

**A call for EU leadership on drug policy:
Principles and recommendations from EU civil society¹ for EU engagement at the
2016 UNGASS on drugs**

Principles

- The guiding harm reduction principles of pragmatism, dignity, evidence, public health and human rights must underpin international, regional and national level drug policies.
- The international drug control system framed by the three international drug control treaties² has failed in its core mission to protect *'the health and welfare of mankind'* and should be modernized to reflect changed global realities and international obligations in health, gender equality, development, human rights and protection of the environment.
- There must be a reorientation of spending away from law enforcement, which has not reduced global drug markets, prevalence or prices,³ toward the mainstreaming and adequate resourcing of health, education and development approaches.
- Constituencies impacted by the cultivation, production, distribution and use of drugs as well marginalized populations disproportionately impacted by drug enforcement – including women, youth, ethnic minorities, and people who use drugs, must be engaged in the design, implementation, monitoring and evaluation of drug policies and programs.

Recommendations

- EU member states must advocate for and support meaningful and constructive engagement of civil society in the UNGASS, including through:
 - i. Civil society representation on high level panels and interactive round tables at the UNGASS;
 - ii. Advocating for prioritization of civil society interventions in UNGASS debates;
 - iii. Encouraging civil society representation on national delegations;
 - iv. Active high level participation of EU and member states in the informal stakeholder UNGASS hearing in New York;
- Given that the UNODC aim of eliminating or significantly reducing the demand and supply of drugs by 2019 is unrealistic, and that strategies to eliminate and eradicate are expensive, unsuccessful, exacerbate violence and social harms, and

¹The “Budapest group” is an informal group of Civil Society organisations convened in Budapest (August 2015) to support and inform EU engagement at the 2016 UNGASS on drugs – details of members are listed at the end of the document

²Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol; Convention on Psychotropic Substances of 1971; United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988

³UNODC (2015) ‘World Drug Report 2015’

https://www.unodc.org/documents/wdr2015/World_Drug_Report_2015.pdf

divert scarce resources from health and social programs, the EU must refrain from reaffirming this goal;

- The UNGASS and resulting outcome document must move beyond simple supply reduction narratives and measurements. Member states should advocate for drug policy evaluation and metrics that relate directly to the key pillars of the UN: human development, peace and security, and human rights, and recommend strategies, metrics and approaches that are informed by the five thematic areas of the UNGASS.
- The EU must ensure that the UNGASS outcome document is structured around the five thematic areas of the UNGASS, and support the UN General Secretary's call for the UNGASS to '*conduct a wide-ranging and open debate that considers all options*'⁴

Thematic recommendations

1. Drugs and health

The EU has highlighted that protecting public health is the key objective of the international drug control system, and that marginalisation and stigmatisation of key vulnerable populations, including people who use drugs, must be tackled. Therefore, we recommend that the EU should:

- Acknowledge the position of the UN OHCHR⁵ and UN Special Rapporteur on the Right to Health⁶ that punishment and criminalisation of drug use represents a violation of the fundamental right to health as outlined in the UN Charter, and endorse the standpoint that people who use drugs must not be subject to punishment such as criminal penalties (and the stigma of a criminal record), police harassment, incarceration or other forms of repression;
- Clearly state that the provision of drug treatment and harm reduction (including in prisons and places of detention) cannot be seen as a policy option at the discretion of States, but be recognized as a core obligation of States to meet their international legal obligations under the right to health⁷;
- Prioritize support for harm reduction as an evidence based, rights affirming set of interventions, including but not limited to, the package of core interventions outlined in the WHO/UNODC/UNAIDS '*Technical guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users*'⁸;

⁴<http://www.un.org/sg/statements/index.asp?nid=6935>

⁵https://www.unodc.org/ungass2016/en/contribution_ohchr.html

⁶https://www.unodc.org/documents/ungass2016//Contributions/UN/RapporteurMentalHealth/SR_health_letter_UNGASS_7.12.15.pdf

⁷ibid

⁸http://www.who.int/hiv/pub/idu/idu_target_setting_guide.pdf

- Acknowledge the global deficit for sustainable funding of harm reduction programs and support a reconfiguration of resourcing away from punitive responses towards proven harm reduction interventions – as highlighted by the UN Special Rapporteur on the Right to Health⁹;
- Improve the quality and standards of public health interventions through the promotion of the EU Council recommendations on minimum quality standards in demand reduction;
- Advocate for the closure of compulsory drug detention centers, in line with the Joint UN statement of 2012¹⁰
- Promote the development and implementation of a UN-wide (WHO, INCB, UNODC and UNDP) Action Plan to ensure adequate and equitable availability of essential medicines globally;
- Reject activities promoted under the banner of ‘alternative development’ (AD) that have unintended adverse consequences on public health such as crop eradication (*see also section 4 below*).

2. Drugs and Crime

We recommend that the EU should:

- Take advice from the EMCDDA on establishing an agreed definition of decriminalisation of drug use and the possession of drugs for personal use (as distinct from ‘depenalisation’ or ‘legalisation’), to avoid common confusions in the public and political debate;
- Expand on its advocacy for proportionate sentencing related to drug offenses (also advocated in the US ‘nonpaper’ on the UNGASS outcome document¹¹) by developing an agreed definition of ‘proportionality’, building upon established EU jurisprudence and referencing the recommendations of the INCB;¹²
- Call for monitoring of member state adherence to an established definition of ‘proportionality’ principles in sentencing for drugs offences according to clearly defined metrics, including key proportionality tests of fairness and efficacy – and for reporting on such metrics via an independent body;
- Call for improved metrics for establishing the effectiveness and crime/security impacts of enforcement interventions as the basis for a more comprehensive evaluation of the global drug control system, including how these interventions differentially impact by gender, race and age.

⁹https://www.unodc.org/documents/ungass2016//Contributions/UN/RapporteurMentalHealth/SR_health_letter_UNGASS_7.12.15.pdf

¹⁰ <https://www.unodc.org/southeastasiaandpacific/en/2012/03/detention-centres/story.html>

¹¹ https://dl.dropboxusercontent.com/u/64663568/library/Zero-Draft_USA-contribution.PDF

¹² http://www.incb.org/documents/UNGASS_CONTRIBUTION/ChpI-AR2007_E.pdf

3. Human Rights

We recommend that the EU should:

- Reaffirm its statement for the High Level Thematic Debate (New York, May 7th, 2015) that: *'from the perspective of human rights and fundamental freedoms, the absolute priority is the abolition of the death penalty in all circumstances, including for drug-related crimes as well as the abolition of other practices which are not in line with the principles of human dignity, liberty, democracy, equality, solidarity, the rule of law and human rights'*;¹³
- Call for the UN Human Rights Council to request the existing Special Procedures to produce a comprehensive joint report on the human rights impacts of global drug policies;
- Endorse a new mandate on drug policy and human rights to be established by the UN Human Rights Council, including a permanent process to monitor, assess and report on the human rights impacts of the global drug control system, including analysis of human rights impacts for people who use drugs, people involved in drug markets, and general populations/communities affected by drug policies and drug markets, with special attention to vulnerable sub-populations such as prisoners, women, minority groups, children and young people;
- As a key donor to the UNODC, call for the full implementation of the provisions outlined in the position paper "UNODC and the Promotion and Protection of Human Rights"¹⁴ to ensure that EU funding is not complicit in facilitating human rights abuses such as the use of the death penalty for drug offences or abusive forms of treatment and rehabilitation;
- Acknowledge that reaffirmation of the UN drug control treaties is a violation of indigenous rights as confirmed by the UN Permanent Forum on Indigenous Issues¹⁵ and as such, constitutes a justification for treaty review. The right of indigenous people from the Andean-Amazon to practice culture and traditions is breached by the prohibition of coca chewing in the 1961 Single Convention.
- Request UNODC to conduct an annual review of the implementation of its human right guidance to States receiving programmatic funding, the findings of which should be published annually to the CND by the Executive Director.

4. Alternative Development

The European Common Position on Alternative Development (AD) adopted by the Council in 2006¹⁶ has valuable recommendations. These have influenced the global

¹³See EU statement for the High Level Thematic Debate in New York on May 7th, 2015 http://europa.eu/articles/en/article_16424_en.htm

¹⁴http://www.unodc.org/documents/justice-and-prison-reform/UNODC_Human_rights_position_paper_2012.pdf

¹⁵ECOSOC, *Permanent Forum on Indigenous Issues, Report on the 8th session* (18-29 May 2009), E/2009/43 - E/C.19/2009/14, http://www.un.org/esa/socdev/unpfi/documents/E_C_19_2009_14_en.pdf

¹⁶Council of the European Union, *The EU Approach on Alternative Development*, 9597/06, Brussels, 18 May

debate in a positive direction, steering it away from an eradication-led approach. However, operationalization of such principles into EU funded projects has been slow and neither the UN Guiding Principles on Alternative Development (2013) nor collaborative USAID projects incorporate the spirit, priorities or principles of the European position. We recommend The EU should:

- Extend the approach followed in EU support to Bolivia¹⁷ by promoting and pursuing AD approaches that address structural inequality, poverty and exclusion as a driver of engagement in drug crop cultivation, drug manufacture and trafficking¹⁸;
- Encourage more creative responses to the ongoing challenge of rural agricultural development and the continued illicit cultivation of coca, opium poppy, khat and cannabis, including through regulation of domestic markets and raw material exports;
- Improve the consistency of application of the 2013 UN Guiding Principles on Alternative Development with the EU common position on AD, as well as the development principles and tenure guidelines elaborated by UNDP and the FAO to ensure UN system wide coherence to illicit cultivation;
- Address the neglect of cannabis cultivation in AD programs (and the reality of decriminalization and quasi-legalized small scale production in some EU member states) through pragmatic consideration of regulated domestic and export markets, and coherence between AD development initiatives and other pillars of the EU, specifically trade;
- Promote development indicators in UNODC metrics and an enhanced role for UNDP in AD programme design, implementation, monitoring and evaluation;
- Ensure the meaningful engagement within the UNGASS process of farmers of those crops that are used for the illicit production of narcotic drugs, and support the decriminalization of subsistence level farming to enable effective stakeholder participation in AD initiatives.

5. New challenges

We recommend the EU should:

- Ensure that the ‘new challenges’ theme of the UNGASS outcome document (and roundtable at the event itself) remains a space for discussing political challenges and institutional tensions regarding the global drug control system, as well as discussions concerning NPS and emerging online drug markets;
- In pursuit of ‘*the health and welfare*’ of citizens, growing numbers of states are calling for increased flexibility within the global drug control regime, to devise and implement experimental drug policies and programs appropriate to national and

¹⁷Linda C. Farthing and Kathryn Ledebur, *Habeas Coca - Bolivia’s Community Coca Control*, OSF Global Drug Policy Program, July 2015.

¹⁸http://www.consep.gob.ec/adstamp/antecedentes_desarrollo.php

local contexts and priorities (including, but not limited to, options for legally regulated markets now being explored and implemented by multiple member states including within the EU). Whilst there is agreement that all policy should operate in compliance with established human rights obligations, opinions differ on the how requests for such legal flexibility (regarding UN drug treaties) should or could be accommodated. We propose that such critical discussions be explored within the context of an expert advisory group (see recommendation below);

- Advocate for the creation of an expert advisory group tasked with developing recommendations for addressing new challenges within the international drug control system that are likely to become a focus of tensions or disagreement at the UNGASS – including (but not limited to) UN system wide coherence between UN agencies and treaty mechanisms; modernization of the treaty framework; UN drug control institutions and the drug scheduling system; emerging policy and practice relating to regulation of cannabis and other drugs. Such expert advisory groups have precedent within 1990 and 1998 UNGASS meetings;¹⁹
- Balance its focus on the development of Novel Psychoactive Substances (NPS) policy and legislation to ensure equal emphasis on research and promotion of best practice in reducing NPS related health and social harms;
- Ensure that NPS monitoring and evaluation systems, regionally and globally, include metrics and monitoring systems to evaluate the impact of legislative changes and incorporate data gathered from community organisations.

Background and endorsements

These recommendations were developed at a meeting in Budapest on the 13 – 14 July 2015 by a group of EU reform and harm reduction NGOs and networks in preparation for the UNGASS on drugs in April 2016. A further 40 organisations and networks have since endorsed the recommendations. These recommendations will be sent to EU decision makers and will also be sent to the civil society task force (CSTF) as one of the submissions on behalf of EU civil society.

Workshop participants:

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Peter SAROSI	Hungarian Civil Liberties Union Hungary
Thanasis APOSTOLOU	Diogenis Greece
Magdalena DABROWSKA	Global Drug Policy Program, OSF Poland
Balázs DÉNES	European Civil Liberties Project, OSF Hungary
Vlatko DEKOV	Healthy Options Project Skopje (HOPS) Macedonia
Ann FORDHAM	International Drug Policy Consortium (IDPC) United Kingdom

¹⁹For more discussion of these proposals see: https://www.tni.org/files/article-downloads/expert_advisory_group_memo_august_2015.pdf

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Budapest Group organisations endorsing the recommendations:

APDES
Citywide Drugs Crisis Campaign
Correlation Network
Diogenis Association
Eurasian Harm Reduction Network
Forum Droghe
Gadejuristen/The Danish Street Lawyers
Global Drug Policy and International Harm Reduction Programs of the Open Society Foundations
Harm Reduction International
Harm Reduction International
HOPS
Hungarian Civil Liberties Union
ICEERS
Initiative for Health Foundation
International Drug Policy Consortium
International Federation of the Red Cross
International Network of People who Use Drugs

Polish Drug Policy Network
Romanian Harm Reduction Network
Transform Drug Policy Foundation
Transnational Institute
YODA

With additional endorsement from the following organisations and networks:

AIDES
AIDS Action Europe
AS - Center For The Empowerment Youth Of People Who Are Living With HIV and AIDS,
Serbia
Association française de réduction des risques (AFR)
Association of HIV affected women and their families “Demetra”
Association SKUC, Ljubljana, Slovenia
Autosupport des Usagers de Drogues (ASUD)
Beckley Foundation
Chanvre & Libertés-NORML France
Civil Society Organisations Forum on HIV and AIDS (FOCDHA), Serbia
Collectif d’Information et de Recherche Cannabique (CICR)
Deutsche AIDS-Hilfe
EU Civil Society Forum on HIV/AIDS
European AIDS Treatment Group (EATG)
Federation Addiction
FEDITO BXL
Foundations
GAT, Portugal
GREA, Switzerland
Health Poverty Action
ICEERS
International Center on Ethnobotanical & Research Studies (ICEERS)
International Doctors for Healthier Drug Policies (IDHDP)
Life Quality Improvement Organisation FLIGHT NGO from Zagreb, Croatia-
LILA Onlus – Italian League for Fighting AIDS.
Mainline
Médecins du Monde (MDM)
National AIDS Trust
NGO 4 LIFE
PRAKSIS
Principes Actifs
PsychoActif
Release
Réseau Français de Réduction des Risques
SAFE
SOS Hépatite Fédération
Swedish Drug Users Union
Women and Harm Reduction International Network

Worldwide Hospice and Palliative Care Alliance (WHPCA)
YouthRISE