

# **Shadow Report to the Committee on Economic, Social and Cultural Rights in relation to the review of the 6<sup>th</sup> Periodic Report of the Russian Federation (E/C.12/RUS/6).**

This report is drafted on behalf of the Russian Public Mechanism for Monitoring of Drug Policy Reform by the Andrey Rylkov Foundation for Social Justice and Health with technical assistance of the Canadian HIV/AIDS Legal Network\*.

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## **Section I.**

### **1.1 Introduction and summary**

With this report we would like to inform the Committee on Economic, Social and Cultural Rights (CESCR) about the following serious violations of Articles 3 and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR):

- The Russian Federation did not fulfil CESCR recommendations given in paragraph 29 of June, 2011 Concluding Observations; Russian authorities retaliated against civil society organization which called upon them to fulfill these recommendations. As a result, HIV epidemic in Russia continues growing. Nearly two-thirds of European HIV cases are now in Russia. Up to 1.8 million of people who inject drugs remain a group of people most vulnerable to HIV, Hepatitis C, Tuberculosis (TB), and lethal drug overdoses. Moreover, Russian authorities obstruct the activities of HIV and harm reduction service providing non-governmental organizations by labeling them “foreign agents”, which bares significant humiliating connotation in Russia.
- The Government of the Russian Federation does not ensure gender sensitive medical and social care for women who use drugs, including women living with drug dependency and drug dependent women with children.

Section two below provides additional information related to the aforementioned violations of Article 3 and 12 of ICESCR. For relevant statistics, please see Annex I.

Paragraph 29 of June 1, 2011 Concluding Observations (E/C.12/RUS/CO/5):

*The Committee remains concerned about the spread of drug addiction, including by way of injection, which is the main factor for the growing epidemic of HIV/AIDS, hepatitis C and tuberculosis in the Russian Federation. The Committee also remains concerned about the continued ban on the medical use of methadone and buprenorphine for treatment of drug dependence and the fact that the Government does not support opioid substitution therapy (OST) and needle and syringe programs which are strongly recommended by WHO/UNAIDS, UNODC, and other international organizations, as effective measures for prevention of HIV/AIDS among injecting drug users (art. 12).*

*The Committee urges the State party to apply a human rights-based approach to drug users so that they do not forfeit their basic right to health. The Committee strongly recommends the State party to provide clear legal grounds and other support for the internationally recognized measures for HIV prevention among injecting drug users, in particular the opioid substitution therapy with use of*

*methadone and buprenorphine, as well as needle and syringe, and overdose prevention programs.*<sup>1</sup>

We would like to refer to the Sixth Periodic Report of the Russian Federation to CESCR<sup>2</sup>, where the Russian Federation failed to report about any steps to implement Paragraph 29 of the 2011 Concluding observations.

## **1.2 Issues to be taken up in connection with the consideration of the sixth periodic report of the Russian Federation**

To the Government of the Russian Federation:

- Please provide detailed information on the implementation of the recommendation in paragraph 29 of June 1st, 2011 Concluding Observations of the Committee on Economic, Social and Cultural Rights
- Please provide information about the reasons for the inclusion of several HIV service providing organizations into the list of “foreign agents”.
- Please provide information as to how the Government insures social and medical support for women who use drugs, including during pregnancy and women with children. Please provide information about the effect of the implementation of Article 69 of the Family Code of the Russian Federation (deprivation of drug dependent people of their parental rights) on the vulnerability of women who use drugs to human rights violations and discrimination.
- Please provide information about the HIV test-treat-retain cascade analysis, especially with respect to people who use drugs.

## **1.3 Recommendations to the Government:**

- *As to the implementation of Article 3 of the Covenant:*  
The Russian Federation should insure access to gender sensitive drug dependence treatment and harm reduction services for women who use drugs. The state party should repeal or significantly limit the implementation of Article 69 of the Family Code of the Russian Federation as it provides for the alcohol or drug dependence to be the sole ground for the involuntary termination of parental rights.
- *As to the implementation of Article 12 of the Covenant:*  
The Russian Federation should fulfil the 2011 CESCR recommendations regarding gender balanced and human rights based approach to people who use drugs, opioid substitution therapy, needle and syringe programs, and overdose prevention programs. As a matter of priority the authorities should immediately lift the legal ban on the

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\*Information about this organization is in Annex II

<sup>1</sup> Consideration of reports submitted by States parties under Articles 16 and 17 of the Covenant Concluding Observations of the Committee on Economic, Social and Cultural Rights. E/C.12/RUS/CO/5

<sup>2</sup> E/C.12/RUS/6. Online at

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW6GSHccr6qkTFg5K59iPSazoMt6smUFno4gJQANaAv4zt1TX441DRI23cGBF60CJ1Tcv2xhzdV38kL%2fZxTJrUWxg3NUaQm6NO2WToyW%2fRHIn>

medical use of narcotic drugs in the treatment of drug dependence and introduce opioid substitution treatment programmes with use of methadone and buprenorphine; provide political and financial support to needle and syringe programmes and overdose prevention programs, including the free access of people who use drugs to naloxone; and stop labeling HIV and harm reduction service providers as “foreign agents”.

## **Section II. Information for the Committee concerning the implementation of the recommendation in paragraph 29 of June 1st, 2011 Concluding Observations of the Committee on Economic, Social and Cultural Rights (E/C.12/RUS/CO/5)**

### **2. 1 The state authorities ignored the CESCR recommendation to apply human rights-based approach to drug users.**

Nearly two-thirds of European HIV cases are now in Russia.<sup>3</sup> The number of new HIV diagnoses in Russia has increased 15% in one year (2015), 57% since 2010, and 133% since 2006. Russia admitted this year that more than a million of its citizens have HIV. This is 0.8% of its adult population and is at least the same number as the US in a country with 45% of the US population.<sup>4</sup>

The lack of government support to harm reduction and the prohibition of undermines those timid efforts of the government to prevent HIV among people who use drugs, as without harm reduction interventions, including OST, people who use drugs remain extremely vulnerable to fall out of the continuum (cascade) of HIV test-treat-retain interventions. The government does not have data related to the continuum (cascade). International research data suggest that Eastern Europe, including Russia, lags behind African countries when it comes to the HIV continuum of treatment and care.<sup>5</sup> In Russia this can be attributed to the lack of WHO recommended HIV prevention, treatment and care with respect to people who use drugs.

As a result of applying the criminal justice, rather than public health approach to drug use and drug dependence treatment, human rights violations against people who use drugs are widespread in Russia, which was a matter of concern of the recent review of the Russia’s periodic report by the UN Human Rights Committee (HRCtee). In particular HRCtee noted the legal ban on OST and expressed concerns about allegations that the police sometimes deliberately cause arrested drug users to suffer withdrawal symptoms in order to elicit forced confessions or coerce them into cooperating with the police.<sup>6</sup>

Whilst the overall number of prisoners is declining, the number of prisoners convicted for drug crimes is growing; 25% of all prisoners in Russia are convicted for drug crimes, 40% of

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<sup>3</sup>Gus Cairns. *Nearly two-thirds of European HIV cases are now in Russia*. AIDSMAP. 09 January 2017. Online: <http://www.aidsmap.com/Nearly-two-thirds-of-European-HIV-cases-are-now-in-Russia/page/3109895/>

<sup>4</sup> Ibid.

<sup>5</sup> Alcorn K., Treatment cascades show 90-90-90 goal within reach for some – but Eastern Europe lags behind Africa. June 2015. Online: <http://www.aidsmap.com/Treatment-cascades-show-90-90-90-goal-within-reach-for-some-but-Eastern-Europe-lags-behind-Africa/page/2986802/>

<sup>6</sup> Human Rights Committee: Concluding observations on the seventh periodic report of the Russian Federation. 28 April 2015. CCPR/C/RUS/CO/7. Online: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhstWB5OJfDOQHMEkiX20XNhIfwS44vVjDCG9yOfCaGgJ%2b4aMVruPFpyUaMYJvfEOEBQCPHWJdUArBGIBJo5DzI4ZqOZa12FMGUZJqFSjwcIYP>

all women in prisons are convicted for drug crimes.<sup>7</sup> Drug users, not drug traffickers, are the main target for drug enforcement. In 2015 the number of people convicted to imprisonment for drug possession was 7,6 thousand higher than the number of people convicted to imprisonment for drug trafficking.<sup>8</sup>

The state authorities continue using punitive laws and the policy of stigma and discrimination to force people who use drugs to stop using drugs with no access to evidence based treatment or to undergo mandatory drug dependence treatment of a very dubious quality.<sup>9,10</sup>

Between 2013 and 2015, the Russian authorities amended the Federal Law “On Narcotic Drugs and Psychotropic Substances”, the Criminal Code of the Russian Federation, the Code of Administrative Offences of the Russian Federation and the Criminal Procedural Code of the Russian Federation to further enable courts to send drug users to drug dependence treatment under the threat of criminal or administrative punishment.<sup>11,12</sup> This form of mandatory treatment enforced by the criminal justice system, is in conflict with the International Covenant on Economic, Social and Cultural Rights as it does not allow for the ability to withdraw from treatment.<sup>13</sup>

Punitive law enforcement strategies have serious health implications such as increasing risky behaviors by “discouraging carrying clean needles, prompting rushed and unsafe injections in riskier environments and keeping PWID from service structures.”<sup>14</sup>

Harm reduction programs involving provisions of clean needles and syringes and dispensing the opioid agonists and in some cases antagonist - naloxone, has shown to be effective in minimizing HIV transmission and intensity of drug use.<sup>15</sup> While the WHO had emphasized the cost effective nature of such operations<sup>16</sup> there have been numerous reports that people who use drugs have been arrested for possession of needles and syringes, which is not

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<sup>7</sup> Official statistics of the Federal Penitentiary Service for the years 2003-2015. Online:

<http://fsin.su/structure/inspector/iao/statistika/Xar-ka%20lic%20sodergahixsya%20v%20IK/>

<sup>8</sup> Official statistics of the Supreme Court Judicial Department. Online: <http://www.cdep.ru/index.php?id=79>

<sup>9</sup> Golichenko M, Sarang A. *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 Hum Rights Journal. 2013 Jun 14;15(1):E135-43.

<sup>10</sup> Lunze, Karsten et al. "Stigma And Human Rights Abuses Against People Who Inject Drugs In Russia—A Qualitative Investigation To Inform Policy And Public Health Strategies". PLOS ONE 10.8 (2015): e0136030. Web. <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0136030>

<sup>11</sup> "Федеральный Закон "О Внесении Изменений В Отдельные Законодательные Акты Российской Федерации" От 25.11.2013 N 313-ФЗ (Действующая Редакция, 2016)". Consultant.ru. N.p., 2016. Web. 20 Aug. 2016. [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_154738/](http://www.consultant.ru/document/cons_doc_LAW_154738/)

<sup>12</sup> "Федеральный Закон "О Внесении Изменений В Отдельные Законодательные Акты Российской Федерации" От 25.11.2013 N 313-ФЗ (Действующая Редакция, 2016)". Consultant.ru. N.p., 2016. Web. 20 Aug. 2016. [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_154738/](http://www.consultant.ru/document/cons_doc_LAW_154738/)

<sup>13</sup> Lunze, Karsten et al. "Mandatory Addiction Treatment For People Who Use Drugs: Global Health And Human Rights Analysis: Table". BMJ (2016): i2943. Web. <http://www.bmj.com/content/353/bmj.i2943>

<sup>14</sup> Lunze K, Rahman F, Gnatienco N, Samet JH. "Drug law enforcement, health, and human rights among people who inject drugs: a global mixed studies review." (2013) ;International Conference on Global Health and Prevention and Treatment of Substance Abuse and HIV, April 17th—19th, 2013, Taipei, Taiwan.

<sup>15</sup> Wodak, Alex and Leah McLeod. "The Role Of Harm Reduction In Controlling HIV Among Injecting Drug Users". AIDS 22.Suppl 2 (2008): S67-S79. Web. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3329723/>

<sup>16</sup> WHO. Effectiveness of sterile needle and syringe programming in reducing HIV/AIDS among injecting drug users (Evidence for action technical papers). 2004. [http://www.who.int/hiv/pub/prev\\_care/en/effectivenesssterileneedle.pdf](http://www.who.int/hiv/pub/prev_care/en/effectivenesssterileneedle.pdf)

illegal.<sup>17</sup>

## **2.2 The Russian state authorities persecute civil society activists for promoting CESCRR recommendations.**

From June 2011 the Andrey Rylkov Foundation for Health and Social Justice (ARF) acting on behalf of the Russian Public Mechanism for Monitoring of Drug Policy Reform, tried to promote CESCRR recommendation given in paragraph 29 of June 2011 Concluding Observations.

In late August 2011 the ARF sent an appeal to the President of the Russian Federation<sup>18</sup> pertaining to the need for the Russian Federation to implement CESCRR recommendations.<sup>19</sup> The Ministry of Health responded on behalf of the President. The response of the Ministry pertained to the 'ineffectiveness of OST'. It contained many factual errors, inaccuracies and misinformation that mislead the public.<sup>20</sup> At the same time the Federal Drug Control Service (FDCCS) shut down the ARF website that provided information about these CESCRR recommendations and the measures the CESCRR (and other UN agencies) recommend to be adopted in Russia. The FDCCS reported to the public that the website was shut down for the promotion of opioid substitution therapy.<sup>21</sup> Russian Courts did not protect the ARF right to freedom of expression. In 2013 ARF filed an application on this matter to the European Court of Human Rights.

In violation of the right to access to information as well as the right to health, Russian authorities limit free distribution of and access to scientific and human rights information about OST. In fact, the government and Ministry of Health distribute false information regarding OST, misleading the Russian public. False information about advocates of OST is also spread in order to discredit them.<sup>22,23</sup>

## **2.3 Termination of OST program in Crimea**

In March-April 2014 the Russian authorities blocked supply of OST medications to Crimea after the Russian Federation took control over Crimea on March 20, 2014. As the result 803 patients of opioid substitution therapy (which was legal in Crimea when it was part of Ukraine) were put into rapid withdrawal and further at risk of using illicit drugs and all

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<sup>17</sup> Lunze, Karsten et al. "Punitive Policing And Associated Substance Use Risks Among HIV-Positive People In Russia Who Inject Drugs". Journal of the International AIDS Society 17.1 (2014): n. pag. Web.

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4093768/>  
<sup>18</sup> Detailed account of the appeal, with full transcript of the letter <http://rylkov-fond.org/blog/prava-cheloveka/pravo-na-zdorovie/icescr/>

<sup>19</sup> Information about the litigation on ARF's website <http://rylkov-fond.org/blog/zamestitelnaya-terapiya/v-rossii/arf-best-practice-hr/>

<sup>20</sup> The full transcript of the reply can be accessed here <http://rylkov-fond.org/blog/zamestitelnaya-terapiya/v-rossii/arf-best-practice-hr/attachment/20120323095632916/>

<sup>21</sup> Information note regarding retaliation of the Government of the Russian Federation against ARF for promoting the recommendations made by the UN CESCRR to the Russian Federation in its Concluding Observations. July 11, 2012. <http://en.rylkov-fond.org/blog/arf-advocacy/arf-international-advocacy/infonote-cescr-arf-website/>

<sup>22</sup> ARF and Canadian HIV/AIDS Legal Network report regarding violation by the Government of the Russian Federation of the right to enjoy the benefits of scientific progress and its applications <http://www.aidslaw.ca/site/when-science-is-just-a-decoration-russian-drug-policy-the-right-to-scientific-progress/>

<sup>23</sup> Mikhail Golichenko and Tatyana Margolin. Right to Know: True or False? INTERIGHTS Bulletin Volume 17 Number 3 2013. Online: [http://sagecollection.ca/en/system/files/interights\\_17-3\\_2013.pdf](http://sagecollection.ca/en/system/files/interights_17-3_2013.pdf)

adverse health consequences<sup>24</sup>. The May 2014 experts' mission to Ukraine organized by the Pompidou Group, together with the Ukrainian Drug Control Service and the United Nations Office on Drugs and Crime, concluded that the discontinuation of OST in Crimea and lack of medical supply of methadone and buprenorphine in Eastern Ukraine "poses a great challenge to the progress recently observed in the field of HIV prevention and drug treatment in the country."<sup>25</sup> The UN Secretary-General's Special Envoy for HIV/AIDS in Eastern Europe and Central Asia, along with Ukrainian non-governmental organizations providing HIV prevention services, reported their knowledge of dozens of former OST patients in Crimea who died due to the discontinuation of the OST program in Crimea by the Russian Federal Drug Control Service following annexation;<sup>26</sup> data from Crimea OST patients are consistent with these reports<sup>27</sup>. The Ministry of Health of the Russian Federation denies these data.<sup>28</sup>

## **2.4 The ongoing litigation challenging the legal ban on OST in the European Court of Human Rights.**

There are three on-going cases, which have been communicated to the Russian Federation by the European Court of Human Rights regarding the lack of access to OST in Russia. The cases are similar on facts and legal claims.<sup>29</sup>

The applicants have alleged that the ban on OST by the Russian government interferes with their human rights as guaranteed by the European Convention on Human Rights. They have cited Article 3, on torture, Article 8, on the right to respect private and family life, and Article 14, on the prohibition of discrimination.<sup>30</sup>

In response to the three applications, the Government requested that the European Court should leave matters of health policy to domestic authorities as they are in the best position to strike a fair balance between the competing interests of the applicants and the community as a whole.<sup>31</sup> In order to intimidate the applicants, in 2014 the authorities arrested Abduysheva<sup>32</sup>

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<sup>24</sup> During his first official statement on Crimea on April 2, 2014 the Director of the Russian Federal Drug Control Service insisted that opioid substitution therapy shall be closed.

[http://fskn.gov.ru/includes/periodics/speeches\\_fskn/2014/0402/104829810/detail.shtml](http://fskn.gov.ru/includes/periodics/speeches_fskn/2014/0402/104829810/detail.shtml)

<sup>25</sup> Co-operation Group to Combat Drug Abuse and illicit trafficking in Drugs. "Substitution maintenance treatment in Ukraine: Humanitarian and medical mission". 16-21 May 2014. P-PG/ (2014) Misc 1rev. Page 4. Available at <http://www.coe.int/>

<sup>26</sup> "ООН: наркоманы Крыма умирают без заместительной терапии". 22 January 2015. Available at [http://www.bbc.co.uk/russian/society/2015/01/150122\\_crimea\\_drugs\\_crisis](http://www.bbc.co.uk/russian/society/2015/01/150122_crimea_drugs_crisis)

<sup>27</sup> Video about OST termination in Crimea. Eurasian Network of People Who Use Drugs. January 2015. Available at <https://www.youtube.com/watch?v=G9zhiLK5AGY>

<sup>28</sup> "Минздрав: в Крыму снижается смертность наркозависимых, проходивших заместительную терапию". 21 January 2015. Available at <http://tass.ru/obschestvo/1713220>

<sup>29</sup> Case Information Sheet: Kurmanayevskiy et al v Russia by the International Centre on Human Rights and Drug Policy [http://www.hr-dp.org/files/2016/05/24/ICHRDP\\_Factsheet\\_May2016\\_FINAL.pdf](http://www.hr-dp.org/files/2016/05/24/ICHRDP_Factsheet_May2016_FINAL.pdf)

<sup>30</sup> Ibid

<sup>31</sup> This summary is from the Case Information Sheet: Kurmanayevskiy et al v Russia by the International Centre on Human Rights and Drug Policy [http://www.hr-dp.org/files/2016/05/24/ICHRDP\\_Factsheet\\_May2016\\_FINAL.pdf](http://www.hr-dp.org/files/2016/05/24/ICHRDP_Factsheet_May2016_FINAL.pdf)

<sup>32</sup> European Court of Human Rights: Communiquée le 12 mai 2014 et le 12 septembre 2014. [http://hudoc.echr.coe.int/eng#{"fulltext":\["abduysheva"\],"documentcollectionid":\["JUDGMENTS","DECISIONS","COMMUNICATEDCASES","CLIN"\],"itemid":\["001-146921"\]}](http://hudoc.echr.coe.int/eng#{)

and persecuted an NGO which provided support for Anoshkin<sup>33</sup>. As of the end of December 2016 the European Court has not set up the date of the hearings for the three cases.

In March-May, 2016 Dmitry Polushkin, a person, living with HIV, hepatitis C, and drug dependence, challenged the federal legal ban on OST in the Constitutional Court of Russia. The core argument of Mr. Polushkin was that the lack of access to OST violates his right to health, which is guaranteed by the Constitution of the Russian Federation, Article 41.<sup>34</sup> The Constitutional Court rejected the application without considering it on the merits. According to the Constitutional Court, the legal ban is prima facie in line with the Constitution and international obligations of the Russian Federation.<sup>35</sup> In September 2016 Mr. Polushkin filed the application to the European Court of Human Rights on the grounds similar to the abovementioned three applications.

## **2.5 Communications of the UN Special Rapporteur with Russian authorities regarding OST and HIV**

In 2010 the Special Rapporteur communicated to the Russian Government an individual complaint concerning the lack of access of a person living with drug dependence to OST. No action was taken by the Russian Government.<sup>36</sup>

## **2.6 Communications of the UN Special Rapporteur with Russian authorities regarding OST and TB<sup>37</sup>**

Tuberculosis (TB), especially multidrug-resistant TB (MDR-TB) and rifampicin-resistant (RR-TB), is a major health concern in Russia (please see Annex I with relevant statistics).

There are two major sources of TB in Russia:

1. Prisons, including due to high rates of imprisonment of people whose immune system is weakened by drug dependence and HIV.<sup>38</sup>
2. The lack of evidence based services for patients with drug and alcohol dependence. These patients demonstrate high failure and default rates of treatment.<sup>39</sup> The lack of

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<sup>33</sup> European Court of Human Rights. Communiqué le 12 mai 2014 et le 12 septembre 2014.

[http://hudoc.echr.coe.int/eng#{\"fulltext\":\[\"anoshkin\"\],\"documentcollectionid2\":\[\"JUDGMENTS\",\"DECISIONS\",\"COMMUNICATEDCASES\",\"CLIN\"\],\"itemid\":\[\"001-146924\"\]}](http://hudoc.echr.coe.int/eng#{\)

<sup>34</sup> Конституционный суд заместит терапию. Газета Коммерсантъ. 10.03.2016.

<http://www.kommersant.ru/Doc/2933067>

<sup>35</sup> Определение Конституционного суда РФ № № 1009-О. 26.05.2016

<http://doc.ksrf.ru/decision/KSRFDecision236300.pdf>

<sup>36</sup> Report of the Special Rapporteur on the right to health to the UN Human Rights Council: Summary of communications sent and replies received from States and other actors. A/HRC/17/25/Add.1, May 2011. Paras. 289-293 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/132/11/PDF/G1113211.pdf?OpenElement>

<sup>37</sup> Report of the Special Rapporteur on the right to health to the UN Human Rights Council: Summary of communications sent and replies received from States and other actors. A/HRC/17/25/Add.1, May 2011. Paras. 272-282 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/132/11/PDF/G1113211.pdf?OpenElement>

<sup>38</sup> Sarang, Anya et al. "Prisons As A Source Of Tuberculosis In Russia". International Journal of Prisoner Health 12.1 (2016): 45-56. Web. <http://www.ncbi.nlm.nih.gov/pubmed/26933992>

<sup>39</sup> The New Profile of Drug-Resistant Tuberculosis in Russia. A Global and Local Perspective

access to OST significantly contributes to inability of drug dependent patients to adhere to treatment regimen.

In 2010 and 2013, the Special Rapporteur on the right to health communicated urgent appeals to the Government of the Russian Federation concerning the TB treatment of people living with HIV and drug dependency. To the present moment the Government did not act upon the appeals. On the contrary, health authorities retaliated against the whistle-blower, a TB clinic patient who brought a complaint to the UN Special Rapporteur on the right to health.<sup>40</sup>

## **2.7 Lack of access to OST for pregnant women who use drugs and the lack of HIV prevention and social support for women who use drugs (violation of Article 3 and 12 of ICESCR).**

WHO asserts that “for women who are pregnant or breastfeeding, opioid agonist maintenance with methadone is seen as the most appropriate treatment, taking into consideration effects on the fetus, neonatal abstinence syndrome, and impacts on antenatal care and parenting of young children”.<sup>41</sup>

In 2013 the UN Special Rapporteur on violence against women and the UN Special Rapporteur on the Right to Health communicated a joined letter to the Government of the Russian Federation with respect to human rights of a woman who experienced humiliation during pregnancy. She did not receive adequate medical support with respect to her pregnancy due to the lack of access of women with drug dependence to OST in Russia. The government refused to act on the letter on the Special Rapporteurs.<sup>42</sup>

In September 2013 the European Court of Human Rights (ECHR) communicated to the Government of Russia a case of Elena Ismailova, a woman living with drug dependency, who was deprived of her parental rights based on the fact that she was drug dependent.<sup>43</sup> According to Russian Family Code, Article 69, the fact of drug dependency can be a sole reason for the involuntary termination of parental rights, regardless of any other considerations. This provision strongly discourage drug dependent women with children from seeking medical help and social support, especially against the backdrop of the fact that there is no single drug treatment and rehabilitation center in Russia, which would provide care for drug dependent women with children.

In November 2015 the UN Committee on the Elimination of Discrimination against Women (CEDAW) expressed concerns about:

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Summary of a Joint Workshop. Institute of Medicine (US) Forum on Drug Discovery, Development, and Translation; Russian Academy of Medical Science. Washington (DC): National Academies Press (US); 2011. Figure 7-1. Online: <https://www.ncbi.nlm.nih.gov/books/NBK62461/>

<sup>40</sup> TB, Stigma, and Drug Control: A case from Russia. February 2016. Online: <http://en.rylkov-fond.org/blog/tbr/tb-stigma-and-drug-control/>

<sup>41</sup> Guidelines for the Psychosocially Assisted Pharmacological Treatment of Opioid Dependence. WHO, 2009. P. 51

<sup>42</sup> Office of the United Nations High Commissioner for Human Rights. Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on violence against women, its causes and consequences. 2013. [https://spdb.ohchr.org/hrdb/24th/Public\\_-\\_AL\\_Russia\\_15.07.13\\_\(5.2013\)\\_Pro.pdf](https://spdb.ohchr.org/hrdb/24th/Public_-_AL_Russia_15.07.13_(5.2013)_Pro.pdf)

<sup>43</sup> Application no. 68868/14 Yelena Nikolayevna ISMAILOVA against Russia. HUDOC. Online: [http://hudoc.echr.coe.int/rus/?i=001-167410#{"itemid":\["001-167410"\]}](http://hudoc.echr.coe.int/rus/?i=001-167410#{)



*(d)The absence of substitution therapy programmes for women who use drugs, which also contributes to the spread of HIV/AIDS;*

*(e)The steady increase in the proportion of women among early-stage HIV patients.*

CEDAW recommended the Russian Federation

**(c) To develop programmes of substitution therapy, in line with the recommendations of the World Health Organization, for women drug users, and intensify the implementation of strategies to combat HIV/AIDS, in particular preventive strategies, including by increasing efforts to prevent sexual and mother-to-child transmission;**

**(d) To reduce the high rate of HIV/AIDS among women and improve the availability of and access to HIV/AIDS services, including antiretroviral treatment, especially in rural and remote areas.<sup>44</sup>**

## **2.8 The Russian Government does not provide any political, financial, or legal support to needle and syringe, and overdose prevention programs.**

Apart from a few small-scale city programs in just three regions of Russia, no needle and syringe, and no overdose prevention programs for street drug users are supported by the federal, regional, or municipal authorities.

International donors provide support for a very limited number of harm reduction programs in Russia until the end of 2017. However NGOs which receive financial support from international donors for harm reduction program are at risk of being labeled “foreign agents”. Apart from increasing the administrative burden for reporting, the label of “foreign agent” carries a heavy social stigma, which sends a clear signal to state bodies not to cooperate with harm reduction NGOs, contrary to CESCRC recommendations to provide political and financial support to harm reduction.<sup>45</sup>

On at least two occasions the reason for labeling harm reduction NGOs “foreign agent” was “the distribution of needle, syringes and condoms among people who use drugs”, which according to the authorities was contrary to the Russian policy.<sup>46</sup> The Ministry of Justice can designate NGOs as a foreign agent if they engage in “political activity” and receive foreign funding. The broad definition of “political activity” under the law means that it extends to aspects of HIV prevention work such as the distribution of needles, syringes and condoms, as well as to human rights activities.<sup>47</sup>

In 2013, the Office of the United Nations High Commissioner for Human Rights expressed its serious concern over the potential of the Russia federal “Law on Introducing Amendments

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<sup>44</sup> CEDAW: Concluding observations on the eighth periodic report of the Russian Federation. CEDAW/C/RUS/CO/8. November 2015. Para 35.

<sup>45</sup> "Russia: Government Against Rights Groups". Human Rights Watch. N.p., 2016. Web. 22 Aug. 2016. <https://www.hrw.org/russia-government-against-rights-groups-battle-chronicle>

<sup>46</sup> Дело шприцев. Прокуратура увидела политическую подоплеку в борьбе с ВИЧ/ Газета Коммерсантъ. August 9, 2016. Online: <http://www.kommersant.ru/Doc/3058883>

<sup>47</sup> "'Foreign Agent' Stigma Hangs Over Russian HIV NGO". themoscowtimes.com. N.p., 2016. Web. 22 Aug. 2016. <https://themoscowtimes.com/news/foreign-agent-title-hangs-over-russian-hiv-fighters-54914>

to Legislative Acts of the Russian Federation in Part Regulating Activities of Noncommercial Organizations which Carry Functions of Foreign Agents” to “arbitrarily limit the enjoyment of the right to freedom of association, particularly of NGOs working on human rights issues.”<sup>48</sup>

### **Section III. Conclusions**

The Government of the Russian Federation failed to fulfil the recommendation given in paragraph 29 of June, 2011 CESCR Concluding Observations. Due to this the epidemic of injecting drug use and HIV, connected to TB and Hepatitis C, continues fast growing. New HIV diagnoses are increasing at a rate of over 4 times as much as countries like France, with over half these diagnoses coming from injecting drug use. As a matter of priority the Russian Government should immediately lift the ban on the medical use of narcotic drugs in the treatment of drug dependence and introduce opioid substitution treatment programmes with use of methadone and buprenorphine; provide political and financial support to needle and syringe programmes and overdose prevention programs, including the free access of people who use drugs to naloxone; and stop labelling HIV and harm reduction service providers as “foreign agents”. It should also take all available measures to stop punitive measures against drug users, including women and women with children. In absence of reforms to the health services available to injecting drug users as well as to the prevention and treatment of HIV/AIDS, the Russian Federation’s commitment to article 12 of the ICESCR remains questionable.

#### **Annex I**

##### **Drug use and related health problems in Russia**

The estimated number of people who use illegal drugs in Russia is 7 million.<sup>49</sup> (about 4,600 per 100,000)

There are approximately 28.7 per 100 000 deaths from drug overdose per year in Russia.<sup>50</sup>

HIV prevalence among people who inject drugs in Russia is 24.6%.<sup>51</sup>

The estimated number of people who inject drugs in Russia is about 1.5 million people according to UNAIDS<sup>52</sup>, or 2.29% of the population according to the UNODC.<sup>53</sup>

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<sup>48</sup> Mandates Of The Special Rapporteur On The Promotion And Protection Of The Right To Freedom Of Opinion And Expression; The Special Rapporteur On The Rights To Freedom Of Peaceful Assembly And Of Association; And The Special Rapporteur On The Situation Of Human Rights Defenders. 1st ed. 2013. Web. 22 Aug. 2016. [https://spdb.ohchr.org/hrdb/24th/public\\_-\\_AL\\_Russia\\_13.06.13\\_\(3.2013\).pdf](https://spdb.ohchr.org/hrdb/24th/public_-_AL_Russia_13.06.13_(3.2013).pdf)

<sup>49</sup> Interview with head of Federal Drug Control Agency, Viktor Ivanov, by the Moscow Times <https://themoscowtimes.com/articles/russia-must-step-up-and-fight-its-drug-problem-47822>

<sup>50</sup> Interview with Olga Mishina, head of the Federal Drug Service, quoted in RT <http://rt.com/news/171348-russia-drugs-death-crime/>

<sup>51</sup> UNODC 2015 Report [http://www.unodc.org/documents/wdr2015/WDR15\\_Opiates.pdf](http://www.unodc.org/documents/wdr2015/WDR15_Opiates.pdf)

<sup>52</sup> UNAIDS Gap Report 2016 [http://www.unaids.org/sites/default/files/media\\_asset/2016-prevention-gap-report\\_en.pdf](http://www.unaids.org/sites/default/files/media_asset/2016-prevention-gap-report_en.pdf)

<sup>53</sup> UNODC 2015 Report [http://www.unodc.org/documents/wdr2015/WDR15\\_Opiates.pdf](http://www.unodc.org/documents/wdr2015/WDR15_Opiates.pdf)

The number of registered people living with HIV in Russia as of January 2016 is over one million.<sup>54</sup> This has doubled since 2008.<sup>55</sup> As of December 31, 2015 the prevalence of HIV in Russia was 541,8 per 100,000.<sup>56</sup>

According to the Minister of Health, the annual growth rate of the number of people living with HIV users in Russia is 10-12% per year, with a predicted 250% increase of new cases by 2020 if the financial support for HIV prevention, treatment and care remains on the current level.<sup>57</sup>

It is estimated that from 1987 to 2008 about 79.78 % of HIV infections were related to intravenous drug use.<sup>58</sup> In 2015 up to 53,6% of newly diagnosed cases of HIV were attributed to injecting drug use; 44,0% – unprotected heterosexual contacts; 1,5% – unprotected homosexual contacts; 0,9% - mother to child transmission.<sup>59</sup>

About 11% of all HIV positive people with known diagnoses are in prison settings.<sup>60</sup>

Prevalence of Hepatitis C among injecting drug users reaches 90% in some cities.<sup>61</sup>

Russia has an incidence rate for TB of 58.44 per 100,000.<sup>62</sup>

102,340 new cases and relapse cases of active TB were detected in 2014.<sup>63</sup>

The number of TB patients with known HIV status is 67,425, with 5,251 of those being HIV-positive.<sup>64</sup>

According to WHO, Russia is among 20 countries with the highest burden of tuberculosis (TB) and multidrug-resistant tuberculosis (MDR-TB).<sup>65</sup> With population of 143 million people, Russia is estimated by WHO to have up to 60,000 incidences of MDR/RR-TB in 2015.<sup>66</sup>

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<sup>54</sup> *The Number of HIV+ people in Russia reached one million.* Interview with head of Russia's Federal AIDS Center, Professor Vadim Pokrovskiy. RBK. January 20, 2016. Online:

<http://www.rbc.ru/society/20/01/2016/569fa9849a794768bb441afa>

<sup>55</sup> Bulletin 33 of the Federal AIDS Center of the Russian Federation, Moscow, 2009. Page 5.

[http://www.hivrussia.ru/files/bul\\_33.pdf](http://www.hivrussia.ru/files/bul_33.pdf)

<sup>56</sup> Information note. HIV in Russia as of December 31, 2015. Perm Kray AIDS Center. Online: <http://aids-centr.perm.ru/%D0%A1%D1%82%D0%B0%D1%82%D0%B8%D1%81%D1%82%D0%B8%D0%BA%D0%B0/%D0%92%D0%98%D0%A7/%D0%A1%D0%9F%D0%98%D0%94-%D0%B2-%D0%A0%D0%BE%D1%81%D1%81%D0%B8%D0%B8>

<sup>57</sup> Presentation of the Minister of Health of the Russian Federation for the Government Public Health Committee, October 2015. Online: <https://www.rosminzdrav.ru/news/2015/10/23/2599-vystuplenie-ministra-veroniki-skvortsovoy-na-zasedanii-pravitelstvennoy-komissii-po-voprosam-ohrany-zdorovya-grazhdan>

<sup>58</sup> Bulletin 33 of the Federal AIDS Center of the Russian Federation, Moscow, 2009. Page 13.

[http://www.hivrussia.ru/files/bul\\_33.pdf](http://www.hivrussia.ru/files/bul_33.pdf)

<sup>59</sup> Information note. HIV in Russia as of December 31, 2015. Perm Kray AIDS Center. Online: <http://aids-centr.perm.ru/%D0%A1%D1%82%D0%B0%D1%82%D0%B8%D1%81%D1%82%D0%B8%D0%BA%D0%B0/%D0%92%D0%98%D0%A7/%D0%A1%D0%9F%D0%98%D0%94-%D0%B2-%D0%A0%D0%BE%D1%81%D1%81%D0%B8%D0%B8>

<sup>60</sup> Statistics of the Federal Penitentiary Service. Online: [fsin.su](http://fsin.su)

<sup>61</sup> Research conducted amongst street drug users in St. Petersburg. UNODC, NGO Stellit. March, 2010.

<sup>62</sup> Prisons as a source of TB in Russia, paper analysing TB in Kaliningrad, Russia by the ARF <http://en.rylkov-fond.org/wp-content/uploads/2016/03/IJPH-Sarang-2016-.pdf>

<sup>63</sup> WHO Country Profile for Russia, 2014; <http://www.who.int/tb/country/data/profiles/en/>

<sup>64</sup> WHO Country Profile for Russia, 2014; <http://www.who.int/tb/country/data/profiles/en/>

<sup>65</sup> Global tuberculosis report 2016. Table 2.2

<http://apps.who.int/iris/bitstream/10665/250441/1/9789241565394-eng.pdf?ua=1>

<sup>66</sup> Global tuberculosis report 2016. Fig 3.20 <http://apps.who.int/iris/bitstream/10665/250441/1/9789241565394-eng.pdf?ua=1>

To compare, the estimated incidence for China, a country with a population of 1,357 billion people, is 70,000 cases.<sup>67</sup> Treatment for multidrug-resistant TB (MDR-TB) and rifampicin-resistant (RR-TB) is longer, and requires more expensive and more toxic drugs.<sup>68</sup>

### **Drug use and related health problems in comparable countries**

#### *Europe:*

##### HIV diagnoses per 100 000 population:

There has been a small decline in the number of HIV diagnoses per 100 000 population between 2005 and 2014. The 2005 rate was 6,7 per 100 000 and in 2014 it was 6,4 per 100 000 (adjusted for reporting delay).<sup>69</sup>

14% of newly diagnosed cases of HIV were transmitted through injecting drug use.<sup>70</sup>

Sex between men is the predominant mode of transmission from 30% in 2005 to 42% in 2014.<sup>71</sup>

#### United States:

An estimated 6% (2,635) of HIV diagnoses were attributed to injection drug use.<sup>72</sup>

The number of new HIV diagnoses fell 19% from 2005 to 2014.<sup>73</sup>

There were an estimated 12,963 deaths (due to any cause) of people with diagnosed HIV infection ever classified as AIDS, and 6,955 deaths were attributed directly to HIV.<sup>74</sup>

At the end of 2012, the most recent year for which such data are available, an estimated 1,218,400 adults and adolescents were living with HIV.<sup>75</sup>

#### *Ukraine*

In 2015 – 15 808 new cases of HIV infection were registered (2 961 of them are amongst children under 14 years old).<sup>76</sup>

Approximately 290,000 people in Ukraine live with HIV/AIDS.<sup>77</sup>

In 2015 60% of newly infected got HIV through sexual contacts (57% in 2014).<sup>78</sup>

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<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

<sup>69</sup> HIV AIDS Surveillance Report in Europe, 2014 <http://ecdc.europa.eu/en/publications/Publications/hiv-aids-surveillance-in-Europe-2014.pdf>

<sup>70</sup> HIV/AIDS Surveillance Report 2014 [http://www.euro.who.int/\\_data/assets/pdf\\_file/0007/293623/HIV-AIDS-Surveillance-Report-Europe-2014-en.pdf](http://www.euro.who.int/_data/assets/pdf_file/0007/293623/HIV-AIDS-Surveillance-Report-Europe-2014-en.pdf)

<sup>71</sup> <http://www.euro.who.int/en/media-centre/sections/press-releases/2015/11/highest-number-of-new-hiv-cases-in-europe-ever>

<sup>72</sup> CDC June 2016 Overview <http://www.cdc.gov/hiv/statistics/overview/ataglance.html>

<sup>73</sup> Ibid

<sup>74</sup> Ibid

<sup>75</sup> Ibid

<sup>76</sup> [http://www.antiaids.org/eng/news/aids\\_stat/statistics-on-hiv-aids-in-ukraine-on-01012016-10757.html](http://www.antiaids.org/eng/news/aids_stat/statistics-on-hiv-aids-in-ukraine-on-01012016-10757.html)

<sup>77</sup> ibid

<sup>78</sup> ibid

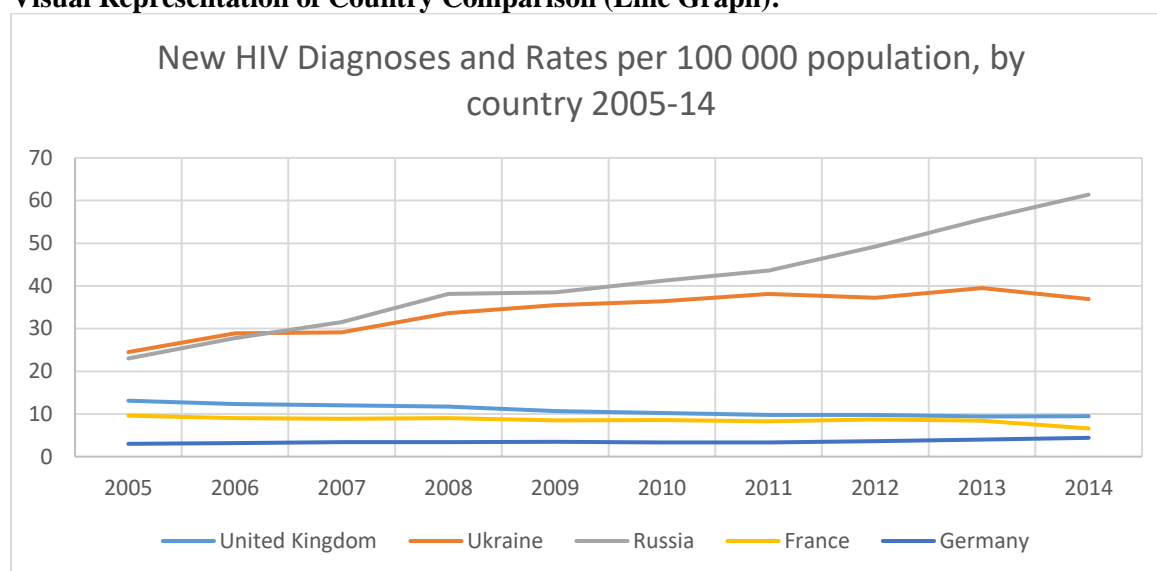
Since 2005 the growth of new HIV cases (epidemic acceleration) started decreasing yearly: there were 15,6% increase in 2005 compare to 2004, and only 3,4% increase in 2011 compare to 2010.<sup>79</sup>

### Country Comparison, New HIV Diagnoses per 100 000:

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
United Kingdom	13.1	12.3	12	11.7	10.7	10.2	9.8	9.8	9.4	9.5
Ukraine	24.5	28.9	29.1	33.6	35.5	36.4	38.1	37.2	39.5	36.9
Russia	23	27.8	31.5	38.1	38.5	41.2	43.6	49.2	55.6	61.4
France	9.6	9	8.9	9	8.5	8.6	8.3	8.7	8.4	6.6
Germany	3	3.2	3.4	3.4	3.5	3.3	3.3	3.6	4	4.4

Data collected from Russian<sup>80</sup> and European Centre for Disease Control sources.<sup>81</sup>

### Visual Representation of Country Comparison (Line Graph):



According to this data, the Russian Federation's slope rate in terms of new HIV diagnoses per 100 000 population is 3.9267. This is compared to Ukraine's 1.4588 and France's -0.2073.<sup>82</sup>

## Annex II



The Russian Public Mechanism for Monitoring of Drug Policy Reform (Mechanism) is a consortium of more than 70 civil society activists, legal and medical professionals, which are committed to improve drug policy in Russia through legal and policy analysis, information sharing, and strategic litigation. From 2009 the Andrey Rylkov Foundation for Health and Social Justice (ARF)

<sup>79</sup> *ibid*

<sup>80</sup> *Федеральный научно-методический центр по профилактике и борьбе со СПИДом, Federal Scientific-Methodological Centre for the Prevention and Control of AIDS Centre, Russian Federatio*. Data was collected through their bulletins 30 to 40. <http://hivrussia.ru/stat/bulletin.shtml>

<sup>81</sup> For UK, Ukraine, France and Germany: Page 34,35 European Centre for Disease Prevention and Control, WHO, HIV/AIDS Surveillance in Europe Report, 2014 <http://ecdc.europa.eu/en/publications/Publications/hiv-aids-surveillance-in-Europe-2014.pdf>

<sup>82</sup> Slope represents the ratio of the vertical and horizontal changes between two points on a surface or a line. It can also be understood as the rate of change.

serves as a Secretariat for the Mechanism. The Foundation is a grass-roots organization from Moscow, Russia with the mission to promote and develop humane drug policy based on tolerance, protection of health, dignity and human rights. The Foundation engages in 4 key strategies to advance its mission: advocacy, watchdog, service provision and capacity building of affected communities and individuals.

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In preparation of this report the Foundation was assisted by the Canadian HIV/AIDS Legal Network



The Canadian HIV/AIDS Legal Network ([www.aidslaw.ca](http://www.aidslaw.ca)) promotes the human rights of people living with and vulnerable to HIV/AIDS, in Canada and internationally, through research and analysis, advocacy and litigation, public education and community mobilization. The Legal Network is Canada's leading advocacy organization working on the legal and human rights issues raised by HIV/AIDS. (An NGO with Special Consultative Status with the Economic and Social Council of the United Nations)

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