



WHEN SCIENCE IS JUST A DECORATION: RUSSIAN DRUG POLICY & THE RIGHT TO SCIENTIFIC PROGRESS

Communication to United Nations Educational, Scientific and Cultural Organization (UNESCO) and the UN Independent Expert in the Field of Cultural Rights regarding violation of by the Government of the Russian Federation of the right to enjoy the benefits of scientific progress and its applications

Moscow, 28 March 2012

Information about the victim: **The Andrey Rylkov Foundation for Health and Social Justice (ARF)** is a non-governmental, not-for-profit organization incorporated in the Russian Federation in September 2009 with the aim of developing and promoting humane drug policy based on tolerance, protection of health, dignity and human rights in Russia. ARF is a small organization without dedicated office-space. Most of its activities, including human rights promotion and protection are performed with help of volunteers.
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Information about the violator: The Russian Federation

This report has been drafted by the Andrey Rylkov Foundation in consultation with the Canadian HIV/AIDS Legal Network (www.aidslaw.ca).

CONTENTS

No	Title	Pages
I	THE BACKGROUND OF THIS COMMUNICATION	3
II	SUMMARY	4
III	REQUEST REGARDING POSSIBLE ASSISTANCE TO THE GOVERNMENT OF THE RUSSIAN FEDERATION TO BETTER RECOGNIZE THE RIGHT TO ENJOY THE BENEFITS OF SCIENTIFIC PROGRESS AND ITS APPLICATIONS	4
IV	OST AS A BENEFIT OF SCIENTIFIC PROGRESS AND ITS APPLICATION	5
V	THE POSITION OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, REGARDING OST AS A BENEFIT OF SCIENTIFIC PROGRESS AND ITS APPLICATION	6
VI	ACTIVITIES OF ARF FACILITATING THE RIGHT TO ENJOY THE BENEFITS OF SCIENTIFIC PROGRESS AND ITS APPLICATIONS	7
VII	CLOSURE OF THE ARF WEBSITE	7
VIII	OTHER VIOLATIONS OF THE RIGHT TO ENJOY THE BENEFITS OF SCIENTIFIC PROGRESS AND ITS APPLICATIONS	8
8.1	Drug treatment in Russia is not evidence-based	8
8.2	Treatment is based on repressive approaches	9
8.3	Stifling public debates and scientific enquiry by state authorities as the chief reason for stagnation of scientific development in the area of drug policy	13
8.3.1	Policy of “Zero tolerance to drug use” extends to zero tolerance to scientific dissent	13
8.3.2	Atmosphere of hate and suspicion towards OST advocates in Russia	16
8.3.3	Misleading statements and false information as a way to obstruct the right to receive and impart objective and scientific information about OST	18
8.4	Public health and other social consequences of the government’s restriction of public access to the benefits of scientific progress and its application.	19
IX	THE NATIONAL LAWS AND INTERNATIONAL TREATIES OF THE RUSSIAN FEDERATION	22
X	STATEMENT OF ALLEGED HUMAN RIGHTS VIOLATIONS AND OF RELEVANT ARGUMENTS	24

10.1	The normative content of the right to enjoy the benefits of scientific progress and its applications and the relevant state obligations	24
10.2	Government actions against ARF and other activities regarding prohibition of OST and public debates around OST are at odds with the normative content of the right to enjoy the benefits of scientific progress and its applications and the relevant state obligations	25
10.3	Availability and effectiveness of domestic remedies to challenge the Government's actions against the freedom to receive and impart information as part of the right to enjoy the benefits of scientific progress and its applications	28
XI	CONCLUSIONS	31

I. THE BACKGROUND OF THIS COMMUNICATION

1. This communication was prepared

1.1 With reference to the Constitution of UNESCO, which outlines that the purpose of the Organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations;¹

1.2 In line with the procedure approved by the Executive Board of UNESCO on 26 April 1978 in 104 EX/Decision 3.3, which provides for the examination of cases and questions which might be submitted to UNESCO by a person, group of persons or organization concerning the exercise of human rights in the sphere of UNESCO's competence, and in order to make UNESCO's action more effective; and

1.3 With due regards to the UNESCO's Procedure for the Protection of Human Rights. (The Legislative History of the 104 EX /3.3). March 2009 LA/2009/WS/1 CLD 748.9.

1.4 This communication was also drafted pursuant to the Human Rights Council's Resolution 10/23 "Independent Expert in the Field of Cultural Rights" which mandates the Independent Expert:

- To identify possible obstacles to the promotion and protection of cultural rights;
- To submit proposals and/or recommendations to the Council on possible actions in that regard;
- To work in cooperation with States in order to foster the adoption of measures at the local, national, regional and international levels aimed at the promotion and protection of cultural

¹ Constitution of the United Nations Educational, Scientific and Cultural Organization adopted in London on 16 November 1945 and amended by the General Conference at its 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 12th, 15th, 17th, 19th, 20th, 21st, 24th, 25th, 26th, 27th, 28th, 29th and 31st sessions. Article I.1.

rights through concrete proposals enhancing sub-regional, regional and international cooperation in that regard; and

- To work in close coordination, while avoiding unnecessary duplication, with intergovernmental and non-governmental organizations, other special procedures of the Council, the Committee on Economic, Social and Cultural Rights and the United Nations Educational, Scientific and Cultural Organization, as well as with other relevant actors representing the broadest possible range of interests and experiences, within their respective mandates, including by attending and following up on relevant international conferences and events

II. SUMMARY

2.1 The government of the Russian Federation prohibits by way of the Federal Law the application of scientifically based, internationally recognized and UN-recommended opioid substitution therapy with use of methadone and buprenorphine (OST) for treatment of drug dependence and prevention of HIV among people who inject drugs; prohibits by way of its national policy and law enforcement practice the free distribution of and access to scientific and human rights information about OST; distributes false information about OST in order to mislead the Russian and international public, and prevents the public from accessing objective and scientific information; and distributes false information about advocates of OST in order to discredit them in front of the Russian and international public.

2.2 These activities violate interlinked rights: the right to enjoy the benefits of scientific progress and its application; the right to freedom of information; and the right to the highest attainable standard of physical and mental health as outlined in the Article 29, 44 and 41 of the Constitution of the Russian Federation, Article 19 of the International Covenant on Civil and Political Rights, Articles 12 and 15.1(b) of the International Covenant on Economic, Social and Cultural Rights, Articles 19, 25 and 27 of the Universal Declaration of Human Rights.

2.3 These violations fall under the competence and role of UNESCO in the field of human rights as well as the competence of the UN Independent Expert in the field of human rights, which are respectfully requested to enter into the dialogue with the Government of the Russian Federation and provide it with appropriate assistance to stop the aforementioned violations.

III. REQUEST REGARDING POSSIBLE ASSISTANCE TO THE GOVERNMENT OF THE RUSSIAN FEDERATION TO BETTER RECOGNIZE THE RIGHT TO ENJOY THE BENEFITS OF SCIENTIFIC PROGRESS AND ITS APPLICATIONS.

3.1 In order to address violations described in this submission, UNESCO, jointly with the UN Independent Expert in the Field of Cultural Rights, is requested to provide the Government of the Russian Federation with assistance to help achieve the following objectives:

- Recognize the right to freedom to receive and impart information about OST as part of the right to enjoy the benefits of scientific progress and its applications;

- Ensure that drug propaganda laws are not used to stifle the debates on substitution treatment and harm reduction or to suppress harm reduction measures such as needle and syringe programs and overdose prevention;
- Lift the ban on the medical use of narcotic drugs in the treatment of drug dependence and introduce OST with methadone and buprenorphine as recommended by the Committee on Economic, Social and Cultural Rights.² While the process of lifting the ban and preparing all relevant protocols for OST is proceeding, start piloting these programmes with the range of drugs available and in consultation with the WHO, UNODC and UNAIDS. Ensure as soon as possible OST is provided in tuberculosis clinics and AIDS centres; and
- Ensure that mechanisms are implemented to hold state officials accountable for their responsibility to provide the public with *accurate* information regarding health matters, such as HIV and tuberculosis epidemic, as well as the effectiveness of relevant interventions such as drug-related harm reduction, opioid substitution treatment and others, in good faith and without deception.

3.2 According to paragraph 18 of EX/Decision 3.3 and taking into account that this submission elaborates the massive, systematic and flagrant violations of the right to enjoy the benefits of scientific progress and its applications and other interrelated rights, and that these violations are perpetuated as a result of drug policy based on discriminative social oppression, we request the Executive Board and the General Conference of UNESCO and the UN Independent Expert in the Field of Cultural Rights to consider questions outlined in this submission in public meetings.

IV. OST AS A BENEFIT OF SCIENTIFIC PROGRESS AND ITS APPLICATION.

4.1 OST, especially with use of methadone and buprenorphine, is a highly researched intervention and the focus of thousands of scientific studies, many of which were reviewed under the auspices of WHO by a large group of technical experts — international scientists with expertise in opioid dependence and clinical guidelines development. The result of the review was published in the WHO’s 2009 Guidelines in which OST (opioid agonist maintenance treatment) was defined as the administration of thoroughly evaluated opioid agonists by accredited professionals, in the framework of recognized medical practice, to people with opioid dependence, for achieving defined treatment aims. When combined with psychosocial assistance, it was considered by the WHO as the most effective method of treatment of opioid dependence³.

4.2 Cochrane Reviews confirm that opioid substitution treatment with methadone can keep people who are dependent on heroin in treatment programs and reduce their use of heroin⁴ and that oral substitution treatment for injecting opioid users reduces drug-related behaviors that have a high risk of HIV transmission⁵.

² Committee on Economic, Social and Cultural Rights, “Concluding observations of the Committee on Economic, Social and Cultural Rights: the Russian Federation,” E/C.12/RUS/CO/5 May 20, 2011, para 29.

³ World Health Organization, *Guidelines for the Psychosocially Assisted Pharmacological Treatment of Opioid Dependence* (2009), pp. X, XI.

⁴ R.P. Mattick, C. Breen, J. Kimber and M. Davoli, “Methadone maintenance therapy versus no opioid replacement therapy for opioid dependence,” *Cochrane Database of Systematic Reviews* 2009, Issue 3, Art. No.: CD002209, doi: 10.1002/14651858.CD002209.pub2

⁵ L. Gowing, M.F. Farrell, R. Bornemann, L.E. Sullivan and R. Ali, “Oral substitution treatment of injecting opioid users for prevention of HIV infection,” *Cochrane Database of Systematic Reviews* 2011, Issue 8, Art. No.: CD004145, doi: 10.1002/14651858.CD004145.pub4

4.3 OST is endorsed by the UN General Assembly and the Commission on Narcotic Drugs⁶, the Economic and Social Council (ECOSOC)⁷, the International Narcotics Control Board (INCB)⁸. The UN Office on Drugs and Crime and the UN Joint Program on HIV/AIDS (UNAIDS) strongly recommend OST as a core intervention for HIV/AIDS prevention among people who inject drugs⁹. Methadone and buprenorphine are listed by WHO as the essential medicines to be used in substance dependence programmes.¹⁰ Availability of essential medicines has been emphasized by the Committee on Economic, Social and Cultural Rights (CESCR) as one of the underlying determinants of health.¹¹ OST has been successfully implemented in over 60 countries, including the USA, Australia, Canada, China, Iran, India and 45 countries of the Council of Europe, except Russia and Monaco. This is a good indication of a strong international scientific and policy consensus regarding the application of OST.

V. THE POSITION OF THE INTERNATIONAL COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, REGARDING OST AS A BENEFIT OF SCIENTIFIC PROGRESS AND ITS APPLICATION.

5.1 The ICESCR recommended OST in a number of its concluding observations^{12,13,14}.

5.2 In its ‘Concluding Observations for Mauritius’ the ICESCR explicitly listed access to OST with methadone as a way people who inject drugs may benefit from scientific progress and its applications (article 15.1.b of the International Covenant on Economic, Social and Cultural Rights).¹⁵

5.3 In May 2001, ICESCR strongly recommended the Russian Federation “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.”¹⁶

⁶ High Level Segment of the Commission on Narcotic Drugs, “Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem,” para 20, March 2009, adopted by the UN General Assembly’s Resolution 64/182 of December 18, 2009.

⁷ ECOSOC Resolution 2004/40.

⁸ International Narcotics Control Board, *Report of the International Narcotics Control Board for 2008* (New York: INCB, 2009), E/INCB/2008/1, paras 24 and 25, 6, http://www.incb.org/pdf/annual-report/2008/en/AR_08_English.pdf

⁹ WHO, UNODC and UNAIDS. *Technical Guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users* (WHO, 2009).

¹⁰ *WHO Model List of Essential Medicines, 17th list (updated) March 2011* (WHO, 2011), http://whqlibdoc.who.int/hq/2011/a95053_eng.pdf

¹¹ Committee on Economic, Social and Cultural Rights, “Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights, General Comments № 14 (2000), The right to the highest attainable standard of health,” E/C.12/2000/4 August 11, 2000, para 12(a), <http://www.unhcr.ch/tbs/doc.nsf/%28symbol%29/E.C.12.2000.4.En>

¹² Committee on Economic, Social and Cultural Rights, “Concluding observations of the Committee on Economic, Social and Cultural Rights: Poland,” E/C.12/POL/CO/5 December 2, 2009, para 26.

¹³ Committee on Economic, Social and Cultural Rights, “Concluding observations of the Committee on Economic, Social and Cultural Rights: Ukraine,” E/C.12/UKR/CO/5 January 4, 2008, paras 28 and 51.

¹⁴ Committee on Economic, Social and Cultural Rights, “Concluding observations of the Committee on Economic, Social and Cultural Rights: Kazakhstan,” E/C.12/KAZ/CO/1 May 21, 2010, para 34.

¹⁵ Committee on Economic, Social and Cultural Rights, “Concluding observations of the Committee on Economic, Social and Cultural Rights: Mauritius,” E/C.12/MUS/CO/4, June 8, 2010, para 27.

¹⁶ Committee on Economic, Social and Cultural Rights, “Concluding observations of the Committee on Economic, Social and Cultural Rights: the Russian Federation,” E/C.12/RUS/CO/5, May 20, 2011, para 29.

VI. ACTIVITIES OF ARF FACILITATING THE RIGHT TO ENJOY THE BENEFITS OF SCIENTIFIC PROGRESS AND ITS APPLICATIONS.

6.1 According to its constitutional right to the freedom of expression and the right to impart scientific and human rights information, ARF was actively engaged in maintaining public dialogue about drug policy based on scientific evidence and human rights. Since 2009, ARF has been working as a Secretariat for the Initiative Group for Introduction of OST in Russia, a forum of civil society activists, drug treatment doctors, human rights defenders and representatives from affected populations. One of the functions of the Initiative Group was the Public Monitoring Mechanism for Drug Policy Reform in Russia.

6.2 By way of promoting the ICESCR recommendations regarding OST, ARF had chosen a series of multifaceted strategies, including; proceedings before domestic courts and the European Court of Human Rights; direct appeals to the highest state authorities, including the President of the Russian Federation; and activities to raise public awareness of the need for the measures recommended by the ICESCR.

6.3 In order to educate the broader public about the ICESCR recommendations, the science and international experience behind OST and other harm reduction interventions, as well as to promote human rights in general, ARF maintained a website containing the following information:

- Detailed information about ARF's cooperation with the ICESCR, including all its submissions to the Committee and the ICESCR recommendations to Russia in its Concluding Observations of 20 May 2011;
- Information about other human rights activities of ARF, including judgments and correspondence from/to the Russian and international courts on cases where ARF provided assistance to victims of human rights violations;
- Information about OST, including a library of scientific publications, WHO recommendations and evidence from different countries using OST to treat people with opioid dependence;
- Information about harm reduction, including scientific reports about the effectiveness of needle and syringe programs in the prevention of HIV;
- Information about developments in drug policy in Russia, other countries and at the UN;
- Personal stories of people who use drugs and/or suffer from lack of access to effective drug dependency treatment, HIV prevention measures, treatment for HIV, TB and hepatitis C, and other consequences of illicit drug use and dependence;
- Re-posted newspaper articles, video clips and other mass media materials about drug policy, human rights and HIV prevention among people who use drugs;
- Information about ARF's social work helping people who use drugs access medical and social services, including ARF's outreach health services for drug users in Moscow; and
- Activity and financial reports regarding the projects undertaken by ARF.

VII. CLOSURE OF THE ARF WEBSITE.

7.1 In December 2011, ARF president Anya Sarang received a phone call from the Moscow department of the economic crime police. Ms. Sarang was asked about the ARF office address. She said that ARF is too small an organization to have an office but provided the judicial address (the flat of an ARF co-founder). When Ms. Sarang asked the officer about the reasons for his

inquiry he responded that he was not sure what the exact reasons were for the call, but suggested it had something to do with “some kind of methadone” and that a complaint had been lodged against ARF signed by Nikita Lushnikov, the President of an NGO called “Center of Healthy Youth”. Later Ms. Sarang contacted Mr. Lushnikov personally, through Facebook, to inquire about his reasons for filing a complaint with the economic police. He replied: “*I never wrote any complaints, we just signed a letter in which we supported the Ministry of Health in their opposition to methadone programs. I could never sign a complaint against someone whom I don’t even know; this is not how I was raised. To be honest I just trust the Ministry of Health and that is why I have signed the letter.*”

7.2 On 19 January 2012, Ms. Sarang was informed by her relatives that the local police office had served her a note to come to the Moscow City Prosecutor’s Office. As Ms. Sarang was not in Moscow she requested the Russian Human Rights organization AGORA to contact the Prosecutor’s Office on the matter. The Office replied that indeed an investigation of ARF was being conducted by the Moscow City Prosecutor’s Office at the request of the General Prosecutor’s Office because of promotion of drug-substitution treatment.

7.3 On 3 February 2012, the ARF website was shut down by ARF’s internet service provider by order of the Federal Drug Control Service (FDCS) “*due to placement of materials which propagandize (advertise) use of drugs, information about distribution, purchasing of drugs and inciting the use of drugs*”. No formal inquiry took place preceding the website closure.

7.4 On 10 February 2012, FDCS official Anastasya Boyarkina commented to Radio Freedom that the General Prosecutor’s Office had checked the ARF website and found that there was “propaganda of substitution therapy, which is prohibited in the Russian Federation.” According to Boyarkina, this constituted a violation of the *Law “On narcotic means and psychotropic substances”* (see relevant text below) as well as the Strategy of the State Antidrug Policy. According to Boyarkina, there was no violation of the right to freedom of expression.¹⁷

7.5 The ARF website is the second website in the Russian Federation that has been closed because of promotion of information regarding OST that is based on scientific evidence and internationally recognized human rights principles. In April 2006, the FDCS Department in Tatarstan (a region of the Russian Federation) launched an administrative investigation into the activities of Professor Vladimir Mendelevich who promoted scientific discussions on OST through his website. As a result the website was shut down.^{18,19}

VIII. OTHER VIOLATIONS OF THE RIGHT TO ENJOY THE BENEFITS OF SCIENTIFIC PROGRESS AND ITS APPLICATIONS.

8.1 Drug treatment in Russia is not evidence-based.

¹⁷ Irina Chevtaeva, “Experts on the Russian Drug Policy and the Ban on its Discussion,” *Radio Svoboda*, February 10, 2012, http://www.svobodanews.ru/content/article/24479968.html?utm_source=dlvr.it&utm_medium=twitter&utm_campaign=SvobodaRadioTwitter

¹⁸ E. Vorobyova, “Professor of Medicine is Suspected of Drug Propaganda,” *Kommersant*, April, 11, 2006, www.kommersant.ru/regions/16

¹⁹ T. Parfitt “Vladimir Mendelevich: fighting for drug substitution treatment,” *The Lancet*, 368, Issue 9532 (2006): 279.

8.1.1 There is ample evidence that drug treatment methods in Russia fail to meet the requirement that medical treatment shall be scientifically and medically appropriate^{20,21,22}. The current approaches to drug treatment in Russia have been criticized internationally as outdated, not evidence-based and ineffective^{23,24}.

8.1.2 A recent content analysis provided an account of methods patented in Russia for drug treatment²⁵. A database of the Russian Federal Institute of Industrial Property from the year 1925 to 2011 was analyzed, including 429 patents related to addiction treatment. Out of 34 methods of opioid dependence treatment, 18 were found to be life-threatening. A majority of the patents were authored by academicians of the National Scientific Center of Narcology of the Ministry of Health and Social Development of the Russian Federation — the national leading research institution in the field of addictions and treatment²⁶. The content analysis of the patented methods revealed that while “the titles of the [Russian] national scientific journals in general correspond to the content of international [scientific] journals... [a] significant part of the intervention is queer, [an] overwhelming part of them is not well-founded or very few trials are described. This is true both for private addiction treatments, and state institutions”²⁷. Professor E. Krupitsky called the Russian methods of drug treatment a “science decorated shamanism”²⁸. Examples of officially patented methods include:

Patent No 2110288 – A general and individual prayer is performed during the procedure. During the prayer the healer performs slow movements of the hand above the vessel and the patients.

²⁰ Human Rights Watch, *Rehabilitation Required. Russia’s Human Rights Obligation to Provide Evidence-Based Drug Dependence Treatment*. Vol. 19, no.7(D), November 2007. www.hrw.org

²¹ Sergey Oleinik, *Drug Treatment Service of Russia in the Eyes of Patients*, Public Foundation for Support of Public Health and Education “ANTIAIDS” and Non-Commercial Partnership “All-Russia Harm Reduction Network” (Penza-Moscow, 2007). (С.Олейник. Наркологическая служба России глазами пациентов. Пенза-Москва, 2007).

²² Public Mechanism for Monitoring Drug Policy Reform in the Russian Federation, *Report on the course of implementation by the Russian Federation of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem*, Moscow (2011). <http://en.rylkov-fond.org/wp-content/uploads/2011/12/CND-Report-Russia-NGOs-ENG18.03.pdf>

²³ R. Elovich and E. Drucker, “On Drug Treatment and Social Control: Russian Narcology’s Great Leap Backwards,” *Harm Reduction Journal*, 5 (2008): 23. <http://www.harmreductionjournal.com/content/5/1/23>

²⁴ T. Rhodes, Sarang A., Vickerman P. and Hickman M., “Policy Resistance to Harm Reduction for Drug Users and Potential Effect of Change,” *British Medical Journal* 341 (2010): c3439. doi: 10.1136/bmj.c3439.

²⁵ S. Soshnikov et al., “Content-Analysis of Narcological Disorders Treatment Methods Patented in Russia,” *Neurological Bulletin* T.XLII, Issue 4 (2011): 3-7. (С.Сошников и другие. Контент-анализ запатентованных методов лечения наркологических расстройств в России. Неврологический Вестник – 2011 – Т.XLIII, выпуск 4, С. 3-7). www.kgmu.kcn.ru

²⁶ The official website of the Center is www.nncn.ru

²⁷ S. Soshnikov et al., “Content-Analysis of Narcological Disorders Treatment Methods Patented in Russia,” *Neurological Bulletin* T.XLII, Issue 4 (2011): 3-7. (С.Сошников и другие. Контент-анализ запатентованных методов лечения наркологических расстройств в России. Неврологический Вестник – 2011 – Т.XLIII, выпуск 4, С. 3-7). www.kgmu.kcn.ru

²⁸ Evgeny Krupitsky, “Short Term Intensive Psychotherapeutic Intervention in Narcology in The Spot Light of Evidence-Based Medicine,” n.d. <http://www.narcom.ru/publ/info/480>

Patent No 2162349 – Inside the video row, in the 25th cadre, there is printed word information which may have the following content: 1 year ban on alcohol; 2 years ban on alcohol; 3 shots on holiday; ban on heroin; ban on pervitin; ban on marijuana; ban on tobacco, etc.

Patent No 1279641 – Patient should feel the stroke of lightning into the head which is achieved by consecutive exposure of the patient's brain to sinusoidal electrical currents with a frequency of 5000 hertz in 0.5-1 second.

Patent No 2152774 – Electrodes shall be inserted into both ears for influencing the auricle with the electric current.

Patent No 2034576 – A doctor fixes the patient's attention with a gesture or verbal order, then suddenly, by abrupt movement of hands, dissolves the attention and irritates one of the branches of the trigeminus by energetic mechanical thumb pressure in the sphere of the trigeminus's exit, and pronounces at the fastest possible tempo the formula of the "pledge" with indication of the time frames of the pledge.

Patent No 2055602 – An electric current provoking a unilateral convulsive fit is used to produce stress. After emptying the bowels and bladder, the patient clutches a rubber cylinder in his teeth; the temples and the expected spot for the second electrode is wiped with the solution of spirit; the electrodes shall be placed by unilateral electroconvulsive therapy with stimulation of the dominating cerebral hemisphere.

Patent No 2177337 – The doctor-healer puts fingers on the area of *nay-hu, tsin-tzyan and hoy-din*, and then joins the fingers together at the area of hoy-din and suggests the patient imagine God's Temple and enter it mentally, pronounce a prayer and swear not to take alcohol and not to smoke. The doctor then removes fingers from the area *hoy-din* and informs the patient that from this moment on, the patient will lead a healthy life style.

Patent No 2181593 – The charm against drunkenness or drug dependence shall be pronounced; charms are performed on Tuesdays and Thursdays for men, and Wednesdays and Fridays for women. The mixture for body detoxification shall be used based on the water solution of chlorine sodium and ascorbic acid, vitamin B6, diphenhydramine hydrochloride, aminophylline, corglicon, relanium, furosemide, nootropil, and magnesium sulphate. The prayers shall be pronounced above the mixture: "Lord's Prayer" (7 times) and "The Prayer to the Saint Vonifatii the Graceful".

Patent No 2195199 – Available points for administering drugs shall be blocked by turning the surface veins of upper and lower limbs into sclerotic condition. The negative conditioned reflex on drugs intake shall be created by way of intravenous injection of adrenalin up to a state of nausea and headache. The patient should read aloud the text; his hearing analysers shall be influenced by sound waves through the headphones. The patient's body shall be influenced in a complex way by the acoustic field with a power from 2 to 7 watts. The vision analyser shall be influenced with the light emanation of red, yellow and green color, with the share of green color to be no less than 40%. The patient's piles shall be influenced with electromagnetic emanation with a power of 0.2 watts. The points of acupuncture shall be influenced with the light impulses of helium-neon laser or alternating current with the magnitude not more than 0.6 amperes.

Patent No 2112471 – General heating of the body is used in medicine by way of artificially increasing the body's temperature up to 43.0 degrees Celsius. The gist of the intervention: the patient shall be brought into narcosis and the heat shall be carried out with help of water at a temperature from 44 to 46 degrees Celsius.

Patent No 2129866 – This method includes injection of atropine. The method is distinct from other methods as atropine is injected in dosage leading to a state of coma, in which the patient shall remain for 4 hours. After this the patient shall be brought out of the coma. The procedure shall be undertaken no less than 10 or 12 times, with induction of coma each day during the first days of treatment and later on with an induced coma every second day.

Patent No 2222313 – The psychotherapeutic influence and acupuncture at corporal and auricular points. In addition to the chakra Vishudkha being sedated, the chakra Manipur and Svadkhistan shall be topped up with HF waves. Chakra Vishudkha and Svadkhisnana at the palm and the back of the hand shall be influenced by way of acupuncture.

Patent No 2227031 – Atropine-comatose therapy alternates with electroconvulsive therapy. On the day of atropine-comatose therapy the patient is given 5 mg of haloperidol, 2 mg of sodium oxybutyrate, 25 mg of tiserin. Eserin ointment shall be introduced into the eyes conjunctival sacs. After 30 minutes the patient shall be injected with 50-75 mg of 1% solution of atropine sulphate. After 3-5 hours of comatose condition the patient shall be given 15-30 mg of physostigmine, 6 g of pyracetam, 7.5 g of magnesium sulphate, 400 ml of sodium hypochlorite, and the patient shall be slowly driven out of coma. At every subsequent session of atropine-comatose therapy the atropine sulphate dosage shall be increased by 10 mg and up to 70-150 mg or 90-170 mg. On the day of electro-convulsive therapy the patient shall be injected intravenously with 1 ml of 0.1% solution of atropine sulphate and 2 ml of cordiamine. The initial narcosis shall be performed by way of intravenous injection of 200-300 ml of thiopental sodium or 100 mg ketamine and simultaneously 3-4 ml of 2% dithylinum. After this the electro-convulsive therapy shall be performed followed by artificial pulmonary ventilation.

Patent No 2258508 – The comatose therapy shall be alternated with the electro-convulsive therapy every second day.

Patent No 2153882 – Patients receive a xeno-implant of donor fetal brain tissue from a laboratory mammal, applied with the use of a cloth with bluish spots, in the amount of 15-25 mg. Transplantation is carried out under the patient skin distant in 6.5 intercostal spaces. The method reduces the expression of undesirable side effects of treatment and abstinence.

8.2 Treatment is based on repressive approaches²⁹.

8.2.1 Russian drug treatment standards are outdated and based on repressive approaches that were in practice during Soviet times, when drug treatment was closely connected to law enforcement³⁰. According to Professor Vladimir Mendeleovich, “The Russian drug treatment system has a

²⁹ This part is extracted from the Shadow Report to the UN Committee against Torture in relation to the review of the Fifth Periodic Report of the Russian Federation. *Atmospheric Pressure: Russian Drug Policy as a Driver for Violations of the UN Convention against Torture*, Andrey Rylkov Foundation, Canadian HIV/AIDS Legal Network and Eurasian Harm Reduction Network, November 2, 2011: 8-11.
<http://www.aidslaw.ca/publications/publicationsdocEN.php?ref=1251>

³⁰ Tim Rhodes, et al., “Policy resistance to harm reduction for drug users and potential effect of change,” *British Medical Journal* 341 (2010): c3439; Vladimir D. Mendeleovich, “Bioethical differences between drug addiction treatment professionals inside and outside the Russian Federation,” *Harm Reduction Journal* 8 (2011): 15.

definition of *treatment as edification*. You suffer, and next time you won't do anything bad.”³¹ According to the protocols of diagnostics and treatment of drug dependent patients,³² alleviation of withdrawal symptoms occurs through the use of medication, including tranquilizers and “substances that suppress cravings, behaviour correctors” (including neuroleptics such as haloperidol) that are not used in international practice to treat drug dependency because there is no evidence of their effectiveness in the treatment of addictions.³³

8.2.2 The use of neuroleptics, including haloperidol (as a disciplinary measure), is rooted in repressive Soviet psychiatry, when they were used to suppress the will of political prisoners and dissidents.³⁴ People considered undesirable by the state were hospitalized for years in prison-like conditions and subjected to powerful drugs including neuroleptics.³⁵ In the global literature, the use of such drugs is equated with torture.³⁶ Nevertheless, they are still widely used in the Russian drug treatment system in accordance with Russian laws.

8.2.3 Aside from being completely unscientific and in violation of the right not to be subject to any form of ill treatment, the current drug treatment standards are also not effective. According to official data from the Russian Federal Drug Control Agency (FSKN RF), over 90% of drug treatment patients resume the use of illegal drugs within a year.³⁷

8.2.4 Ineffectiveness of the government drug treatment system and the high demand for treatment in Russia has resulted in a large number of doubtful private practices. Methods being suggested

³¹ A. Zlobin and A. Kovalevsky, “Revolution of Doses,” *Newsweek*, December 2, 2007. <http://www.narcom.ru/publ/info/738>. Last accessed October 15, 2011. (А. Злобин, А. Ковалевский «Революция доз». *Newsweek*, 2 декабря 2007г.)

³² Ministry of Health of the Russian Federation. *Order of the Ministry of Health of April 28, 1998 No. 140, “On approving standards (model protocols) for diagnostics and treatment of drug dependent patients”* (Moscow, 1998). (Приказ Министерства здравоохранения РФ от 28 апреля 1998г. N 140 «Об утверждении стандартов (моделей протоколов) диагностики и лечения наркологических больных».)

³³ Y. Sivolap, “The use of psychotropic drugs in a treatment of substance dependence,” *Narcology* no. 2 (2012): 81-83.

³⁴ Aleksandr Podrabinek, *Punitive Medicine* (Ann Arbor, MI: Karoma Publishers, 1980): 15–20; “Neuroleptics: Treatment or Torture?” in Richard Gosden, PhD, *Punishing the Patient: How Psychiatrists Misunderstand and Mistreat Schizophrenia* (Melbourne: Scribe Publications, 2001).

³⁵ John Langone and Glenn Garelik, “Medicine: A profession Under Stress,” *Time Magazine*, April 10, 1989.

³⁶ *Supra* 48.

³⁷ Viktor Ivanov, Head of the Federal Drug Control Service of the Russian Federation, Interview for RIA Novosti, September 16, 2009, www.ria.ru; Professor T. V. Klimenko, “On the Russian Drug Control Strategy,” 2009. (Директор ФСКН РФ Иванов (16 сентября 2009 года). Интервью РИА Новости.. www.ria.ru; Профессор Т.В. Клеменко (2009). «О государственной антинаркотической стратегии Российской Федерации».) <http://stratgap.ru/includes/periodics/comments/2009/1124/3841/detail.shtml>.

include flogging,³⁸ beatings, punishment by starvation and long-term handcuffing to the bed frame,³⁹ or brain surgery.⁴⁰

8.2.7 The absence of drug users' access to effective drug treatment combined with harsh law enforcement measures leads to the use of dangerous substances which cause increased morbidity and painful death⁴¹. Many video reports demonstrate the results of desomorphine use and show people rotting alive, as well as doctors' evidence regarding the severe consequences of using homemade drugs extracted from prescription pills with consequences such as loss of sight and limbs, and rapid death.⁴² The doctors show infected and rotting limbs, amputations and other consequences of drug use produced from prescription medications, commenting that many drug dependent people continue to use drugs even after they lose their limbs.⁴³ One of the videos shows how a doctor amputates the shin of a patient who is a 26-year-old "opiate addict". The patient was conscious throughout the procedure and held his leg with his own trembling hands over a waste bucket where the sawed off leg eventually dropped.⁴⁴

But even such a catastrophic situation within the sphere of public health does not compel the government to introduce effective, evidence-based drug treatment programs such as are used all over the world.

8.3 Stifling public debates and scientific inquiry by state authorities as the chief reason for stagnation of scientific development in the area of drug policy.

There are several factors which directly influence public debates and scientific inquiry regarding OST in Russia.

8.3.1 Policy of "Zero tolerance to drug use" extends to zero tolerance to scientific dissent.

³⁸ S. V. Speransky et al., "Method of Pain Impact in the Treatment of Addictions and Other Manifestations of Avital Activity" (2005). (Сперанский С.В и другие (2005) Метод болевого воздействия при лечении аддиктивного поведения и других проявлений авитальной активности). <http://rozgamed.narod.ru/caust3.html>.

³⁹ A. Sarang, "Spas-on-Blood, or the Chronicles of Anti-drug Terror in Ekaterinburg," 2010. (Саранг А. Спас-на-крови, или хроники антинаркотического террора в Екатеринбурге, 2010г.) <http://rylkov-fond.ru/blog/2010/03/15/gbnrus/>

⁴⁰ *No to Drugs (2010). 335 experimental operations on humans* (Нет наркотикам (2010) 335 Экспериментальных операций на людях). http://www.narkotiki.ru/internet_5242.html

⁴¹ Anastasia Kuzina, "Treated to Death," *Moskovsky Komsomolets*, 2011 (А.Кузина, «Долечили до смерти». *Московский Комсомолец*, 2011 г.) www.mk.ru

⁴² A. Mamontov, "The Tragedy is Called Coaxil," documentary, *Rossiya TV Channel* (2010) (А. Мамонтов. «Трагедию зовут коаксил». Документальный фильм, *Телеканал Россия*. 2010г.) http://www.rutv.ru/video.html?tvpreg_id=123784&cid=125&d=0&mid=14. Last accessed October 14, 2011.

⁴³ Selection of videos on this topic can be found here: <http://www.youtube.com/watch?v=7KiWjhjNT7U&feature=related>. Last accessed October 14, 2011.

⁴⁴ <http://www.youtube.com/watch?v=CDRrL4ZuuPI&feature=related>

8.3.1.1 In 2010, the President of the Russian Federation approved a Strategy of the State Anti-Drug Policy of the Russian Federation up to the year 2020⁴⁵ (hereinafter, the Strategy). The Strategy stipulates the following:

Para 23(a) One of the main threats to the system of demand reduction measures is that “tolerable attitudes toward non-medical use of narcotic drugs will become widespread within society”;

Para 32(g) One of the main activities to increase the effectiveness and development of drug dependency treatment is “not allowing for use in the Russian Federation of substitution methods of treatment of drug dependence with use of narcotic means and psychotropic substances from the list I and II of the Drug Means Schedule⁴⁶, as well as legalization of use of some narcotics for non-medical purposes”;

Para 48(2) “Partially manageable risks [for realization of the Strategy]: forming in society the tolerable attitude to drug use; discrediting the activities of the drug control state agencies in the Russian Federation; intensification of attempts to legalize substitution therapy with use of narcotic drugs and propaganda of drug use under the pretence of syringe exchange programs...”

8.3.1.2 Following the approval of the Strategy, the State Anti-Drug Committee developed and approved the “Plan for the Implementation of the State Anti-Drug Policy Strategy of the Russian Federation until 2020⁴⁷” (hereinafter, the Plan). In particular the Plan consists of the following provision:

№	Main tasks and directions of the state anti-drug policy	Content of the measures	Executing agencies	Timeframe
2.2.2	Not allowing for use in the Russian Federation of substitution methods of treatment of drug dependence with use of narcotic means and psychotropic substances from the list I and II of the Drug Means Schedule, as well as legalization of use of some narcotics for non-medical purposes	Develop proposals for legislative limitations of the activities on the territory of the Russian Federation of the organizations which actions are aimed at drawing attention [of the public] to alternative methods of drug dependence treatment (substitution therapy, harm reduction programs and other)	Federal Drug Control Service of the Russian Federation and other interested agencies	2012

8.3.1.3 These documents officially provide a foundation for the two major pillars of the modern drug policy in the Russian Federation:

⁴⁵ Decree of the President of the Russian Federation “On the adoption of the State Anti-Drug Strategy of the Russian Federation” No. 690 of June 9, 2010. (Указ Президента Российской Федерации N 690 от 9 июня 2010 года Об утверждении Стратегии государственной антинаркотической политики Российской Федерации до 2020 года). <http://www.rg.ru/2010/06/15/strategiya-dok.html>

⁴⁶ Methadone is in the List I which consists of narcotic drugs and psychotropic substances completely prohibited for medical use; Buprenorphine is in the List II which consists of narcotic drugs and psychotropic substances allowed for the medical use. See Decree of the Government of the Russian Federation No 681 of 30 June 1998.

⁴⁷ State Anti-Drug Committee of the Russian Federation, *Plan for the Implementation of the State Anti-Drug Policy Strategy of the Russian Federation until 2020*. <http://stratgap.ru/pages/strategy/3662/3887/4548/4580/index.shtml>

- “Zero tolerance” for drug use, which in practice turns to “zero tolerance” for drug users and advocates for their human rights; and
- Prohibition of public debate, scientific discussions and dissemination of information concerning methods of drug dependency treatment, which deviate from the methods officially approved in the Russian Federation. In particular this prohibition concerns opioid substitution therapy with use of methadone and buprenorphine.

8.3.1.4 These provisions are in use by the state agencies. Commenting on the ARF website closure, the FDCS official Anastasya Boyarkina, clearly mentioned that the ARF website contained “propaganda of substitution therapy, which is prohibited in the Russian Federation.” According to Boyarkina, this constituted a violation of the *Law “On narcotic means and psychotropic substances”* as well as the Strategy of the State Anti-Drug Policy.⁴⁸

8.3.1.5 In its official letter of 11 April 2012 to the Public Chamber of the Russian Federation, the State Anti-Drug Committee⁴⁹ explicitly stated that the recommendations of civil society organizations given to the Government to implement OST as part of HIV prevention among people who inject drugs are;

*“...at odds with the Strategy of the State Anti-Drug Policy of the Russian Federation up to the Year 2020 and shall be considered as open propaganda of drug use, which shall lead to the liability stipulated by laws of the Russian Federation.”*⁵⁰

8.3.1.6 In its letter of 16 February 2012 to the Public Chamber of the Russian Federation⁵¹, as an excuse for not implementing needle and syringe programs, the Ministry of Health stated that the State Anti-Drug Strategy, “stipulates measures to pursue the complete giving up of drug use by drug dependent people,” and that “the ban on tolerating attitudes to drug use in society is established [by the state].”⁵²

8.3.1.7 Even before the adoption of the Strategy, the discussion of opioid substitution therapy was not welcome in Russia. In September 2009, the General Prosecutor’s Office of the Russian

⁴⁸ Irina Chevtavaeva, “Experts on the Russian Drug Policy and the Ban on its Discussion,” *Radio Svoboda*, February 10, 2012, http://www.svobodanews.ru/content/article/24479968.html?utm_source=dlvr.it&utm_medium=twitter&utm_campaign=SvobodaRadioTwitter

⁴⁹ The State Antidrug Committee has been created by the Decree of the President of the Russian Federation of October 18, 2007 No 1374 in order to coordinate activities of the authorities in the area of counteracting drug trafficking.

⁵⁰ State Anti-Drug Committee of the Russian Federation, *Letter of the State Anti-Drug Committee of the Russian Federation to the Public Chamber of the Russian Federation of 11 April 2011* No 11/1/1233 (2011).

⁵¹ Public Chamber of the Russian Federation was created by the Federal Law No. 32-FZ of 4 April 2005 with the mandate to ensure cooperation between people of the Russian Federation, civil society organizations and the authorities of the Russian Federation with the aim to make sure that the interests and needs of people as well as human rights are taken into account when the state policy is formulated and implemented as well as to ensure the public control over the authorities.

⁵² Ministry of Health and Social Development of the Russian Federation, *Letter from the Ministry of Health and Social Development to the Public Chamber of the Russian Federation of 16 February 2012*. <http://www.esvero.ru/> Last time accessed on 19 March 2012.

Federation received a mandate from the Security Council of the Russian Federation to⁵³ “undertake additional measures to enhance prosecutors’ surveillance over the ban on propaganda of substitution therapy with use of prohibited narcotic drugs.”⁵⁴

8.3.1.8 In 2007, Nicolay Ivanets, at that time the Chief Narcologist (Chief Drug Treatment Doctor) of the Russian Federation, referred to scientific discussion of substitution treatment as drug propaganda, prohibited by law.

Question from journalist: “*Why then are many Russian medical doctors in favour of methadone programs?*”

Answer of Mr. Ivanets: “*They won’t be in favour, they are not idiots. There is a law: if they are in favour, they will be arrested for propaganda of narcotic drugs.*”

Additional comment by Mr. Ivanets regarding the United Nations Office on Drugs and Crime: “*There was a UNODC⁵⁵ representative here in Moscow. He instigated our dissidents. Thank God he’s been removed. They’ve sent another one, German. He’d been tasked to find a common language with state agencies. He’s been to my office. We had a talk. And we’ve found a common language — no more words like ‘methadone’ in use.*⁵⁶.”

8.3.2 Atmosphere of hate and suspicion towards OST advocates in Russia.

8.3.2.1 State officials deliberately promote an image that those who advocate for OST are bad people, criminals, murderers, agents of foreign intelligence services, and agents of global pharmaceutical companies.

8.3.2.2 During the press conference at the UN Commission on Narcotic Drugs (CND) in Vienna on 12 March 2012, Victor Ivanov, the Head of FDSC in Russia, stated the reason for closing the ARF website was that:

*“[The] website was involved in distribution of methadone as part of the replacement therapy [...] essentially the website was involved in an activity to spread a substance that is classified as a drug under the Russian law”.*⁵⁷

Mr. Ivanov knew that ARF only distributed information about OST through its website and was never engaged in distribution of methadone or any other illicit substance in Russia or elsewhere. Nevertheless Mr. Ivanov made his statement discrediting ARF in the eyes of journalists.

8.3.2.3 In his official letter on 12 October 2011, the Chief Narcologist of the Russian Federation strongly opposed ARF’s request to consider ICESCR recommendations concerning OST:

⁵³ According to the Decree of the President of the Russian Federation № 726 of 7 June 2004, the Security Council of the Russian Federation is a Federal Constitutional body in charge of preparing the decisions of the President on the strategy of the country’s development, security of the essential interests of individuals, society and the state from the external and internal threats.

⁵⁴ Security Council of the Russian Federation. *Protocol Пп-2467 of 17 September 2009 of the meeting of the Security Council of the Russian Federation on 8 September 2009.*

⁵⁵ United Nations Office on Drugs and Crime

⁵⁶ A. Zlobin, “No word ‘methadone’ anymore,” Interview with N.N. Ivanets, *Newsweek*, 26.11 – 02.12.2007. <http://www.narcom.ru/publ/info/738>. Last time accessed on March 19, 2012.

⁵⁷ Victor Ivanov, Press conference during the 55th Session of CND, March 2012. <http://drogriporter.hu/en/ivanovaccusation>. Last time accessed on March 19, 2012.

“In regards to the issue in question [legal support for OST], not only any juggling of the legal acts is unacceptable, it is also a crime against people who suffer from drug dependence.”⁵⁸

8.3.2.4 Deputy Head of the Committee on Control of Law enforcement of the Federal Public Chamber in his interview related to the Draft Drug Strategy of the Russian Federation recently stated:

“I state with a strong confidence that those who want to legalize methadone [for substitution treatment] are murderers!”⁵⁹

8.3.2.5 In April, 2010, the official newspaper of the Federal Government, Rossiiskaya Gazeta, published an article with the following statements about OST⁶⁰:

“Special [intelligence] services point to a new danger in the drug market: under the guise of treating drug users, medical practitioners are pushing a dangerous drug — methadone. Our [Russian] intelligence files contain many facts about how methadone was used as a “detonator” during the so-called “colour” revolutions. Its first use was recorded during the collapse of Yugoslavia: a factory was built to produce methadone and the product was distributed for free shortly before the street riots. Then the factory closed down leaving thousands of addicts [in withdrawal] ready to smash everything in sight.

The same situation was repeated during the “Orange” Revolution in the Ukraine five years ago. A former first lady of the country wrote that she had seen protesters in Kiev handing out free oranges filled with drugs. People got high on methadone, and then it was no longer available without paying. The same scenario, this time called “Tulip Revolution”, was replayed five years ago in Kyrgyzstan. This was confirmed by the local anti-narcotic services.

Experts of the drug control agency and other security services believe some want to make Russia a market for dumping their stocks of the drug, already manufactured and available, because it is losing popularity around the world. The owner of the patent for the production of this drug is a very rich and famous American pharmaceutical company. It is not possible to produce methadone without paying a percentage to that company”.

8.3.2.6 A number of high profile Russian scientists signed a memorandum, including: the Chair of the Russian Association of Psychiatrists, Professor V.N. Krasnov; Director of the Russian National Scientific Narcological Center, Associate Researcher of the Russian Academy of the Medical Science, professor N.N. Ivanets; Deputy Chair of the Russian Association of Psychiatrists, the member of the International Narcotics Control Board, professor T.B. Dmitrieva; Deputy Head of the Russian Federal Penitentiary Service of the Ministry of Justice of the Russian Federation, A.S. Kononets; and the Director of the Scientific Center of Psychological Health of the Russian Academy of the Medical Science, Academic Professor A.S. Tiganov. It stated:

“Methadone programs are not only ineffective for treatment of drug addicts, they are also not solving the problems of HIV infection. Lobbying for methadone programs is connected exclusively

⁵⁸ Letter by E. Brun of 12 October 2011 No 115/11 in response to the Letter of ARF of 1 September 2011 to the Russian President with the request to fulfill the recommendations of CESCRC and introduce OST in Russia.

⁵⁹ Anatoly Kucherena, LLD, Statement made in January 2010.

⁶⁰ “To the doctor for a poison,” *Rossiiskaya gazeta*. Federal Issue №5168 (89), April 27, 2010.

with financial interests of methadone manufacturers. But at the same time the lives of sick people are put at stake”⁶¹.

8.3.3 Misleading statements and false information as a way to obstruct the right to receive and impart objective and scientific information about OST

8.3.3.1 The Federal Drug Control Service and the Ministry of Health consistently provide the Russian and international public with misleading information regarding OST and the current drug treatment situation in Russia.

8.3.3.2 Every year during press conferences at the UN Commission on Narcotic Drugs, the Head of the FDCS Victor Ivanov states false information about OST:

***In the year 2010:** Science does not yet provide scientifically proven clinical trials that confirm the effectiveness of this method [OST]. In this issue we share the position with our colleagues in the United States.⁶²*

***In the year 2011:** I shall say that that we are studying this experience [regarding OST] and we studied the experience in the United States. We can conclude that there are no clinical trials to prove the effectiveness of this method.⁶³*

***In the year 2012:** As you know there is a discussion going on regarding the use of methadone as a substitution therapy treatment and the Russian medical doctrine at the moment does not accept this position. This position is shared by a number of countries including the United States, a country with which we are closely cooperating in this area. The scientists in the United States, the United Kingdom and Sweden have in fact established that the number of deaths from methadone use increased 25% compared to the people who did no use this substance.⁶⁴*

8.3.3.3 The Director of the Department for Organization of Medical Help and Development of Public Health at the Ministry of Health and Social Development said at the 52nd session of CND in Vienna, (March 2009):

“There is no evidence that use of methadone and buprenorphine facilitates treatment of drug addicts. In many states as well as in Russia there is a wide specter of medicine from the other pharmacological groups [not methadone or buprenorphine] which are used for treatment of drug addiction with good results”⁶⁵.

8.3.3.4 The Chief Drug Treatment doctor of the Ministry of Health in his speech at the beginning of his tenure stated:

⁶¹ Memoranda “No to methadone programs”

<http://lepila.tyurem.net/topic182.html?mode=threaded&pid=1824>

⁶² Victor Ivanov, Press conference at the 53rd Session of CND, March 2010. <http://drogriporter.hu/en/russia> Last time accessed on March 19, 2012.

⁶³ Victor Ivanov, Press conference at the 53rd Session of CND, March 2010. <http://drogriporter.hu/en/ivanov2> Last time accessed on March 19, 2012.

⁶⁴ Victor Ivanov, Press conference at the 53rd Session of CND, March 2010. <http://drogriporter.hu/en/ivanovaccusation> Last time accessed on March 19, 2012.

⁶⁵ Olga Krivonos, Director of the Department for Organization of Medical Help and Development of Public Health. The Ministry of Health and Social Development of the Russian Federation, Speech at the 52nd session of CND, Vienna, March 2009.

“Our system [Russian drug treatment] produces results which are not worse than those of methadone programs. We [in Russia] will not gain any positive results from the introduction of substitution therapy.”⁶⁶

8.3.3.5 He later stated in an official letter:

“The so-called “substitution therapy” has nothing to do with therapy, i.e. medical treatment. It is just distribution of methadone, for which there is a need to keep medical personnel. The matter is that one drug (heroin) is simply substituted with another drug (methadone), which just maintains the disease and leads a drug dependent person to unavoidable psycho-degradation and death.”⁶⁷

8.3.3.6 The above statement of the Chief Drug Treatment Doctor was made despite the fact that ARF had sent to the Ministry of Health a box of scientific literature on OST and harm reduction, including the papers by UN agencies. On 24 July 2011, the Ministry informed ARF that the correspondence was forwarded to the Chief Drug Treatment Doctor for considerations.⁶⁸

8.3.3.7 The State Anti-Drug Committee in its official letter to the Public Chamber of the Russian Federation stated the following:

“The main aim of drug dependence treatment is to free a sick person from drug dependence; the programs of “maintenance therapy” with methadone and buprenorphine lead to the opposite result — developing and maintaining the most severe form of drug dependence (poly-drug dependence) which violates the right to the highest attainable standards of physical and mental health and therefore is not allowed in the Russian Federation.”⁶⁹

8.3.3.8 On 16th February 2011, the UN High Commissioner on Human Rights raised the issue of substitution treatment and access to needle and syringe programs during her official visit to the Russian Federation at the meeting with the Minister of Health. In response to the High Commissioner’s concerns, the Minister repeated the misguided position of her Ministry that harm reduction approaches had proved to be ineffective in the Russian Federation and that the “international community failed to produce evidence that methadone therapy is effective.”⁷⁰

8.4 Public health and other social consequences of the government’s restriction of public access to the benefits of scientific progress and its application.

8.4.1 OST is considered by the WHO, UNODC, and UNAIDS as a core intervention for HIV prevention among people who use opiates by way of injection⁷¹ as well as an effective

⁶⁶ Evgeny Brun, the Chief Narcologist of the Russian Federation, Interview for the internet news medical news portal. <http://medportal.ru/mednovosti/main/2010/06/25/contradict/>. Last accessed on September 14, 2010.

⁶⁷ Letter of E. Brun of 12 October 2011 No 115/11 in response to the Letter of ARF of 1 September 2011 to the Russian President with the request to fulfill the recommendations of CESCR and introduce OST in Russia.

⁶⁸ Letter of the Ministry of Health of 28 July 2011 No 14-9/362193-4857

⁶⁹ Letter of the State Anti-Drug Committee of the Russian Federation to the Public Chamber of the Russian Federation of 11 April 2011 No 11/1/1233.

⁷⁰ “Minister of Health had a meeting with the UN High Commissioner on Human Rights,” Press release of the Ministry of Health, February 16, 2011. <http://www.minzdravsoc.ru/health/med-service/142>

⁷¹ WHO, UNODC and UNAIDS, *Technical Guide for Countries to Set Targets for Universal Access to HIV Prevention, Treatment and Care for Injecting Drug Users* (WHO, 2009).

intervention to reduce the risk of overdose⁷² and criminal behavior among people who use drugs.⁷³

8.4.2 Lack of access to OST and other effective drug treatment programs leaves about 1.7 million people who use illegal opiates to face the health and social risks of illicit drug use, including exposure to HIV/AIDS, hepatitis, incarceration and further exposure to tuberculosis and death by overdose.

8.4.3 More than one third (37%) of the 1.5 million to 2 million people who inject drugs in the Russian Federation are believed to be living with HIV/AIDS^{74,75} and in some regions of the Russian Federation, HIV prevalence in this group reaches 75%.⁷⁶

8.4.4 According to the official data, about 80% of HIV cases from 1987 to 2008 were related to injection drug use.⁷⁷ For 59.2% of HIV-positive people identified in 2010, drug use with non-sterile equipment was named as the main risk factor.⁷⁸ In some cities, up to 90% of injecting drug users are infected with hepatitis C.⁷⁹

8.4.5 People who use drugs are highly criminalized in Russia. Russia is the second in the world, (followed by the USA) in the number of prisoners for each 100,000 residents. Each year, Russian prisons house 850,000 to 1,000,000 prisoners.⁸⁰ Researchers suggest that up to 65% of drug users have been incarcerated at least once in their life.⁸¹

⁷² WHO, *Guidelines for the Psychosocially Assisted Pharmacological Treatment of Opioid Dependence*(WHO, 2009).

⁷³ UNODC, *Opioid Substitution Therapy: Review of the Effectiveness on Reduction of Crime* (UNODC, 2007).

⁷⁴ WHO, UNAIDS and UNICEF, *Global HIV/AIDS Response. Epidemic Update and Health Sector Progress Towards Universal Access. Progress Report. 2011*, p.33.

⁷⁵ UNODC, *World Drug Report* (Vienna: UNODC, 2011), p.51.

⁷⁶ Federal Service on Customers' Rights and Human Well-being Surveillance of the Russian Federation, *Country Progress Report on the progress of implementing the Declaration of Commitment on HIV/AIDS adopted at the 26th United Nations General Assembly Special Session on HIV/AIDS. Reporting period: January 2008 – December 2009* (2010). («Национальный доклад Российской Федерации о ходе выполнения Декларации о приверженности делу борьбы с ВИЧ/СПИДом, принятой в ходе 26-ой специальной сессии Генеральной Ассамблеи ООН, июнь 2001г. Отчетный период: январь 2008 года - декабрь 2009 года»)

⁷⁷ Federal Scientific and Methodological Centre for Prevention and Control of AIDS in the Russian Federation, *Newsletter № 33* (Moscow: 2009), p.13. (Федеральный научно-методический центр по профилактике и борьбе со СПИДом в Российской Федерации (2009). Информационный бюллетень № 33, Москва С. 13. http://www.hivrussia.ru/files/bul_33.pdf.)

⁷⁸ Federal Scientific and Methodological Centre for Prevention and Control of AIDS in the Russian Federation, *Information note on HIV in the Russian Federation in 2010* (2010). (Федеральный научно-методический центр по профилактике и борьбе со СПИДом в Российской Федерации, 2010г. *Справка ВИЧ-инфекция в Российской Федерации в 2010 г.* <http://www.hivrussia.ru/files/stat/2010/spravka.doc>.)

⁷⁹ Stellit, *Research among people who use street drugs in St. Petersburg* (2010). (Стеллит, "Исследование среди уличных потребителей наркотиков в г. Санкт-Петербурге", 2010г.)

⁸⁰ R. Walmsley, *World Prison Population List, 8th ed.*, International Centre for Prison Studies, 2009.

⁸¹ A. Sarang et al., "Drug injecting and syringe use in the HIV risk environment of Russian penitentiary institutions," *Addiction* 2006, 101: 1787–1796.

8.4.6 The Federal Penitentiary Service of the Russian Federation reports that 124,168 people over the age of 18 were imprisoned for drug crimes in 2010. Of these, 19,628 were female.⁸² The Supreme Court of the Russian Federation reports that in addition to 105,000 people sentenced for drug crimes in 2010, 104,433 were sentenced for drug administrative offences — mere drug use or possession of tiny amounts of drugs for personal use — 49% of these individuals being sentenced to up to 15 days of prison.⁸³

8.4.7 About 11% of people living with HIV who are aware of their status are in custody.⁸⁴ During the past four years, a rapid and consistent increase in new HIV cases among prisoners has been observed (from 1194.5 per 100,000 tested in 2007 to 1638.8 in 2008 and 1712.6 in 2009).⁸⁵

8.4.8 At the end of 2009, 262,718 people with active tuberculosis (TB) were registered at the Russian TB facilities, including 117,227 new cases.⁸⁶ 16% of those infected with TB were in the custody of the Federal Penitentiary Agency.⁸⁷

8.4.9 According to the WHO, the Russian Federation has become one of the three global leaders in the incidence of multiple drug resistant TB (MDR-TB).⁸⁸ In 2001, 43,000 cases were identified.⁸⁹ In 2009, MDR-TB prevalence grew by 10.2% during one year.⁹⁰

8.4.10 At the end of 2008, the total number of cases of TB-HIV co-infection reached 16,813, about 18% more than in 2007. Progressive TB became the direct cause of death in 66.5% of cases among deceased patients with HIV.⁹¹ About 75% of men and 54% of women living with HIV and TB were infected with HIV through injection drug use.⁹²

⁸² Official statistics of the Federal Penitentiary Service. <http://fsin.su/structure/inspector/iao/statistika/Xarka%20lic%20sodergahixsya%20v%20IK/> Last time accessed on March 20, 2012.

⁸³ Official Statistics of the Judicial Department attached to the Supreme Court of the Russian Federation. www.cdep.ru

⁸⁴ According to the Medical Department of the Federal Penitentiary Agency (FSIN) of the Russian Federation: <http://www.poz.ru/news/?id=2682>.

⁸⁵ Federal Scientific and Methodological Centre for Prevention and Control of AIDS in the Russian Federation, Newsletter № 34. (Moscow: 2009). (Федеральный научно-методический центр по профилактике и борьбе со СПИДом в Российской Федерации (2010). Информационный бюллетень № 34, Москва. <http://www.hivrussia.ru/stat/bulletin.shtml#34>.)

⁸⁶ Federal Research Institute for Health Organization and Informatics of Ministry of Health and Social Development of the Russian Federation (FRIHOI of MoH&SD of the RF), “The epidemiological situation of tuberculosis in the Russian Federation of December 31, 2009,” (2010). (ФГУ ЦНИИ ОИЗ МЗСР РФ (2010) Эпидемическая ситуация по туберкулезу в Российской Федерации на 31 декабря 2009 года. http://duma.hivpolicy.ru/assets/files/15_04_2010/TB.pdf.)

⁸⁷ FRIHOI of MoH&SD of the RF., “The epidemiological situation of tuberculosis in the Russian Federation of December 31, 2009,” (2010). (ФГУ ЦНИИ ОИЗ МЗСР РФ (2010) Эпидемическая ситуация по туберкулезу в Российской Федерации на 31 декабря 2009 года. http://duma.hivpolicy.ru/assets/files/15_04_2010/TB.pdf.)

⁸⁸ MDR-TB is a form of TB which cannot be treated with a standard six-month therapy using first line drugs. MDR-TB develops as a result of an infection with resistant bacteria or as a result of unsuccessful treatment.

⁸⁹ WHO, *Multidrug and extensively drug-resistant TB (M/XDR-TB): 2010 global report on surveillance and response* (WHO, 2010). http://whqlibdoc.who.int/publications/2009/9789241598866_eng.pdf.

⁹⁰ Ibid.

⁹¹ Russian Health Care Foundation (RHCF), “Experience of cooperation among regional tuberculosis services and AIDS centers in surveying people with TB and HIV co-infection,” 2010 Round Table. (ФРЗ (2010) Круглый стол «Опыт взаимодействия региональных противотуберкулезных служб и центров

8.4.11 According to the official data, 7192 people died because of drug overdoses in 2010.⁹³

IX. THE NATIONAL LAWS AND INTERNATIONAL TREATIES OF THE RUSSIAN FEDERATION

Constitution of the Russian Federation, 1993⁹⁴

Article 2

Man, his rights and freedoms are the supreme value. The recognition, observance and protection of the rights and freedoms of man and citizen shall be the obligation of the State.

Article 15

1. The Constitution of the Russian Federation shall have the supreme juridical force, direct action and shall be used on the whole territory of the Russian Federation. Laws and other legal acts adopted in the Russian Federation shall not contradict the Constitution of the Russian Federation.

4. The universally-recognized norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system. If an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied.

Article 29 (4)

Everyone shall have the right to freely look for, receive, transmit, produce and distribute information by any legal way. The list of data comprising state secrets shall be determined by a federal law.

Article 41

1. Everyone shall have the right to health protection and medical aid. Medical aid in state and municipal health establishments shall be rendered to individuals gratis, at the expense of the corresponding budget, insurance contributions, and other proceeds.

[...]

3. The concealment by officials of the facts and circumstances posing a threat to the life and health of people shall entail responsibility according to the federal law.

Article 44

1. Everyone shall be guaranteed the freedom of literary, artistic, scientific, technical and other types of creative activity, and teaching. Intellectual property shall be protected by law.

Article 55 (3)

The rights and freedoms of man and citizen may be limited by the federal law only to such an extent to which it is necessary for the protection of the fundamental principles of the

СПИД по привлечению к обследованию больных туберкулезом в сочетании с ВИЧ-инфекцией:
<http://hivpolicy.ru/news/?id=3917&word=7387&logic=OR.>)

⁹² O. Frolova, "The epidemiological situation of tuberculosis concomitant with HIV infection," Presentation at the Moscow Medical Academy named after I.M. Sechenov (2009). (Фролова О. "Эпидемиологическая ситуация по туберкулезу, сочетанному с ВИЧ-инфекцией". Презентация. Московская медицинская академия им. И.М. Сеченова, 2009г. <http://www.tbpolicy.ru/news/?id=227.>)

⁹³ Aleksandra Zinovieva, "Hospital or Prison?" *Multiportal KM.RU*, July 21, 2011.

⁹⁴ Official translation <http://www.constitution.ru/>

constitutional system, morality, health, the rights and lawful interests of other people, for ensuring defence of the country and security of the State.

The Russian Federation is the successor of the Soviet Union which ratified the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights⁹⁵.

Federal Law #3-FZ of 8 January 1998 “On narcotic means and psychotropic substances”⁹⁶

Article 46. Prohibition of propaganda in the sphere of turnover of narcotic means, psychotropic substances and precursors thereof and in the sphere of cultivation of plants which contain narcotics.

1. Propaganda of narcotic means, psychotropic substances, precursors thereof and of cultivation of plants which contain narcotics, carried out by legal and physical persons and aimed at distribution of information about modes and methods of development, manufacturing and use of narcotic means, psychotropic substances and precursors thereof, places of their purchasing, methods and places of cultivation of plants containing narcotic means, as well as manufacturing and distribution of books, outputs of mass media, distribution of aforementioned information by way of information-telecommunication networks and committing other activities for the same aims is prohibited.

2. Propaganda of any advantages in use of certain narcotic means, psychotropic substances, analogues and precursors thereof, plants containing narcotic means, including propaganda of medical use of narcotic means and psychotropic substances, plants containing narcotic means, which suppress a man’s willpower or adversely affect his mental or physical health is prohibited.

[...]

4. Violation of the rules set up by the present article leads to liability according to the laws of the Russian Federation.

5. In case of establishing the facts of repeated violation by the legal person of rules of parts 1,2 and 3 of the present article, the activities of the said organization could be suspended or terminated by a court’s judgment.

Federal Law # 38-FZ of 13 March 2006 “On advertising activities”⁹⁷

Article 7. Merchandise for which advertising is restricted

Advertising is not allowed for:

[...]

2) narcotic means, psychotropic substances and precursors thereof, plants containing narcotic means and psychotropic substances or precursors thereof;

[...]

⁹⁵ Order of the Presidium of the Supreme Council of the USSR of 18 September 1973 No 4812-VIII.

⁹⁶ Unofficial translation by one of the staff members of the Canadian HIV/AIDS Legal Network.

⁹⁷ Unofficial translation by one of the staff members of the Canadian HIV/AIDS Legal Network.

Code of Administrative Violations of the Russian Federation, 2001⁹⁸

Article 6.13. Propaganda of narcotic means, psychotropic substances, precursors thereof, plants containing narcotic means or psychotropic substances or precursors thereof.

1. Propaganda or illicit advertisement of narcotic means, psychotropic substances or precursors thereof, plants containing narcotic means, psychotropic substances or precursors thereof shall be punished with administrative fine for physical persons — from 4 to 5 thousand rubles with forfeiture of advertising materials and equipment used for its production; for state officials from 40 to 50 thousand rubles; for entrepreneurs from 40 to 50 thousand rubles or administrative suspension of their activities for up to 90 days with forfeiture of advertising materials and equipment used for its production; for legal persons — from 800 thousand to 1 million rubles with forfeiture of advertising materials and equipment used for its production, or administrative suspension of their activities for up to 90 days with forfeiture of advertising materials and equipment used for its production.

2. The same activities committed by the foreign citizen or stateless person shall be punished with a fine from 4 to 5 thousand rubles with administrative deportation from the territory of the Russian Federation, or administrative arrest for up to 15 days with administrative deportation from the territory of the Russian Federation.

Note: *There is no administrative offence in distribution of information about narcotic means, psychotropic substances and precursors thereof in specialized publications for medical and pharmaceutical workers.*

X. STATEMENT OF ALLEGED HUMAN RIGHTS VIOLATIONS AND OF RELEVANT ARGUMENTS

10.1 The normative content of the right to enjoy the benefits of scientific progress and its applications and the relevant state obligations.

10.1.1 The UN Independent Expert in the field of cultural rights makes a particular reference to the Venice Statement on the Right to Enjoy the Benefits of Scientific Progress and its Applications (hereinafter the Venice Statement)⁹⁹ as to an important document in elaborating the normative content of the right and the related obligations of States¹⁰⁰.

10.1.2 According to the Venice Statement, the normative content of the right to enjoy the benefits of scientific progress and its applications should be directed to the following:

- Para 13(a) Creation of an enabling and participatory environment for the conservation, development and diffusion of science and technology, which implies inter alia academic and scientific freedom, including freedoms of opinion and expression, to seek, receive and impart information, equal access and participation of all public and private actors;

⁹⁸ Unofficial translation by one of the staff members of the Canadian HIV/AIDS Legal Network.

⁹⁹ UNESCO, *The Right to Enjoy the Benefits of Scientific Progress and its Application* (Paris: UNESCO, 2009)

¹⁰⁰ Report of the independent expert in the field of cultural rights, Ms. Farida Shaheed, submitted pursuant to resolution 10/23 of the Human Rights Council, A/HRC/14/36, March 22, 2010.

- Para 13(b) Enjoyment of the applications of the benefits of scientific progress, which implies inter alia non-discriminatory access to the benefits of scientific progress and its applications, including technology transfer and capacity building.

10.1.3 Amongst the state obligations **the duty to respect** should include:

- Para 14(a) to respect the freedoms indispensable for scientific research and creative activity, such as freedom of thought, to hold opinions without interference, and to seek, receive, and impart information and ideas of all kinds;

10.1.4 **The duty to protect** should include:

- Para 15(a) to take measures, including legislative measures, to prevent and preclude the utilization by third parties of science and technologies to the detriment of human rights and fundamental freedoms and the dignity of the human person by third parties;

10.1.5 **The duty to fulfill** should include:

- Para 16(a) to adopt a legal and policy framework and to establish institutions to promote the development and diffusion of science and technology in a manner consistent with fundamental human rights. The relevant policies should be periodically reviewed on the basis of a participatory and transparent process, with particular attention to the status and needs of disadvantaged and marginalized groups;
- Para 16(b) to promote access to the benefits of science and its applications on a nondiscriminatory basis including measures necessary to address the needs of disadvantaged and marginalized groups;
- Para 16 (c) to monitor the potential harmful effects of science and technology, to effectively react to the findings and inform the public in a transparent way;
- Para 16 (d) to take measures to encourage and strengthen international cooperation and assistance in science and technology to the benefit of all people and to comply in this regard with the States' obligations under international law;
- Para 16 (e) to provide opportunities for public engagement in decision-making about science and technology and their development.

10.2 Government actions against ARF and other activities regarding prohibition of OST and public debates around OST are at odds with the normative content of the right to enjoy the benefits of scientific progress and its applications and the relevant state obligations.

10.2.1 With reference to the aforementioned information, we submit that the government of the Russian Federation violates the right to enjoy the benefits of scientific progress and its application as stipulated in Article 15.1(b) of the International Covenant on Economic, Social and Cultural Rights by way of the following actions:

- It prohibits by way of the Federal Law the application of OST for treatment of drug dependence and prevention of HIV among people who inject drugs;

- It prohibits by way of the national policy and law enforcement practice the free distribution of and access to scientific and human rights information about OST, including the experience of other countries in its application;
- It distributes false information about OST in order to mislead the Russian and international public, and to prevent the public from accessing objective and scientific information; and
- It distributes false information about advocates of OST in order to discredit them before the Russian and international public.

10.2.2 **The duty to respect.**

- It is clear that the Government interferes in the freedom of thought, to hold opinions and to seek, receive, and impart information and ideas regarding OST and harm reduction.
- The ARF website closure was a culmination of what government agencies have been doing for many years as demonstrated in part 8.3 of this communication.

10.2.3 **The duty to protect.**

- The Government does not take measures, including legislative measures, to prevent and preclude the misuse of science and technologies, to the detriment of human rights and fundamental freedoms and the dignity of people who use drugs.
- On the contrary, as demonstrated in parts 8.1, 8.2, 8.3.1 of this communication, government agencies by way of drug policy, state institutions, and private persons at the instigation, consent and acquiescence of the government, apply torturous practices or otherwise humiliating and unscientific methods of treatment to people who use drugs. These methods are underlined with the policy of “zero tolerance” which is adopted and maintained by the government.

10.2.3 **The duty to fulfill.**

- Despite the fact that drug dependence treatment is a separate discipline within Russian medicine and that there is an independent National Scientific Centre specifically created for the purpose of scientific support and research of new methods of treatment, not only science and technology in drug dependence treatment are obstructed, but pseudoscientific drug treatment methods are promoted, as indicated in the parts 8.1 and 8.2 of this communication.
- As evidenced in part 8.3.1 and IX of this communication, current drug laws and policy promote censorship, ban internationally recognized methods of drug treatment and care, and make no reference to human rights. This runs contrary to the state duty stipulated in paragraph 16(a) of the Venice Statement.
- People who use drugs, injecting drug users in particular, are especially vulnerable to human rights violations, social exclusion, stigma, discrimination, HIV/AIDS and other blood-borne diseases.¹⁰¹ Resolutions and Declarations of the UN General Assembly and Human Rights

¹⁰¹ UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, A/65/255, August 6, 2010.

Council call on states to pay special attention to the human rights of people most at risk for HIV/AIDS.^{102,103}

- Paragraph 16(a) of the Venice Statement calls on states to pay particular attention to the status and needs of disadvantaged and marginalized groups when promoting science. The ban on OST, the stagnation of scientific progress and the stifling of public debate about OST directly affect the most disadvantaged and marginalized groups of people, whose health and quality of life entirely depend on the government's ability to apply the results of scientific progress, such as OST. Part 8.4 of this communication demonstrates the seriousness of the consequences of repressive drug policy and unscientific drug treatment, and how much these affect people who use drugs. This contradicts the state's duty, stipulated by paragraph 16(b) of the Venice Statement.
- The ban on OST, the "zero tolerance" policy and other ways of stifling the debate around OST and the human rights of people who use drugs directly obstruct access to the benefits of science and its applications for drug dependent people, based on an unscientific belief that a chronic disease like drug addiction can be dealt with by use of repressive and abstinence-based methods only. The immediate needs of people who use drugs and drug dependent people, including the need for HIV prevention, are not addressed. This also contradicts the state's duty, stipulated by paragraph 16(b) of the Venice Statement.
- Despite the fact that the Government is aware of and confirms the ineffectiveness of drug treatment methods currently in practice in Russia and their harmful effects, the Government does not properly respond to these facts or inform the public in a transparent way. Parts VI and VII of this communication demonstrate that even when the government is directly informed and asked to promptly act as recommended by the UN agencies and ICESCR, the only reaction is to block the human rights and science-promotion activities of those asking the government to act. This is at odds with the state's duty stipulated in paragraph 16(c) of the Venice Statement.
- Parts VI, VII and 8.3.3, as well as paragraph 8.3.1.8 clearly demonstrate that so far the government has chosen not to engage in dialogue and cooperate with international organizations, including the UN, when it comes to OST and harm reduction. There is strong denial by the government of its obligations under international law, even when recommendations regarding such obligations have been made by CESCR and directly concern OST. This is contrary to the state's duty stipulated in paragraph 16(d) of the Venice Statement.
- The Government uses drug propaganda laws, intimidation, misleading statements and promotes hate towards OST proponents and those who promote and protect human rights of people who use drugs. In so doing the government severely obstructs opportunities for public engagement in decision-making about science and technology and their development as part of drug policy and drug dependency treatment. This is not in line with paragraph 16 (e) of the Venice Statement.

10.2.4 The above listed accounts demonstrate that the government of the Russian Federation prohibits by way of the Federal Law the application of OST for treatment of drug dependence and prevention of HIV among people who inject drugs; prohibits by way of national policy and law

¹⁰² See for instance *The Political Declaration on HIV/AIDS*, adopted by the UN General Assembly Resolution 60/262, June 2, 2006.

¹⁰³ Human Rights Council, *Resolution 12/27: Protection of Human Rights in the Context of HIV/AIDS*, A/HRC/RES/12/27, October 2, 2009.

enforcement practice the free distribution of and access to scientific and human rights information about OST, including the experience of other countries in its application; distributes false information about OST in order to mislead the Russian and international public and prevents them from accessing objective and scientific information; and distributes false information about advocates of OST in order to discredit them before the Russian and international public. All of these activities violate interlinked rights — the right to freedom of information, the right to enjoy the benefits of scientific progress and its application, and the right to the highest attainable standard of physical and mental health. These activities are contrary to Article 29, 44 and 41 of the Constitution of the Russian Federation, Article 19 of the International Covenant on Civil and Political Rights, Articles 12 and 15.1(b) of the International Covenant on Economic, Social and Cultural Rights, Articles 19 and 27 of the Universal Declaration of Human Rights.

10.2.5 Though these human rights violations are interlinked, the central component is the violation of the right to enjoy the benefits of scientific progress and its applications. Indeed it is because the government does not recognize this right with regards to OST and drug policy that the right to health and the right to freedom of information are violated on a systematic basis. As evidenced above, the violations of the right to enjoy the benefits of scientific progress and its applications and other interrelated rights are massive, systematic and flagrant, and perpetuated as a result of drug policy based on the discriminative social oppression of people who use drugs.

10.3 Availability and effectiveness of domestic remedies to challenge the Government's actions against the freedom to receive and impart information as part of the right to enjoy the benefits of scientific progress and its applications.

10.3.1 On 14 March 2012, ARF submitted a complaint to one of Moscow's district courts, challenging the FDCS's order to block the ARF website. The date of the first hearing has not been established at the time of the drafting of this communication.

10.3.2 Despite the fact that ARF has submitted a well-grounded complaint to the domestic court, there is very little hope that domestic courts will be effective in restoring the ARF's right to impart and receive information.

10.3.3 The independence of judges and courts has been examined by the UN Special Rapporteur on the Independence of Judges and Lawyers who visited Russian Federation in 2008. In his report on the mission to Russia he described the '*Practices of obstructing the independent judicial functioning.*' The Special Rapporteur indicated that:

*"The Government [of the Russian Federation] itself acknowledges that the practice of "telephone justice" or "justice for money" persists in the country. Political interference, which was confirmed by media reports at the time of his visit, has been brought to the attention of the Special Rapporteur. In addition, cases have been reported that in the past judges have sometimes failed to make independent decisions as they feared to have their judgment overturned after they received "advice" from the prosecutor's office, the respective appeal court or their own court chairperson..... Political and other interference has damaged the image of the justice system in the eyes of the population."*¹⁰⁴

¹⁰⁴ Special Rapporteur on the Independence of Judges and Lawyers: *The Report on the Mission to the Russian Federation*, 2009, paras 58 and 94. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/126/50/PDF/G0912650.pdf?OpenElement>

10.3.4 The lack of judicial independence is amplified by the “zero tolerance” policy towards drug use combined with poorly drafted drug propaganda laws and broad interpretation of these laws by law enforcement agencies.

10.3.5 A review of the domestic application by the FDCS and Russian courts of drug propaganda laws shows an ongoing and widespread violation of freedom of expression regarding matters of drug users’ health and human rights by the Russian government. These violations cannot be justified pursuant to the *International Covenant on Civil and Political Rights*.¹⁰⁵ The closure of the ARF website is the latest such violation.

10.3.6 In May 2004, FDCS sued an online bookstore www.books.ru for distributing the Russian edition of the book “Marijuana: The Forbidden Medicine” (Grinspoon and Bakalar, Moscow, Ultra-Kultura, 2003). FDCS demanded that the book be removed from circulation because it contained “drug propaganda”.¹⁰⁶ A Moscow court fined the company that owned the online bookstore. Similar cases were opened in several other cities where the book had been distributed.¹⁰⁷

10.3.7 In December 2004, FDCS alleged that the publishing house “Amfora” (St. Petersburg) had committed an administrative offence by publishing the book “Seven Petals” by S. Kuznetsov. The director of the publishing house emphasized that the book did not contain information about drug preparation and procurement so it should not be considered “drug propaganda”. However, FDCS claimed that the book “hints at the benefits of drug use.” According to the publishing house, FDCS had earlier issued recommendations to publishing houses regarding the lists of books not recommended for distribution. Kuznetsov’s book was listed among others.¹⁰⁸

10.3.8 In May 2007, the Court of Arbitration of the Far East Circuit of the Russian Federation upheld the judgment of the lower court in favour of the FDCS order to terminate the sale of beer with extracts of hemp seeds because the label on the bottle contained a picture of the hemp leaf, which was categorized by the FDCS as drug propaganda as defined by Article 46(1) of the Federal Law No. 3-FZ of 8 January 1998 “On narcotic means and psychotropic substances”.¹⁰⁹

10.3.9 In April 2009, the Federal service on surveillance of communications and mass media in Permsky krai (a region of the Russian Federation) followed the order of the FDCS Department of Permsky krai prohibiting the newspaper *New Companion*’s posting photos of a painting by contemporary Russian painter Dmitry Vrubel. The order categorized the painting as drug propaganda. Later the FDCS order was sent to the coordinator of the exhibition asking him to remove the picture or restrict access of children to see it.¹¹⁰

¹⁰⁵ UN Economic and Social Council, *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*, UN Doc. E/CN.4/1985/4, Annex (1985)

¹⁰⁶ “Can’t dropt a word out of the net,” *Kommersant*, no.21 (574), May 31, 2004 (“Из сети слова не выкинешь” *Еженедельник “Коммерсантъ”*, №21 (574), 31.05.2004 <http://kommersant.ru/doc/478675>)

¹⁰⁷ “Moscow Court Fines the Internet Bookstore Books.Ru for Selling a Book about Marijuana,” *Lenta.ru*, June 1, 2004. (“Московский суд оштрафовал интернет-магазин Books.Ru за продажу книги о марихуане”, *Lenta.ru*, 1 июня 2004г. www.lenta.ru/internet/2004/06/01/books/)

¹⁰⁸ “The State Drug Control Committee blames publishing house Amphora of the drug propaganda” *Lenta.ru*, December 21, 2004. (“Госнаркоконтроль обвиняет издательство “Амфора” в пропаганде наркотиков”, *Lenta.ru*, 21 декабря 2004г. <http://lenta.ru/culture/2004/12/22/amorfa/>)

¹⁰⁹ The Court of Arbitration of the Far East Circuit of the Russian Federation: Judgment of 15 May 2007. Case No. F03-A16/07-1/923,

¹¹⁰ Valery Mazanov, “Dumb&Damber,” *New Companion* April 14, 2009. www.nk.perm.ru.

10.3.10 In June 2009, The Supreme Court of the Russian Federation upheld the lower courts' judgments in favor of the FDCS order to punish the accused for illicit advertisement of narcotic means by selling belt buckles with a hemp leaf pictured on them. A fine of 4000 rubles was imposed and 14 belt buckles were confiscated.¹¹¹

10.3.11 In September 2009, the drug control unit at the Prosecuting office in St. Petersburg banned the book "The Upgraded Ape" by A. Nikonov (Moscow, E.N.A.S, 2004). This followed a decision by the city's Anti-Drug Commission that the book "contains statements to convince [society] of the need to legalize drugs... and to highlight the benefits of using specific drugs."¹¹² Subsequently, the book was removed from all bookstores in St. Petersburg and unsold copies were sent back to the publishers. The book's author is a well-known journalist and popular writer. Though it contains a chapter called "Myths about drugs" that analyzes the global drug policy and discusses possible alternatives, the book primarily deals with the philosophy of human development. Nevertheless, the prosecutor's office issued an official warning to the book's distributor ("Peter Press", a unit of the publishing house "Peter"), and prohibited the book's distribution in St. Petersburg.

10.3.12 In March 2011, the FDCS Department of Novosibirsk region (a region of the Russian Federation) ordered the regional internet provider to remove from a website the following movies: *Fear And Loathing In Las Vegas*, 1998; *Trainspotting*, 1996; *Drugstore Cowboy*, 1989; and other well-known movies. The FDCS stated its order was aimed at preventing offences stipulated in Article 6.13 of the Code of Administrative Violations of the Russian Federation. The internet provider abided by the order without challenging it in court.¹¹³

10.3.13 In all of the cases of alleged drug propaganda, the FDCS relied on experts' opinion (linguist and/or psychologist) that a particular picture, painting, or wording might stimulate an interest in drug use in viewers or readers.

10.3.14 It shall be noted that in its concluding observations of 24 October 2009 and 1 December 2003 on the Russian Federation, the Human Rights Committee was concerned that the vague laws on extremism combined with the courts' overreliance on experts' opinions allows arbitrary application of anti-extremists laws in order to target organizations and individuals critical of the government^{114, 115}. Arbitrary application of drug propaganda laws is a striking example of similarity between the use of drug laws and extremism laws by the government against dissidents. Similarly the poor and vague definition of drug propaganda laws and overreliance of the courts on opinions of "experts" with questionable independence provide for the use of drug propaganda laws for limitations of freedom to receive and impart information even when it concerns science and human rights, contrary to Article 19 of the International Covenant on Civil and Political Rights and Article 29 of the Constitution of the Russian Federation.

10.3.15 The issue of OST is extremely politicized in Russia as shown in part 8.3 of this communication. This is an important factor which allows for the doubting of the ability of the

¹¹¹ Supreme Court of the Russian Federation: Postanovlenie of 26 No. 31-AD09-3.

¹¹² "Prosecutor's Office Banned *Upgrade of a Monkey*," September 15, 2009. (Прокуратура запретила «Апгрейд обезьяны» 15 сентября 2009. <http://www.pro-books.ru/news/3/2102>)

¹¹³ Federal Drug Control Service of the RF, *FDCS News Digest* March 31, 2011. www.fskn.gov.ru.

¹¹⁴ Human Rights Committee, "Concluding Observations: the Russian Federation," CCPR/C/RUS/CO/6, November 24, 2009, para 25.

¹¹⁵ Human Rights Committee, "Concluding Observations: the Russian Federation," CCPR/CO/79/RUS, December 1, 2003, para 20.

domestic courts to provide effective redress when the violation of freedom to receive and impart information concerns information about OST.

10.3.16 As well, the domestic courts proved to be reluctant to use human rights standards, including those of international treaties of the Russian Federation, when considering cases involving OST. So far there have been two cases considered by the Russian domestic courts on the issue of introduction of OST in the Russian Federation. In both cases, domestic courts refused to take into account human rights arguments and limited considerations to drug laws prohibiting OST in Russia^{116,117}. Both cases were around similar circumstances on the sides of the applicants. One case was supported by ARF. The applicant had been suffering opioid dependence for more than 25 years with numerous unsuccessful attempts of treatment by all methods available in Russia. Treatment with OST is impossible given the legal ban maintained by the government. As a result of the applicant's dependence and lack of access to OST, she acquired HIV (which later progressed to AIDS), tuberculosis and hepatitis C, and was jailed on multiple occasions for drug-related crimes for 16 years in total. The application to the court was filed in May 2011, in particular with reference to the CESCR recommendations regarding OST. In court, ARF maintained that the national health and drug laws should be interpreted in favor of OST as required by the meaning of Article 12 of the *International Covenant on Economic, Social and Cultural Rights*, which forms part of Russia's domestic law according to Article 15 of the *Constitution of the Russian Federation* (see relevant text below). Both the trial court and the court of appeal ignored the CESCR recommendations as "meaningless to the case"¹¹⁸.

10.3.17 Information provided in part 10.3 demonstrates that despite the fact that domestic Russian courts are available to file applications, there is very little hope that they are going to be an effective remedy for the violation of the right to freedom to receive and impart information regarding OST, including the right to enjoy the benefits of scientific progress and its applications.

XI. CONCLUSIONS.

Taking into account the information about the devastating consequences of drug treatment methods and drug policy in Russia, such that flout both scientific evidence and human rights principles (part 8.4), there is an urgent need for the international community and UNESCO in particular to assist the government of the Russian Federation to recognize the right of its citizens to enjoy the benefits of scientific progress and its applications in the area of drug treatment and drug policy. Recommendations listed in part III of this communication will help the Russian Federation to use scientific advances in order to increase the positive effects of contemporary medicine and drug policy on human rights and fundamental freedoms.

¹¹⁶ Judgment of Sovetsky District Court of the city of Kazan on the case No 2-4454/11 of 7 June 2011.

¹¹⁷ Judgment of Leningradsky District Court of the city of Kaliningrad on the case No 2-3318/11 of 27 May 2011.

¹¹⁸ Judgment of the court of appeal (kassacionnoe opredelenie) of the Regional Court of Kaliningradskaya oblast on the case No 33-3572 of 3 August 2011.