.¹⁵ Another factor limiting access to OAT is the lack of possibility of prescription of medications outside the programs and their (at least partial) reimbursement. As noted by the Deputy Director of the National Centre for Counteracting Addictions: *'The substitution treatment model implemented in our country ceased to be relevant to the real needs of patients many years ago. It limits access to substitution treatment and hinders the process of social reintegration of patients.'*¹⁶

Harm reduction services, including NSPs, do not exist in prisons (with the exception of OAT).

In general, harm reduction in Poland lacks proper recognition and adequate funding. The country lacks gender-sensitive harm reduction and health services at scale. There are almost no tailored harm reduction services for women, LGBTQI+, migrants. Provision of harm reduction services to minors is not accepted.

HIV treatment

The number of newly diagnosed HIV cases in Poland is steadily increasing with testing levels low and data on modes of transmission scarce (see below, under article 15).

While HIV/AIDS treatment in Poland is declaratively available to anyone in need, anecdotal evidence provides examples of difficulties in obtaining medication by people who openly admit to regularly injecting psychoactive substances or by those deprived of liberty.

Also, according to recent updates shared during the consultations conducted by HFHR and EHRA, while antiretroviral therapy (ART) medicine is still covered regardless of the insurance status, all consultations have to be covered by health insurance/paid for. *"The most recent legislation changes in terms of HIV treatment and insurance [...] - to be able to have HIV treatment you need to be insured. Before there was this opportunity - [...] we could contact the National AIDS Center and ask based on the specific case for the medication for people without insurance. It's gone"*.¹⁷ There is also information that undocumented migrants could not access ART due to lack of health insurance.

As reported by organizations providing support to people who use drugs, **in prison settings**, persons in OAT sometimes face delays in accessing such treatment when transferred to another facility. People on ART medication or undergoing treatment for Hepatitis C may face similar delays in receiving medical help. In 2022, media recorded a case of a person who had HIV and died in prison, despite repeated

¹² Order of the Minister of Health issued on March 1, 2013, on substitution treatment:

[D20130368.pdf \(sejm.gov.pl\)](#)

¹³ "Raport Biura Rzecznika Praw Osób Uzależnionych 2022 r. Jak przeciwdziałać wykluczeniu społecznemu osób uzależnionych od opioidów" (Report by the Office of the Ombudsman for People with Drugs Dependency. How to counteract the social exclusion of people with opioid dependency), p. 27, [Koszty narkomanii, koszty leczenia, koszty karania \(narkomania.org.pl\)](#)

¹⁴ Source of information known to the HFHR. The personal details of the individual remain anonymous to preserve their safety.

¹⁵ Order of the Minister of Health issued on March 1, 2013, on substitution treatment:

[D20130368.pdf \(sejm.gov.pl\)](#)

¹⁶ Bogusława Bukowska „30 lat leczenia substytucyjnego w Polsce” (30 years of substitution treatment in Poland), 14.11.2022; <https://www.narkomania.org.pl/czytelnia/30-lat-leczenia-substytucyjnego-w-polsce/>

¹⁷ Source of information known to the HFHR. The personal details of the individual remain anonymous to preserve their safety.

requests to provide him with adequate medical care, did not receive HIV treatment in any of the penitentiary units where he served his sentence.¹⁸

Stigmatization

Due to stigma in the provision of professional help and treatment, as well as fear of arrest/harassment by the police, people who use drugs tend to avoid harm reduction services or medical facilities. OAT patients report experiencing disrespect and humiliation, abuse of confidentiality and questioning of their credibility, powerlessness. Persons who inject psychoactive substances or struggle with drug use disorders face difficulties accessing appropriate health care, including HIV treatment, in some instances, being denied treatment or put at the end of wait lists for care provision.

6. Article 13 - the right to education

The National Addiction Prevention Center has a system of evaluating prevention programs (programs promoting mental health and preventing risky behaviors among children and adolescence) and a database with recommended programs that meet the standards. However, the research shows that local councils (responsible for the introduction of the programs at the local level) do not make use of the available system of recommendations and instead of implementing strategies approved by the state authorities in Poland, conduct town fairs and sports events, despite the lack of evidence, which would support the effectiveness of these activities in preventing drug use. In 2022, more than half of municipalities / local councils did not implement any of the recommended prevention programs.¹⁹

7. Article 15(1)(b) - the right to enjoy the benefits of scientific progress and its applications

There is a significant lack of up-to-date research and data on drug use and related health issues, such as the number of problematic opioid users²⁰, HIV, and hepatitis C prevalence among people who use drugs.

While Human Rights Council resolution 56/20 on the human rights in the context of HIV and AIDS adopted in July 2024 *urges States to accelerate efforts to collect, use and share granular data, as applicable, that are disaggregated by income, sex, mode of transmission, age, race, ethnicity, migratory status, disability, marital status, geographic location and other characteristics relevant in national context*,²¹ HIV testing rates in Poland remain very low and the system of epidemiological data collection and analysis lacks reliable information on possible routes of HIV transmission.

It is estimated that only about 5-9% of adults in Poland have tested for HIV at least once in their lifetime. Between 2016 and 2019, the annual testing rate dropped from 3 to 1 per 100,000 inhabitants, which equates to only about 1% of Poland's population.²²

According to official data from the National Institute of Public Health – National Institute of Hygiene, injecting psychoactive substances was a route of transmission in only 1.25% of newly diagnosed HIV cases in Poland in the year 2023²³ and in 12,9% of AIDS diagnoses between 2017 and 2021²⁴. However,

¹⁸ <https://wyborcza.pl/duzyformat/7,127290,28049245,no-i-widzi-mama-dalem-sie-zlapac.html>

¹⁹ See [KCPU_G1_zestawienia_2022.pdf](https://www.kcpu.gov.pl/duzyformat/7,127290,28049245,no-i-widzi-mama-dalem-sie-zlapac.html)

²⁰ See https://www.euda.europa.eu/data/stats2024/pdu_en

²¹ <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FRES%2F56%2F20&Language=E&DeviceType=Desktop&LangRequested=False>

²² See: https://aids.gov.pl/czy_wiesz_ze-21/ (National AIDS Centre).

²³ See: https://www.wold.pzh.gov.pl/oldpage/epimeld/hiv_aids/index.htm (National Institute of Public Health – National Institute of Hygiene) – data from 2023.

²⁴ See: http://www.wold.pzh.gov.pl/oldpage/epimeld/hiv_aids/main.htm#Ryc_2 (National Institute of Public Health – National Institute of Hygiene).

in the vast majority of HIV cases diagnosed since the research was initiated in 1985, the mode of transmission has not been examined. Despite long-standing calls from civil society to collect data on how people get infected, in 2023, in 78% of new HIV infections the mode of transmission remained unknown.²⁵

With such a huge data gap, Poland lacks reliable information on who is primarily acquiring HIV and how, and consequently, there is a risk that the state's response to the growing number of infections is inadequately designed (and potentially excludes prevention strategies and interventions tailored to populations at highest risk of infection). The National Institute of Public Health – National Institute of Hygiene itself warns:

In 78.0% of the reports, the probable route of infection was not given (in 2,247 cases of HIV infection). This is a very unfavourable situation which requires actions of all those who cooperate in monitoring the epidemiological situation of HIV/AIDS in Poland. Lack of knowledge about the ways of spreading HIV in Poland leaves the question about the reason for the sharp increase in the number of HIV infections in Poland in recent years without a convincing answer and limits the possibility of appropriate targeting of resources allocated to HIV prevention in our country.²⁶

This is doubly disturbing given that, while the European trend of new HIV infections is declining, Poland is one of the countries where the number of newly diagnosed cases is steadily increasing (with a break in 2020, when access to HIV testing was limited due to the COVID-19 lockdown measures).

8. Recommendations

In light of the above, HFHR, HRI, IDPC and EHRA recommend that the Committee considers including the following in its concluding report to the Polish government:

- ground drug policy in human rights, scientific evidence and reliable data
- decriminalize drug use and possession for personal use (which should include the removal of all sanctions, both criminal and administrative), and consider transformative change to the country's punitive drug policy, as recommended by the OHCHR
- increase the coverage of, funding for, and diversify the range of harm reduction measures, including access to naloxone, both in the community and prison settings and ensure that such services are tailored to the specific needs of women, LGBTQI+, youth, migrants and other particularly vulnerable groups of people who use drugs
- ensure equal access to evidence-based prevention, harm reduction and treatment services on a non-discriminatory basis, taking into account the specific needs of particularly vulnerable groups
- actively combat stigma and discrimination against people who use drugs, including by developing a campaign in consultation with people who use drugs to counter stereotypes and raise awareness of the rights of people who use drugs.

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²⁵ See: http://wwwold.pzh.gov.pl/oldpage/epimeld/hiv_ aids/index.htm (National Institute of Public Health – National Institute of Hygiene) – data from 2023.

²⁶ See: http://wwwold.pzh.gov.pl/oldpage/epimeld/hiv_ aids/index.htm (National Institute of Public Health – National Institute of Hygiene) – data from 2023.