



The Third Regional
Implementation Dialogue
**International Guidelines
on Human Rights
and Drug Policy**

2-3 September 2021

Eastern Europe
and Central Asia

Final Report

CONTENTS

1. Summary of the Regional Dialogue	3
2. Setting the Scene: Panels and Plenary Discussions	3
2.1 Welcome Messages	3
2.2 Panel 1: The International Guidelines on Human Rights and Drug Policy: A Tool for Change	4
2.3 Panel 2: The International Guidelines on Human Rights and Drug Policy: Pathways to Implementation	5
3. Lightning Talks: Sharing Ideas and Experiences	7
3.1 Decriminalisation: Partnership of civil society and politicians on the way to policy changes in Lithuania	7
3.2 Right to Health: Access to drugs for palliative care in Ukraine	7
3.3 The justice system and legal aid in Moldova	8
3.4 Access to information and the right to participation: The Narcofeminism movement in Central Asia	8
4. Implementation Workshops: Linking the International Guidelines on Human Rights and Drug Policy to National Priorities	9
4.1 The Right to Health	9
4.2 Development	10
4.3 Criminal Justice	11
4.4 Women and Gender	12
4.5 The Right to Freedom of Opinion	13
4.6 Children and Adolescents	14
4.7 Community Empowerment	15
5. Concluding Reflections and Recommendations	16
Annex 1: Resources referenced during the meeting	18

1. Summary of the Regional Dialogue

The third regional Dialogue on the Implementation of the International Guidelines on Human Rights and Drug Policy took place virtually on the 2nd and 3rd of September 2021 with the involvement of more than **86** participants from government, the UN system, international governmental and non-governmental organisations, national civil society organisations and community leaders as well as academia to discuss how to move forward with the Guidelines in the Eastern European and Central Asia (EECA) region.

The two-day event was hosted by the International Centre for Human Rights and Drug Policy (HRDP), the United Nations Development Programme (UNDP), the Eurasian Harm Reduction Association (EHRA), Harm Reduction International (HRI), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Global Partnership on Drug Policies and Development implemented by GIZ on behalf of the German Federal Ministry for Economic Cooperation and Development and the Swiss Federal Department of Foreign Affairs.

The objectives of the regional Dialogue, which is part of an ongoing process of regional consultations for the implementation of the Guidelines, were to discuss and map out challenges and opportunities for the implementation of the Guidelines in national and regional settings of the participating countries. The Dialogue also presented the opportunity to broaden the coalition of national, regional and international actors working to turn the Guidelines into concrete actions and to help ensure their effective implementation in a timely manner.

2. Setting the Scene: Panels and Plenary Discussions

2.1 Welcome Messages

Welcome messages were delivered by UNDP, the Swiss Federal Department of Foreign Affairs and the Eurasian Network of People who Use Drugs (ENPUD). The speakers noted the diverse representation of participants and the important role played by each stakeholder to use innovative approaches and processes and working together on what can sometimes be sensitive issues. Speakers noted the importance of recognising that a repressive approach to achieving a drug-free world is outdated, causes considerable harm, is not cost-effective and has been shown to be a failure across the world. They also noted that in order to make solid and effective progress in ensuring the rights of people who use drugs, there must be a recognition that a drug-free world is not possible and, therefore, the approach must be to reduce the harms caused by drugs and for such policies to be adapted to the local context of each country so that they fully respect the rights of people who use drugs as an integral part of the drug policy development.

The speakers highlighted the importance of the dialogue on the Guidelines in the context of the EECA region and the examples available from an increasing number of countries around the world that have used pragmatic, evidence-based approaches that put people and their human rights – rather than drugs – at the centre of their legislation, policies and practices.

The speakers also stressed that people who use drugs need to be empowered to be effective experts in guiding stakeholders as part of achieving equal rights for members of their community, including equal access to services and their full utilisation without being stigmatised or discriminated against. In particular, speakers highlighted how criminalising the use and possession of drugs for



personal use undermines the rights of people who use drugs, resulting in a criminal record that prohibits access to a wide range of health, social and economic services that are available to others in the country. Consequently, the decriminalisation of drug use and possession for personal consumption is a key initial step towards the realisation of the full spectrum of human rights for people who use drugs in the EECA region, with the Guidelines acting as both a guide and a tool to achieving such rights.

2.2 Panel 1: The International Guidelines on Human Rights and Drug Policy: A Tool for Change

The panel was comprised of representatives from the UN Office of the High Commissioner on Human Rights, the UN Office on Drugs and Crime, the UN Working Group on Arbitrary Detention and the International Centre on Human Rights and Drug Policy. They noted that the World Drug Report 2021 had again shown that the punitive approach to drug control continues to fail but the responses to the COVID-19 pandemic had illustrated the need for solidarity in responding to health challenges. They also noted that the United Nations System Common Position Supporting the Implementation of the International Drug Control Policy Through Effective Inter-Agency Collaboration, that seeks to ensure effective UN system inter-agency collaboration with respect to responses to drug use, includes key 18 elements concerning human rights.

Speakers highlighted the importance of ensuring that the Guidelines were used to inform and implement human rights-based drug policies. Accordingly, they noted that rights-based initiatives had already started using the Guidelines elsewhere in the world, including in the design of rights-based approaches to detention, cited in high court cases, used in judicial training and advocacy in national and national fora.

For example, the Guidelines have been referenced in three high-court cases in Colombia; informed the development of national guidelines on social protection policy in Brazil; also in Brazil, the Guidelines have acted as a catalyst in the development of judicial training with the National Council of Justice; in Albania, the Guidelines informed the development of online training – due to the social distancing requirements caused by COVID-19 – of judges; and in the Philippines, the National Human Rights Commission is using the Guidelines to instigate a national dialogue on human rights involving the government, human rights experts and civil society throughout the country.

Speakers stressed that the EECA region was diverse and that in some countries there was great pressure being exerted by governments on civil society, reducing civil society space and ability to be agents of change and development. The Guidelines, therefore, could be used to facilitate a dialogue involving all stakeholders in various parts of the region whilst also recognising that considerable profits were gained by some actors from the trafficking of drugs to and through the region, especially opiates, including heroin, from Afghanistan.

The lack of clarity as to what is required of each state of the region in relation to human rights was raised and that the Guidelines could help to fill this knowledge gap. Key findings were presented from the UN Working Group on Arbitrary Detention in its study on arbitrary detention related to Drug Policy¹, prepared pursuant to UN Human Rights Council resolution 42/22. These include the increase in human rights violations of people who use drugs as part of the failed War on Drugs,

¹ English, <https://undocs.org/en/A/HRC/47/40>; Russian, <https://undocs.org/ru/A/HRC/47/40>



which is counter-productive and a waste of public resources and the need to decriminalise drug possession for personal use, noting that incarceration of people who use drugs is widespread and contributes significantly to the increase in prison populations and to the spread of infectious diseases like COVID-19. There is also a need for the widespread availability of harm reduction services as well as for drug treatment professionals to be adequately trained and for forced drug detention centres to be closed and replaced with voluntary community-based services. The Working Group also stressed the importance of the intersectionality of the response to drug use that needs the inclusion of all stakeholders, particularly health, social care, law enforcement and the judiciary.

2.3 Panel 2: The International Guidelines on Human Rights and Drug Policy: Pathways to Implementation

It was noted that the overall objective of the Guidelines was to make international and country-specific drug policies, including legislation, human rights compliant and for the realisation of those human rights by people who use drugs for both medical and non-medical reasons.

The Guidelines can be used for advocacy, to map the current legislative and policy landscape in order to redescribe the issues and challenges, and to facilitate legal analysis. The Guidelines can also act as a catalyst for wider processes of change brought about through the exchange of ideas and opportunities that arise from dialogue facilitated by the Guidelines. Understanding what actions are needed should be based on an assessment of where gaps exist in human rights knowledge in each country of the region. This can involve a mapping of the current legal landscape in each country that can assist in describing the challenges faced by people who use drugs.

It was stressed that human rights must be at the forefront of everything that we do and based on the Universal Declaration of Human Rights and various other international human rights conventions. However, such rights are denied every day across the EECA region to people who use drugs, in some cases supported by requirements of the international drug control regime. The punitive approach has failed, especially in the EECA region, and has, instead, fuelled epidemics of HIV, hepatitis C and multi-drug resistant tuberculosis (TB), as well as contributing significantly to prison overcrowding. The evidence clearly shows that the eradication of drug use is impossible and that the drug control conventions are not fit for purpose. For example, the 1961 convention punishes the possession of drugs, and the 1988 convention includes criminal sanctions for possession and consumption of psychotropic substances. However, human rights conventions uphold the right to human dignity and autonomy, including privacy, as well as social rights, but ensuring these rights sometimes are in tension, or conflict, with obligations under the international drug control conventions. Actions taken in support of drug control efforts do not always meet the human rights requirement that State interference in the lives of individuals must be proven to have a legitimate aim, be proportional and necessary.

Consequently, decriminalisation and the removal of all criminal sentences for drug possession for personal use is an important step for which the Guidelines provide guidance. Revisiting the three international drug control conventions to make them human rights compliant is also another consideration.

Drug policy is multidisciplinary in nature as it crosses economic, social, cultural, political and legal domains. It has been suggested, therefore, that drug policy is best managed within the office of the President or Prime Minister of a country to coordinate relevant ministries, as all domains fall within such jurisdiction. Open discussions are the first, and key, step to future change, respecting



the views of others. In fact, the quality of drug policy dialogue has significantly improved compared with two decades ago, facilitating some positive developments. The second step is to ask whether the existing system is working well, is effective, and incorporates human rights standards, especially with regards to health and social care. To do so, a transparent self-assessment, or external review, of the system in a country can be useful. In particular, there is an urgent need to review the narcology system in countries of the EECA region as such systems are outdated and have not been objectively reviewed; such a review by WHO is required, similar to the reviews that they conduct of national HIV and TB programmes.

In most countries, it is very difficult to deduce the extent to which policies are in accordance with human rights guidelines. It was noted that the 2016 UN General Assembly session has led to a growing discussion about human rights indicators for drug policy, with increasing readiness in the political community internationally to move ahead. Examples were provided in which certain regions and political / economic groups were moving forward with human rights at the forefront of drug policy. It was noted that the obligations of a state to its citizens may seem abstract and that efforts are needed to translate such obligations into commitments and then into practice. Tools now exist to undertake internal, voluntary, and comparative self-assessments that offer an effective process that can lead to reform and reduce violations of human rights, such as those developed by the Pompidou Group². Such tools do not require major research activities, nor extensive use of human resources, as they are based around questions and markers using rapidly available information. Such tools can complement the Guidelines.

Also noted was the potential role that can be played by the office of a national ombudsperson or similar national human rights institutions to advance human rights within drug policy and a place where individuals can go to seek redress for violations of their human rights. It was further highlighted that such institutions could conduct human rights monitoring in drug policy related measures based on the international guidelines and recommendations of human rights treaty bodies.

An example was given as to how the Guidelines have influenced the work of judges in Albania, following the judicial training in Albania in April 2021. A judge who attended the training discussed how the training had influenced them her to explore how to incorporate human rights in her decision making in a number of criminal cases, for example to consider mitigating factors in a case of minor drug cultivation to ensure that the sentence was proportionate to the crime charged. Teaching about human rights obligations in drug control has thus provided judges the tools to consider alternatives to imprisonment where possible. As a result, fair trial principles have also changed. This has been particularly the case involving the rights of children following training given on the Guidelines to judges of the juvenile court. Overall, a change in understanding of human rights obligations in the context of criminal law governing drug control by prosecutors and judges is slowly taking place. Efforts in Guideline training are now needed for judges of the Court of Appeal and the Supreme Court. Consideration should also be given to introducing the Guidelines to students in the School of Magistrates.

² <https://www.coe.int/>



3. Lightning Talks: Sharing Ideas and Experiences

3.1 Decriminalisation: Partnership of civil society and politicians on the way to policy changes in Lithuania

An example was given of a person on opioid substitution therapy who was then imprisoned due to one instance of using heroin with a friend. This punishment was given in accordance with the existing drug legislation and policies in the country, but such an approach is seen by many as unfair and also undermines the individual's ability to continue with their OST maintenance. This shows the need to change drug policy in Lithuania.

To make such changes, all sectors of the system need to be involved. Civil society activists made noise to advocate for change. They raised the awareness of the authorities and educated them as to alternative approaches and systems used in other countries.

It was stressed that politicians will carefully consider public opinion on an issue and, therefore, it is very important to educate the public – who elect politicians and thereby put them into decision-making positions – on such alternative approaches to drug policy. By gaining public support for evidence-led and human-rights based policies, politicians are more likely to accept the need for policy change.

3.2 Right to Health: Access to drugs for palliative care in Ukraine

Efforts have been ongoing for some time to legalise cannabis use for medical purposes in Ukraine, a legal change that could benefit over 2 million people. There are around 320,000 people in Ukraine for whom medical cannabis could provide effective end-of-life/palliative care and a further 1 million cancer patients who could also benefit. Other beneficiaries include approximately 20,000 children with drug-resistant epilepsy, as well as patients with Alzheimer's and Parkinson's disease, amongst others.

In 2019, a draft law to make it legal to use cannabis for medical purposes was dismissed by Parliament as the Ministry of Internal Affairs was opposed to such a change, even though in an opinion poll 70% of the public supported such a legislative change. This positive public view was largely due to a change in the terminology used, by talking about cannabis not as a 'drug' but as a 'medicine'.

In 2021, a new draft law, 'for Sopiika', was submitted to Parliament, named after an individual who is suffering and in desperate need of medical cannabis to help alleviate her recognised health condition. Advocacy for this new law included access by patients to treatment using cannabis; the ability of scientists to conduct research in Ukraine on the use of cannabis; the opportunities available to business operators to manufacture medical cannabis products within Ukraine; and the significant investments that the state will receive from such actions that will benefit the economy.

However, populist members of parliament (MP) are against such legislative changes, as well as those who profit from selling cannabis on the black market. Opposition also comes from those who do not understand that cannabis can be used as effective treatment for various health conditions rather than being viewed as an illicit drug.

Progress is being made through advocacy to raise the awareness of MPs, the Government, the Office of the President of Ukraine, and of the general public. There are active patient groups and



civil society organisations who are pushing for the legal change, and it is hoped that this will be achieved later in 2021 through a Government Decree.

3.3 The justice system and legal aid in Moldova

Free and quality legal aid is available in Moldova, with information available online in real-time to anyone. There are various bodies active in the legal sector with different, but associated, roles.

The *National Legal Aid Council*, which is available to everyone, has around 500 public and private lawyers who can be appointed, with approximately 60,000 cases being dealt with each year. The Bar addresses quality standards and undertakes disciplinary procedures for lawyers as well as having a training centre. Public defenders provide informative guidance notes on the right to a fair trial and the right to a defence.

The *National Institute of Justice* provides initial, and then continuous, training for judges and prosecutors as well as some training for legal aid lawyers. The *Ombudsman's Office* deals with a range of issues, such as the rights of children in detention, including access by people to a lawyer and legal aid. The NGO-run *National Association of Paralegals* provides training and capacity building projects and also works on the provision of legal aid, with some paralegals specialising in HIV prevention, harm reduction issues and access to treatment. There is also the *Institute for Penal Reform* which trains lawyers and conducts research in the criminal justice area, including consideration of legislative changes and in building capacity in the sector, including regional NGOs. *Legal Clinics* also operate and raise awareness of legal issues and provide referrals for people.

However, training of a wide range of professionals is still very much needed, including police, prosecutors and judges, as there is a very legalistic approach to issues rather than consideration of broader human rights. Consequently, guidance needs to be developed, together with the delivery of training, concerning the International Guidelines on Human Rights and Drug Policy. However, as Moldova has a relatively well-developed legal sector, opportunities to make good use of the Guidelines exist.

3.4 Access to information and the right to participation: The Narcofeminism movement in Central Asia

In 2018, a group of young women who use drugs and women living with HIV met to share their different life experiences and then created an informal movement which became known as 'Narcofeminism'. Some of the main issues affecting such people include violence against them and the criminalisation of them due to their substance use.

An online album was created on Facebook to talk about their suffering and the many and varied challenges that they face in the EECA region. The target audience was other women who use drugs as well as people interested in drug policy and the need to change such policy to protect women.

The Facebook postings were shared by journalists, which then led to hateful comments being posted, with claims that such women wanted too much, and suggesting that they be treated badly as a result. Articles were published in popular magazines that used parts of Facebook postings out of context, with recommendations that such women should shut up. Russian media then produced various reports about Narcofeminism, demonising such women to such an extent that members of the group are very hesitant to visit, or transit, Russia or to use planes that pass through Russian airspace.



This aggressive approach towards Narcofeminists has broken a lot of women, although some have accessed psycho-social support to develop additional coping mechanisms. Men do not face such repression, with hate being particularly targeted at women of a lower socio-economic status. In most countries of central Asia, the law is not rights-based, with women being unwilling to seek help from government institutions but rather make use of services delivered by community-based organisations and other civil society groups.

Despite the hate-speech and media attempts to give them a bad reputation, the narcofeminist movement is growing and developing to protect rights of women who use drugs and women living with HIV, amongst others, through its internal strategy of networking women from the spectrum of key populations. The primary goals are to engage and ensure best evidence-based practices are used for all health and social services for women and their meaningful engagement in programme development and implementation. In practice, these rights exist for women.

In the countries of Central Asia, it is difficult to stand up for the rights of women as the position of civil society is considered as unimportant and non-existent. Civil society groups are often called American spies who disturb the political environment; this flows from media-fuelled hate and is a massive barrier to overcome.

Guideline 12 of the International Guidelines on Human Rights and Drug Policy states that every person has the right to the freedom of opinion and expression. But there are two laws in Kyrgyzstan related to additional reporting of NGOs and another on internet censorship, both of which are inconsistent with the rights described in Guideline 12.

4. Implementation Workshops: Linking the International Guidelines on Human Rights and Drug Policy to National Priorities

4.1 The Right to Health

One of the primary objectives of the Guidelines is to ensure that policy and related guidelines implemented by law enforcement agencies and health and care institutions, and the approach taken towards people who use drugs, are human rights compliant. This would allow people who use drugs to access health services without the fear of being reported to the police and prosecuted. With a change in policy and guidelines must go training, including social care personnel and judges, starting with issues such as HIV/AIDS and drug dependence through to implementing the full range of rights protection of people who use drugs. To do so, the work of international human rights mechanisms must be integrated into national government bodies. Even if decriminalisation cannot be discussed directly, it is still possible to discuss human rights and to inform governmental stakeholders of the Guidelines and their recommendations.

Priorities identified include:

- Provision of medical services at primary health care institutions, including health centres, as the use of narcological services causes stigmatisation which results in the banning of people from health care access, employment opportunities, etc.;
- Access to harm reduction services as a fundamental right, together with safe drug use facilities;
- Provision of assistance to children and adolescents below the age of 18 years, including access



to harm reduction services;

- Building partnerships between different institutions of government to support the development of human rights-based health services;
- Support to those leaving prison or other closed settings through facilitating dialogue between different government stakeholders to ensure access to health and related services in the community;
- Providing access to medical supplies and services and to the procurement system, such as for methadone, buprenorphine and antiretroviral drugs, amongst others;
- Providing accurate information on harm reduction services and drug dependence treatment; in some countries, such information is restricted through censorship and termed 'propaganda', including access to evidence-based scientific information and services for people who use drugs;
- Collaboration with international donors and with communities at the grassroots level to change repressive drug policy; people who use drugs and their communities need to be trained as to their rights and motivated to take action to protect and enhance those rights as part of changing the system.

4.2 Development

There are substantial issues around the availability of, and access to, health services of all kinds for people who use drugs, as well as to social services, housing and income support. This is due to the lack of political will and, especially for countries in transition, the fact that the national budget is directed to other issues of greater interest to politicians. Budgets for harm reduction are decreasing in the EECA region, both from external donors as well as from national resources. Even if services are available, many people who use drugs are not motivated to use them. This can often be for economic reasons, such as travel costs or the need to hold-down employment. Also, it is often the case that people in prison can only access OST if they were already enrolled in a service prior to their incarceration, and even then it is not always available in every country, or in every prison.

To address these issues, civil society organisations need to budget for advocacy activities. Harm Reduction International (HRI) has a tool to help develop a budget for advocacy purposes. Activists need to collect data from the national budget to see where funds are allocated for specific populations, how much is allocated and what activities are covered with such funds. A comparison can then be made with the budget for law enforcement. This data can then be used to advocate for a change in budget allocations in support of evidence-based approaches, particularly through the health budget.

In addition, the people who should be allies of people who use drugs do not have the drug issue on their agenda. For example, people who work on women's rights often do not see how drug issues are women's rights issues and thus do not include them in their work. Therefore, such potential partners need assistance to build alliances that consider the needs of people who use drugs but from their own perspective, such as reproductive health and rights for women who use drugs. Also, national human rights institutions are available and should be part of the protection afforded to people who use drugs but the drug issue is often not on their agenda. Approaching those working in the office of an Ombudsman can be one option to help develop such partnerships.



A further issue is the right to social protection. Although this issue has fewer legislative barriers for people who use drugs, criminalisation aggravates the ability to access such services. The considerable bureaucracy involved in working through the system to gain access to services of this kind means additional support from civil society organisations is required by people who use drugs even though funding to provide such assistance is reducing.

It is recommended that an assessment of the legal environment be undertaken for each country of the region to map the relevant legislation and policies of concern as well as the key institutions and offices that have greatest influence for the improvement, or abolition, of such issues of concern through the engagement of communities, parliamentarians, other human rights groups and the media.

Additionally, each country should develop a social protection plan for people who use drugs and other key populations that gathers data on key issues such as access to food, housing, childcare, employment, etc., that includes indicators and targets in order to establish minimum standards of care and support. There is also a need for governments of the region to fund tailored social protection services delivered by civil society organisations and to advocate with government to ensure access to such quality services by people who use drugs and other key populations; this should include support for shelters / emergency accommodation, such as those for women who use drugs who are victims of gender-based and domestic violence. Where such services already exist, in whole or in part, these should be documented and shared throughout the region as a learning tool.

The development of national plans to respond to emergencies is also required, such as those rapidly produced in response to the COVID-19 pandemic and ensure that they incorporate issues of paramount importance to people who use drugs, such as uninterrupted access to OST and classifying harm reduction programmes as essential services in an emergency situation.

4.3 Criminal Justice

The three UN drug control conventions (1961, 1971 and 1988) are the basis of the criminal justice approach to people who use drugs. Consequently, to protect and promote the human rights of people who use drugs, alternative measures are required that include the following:

- A differentiation between the commercial sale of drugs and the intent of an individual to possess drugs for personal consumption; this should include clear and evidence-based definitions concerning quantities that respects an individual's right to use drugs in private. It is recommended that the Guidelines be used to develop a joint regional position that defines commercial drug distribution and drug possession for personal use;
- The distribution of drugs within social environments for social use should not be considered a criminal offence in the justice system;
- The view of public officials as to acceptable quantities of drug possession and use can be considerably different from that held by people who use drugs and other members of the community; this is particularly the case in those jurisdictions in which there is claimed to be decriminalisation of drug possession for personal use and what is written in legislation. Consequently, efforts are needed to bring all stakeholders together to review relevant legislation and the practical policing of communities;



- A regional approach is needed for alternative measures that prevent the use of torture of people who use drugs by law enforcement and other government actors;
- Human rights standards, as set forth in the Guidelines, can be used to advocate for the rights of people who use drugs. For example, the denial of OST to people dependent on opioids or the punishment for its use may rise to the level of torture or cruel, inhuman, or degrading treatment or punishment. Criteria need to be established to identify terminology that refutes the rights of a person who uses drugs, and which provides alternative language for, and perspective of, drug use that incorporates key human rights-based approaches.

Importantly, the Guidelines need to be considered in the context of the realities of the EECA region. In doing so, the Guidelines can then be used to engage in dialogue with all stakeholders and also provide opportunities to open doors through the delivery training to them, such as government personnel who work with women who use drugs and the specific rights of women and those who use drugs. It is also important to recognise that representatives of UN organisations do not always fully understand the context of the EECA region and, subsequently, use of the Guidelines can become counter-productive. Therefore, use of the Guidelines as an advocacy tool for dialogue and training needs to be adapted through the meaningful involvement of people who use drugs as well as others with considerable experience of advocacy within the governmental systems that exist in different countries of the region.

It is recommended that social workers, police and judges be prioritised for training in the application of the Guidelines as it is these professions that most often come into contact with people who use drugs. Training of prison medical staff is also important as a step towards the introduction of harm reduction services in such closed settings. Parallel to such efforts is the need to increase understanding of the Guidelines by politicians as well as the general public. Existing structures can be used to undertake such awareness raising, such as the regional cooperation council in South East Europe and the Balkans.

Furthermore, funding of legal aid initiatives is needed to access legal representation. For example, legal aid exists in Ukraine but there are insufficient funds to make it widely available.

The Guidelines can also be used to address the issue of prison overcrowding by instituting alternative approaches to sanctions for drug use and, ultimately, to its decriminalisation. The responses to the COVID-19 pandemic, resulting in the release of many prisoners in some countries for lesser crimes such as drug use, showed that alternative approaches to imprisonment are feasible if there is a will for such change to occur. For this to become a reality, discussions are needed at the international level so that national decision makers will take such initiatives seriously.

4.4 Women and Gender

The voices of women were largely missing from this discussion. It was noted that in some countries, such as Moldova, some harm reduction services are accessible to sex workers but not women who use drugs even though there is no rational justification for this. In addition, it is unclear as to what is meant by 'gender-sensitive services', which means that a clear definition of this terminology is required. A further difficulty is caused by the lack of gender disaggregated data; hence, it is recommended that all data collection efforts include gender disaggregation as a standard procedure.



A particular concern in countries of the EECA region is access to OST for women who are pregnant. It was noted that international guidelines exist for the safe provision of OST to such women. However, lack of knowledge by medical professionals or guidance on OST provision for pregnant women and poor treatment of pregnant women who use drugs by health care professionals create barriers to accessing these services in the region. Misinformation is also a cause of worry for such women. Furthermore, women face a judgemental attitude from society due to their drug use and this results in stigma and discrimination against them throughout their pregnancy. There is a clear need to provide training to health care professionals as well as legal and policy guidance to ensure the right to health of women who use drugs. It is also important to raise the awareness of women who use drugs about their rights, particularly by peers. In addition, the mapping of sexual and reproductive health rights of women in each country of the EECA region will allow a more accurate view of the situation and the needs faced by women who use drugs, from which actions can be planned and executed.

The parental rights of women who use drugs is a further concern throughout the region as the threat of its removal can be used to manipulate individuals. Effects of gender-based violence (GBV) also affects women who use drugs and there can be many barriers in the way of such women from gaining access to emergency shelters and other GBV-related services, such as a requirement to undertake a HIV test prior to entry even though there is no rational justification for such a requirement.

The COVID-19 pandemic has demonstrated that service delivery can be altered to take into account different contexts, such as the provision of take-home OST; there is, therefore, no reason why such approaches cannot continue after the reduction, or removal, of COVID-19 restrictions. Such pragmatic and effective approaches can greatly benefit women in various ways, including those with childcare responsibilities as well as those engaged in full-time employment; it also reduces the economic costs involved in daily travel to and from OST dispensing sites for every client. However, in some places, women who use drugs are unable to benefit from take-home OST because they reside with a male who uses drugs, thus removing her right to achieve the highest attainable level of health.

Also noted was the need to implement the 'Bangkok Rules'³ which are UN rules for the treatment of women prisoners and non-custodial measures for women offenders that were adopted by the UN General Assembly in December 2010 and address the lack of standards in the provision of services that address the specific characteristics and need of female offenders and prisoners.

4.5 The Right to Freedom of Opinion

The right to freedom of expression is restricted in the EECA region, including efforts by some governments to block internet access to evidence-based drug information which they consider 'propaganda', which is banned. False data and inaccurate media reports are also used by authorities to stigmatise people who use drugs, a continuation of an ongoing intolerance towards such people. In addition, police and other forms of law enforcement are unable to apply laws on the freedom of information properly and, therefore, such agencies of the government should not be designated to enforce such legislation.

³ In English: <https://undocs.org/A/RES/65/229>; in Russian: <https://undocs.org/ru/A/RES/65/229>



What is required is a regional mapping of legislation concerning incitement to use drugs and drug propaganda and the extent to which such laws are prosecuted in reality, such as laws regarding 'foreign agents' the blocking of websites. Such a legal environment assessment can also inform issues such as civil society space, legal gaps, inconsistencies, and conflicts; however, government buy-in would be essential to make such assessments possible. Also required is a clear regional position that obligates every state to respect people who use drugs and to not apply a criminal framework to restrict the rights of such people, nor to restrict the dissemination of evidence-based information concerning drug use. In addition, assessment of restrictions at the community level to accessing evidence-based social and medical information related to drug use should be conducted as this can act as an indirect tool to highlight the lack of the right to the freedom of opinion.

Broadly, there are two routes to reform. There is 'top-down' in which legislation is changed and then the changes are implemented in practice on-the-ground. However, the reverse may also work whereby law enforcement and the judiciary have the discretion to decide whether or not to prosecute a person under a certain law.

4.6 Children and Adolescents

The protection of children is often spoken of but not in terms of harm reduction – this is a contradiction. A major issue in this regard is the lack of data, with assessment tools used in the EECA region not being sensitive to drug use among school children. Some studies, such as in Ukraine, have identified up to 50,000 adolescents who inject drugs, with the scaling-up of programmes made possible by having such data available.

Evidence-based information on the effects of drug use should be available to children and adolescents and early interventions have proven more effective. This can be achieved through the general education system in schools, i.e. a vertical programme, but attempts to achieve this have shown doubtful efficacy, largely due to the conservative nature of delivering such information. Such issues could also be included in school lessons about healthy lifestyle, reproductive health.

Challenges also exist over access to harm reduction services by children and adolescents. For example, enrolment in OST is usually limited to individuals aged 18 years or older, thereby preventing access to such health care for younger opioid dependent children and adolescents. However, once again, data are lacking as to the number of individuals who are in need of such services but cannot access them due to their age. Therefore, the Guidelines could be used to support policies requiring the collection of such information and, in turn, advocate for the adoption of policies that would extend harm reduction services to adolescents.

Guideline 1.3 concerns children in families in which a parent uses drugs, highlighting State obligations to ensure that the best interests of the child are a primary consideration in decisions regarding care, including in the context of parental drug dependence. The Guideline also states that parental drug use should never be the sole justification for removing a child from care or preventing family reunification. Instead, efforts should be directed toward enabling the child to remain in, or return the child to, the care of their parents.



4.7 Community Empowerment

Community empowerment in countries of the EECA region is complicated by the lack of protections for the freedom of association and assembly, together with the inability in many jurisdictions to register associations of people who use drugs. The lack of recognition of NGOs as being a priority can also affect the ability to register as an organisation, association or network. Often the authorities see drug user organisations as promoting drug use propaganda. The inability to register can have a serious impact, such as the inability to open a bank account to receive funding. To overcome this, drug user organisations can include reference in their articles of association, or covenant, to evidence-based drug policy. In addition, hate language should be avoided as this can be used by the authorities as a form of drug use propaganda. A further option is to use some form of abbreviation in the title of a drug user organisation to help dispel concerns by the authorities. If registration continues to be blocked, and if resources allow, court action – such as strategic litigation - can be taken to force registration to be allowed, as has been the case in Georgia.

Based on their respective charters and in-country activities, an argument can be made that UN organisations help to facilitate space for the work of civil society activists. It would be useful for an emergency fund to be established to help such activists, particularly in those countries where registration of drug user organisations is especially problematic. In any dialogue with authorities, it is very important that there is the meaningful engagement of people who use drugs rather than token representation. This also applies to each stage in the implementation of the Guidelines, together with discussions on government funding, social contracting, tenders and the simplification of procedures to make it easier for CBOs to take part in bids for government funding. Where activists are not allowed to perform their work, or where they are discredited by governmental institutions, alternative approaches can include the use of reputable human rights groups or organisations as a shield from which drug use activists can undertake their work more safely with protection.

It is also important that adequate funding is made available to activists and drug user organisations to raise awareness among all stakeholders, including the public, of the stigma and discrimination that they face and to use the Guidelines as a way of overcoming these human rights violations. Core funding of drug user networks is also required, as are capacity-building workshops and media campaigns, such as those undertaken in Lithuania. Investment in community-led monitoring (CLM) is especially important in ensuring that programmes and policies are implemented correctly and that human rights violations are documented and redress sought, with tools and capacity building efforts to undertake CLM a priority. When necessary, violations can be brought to the attention of the international community so that they can apply pressure upon the national and community authorities to take action to redress human rights violations.



5. Concluding Reflections and Recommendations

Since their launch in 2019, the Guidelines have become a reference document as to what human rights-based drug policy actually means and how such policy can be designed and implement. Discussions held in the consultation considered how the Guidelines can effectively be used in the EECA region. Some common elements have appeared together with the following recommendations:

- 1) Assess the legal environment of each country of the region and map the relevant legislation and policies of concern, as well as the key institutions and offices that have influence for the improvement, or abolition, of such issues of concern;
- 2) Map legislation concerning incitement to use drugs and drug propaganda and the extent to which such laws are prosecuted in reality in each country of the region. Such a legal environment assessment can also inform issues such as civil society space, legal gaps, inconsistencies and conflicts; however, government buy-in is essential to make such assessments possible;
- 3) Assess restrictions at the community level in accessing evidence-based social and medical information related to drug use as this can act as a tool to highlight the failure to ensure the rights to information and freedom of opinion;
- 4) A clear regional position is needed that highlights obligations of every State to respect the rights and dignity of people who use drugs. This should include guidance against applying a criminal framework to restrict the rights of such people, including regarding the dissemination of evidence-based information concerning drug use;
- 5) Use the Guidelines to address the lack of clarity as to what is required of each state of the region in relation to human rights;
- 6) Develop a regional strategy to address the improvement of human rights required for people who use drugs;
- 7) Develop a regional approach for alternative measures to prevent the use of torture and ill-treatment of people who use drugs by governments;
- 8) Use the Guidelines to help guide the development of a joint regional position that defines and distinguishes commercial drug distribution and drug possession for personal use;
- 9) Use the efforts of the Council of Europe and the latest European Union drugs strategy, 2020-2025, as examples of how to use the Guidelines;
- 10) Whilst recognising that the Guidelines are available in the Russian language⁴, there is a need to translate the Guidelines into other national languages of the EECA region;
- 11) Use the Guidelines to facilitate a dialogue involving all stakeholders to raise awareness of the need to make national drug policies and implementation human rights compliant in every country of the region;
- 12) Establish a regional emergency fund to help activists;
- 13) Use the Guidelines to advocate for the collection of national data on drug use among children and, in particular, adolescents in order to ascertain the need for harm reduction, evidence-based drug treatment and associated health and care services for individuals below the age of 18 years, or those below the age to which a person is legally considered an adult in national law;

⁴ <https://www.undp.org/sites/g/files/zskgke326/files/publications/UNDP-WHO-UNAIDS-UNHCHR-HRDP-Guidelines-RU.pdf>



- 14) Develop definitions for key terminology to aid improved understanding, e.g. what specifically is meant by 'gender-sensitive services'?
- 15) Deliver training and information and develop guidance for health care professionals on standards for OST provision to pregnant women and disseminate information to health care professionals, and women who use drugs so that they can access harm reduction services, including OST for women who are pregnant and dependent on opioids. Measures should be taken to ensure the meaningful involvement of women who use drugs in the design, implementation and assessment of these policies and practices;
- 16) Map the sexual and reproductive health rights of women who use drugs in each country of the region to provide a more accurate view of the situation and the needs faced by such women, from which remedial actions can be planned and implemented;
- 17) Advocate for gender disaggregation of all data collected by government, the private sector and civil society organisations and groups as a standard procedure;
- 18) Develop a social protection plan in each country for people who use drugs and other key populations that gathers data on key issues, such as access to food, housing, childcare, employment, etc., and includes indicators and targets in order to establish minimum standards of care and support; social contracting of CSOs and NGOs by government could be linked to delivering services compliant with such minimum standards or higher;
- 19) Governments of the region should fund tailored social protection services delivered by CSOs or NGOs and to advocate with government to ensure access to such quality services by people who use drugs and other key populations; this should include support for shelters / emergency accommodation, for women who use drugs who are victims of gender-based and domestic violence. Where such services already exist, good practices and lessons learned should be documented and shared throughout the region as a learning tool;
- 20) National plans to respond to emergencies must include issues of paramount importance to people who use drugs, such as uninterrupted access to OST, and classify harm reduction programmes as essential services in an emergency situation;
- 21) Criteria needs to be established to identify terminology that refutes the rights of a person who uses drugs and which provides alternative language for, and perspective of, drug use that incorporates key human rights-based approaches;
- 22) Provide training on the Guidelines to judges, prosecutors and law students;
- 23) Undertake a comprehensive review of the narcology system in countries of the EECA region as such systems are outdated and have not been objectively reviewed. Such a review should be undertaken by WHO, similar to the reviews that they have conducted of national HIV and TB programmes; and,
- 24) In general, document good practices regarding laws, policies and practices affecting people who use drugs, including with respect to the broad harm reduction spectrum of services. Disseminate them widely so that as many people and organisations as possible can learn of how common issues of concern have been addressed in different contexts and consider them in developing and implement rights-based drug laws, policies and practices.



Annex 1: Resources referenced during the meeting

International Centre for Human Rights and Drug Policy (HRDP), the United Nations Development Programme (UNDP), Harm Reduction International (HRI), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Global Partnership on Drug Policies and Development implemented by GIZ on behalf of the German Federal Ministry for Economic Cooperation and Development, the Swiss Federal Department of Foreign Affairs. International guidelines on human rights and drug policy. New York; UNDP, HRDP, OHCHR, WHO and UNAIDS, March 2019.

In English: <https://www.undp.org/sites/g/files/zskgke326/files/publications/UNDP-WHO-UNAIDS-UNHCHR-HRDP-Guidelines-EN.pdf>

In Russian: https://www.humanrights-drugpolicy.org/site/assets/files/1673/hrdp_guidelines_russian_2020.pdf

Guidelines II.1, II.9, II.10, III.1, IV.3, etc : States may utilise the available flexibilities in the UN drug control conventions to decriminalise the possession, purchase, or cultivation of controlled substances for personal consumption.

Руководящие принципы II.1, II.9, II.10, III.1, IV.3 и т.д.: Государства могут использовать имеющиеся гибкие возможности конвенций ООН по контролю над наркотиками для декриминализации хранения, приобретения или культивирования контролируемых веществ для личного потребления. <https://www.humanrights-drugpolicy.org/>

United Nations, United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration, 2018. <https://unsceb.org/sites/default/files/2021-01/2018%20Nov%20-%20UN%20system%20common%20position%20on%20drug%20policy.pdf>

UN Human Rights' short film on decriminalization, <https://youtu.be/c46R2MFjq6w>

Смотрите ниже короткометражный фильм ООН по правам человека о декриминализации <https://youtu.be/c46R2MFjq6w>

United Nations General Assembly. United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). New York; UNGASS, 16 March 2010.

In English: <https://undocs.org/A/RES/65/229>

In Russian: <https://undocs.org/ru/A/RES/65/229>

With Commentary, UNODC, Vienna, 2015, in English: https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf

Global Drug Policy Index, <https://www.swansea.ac.uk/gdpo/projectpages/global-drug-policy-index-gdpi/>

Serebryakova L, Szubert O, Rowe E. Getting ready for harm reduction budget advocacy: A guide for civil society and communities. London; Harm Reduction International, December 2020. <https://www.hri.global/files/2021/03/10/HRI-BUDGET-ADVOCACY-GUIDE-PAGES.pdf>



United Nations Working Group on Arbitrary Detention, Study on arbitrary detention relating to drug policies. Geneva; OHCHR, 18 May 2021. <https://www.ohchr.org/EN/Issues/Detention/Pages/Detention-and-drug-policies.aspx>; see also, <https://undocs.org/en/A/HRC/47/40> where the report is available in Russian.

Working Group on Arbitrary Detention,

In English: <https://www.ohchr.org/EN/Issues/Detention/Pages/WGADIndex.asp>

In Russian: <https://www.ohchr.org/RU/Issues/Detention/Pages/WGADIndex.aspx>

The recent public awareness campaign in Lithuania,

In English: <https://harmreductioneurasia.org/social-decriminalization-campaign-lithuania/>

In Russian: <https://harmreductioneurasia.org/ru/social-decriminalization-campaign-lithuania/>

Ferguson L, Lambert-Peck M, Barrett D. Pathway for a human rights-based legal and policy environment relating to drugs, International Guidelines on Human Rights and Drug Policy, Implementation Series No. 1. International Centre on Human Rights and Drug Policy / University of Southern California, 2021. https://www.humanrights-drugpolicy.org/site/assets/files/1793/creating_human_rights_based_drug_policy_v7.pdf

United Nations. United Nations System Common Position on Incarceration. New York; United Nations, April 2021. https://www.unodc.org/res/justice-and-prison-reform/nelsonmandelarules-GoF/UN_System_Common_Position_on_Incarceration.pdf

Пособие по работе с детьми и молодежью, которые употребляют наркотики (на англ) International HIV/AIDS Alliance, Harm Reduction International, Save the Children, Youth Rise. Preparing for work with children and young people who inject drugs. Step-by-Step Toolkit. London; Harm Reduction International, 21 October 2015. https://www.hri.global/files/2015/11/06/WEB2_Step_by_step_tool1.pdf

Технический бриф ЮНЕЙДС по ВИЧ и молодежи, которая употребляет наркотики WHO, UNFPA, UNHCR, NSWP, The World Bank, INPUD, UNDP, UNESCO, UNODC, MSMGF, UNAIDS, HIV Young Leaders Fund, ILO, UNICEF. HIV and young people who inject drugs: A technical brief. Geneva; WHO, 2015. https://www.unaids.org/sites/default/files/media_asset/2015_young_people_drugs_en.pdf

Еще одна полезная ссылка по образованию в сфере наркотиков для молодежи - оценка программ в 5 странах Восточной Европы: Assessment of drug education in Bulgaria, Hungary, Lithuania, Poland and Serbia: Drug Education Assessment Report. Drugeducationyouth.org, 2020. <https://drugeducationyouth.org/drug-education-assessment-report/>

Position of the European Society for Prevention Research on ineffective and potentially harmful approaches in substance use prevention <https://euspr.org/position-euspr-on-harmful-approaches/>

Also available in Czech, Lithuanian and Polish.

