

## **A. Introduction**

Harm Reduction International (HRI)<sup>1</sup>, European Prison Litigation Network (EPLN)<sup>2</sup>, and UnMode<sup>3</sup>, welcome the opportunity of providing information ahead of the fourth cycle of Universal Periodic Review (UPR) of the Russian Federation (Russia). This submission focuses on selected human rights impacts of Russia's drug control policy and practice, with specific attention to developments since the last review cycle in 2018. Hence, it does not touch upon all aspects of the human rights-related issue of the country's drug policy. In particular, it provides information on:

- The state's failure to comply with recommendations by UN mechanisms on human rights and drug control,
- The criminalisation of people who use drugs,
- Torture, ill-treatment, and due process violations upon drug-related arrest, pre-trial detention and during investigations,
- Human rights violations in detention and upon release, and
- Denial of health and harm reduction services to people who use drugs in general population.

## **B. Failure to comply with recommendations by UN mechanisms on human rights and drug control**

Russia's punitive drug control policies and practices have been reviewed by several human rights mechanisms, which have formulated specific recommendations. Among others:

- In 2021, CEDAW recommended Russia to "adopt measures to combat and eliminate gender-based violence and discrimination against and stigmatization of women living with HIV/AIDS, women using drugs, women in detention [...] and ensure that they have access to adequate health services, including sexual and reproductive health services, antiretroviral treatment and drug treatment."<sup>4</sup> This was reiterated in March 2023, when deciding on an individual communication the Committee concluded that "the State party has failed to ensure [the author] access to safe, evidence-based and gender-sensitive drug dependence treatment during pregnancy, in violation of article 12 of the Convention." Accordingly, it recommended - among others - that authorities "ensure the availability of drug dependence treatment and rehabilitation facilities [...] that provide their services to women."<sup>5</sup>
- In 2018, CAT recommended that Russia take "all the measures necessary to effectively protect drug users deprived of liberty against the exploitation by the police of the pain and suffering associated with the withdrawal syndrome, including to extract confessions; to ensure that such confessions are not admitted by the courts; and to provide drug users in detention with adequate access to necessary medical treatment." The Committee also denounced the failure by the State to comply with earlier recommendations by other treaty bodies on the same issue;<sup>6</sup>
- In 2017, CESCR recommended Russia to "combat social discrimination" against people who use drugs; and to apply a "human rights-based approach to drug users", including by considering decriminalising drug possession for personal use, addressing discrimination in access to healthcare services, and introducing harm reduction programmes in the community and in

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<sup>1</sup> More details about HRI: <https://hri.global/>

<sup>2</sup> More details about EPLN: <http://www.prisonlitigation.org/>

<sup>3</sup> More details about UnMode: <https://unmode.org/>

<sup>4</sup> CEDAW/C/RUS/CO/9 para 41

<sup>5</sup> CEDAW/C/84/D/129/2018 A para 94

<sup>6</sup> CAT/C/RUS/CO/6 para 20-21

prisons.<sup>7</sup> These recommendations were reiterated by CRPD in 2018.<sup>8</sup>

- In 2015, the Human Rights Committee recommended the adoption of adequate measures to effectively protect people who use drugs from suffering withdrawal symptoms while in detention, and to safeguard their due process rights.<sup>9</sup>

As further detailed in this submission (and in many more civil society reports) none of these recommendations have been implemented.

### Recommendation

- Implement recommendations by human rights mechanisms related to aligning domestic drug laws and policies with international human rights law and standards.

### **C. Criminalisation of people who use drugs**

In recent years, a growing number of human rights mechanisms have acknowledged the negative human rights impacts of criminalisation and punishment of drug-related activities, and recommended the decriminalisation of drug use and possession.<sup>10</sup> The same approach has been adopted by UN agencies; as best exemplified by the 2018 UN system common position 'on drug policies', which -among others- commits UN entities to promote alternatives to conviction and punishment, including the decriminalisation of drug possession for personal use.<sup>11</sup>

Russia pursues a highly punitive, abstinence-centred approach to drugs, characterised by criminalisation and repression. This is most clearly manifested by its 2020-2030 Anti-Drug strategy, whose overarching objective is to "create conditions for anti-drug ideology based on traditional moral and cultural values of Russia." Possession and use of small amounts of illicit substances (for example, less than 2.5gr of heroin) is an administrative offence punishable with a monetary fine or administrative detention up to 15 days; while possession of larger amounts is a criminal offence, punishable with a fine up to €7,000 or imprisonment from three to 10-15 years depending on the amount. The extremely low quantities set by the law as threshold for personal use or possession, coupled with problematic practices by law enforcement and judges (for example, related to the weighing of sequestered substances)<sup>12</sup>, and widespread corruption and abuse, mean that - in practice - many people who use drugs are arrested, prosecuted and incarcerated for trafficking rather than possession.<sup>13</sup>

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<sup>7</sup> E/C.12/RUS/CO/6 para 23, 50-5

<sup>8</sup> CRPD/C/RUS/CO/1, para 52

<sup>9</sup> CCPR/C/RUS/CO/7

<sup>10</sup> Report to the 135 Session of UN Human Rights Committee in relation to the review of the 8th Periodic Report of the Russian Federation CCPR/C/RUS/8 from The Russian Civil Society Mechanism for Monitoring of Drug Policy Reforms in Russia, with technical assistance of the Andrey Rylkov Foundation for Health and Social Justice, Eurasian Harm Reduction Association, and HIV Legal Network,

<sup>11</sup> <https://unsceb.org/united-nations-system-common-position-supporting-implementation-international-drug-control-policy>

<sup>12</sup> For more details see <https://doi.org/10.1177/0022042620918951>

<sup>13</sup> For more details on this phenomenon/issues, see report to the 135 Session of UN Human Rights Committee in relation to the review of the 8th Periodic Report of the Russian Federation CCPR/C/RUS/8 from The Russian Civil Society Mechanism for Monitoring of Drug Policy Reforms in Russia, with technical assistance of the Andrey Rylkov Foundation for Health and Social Justice, Eurasian Harm Reduction Association, and HIV Legal Network,

According to data reported by the Russian Civil Society Mechanism for Monitoring of Drug Policy Reforms in Russia in May 2022, over 90,000 people are prosecuted every year for drug use, and over half of those cases end in a custodial sentence.<sup>14</sup> As of 2021, 30% of the total adult prison population were convicted of drug-related offences.<sup>15</sup> Such a punitive approach severely affects incarceration rates in the country. Russia has one of the largest prison populations globally, and drug control accounts for around one third of the prison population - over 200,000 people. As of 2015, roughly 20% of men in prison are incarcerated for drug offences, and this percentage increases to 40% for women.<sup>16</sup>

More broadly, the resulting environment is one of widespread repression and abuse, marginalisation and stigmatisation of people who use or are associated with drugs, and disproportionate targeting by law enforcement, with close to total impunity.<sup>17</sup> People who use drugs are widely seen and treated as criminals, and evidence-based interventions to address drug-related harms are virtually non-existent.<sup>18</sup> Stigmatisation is particularly intense against women who use drugs, due to the compounded effect of prejudices related to both gender and drug use.<sup>19</sup> Such an environment severely impinges the enjoyment, by people who use drugs, of fundamental rights and services.

#### Recommendation

- Adopt a public health and human rights approach to the world drug problem, including the decriminalization of drug consumption and the provision of harm reduction services.

#### **D. Torture, ill-treatment, and due process violations upon drug-related arrest, pre-trial detention and during investigations**

Russia's zero-tolerance approach to drugs provides law enforcement with wide discretion in targeting people who use or are otherwise associated with drugs; an expert talks of "law enforcement seemingly limitless power over people who use drugs"<sup>20</sup>. Civil society reports the broad use of corruption, planting of evidence, and provocation tactics by the police to 'incentivise' people who use drugs to commit offences and then arrest them for drug trafficking; also in pursuit of arrest quotas.<sup>21</sup> Medical confidentiality is reportedly violated, with law enforcement using medical information on drug

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<sup>14</sup> Report to the 135 Session of UN Human Rights Committee in relation to the review of the 8th Periodic Report of the Russian Federation CCPR/C/RUS/8 from The Russian Civil Society Mechanism for Monitoring of Drug Policy Reforms in Russia, with technical assistance of the Andrey Rylkov Foundation for Health and Social Justice, Eurasian Harm Reduction Association, and HIV Legal Network,

<sup>15</sup> Official FSIN Statistics, available here: <https://fsin.gov.ru/statistics/>

<sup>16</sup> <https://www.emerald.com/insight/content/doi/10.1108/978-1-83982-882-920200017/full/html>

<sup>17</sup> For more details see Report to the 135 Session of UN Human Rights Committee in relation to the review of the 8th Periodic Report of the Russian Federation CCPR/C/RUS/8 from The Russian Civil Society Mechanism for Monitoring of Drug Policy Reforms in Russia, with technical assistance of the Andrey Rylkov Foundation for Health and Social Justice, Eurasian Harm Reduction Association, and HIV Legal Network. Also Economist study for examples

<sup>18</sup> For more see <https://www.emerald.com/insight/content/doi/10.1108/978-1-83982-882-920200017/full/html>

<sup>19</sup> <https://www.emerald.com/insight/content/doi/10.1108/978-1-83982-882-920200017/full/html>

<sup>20</sup> <https://www.emerald.com/insight/content/doi/10.1108/978-1-83982-882-920200017/full/html>

<sup>21</sup> <https://www.dw.com/en/drug-addiction-in-russia-draconian-laws-instead-of-help/a-51193559>. Also <https://doi.org/10.1177/0022042620918951>

dependence to identify individuals to arrest.<sup>22</sup> Some of these practices have been addressed and condemned by the ECtHR.<sup>23</sup>

Physical and psychological violence is commonly reported against people who use drugs during arrest.<sup>24</sup> This is confirmed by a 2023 survey by UnMode among people who use drugs in Russia, where over half of all respondents who experienced a drug-related arrest reported violence in the form of beatings (70%), denial of food and water (56%), and prolonged interrogations (20%), among others.

Violence and abuse persist in custody and during the investigation phase, with civil society consistently reporting of law enforcement exploiting situations of vulnerability, and particularly the experiencing of withdrawal symptoms by people in detention, to extract confessions.<sup>25</sup> In turn, this is rooted in the prohibition of Opioid Agonist Therapy in the country.<sup>26</sup> Over half of all respondents in the abovementioned survey reported being forced to take part in interrogations or other forms of investigation while experiencing withdrawal symptoms. The same survey also found significant psychological violence, with respondents reported being coerced to confess (69%) or to claim responsibility for a crime they did not commit (44%), and/or threatened with planting of evidence (46%), having their drug use disclosed (27%), charging of relatives (20%), use of force against loved ones (39%) and sexual abuse (3.6%).<sup>27</sup> This form of abuse had significant consequences on the defendants, in the form of “falsification of the criminal case” (79%) and detrimental impact on one’s health (99%). Testimonies reveal the long-term repercussions on the individuals’ health and lives, as well on their due process rights:

“I am morally broken, 2 protocols were drawn up for offenses that I did not commit. My ribs hurt for a long time. I'm afraid to meet them, I walk around, fearing a meeting. I had to pay as much as possible, and this caused losses from the family budget.”

“I didn't know about my rights at the time, I was beaten, I got bruises, abrasions. Moral trauma, exacerbation of kidney disease as a result of hypothermia, persecution mania, insomnia, dermatological problems (due to unsanitary conditions in the cell)”

“I couldn't figure out for 3 days what was happening to me because of withdrawal, I was judged for what I didn't do. Fractured arm, concussion, hematomas, cracked ribs. Stress.”<sup>28</sup>

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<sup>22</sup> For more see Report to the 135 Session of UN Human Rights Committee in relation to the review of the 8th Periodic Report of the Russian Federation CCPR/C/RUS/8 from The Russian Civil Society Mechanism for Monitoring of Drug Policy Reforms in Russia, with technical assistance of the Andrey Rylkov Foundation for Health and Social Justice, Eurasian Harm Reduction Association, and HIV Legal Network,

<sup>23</sup> Report to the 135 Session of UN Human Rights Committee in relation to the review of the 8th Periodic Report of the Russian Federation CCPR/C/RUS/8 from The Russian Civil Society Mechanism for Monitoring of Drug Policy Reforms in Russia, with technical assistance of the Andrey Rylkov Foundation for Health and Social Justice, Eurasian Harm Reduction Association, and HIV Legal Network,

<sup>24</sup> Among others, <https://www.emerald.com/insight/content/doi/10.1108/978-1-83982-882-920200017/full/html>

<sup>25</sup> Among others, and for more details, see Report to the 135 Session of UN Human Rights Committee in relation to the review of the 8th Periodic Report of the Russian Federation CCPR/C/RUS/8 from The Russian Civil Society Mechanism for Monitoring of Drug Policy Reforms in Russia, with technical assistance of the Andrey Rylkov Foundation for Health and Social Justice, Eurasian Harm Reduction Association, and HIV Legal Network.

<sup>26</sup> Discussed on Part F of this submission.

<sup>27</sup> Study on monitoring among people who use drugs who have experience of being detained by police officers and have been subjected to torture and psychological violence in the police carried out by UnMode (Annex 1).

<sup>28</sup> See Annex 1.

A key contributing factor to systemic violence and abuse is the widespread lack of legal aid for people arrested for drug crimes. In the abovementioned survey, three quarters of all detained respondents claimed they did not receive information about their rights while in custody, “52.4% explained that they were not provided with the assistance of a lawyer, another 34.9% reported that they had access to a lawyer only during interrogation as an accused of a crime.”<sup>29</sup>

#### Recommendations:

- Guarantee legal safeguards for detainees and carry out prompt, impartial and effective investigations of complaints of ill-treatment, arbitrary detention, torture and death of detained people

### **E. Human rights violations in detention and upon release**

Due to the high percentage of people arrested for drug offences among the prison population in Russia, and - conversely - the significant impact of punitive drug control on incarceration rates and thus conditions of detention, any assessment of the human rights impacts of Russian drug control must include a review of conditions of detention in the country.

#### Conditions of detention

Information on material conditions of detention in Russian prisons is sparse, and the situation reportedly varies among penal colonies.<sup>30</sup> A typical feature of many detention facilities is their distance from densely populated areas, which hinders contact of those detained with families and, in many cases, lawyers.<sup>31</sup> In some facilities, people are reportedly detained with up to 50 other individuals, and in extremely tight spaces; with particularly grave overcrowding reported in some pre-trial facilities.<sup>32</sup> Ventilation, heating, and nutrition are often poor, with potable water sometimes rationed and detained individuals relying on NGOs and family for food. The member of the Presidential Council for Human Rights and member of the Moscow Prison Monitoring Commission Eva Merkacheva describes the situation as follows: According to “people sleep on the floor, cells and corridors are moldy, black toilets, rusty pipes.” She explains that the problem of overcrowding was solved by transferring detainees to neighbouring region, “but now there is nowhere to send them - literally all pre-trial detention facilities are full”.<sup>33</sup>

Reports also indicate a high rate of transmission of infectious diseases, such as tuberculosis and HIV; insomuch that around one third of all deaths in prisons are associated with HIV<sup>34</sup> (notably, many of these deaths would be preventable with the introduction of adequate health and harm reduction services, whose absence is discussed more in detail in the following section). The same features of detention settings which facilitated the spread of TB and HIV - such as overcrowding, poorly ventilated

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<sup>29</sup> See Annex 1.

<sup>30</sup> <https://www.osw.waw.pl/en/publikacje/osw-commentary/2019-02-07/russia-behind-bars-peculiarities-russian-prison-system>; <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/russia/>

<sup>31</sup> <https://www.osw.waw.pl/en/publikacje/osw-commentary/2019-02-07/russia-behind-bars-peculiarities-russian-prison-system>

<sup>32</sup> [https://rapsinews.ru/human\\_rights\\_protection\\_news/20190716/301732149.html](https://rapsinews.ru/human_rights_protection_news/20190716/301732149.html);

<https://www.hrw.org/news/2020/03/24/russias-pretrial-prisons-vulnerable-covid-19-spreads>

<sup>33</sup> ‘Federal Penitentiary Service says Russian pre-trial detention centres are 96 % full ‘ Kommersant, 24/08/2022 <https://www.kommersant.ru/doc/5525409>

<sup>34</sup> Kommersant. “Причиной смерти стало игнорирование прав” (The cause of death was ignoring the rights), 22 July 2019, available at: <https://www.kommersant.ru/doc/4038943>; <https://www.osw.waw.pl/en/publikacje/osw-commentary/2019-02-07/russia-behind-bars-peculiarities-russian-prison-system>

facilities, lack of or poor quality of medical assistance, and ill-health of people deprived of liberty - also placed people in detention at a particularly high risk of contracting COVID-19.<sup>35</sup>

### Torture and ill-treatment against people deprived of liberty

High rates of abuse and violence in detention settings is reported in Russian prisons, including in the form of beatings and rapes (a report classifies physical and sexual abuse by prison staff as “systemic”<sup>36</sup>). The main purposes appear to be extracting confessions, bribery, or as a form of intimidation and punishment. In some cases violence is inflicted by law enforcement, in others by other prisoners “informally recruited” by guards as ‘enforcers’.<sup>37</sup> The phenomenon is so widespread that a full reconstruction exceeds the space of this report. For more details on the trends, specific examples, and a review of underlying causes, we refer to EPLN submission HRCtee.<sup>38</sup>

Systemic patterns of torture are confirmed by official reports.<sup>39</sup> Most notably, in December 2021, the General Prosecutor Office presented the findings of a joint investigation on the widespread use of torture in prisons; as a result of which President Putin acknowledged the need for “systemic measures that would change the situation”.<sup>40</sup> Similarly, following investigations at detention facilities in some twenty regions in the first quarter of 2022, the Prosecutor's Office concluded that “the lack of a firm position against the violations of the right to safety and the right to life on the part of the heads of a number of [facilities] and of territorial bodies of the Russian Penitentiary Service in the face of violations has led to the existence of an unlawful practice of treating detainees with violence and degrading [their] human dignity.”<sup>41</sup> Between 2015 and 2020 alone, local media documented 98 cases of torture in custody, some resulting in deaths.<sup>42</sup>

Most episodes of torture appear to be met with impunity, because of the high tolerance for this phenomenon by prison officials and related authorities, as well as due to the “subordination of the medical staff of prisons to the FSIN [the prison service], which in practice results in the absence of recording of torture-related injuries and the systemic failure to alert the external authorities about the situation in the facilities.”<sup>43</sup> In extreme cases, complicity of health professional in the ill-treatment of people in detention has been reported.

### Harm reduction and other health services in detention

<sup>35</sup> <https://www.hrw.org/news/2020/03/24/russias-pretrial-prisons-vulnerable-covid-19-spreads>

<sup>36</sup> <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/russia/>

<sup>37</sup> Communication from EPLN to the CMCE in the case of Buntov v. Russia, 22 August 2022, available at: [https://hudoc.exec.coe.int/eng?i=DH-DD\(2022\)901E](https://hudoc.exec.coe.int/eng?i=DH-DD(2022)901E); Communication from EPLN to the CCPR (136th Session (10 October – 4 November 2022) in relation to the eighth periodic report of the Russian Federation), available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCSS%2FRUS%2F50031&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCSS%2FRUS%2F50031&Lang=en)

See also <https://www.dw.com/en/a-culture-of-torture-and-fear-is-rife-in-russias-prisons/a-60614959>; <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/russia/>

<sup>38</sup> <http://www.prisonlitigation.org/hrctee-russia/>

<sup>39</sup> Such as this one from 2018: <https://www.interfax.ru/russia/633116>

<sup>40</sup> <http://kremlin.ru/events/president/news/67331>

<sup>41</sup> <https://www.interfax.ru/russia/841772>

<sup>42</sup> <http://www.prisonlitigation.org/hrctee-russia/>

<sup>43</sup> See, e.g. *Buntov*, ECtHR, op. cit., §§ 15, 160.

No harm reduction or evidence-based drug treatment service is available in prison or other detention settings; exposing people with a drug dependence to significant health risks. Further, according to civil society “people with drug dependence generally prefer not to disclose to their health status prison administration because such disclosure would lead to unnecessary restrictions — allegedly to prevent suicides — and often bars an inmate from early conditional release.”<sup>44</sup> Anti-Retroviral Treatment (ART) is reportedly accessible to people in detention but “access is negligible and does not meet human rights recommendations”.<sup>45</sup> This is particularly problematic, when considering that according to the human rights NGOs, HIV remains the most common cause of death in prison (as further detailed below).

In a recent survey of 63 people who use drugs in Russia, 57% of respondents detained for drug use reported suffering withdrawal symptoms while in detention. Of those who asked for medical assistance, 95% reportedly were denied it, while another 4.7% stated they received a “mediocre examination by a medical worker who does not have the qualifications of a narcologist.”<sup>46</sup>

The situation appears even more dire for women deprived of liberty. Civil society denounces a lack of gender-sensitive health services in prison, ranging from a lack of products to care for feminine hygiene needs, to inhumane conditions of giving birth while in detention.<sup>47</sup>

### *Deaths in custody*

The conditions of detention described above, coupled with ill-treatment and lack of adequate health services, results in high rates of deaths in custody of people associated with drugs; though comprehensive figures are unavailable due to lack of transparency. Russian authorities very sporadically provide statistical data on deaths in custody and do not provide disaggregated analysis. The only regular sources of statistical information on deaths in custody are the international reports for which Russian authorities provided data, such as Council of Europe Annual Penal Statistics - SPACE I.<sup>48</sup> Russian authorities, however, did not provide disaggregated data on mortality in custody for SPACE I reports, limiting themselves only to the percentage of people who died of suicide. With Russia’s expulsion from the Council of Europe in 2022,<sup>49</sup> even this non-exhaustive source of information appears to have become unavailable.

This lack of transparency is compounded by the absence of any specific legal provisions and protocols regulating the procedure following prisoners’ death. Pursuant to the Russian Code of Criminal Procedure (Article 144), the opening of criminal investigations in these cases is left to the unfettered discretion of investigative authorities. Neither the Russian authorities follow the existing international protocols and

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<sup>45</sup> [https://impact.economist.com/perspectives/sites/default/files/eiu\\_aph\\_investing\\_hiv\\_launch.pdf](https://impact.economist.com/perspectives/sites/default/files/eiu_aph_investing_hiv_launch.pdf). See also Shadow Report to the Committee Against Torture for adoption of list of issues for the Russian Federation on its 70th session by the Russian Public Mechanism for Monitoring of Drug Policy Reform. Available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=797&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=797&Lang=en)

<sup>46</sup> See Annex 1.

<sup>47</sup> <https://www.emerald.com/insight/content/doi/10.1108/978-1-83982-882-920200017/full/html>

<sup>48</sup> Marcelo F. Aebi et al. (2022), ‘Space I – 2021 – Council of Europe Annual Penal Statistics: Prison populations’ (Strasbourg: Council of Europe), [https://wp.unil.ch/space/files/2022/12/SPACE-I\\_2021\\_FinalReport.pdf](https://wp.unil.ch/space/files/2022/12/SPACE-I_2021_FinalReport.pdf). According to this report there were around 2,400 individuals who died in penal institutions in 2020. Earlier SPACE I Reports (<https://wp.unil.ch/space/space-i/annual-reports/>) have provided roughly the same figures.

<sup>49</sup> Council of Europe (16 March 2022), ‘The Russian Federation is excluded from the Council of Europe’. Available at: <https://www.coe.int/en/web/portal/-/the-russian-federation-is-excluded-from-the-council-of-europe> (last accessed 09/03/2023).

recommendations related to the effective investigation and recording of deaths in custody. Correctional colony no. 16 (Krasnoturyinsk, Sverdlovsk Region), is a penitentiary facility for women known for its high death rate among prisoners, in particular in 2018-2019, due to the total lack of essential medicines. At least 14 women died before 2020. Despite numerous criminal complaints, criminal investigation against medical personnel and the colony administration has not been opened.<sup>50</sup>

Available information indicates that deaths in custody in Russia are mostly connected to preventable health issues. Most notably, according to Russian NGOs HIV remains the most common cause of death in prison (roughly 30% of all cases).<sup>51</sup> Complications from tuberculosis also appear to be recurring causes of death.

In addition to poor conditions of detention, civil society points to two patterns which exacerbate the gravity of the phenomenon. The first one is inadequate medical assistance inside detention facilities; in turn rooted in widespread discrimination against people in prison, and in the fact that the medical services of remand centers and penal colonies are under the jurisdiction of the Penitentiary Service, rather than the Ministry of Health.<sup>52</sup> Significant delays are reported in identifying and treating illnesses, with initial signs of health issues often ignored. Action is typically only taken when the condition becomes critical. At that point, however, it may be impossible for adequate medical assistance to be provided inside the detention setting, but at the same time civilian hospitals may (and often do) refuse to admit prisoners if their condition is deemed too critical. If prison authorities assess that a person is likely to pass away soon, they reportedly swiftly prepare release papers (although it is ultimately up to a court to decide on release, as discussed in the next paragraph) to avoid negatively impacting statistics on deaths in custody.<sup>53</sup>

The second one is a commonplace refusal to release individuals with poor health conditions, and the very superficial examination that the courts carry out in this area. Specifically, despite the existence of an official list of diseases incompatible with incarceration. Judges have wide discretion, and take into account not only the health conditions of the person and the ability of the prison to provide medical care; but the behaviour of the person while in detention and their compliance with the institution's internal rules. The systemic failure of the mechanism results in people with very serious pathologies, requiring complex care, remaining in detention and placing a massive burden on an already poorly resourced prison medicine system.

This process also appears too lengthy, and inadequate to effectively safeguard the health of people in detention. Despite clear timelines for reviewing release applications and conducting medical examinations, it often takes more than two months from the application for release to the beginning of the medical examination; after which, a lengthy judicial procedure for the examination of the

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<sup>50</sup> Novaya Gazeta, "Гиблое место" (A dead place), 25 July 2020, available at: <https://novayagazeta.ru/articles/2020/07/24/86395-gibloe-mesto>

<sup>51</sup> Kommersant. "Причиной смерти стало игнорирование прав" (The cause of death was ignoring the rights), 22 July 2019, available at: <https://www.kommersant.ru/doc/4038943>

<sup>52</sup> Mediazona, "Доктор ФСИН. Почему в России так плохо с тюремной медициной и можно ли это исправить" (Doctor FSIN. Why prison medicine is so bad in Russia and whether this can be remedied), 5 April 2021, available at: <https://zona.media/article/2021/04/05/fsin-med>

<sup>53</sup> For more on this, see joint submission to SR EJK on deaths in custody.

application begins.

### Post-release

Official figures indicate that over half of those released from prisons will re-offend and be incarcerated again at some point in their life. According to civil society, this is due to the state's failure to rehabilitate and reintegrate people with histories of incarceration, and to a lack of socio-economic support after release.<sup>54</sup> People who use or are incarcerated for drug offences appear to be uniquely affected, due to the intersectional discrimination associated with both use and association with drugs, and incarceration. Reportedly, "the post-release environment for [people who inject drugs] in Russia consists of virtually no support, making high risk behaviours inevitable. Unemployment, resuming opioid use, alcoholism and overdoses are very common for ex-convicts trying to integrate back into the community and it is unrealistic to expect them to avoid re-offending or death without appropriate support." Incarceration also severely impacts people's right to work, as individuals with drug crime records are "indefinitely prohibited from working in the area of education and social support."<sup>55</sup>

### Recommendations

- Criminalisation of torture as a separate criminal offence, in compliance with the definition of torture in the UN Convention, not subject to statute of limitations
- Ensure swiftness, transparency, and efficiency of the procedure for early release of prisoners on medical grounds;
- Ensure that prisoners suffering from illnesses incompatible with detention be immediately released or provided with medical aid without delay.

## **F. Denial of health and harm reduction services to people who use drugs in general population<sup>56</sup>**

As of late 2022, there were an estimated 1,274,000 people who inject drugs in Russia, with an estimated 49.8% HIV prevalence (one of the highest in the region), and an estimated 72.5% hepatitis C prevalence. In 2020, over 18,000 people overdosed on illicit drugs, leading to over 7,000 deaths (a 16% increase compared to 2019).<sup>57</sup> At least 7.3 million people who use drugs are estimated to live in the country,<sup>58</sup> although marginalisation and criminalisation prevent a realistic assessment of the phenomenon. Harm reduction has been recognised as an essential component of the right to health of people who use drugs both in the community and in detention settings;<sup>59</sup> and an effective and cost-effective

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<sup>54</sup> Coalition of Civil Society, Joint report on Russia's compliance with the International Covenant on Civil and Political Rights - Suggested List of Issues. Available at:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2575&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2575&Lang=en)

<sup>55</sup> Report to the 135 Session of UN Human Rights Committee in relation to the review of the 8th Periodic Report of the Russian Federation CCPR/C/RUS/8 from The Russian Civil Society Mechanism for Monitoring of Drug Policy Reforms in Russia, with technical assistance of the Andrey Rylkov Foundation for Health and Social Justice, Eurasian Harm Reduction Association, and HIV Legal Network,

<sup>56</sup> Unless specified, the source for all information in this paragraph is GSHR 2022.

<sup>57</sup> Hellman, drug control and human rights in the Russian Federation,

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9379298/>

<sup>58</sup> <https://www.emerald.com/insight/content/doi/10.1108/978-1-83982-882-920200017/full/html>

<sup>59</sup> For a comprehensive review of human rights and public health standards on the right to health of people who use drugs harm reduction in places of detention, see: International Guidelines on Human Rights and Drug Policy, Guideline 1.1. - Harm Reduction, Commentary. Available at: <https://www.humanrights-drugpolicy.org/>; also [https://hri.global/wp-content/uploads/2023/02/HRI\\_PrisonReport\\_AW\\_online.pdf](https://hri.global/wp-content/uploads/2023/02/HRI_PrisonReport_AW_online.pdf).

intervention to reduce drug-related health harms (including HIV, hepatitis, and tuberculosis infection, as well as overdose). As such, it's a particularly important health intervention in a country with one of the fastest growing HIV/AIDS epidemics in the world.<sup>60</sup>

Opioid Agonist Therapy (OAT), drug consumption rooms, or peer distribution of naloxone are not available in the country; while civil society reports around 20 Needle and Syringe Programs (NSP) operational in the country as of 2018. However, these reportedly distribute an average of 1 - 3 syringes per individual annually (against the 300 units standard set by WHO);<sup>61</sup> reportedly, "this devastatingly low coverage for such a cheap and effective intervention, is making it extremely likely that PWID share needles on a regular basis."<sup>62</sup> HIV testing among people who inject drugs is reportedly available but inadequate.<sup>63</sup>

Particularly problematic is the criminalisation of OAT, as the use of methadone and buprenorphine is prohibited by the Narcotics Control and Psychotropic Substances Act,<sup>64</sup> despite WHO recognising these substances as essential medicines.

By banning OAT, Russia is failing its obligation to protect not only the health of people who use drugs, but also their lives, due to the impact this policy has on overdoses.<sup>65</sup> Further, this policy has a detrimental effect on the health of individuals who require these medicines for other purposes, such as pain management or cancer treatment.<sup>66</sup> Preventing access to OAT to opioid-dependent persons by Russia has been condemned by several bodies, including the UN Special Rapporteur on Torture.<sup>67</sup> The provision of harm reduction services by civil society has reportedly been negatively impacted by the Russian invasion of Ukraine and its logistical and economic repercussions.<sup>68</sup>

#### Violations in private rehabilitation centres

In its submission to the Committee Against Torture, the Russian Public Mechanism for Monitoring of Drug Policy Reform denounces violations and abuses in private drug 'treatment' centres, including in the form of "flogging, beatings, punishment by starvation and long-term handcuffing to the bed frame, "coding" (i.e., hypnotherapy aimed at persuading the patient that drug use leads to death), brain surgery, electric shock causing seizures, burying the patient in the ground for 15 minutes, putting electrodes into patients' ears to cause electric shock, implantation of guinea pig brains, and other

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<sup>60</sup> <https://www.dw.com/en/drug-addiction-in-russia-draconian-laws-instead-of-help/a-51193559>

<sup>61</sup> [https://impact.economist.com/perspectives/sites/default/files/eiu\\_aph\\_investing\\_hiv\\_launch.pdf](https://impact.economist.com/perspectives/sites/default/files/eiu_aph_investing_hiv_launch.pdf)

<sup>62</sup> [https://impact.economist.com/perspectives/sites/default/files/eiu\\_aph\\_investing\\_hiv\\_launch.pdf](https://impact.economist.com/perspectives/sites/default/files/eiu_aph_investing_hiv_launch.pdf) p 14

<sup>63</sup> [https://impact.economist.com/perspectives/sites/default/files/eiu\\_aph\\_investing\\_hiv\\_launch.pdf](https://impact.economist.com/perspectives/sites/default/files/eiu_aph_investing_hiv_launch.pdf)

<sup>64</sup> List of narcotic drugs and psychotropic substances, the circulation of which prohibited in the Russian Federation in accordance with the law of the Russian Federation and international treaties of the Russian Federation, Lists I and II, available at:

[http://www.consultant.ru/document/cons\\_doc\\_LAW\\_136206/ce99160bb6d3dd9183f48dce1703bf45dfa78f28/;](http://www.consultant.ru/document/cons_doc_LAW_136206/ce99160bb6d3dd9183f48dce1703bf45dfa78f28/)

[http://www.consultant.ru/document/cons\\_doc\\_LAW\\_136206/629d31642fd63a1444f590ad4cb3b8fe80705276/.](http://www.consultant.ru/document/cons_doc_LAW_136206/629d31642fd63a1444f590ad4cb3b8fe80705276/)

Federal Law "On Narcotic Drugs and Psychotropic Substances" dated 08.01.1998 N 3-FZ, article 31. Available at: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_17437/](http://www.consultant.ru/document/cons_doc_LAW_17437/) Art 31

<sup>65</sup> [https://impact.economist.com/perspectives/sites/default/files/eiu\\_aph\\_investing\\_hiv\\_launch.pdf](https://impact.economist.com/perspectives/sites/default/files/eiu_aph_investing_hiv_launch.pdf)

<sup>66</sup> [https://impact.economist.com/perspectives/sites/default/files/eiu\\_aph\\_investing\\_hiv\\_launch.pdf](https://impact.economist.com/perspectives/sites/default/files/eiu_aph_investing_hiv_launch.pdf)

<sup>67</sup> Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Applying the torture and ill-treatment protection framework in health-care settings, A/HRC/22/53, February 1, 2013, para. 73.

<sup>68</sup> <https://drogriporter.hu/en/the-impact-of-the-war-on-the-prospects-for-harm-reduction-and-civil-society-in-russia/>

unproven methods.”<sup>69</sup>

#### Impact of Ukraine invasion on availability of harm reduction and other essential health services

Russia’s invasion of Ukraine in February 2022 has had devastating impacts on the lives of people who use drugs in the country, disrupting access to essential health and other services. Community and civil society organisations quickly responded to the humanitarian crisis, including by providing shelter and delivering “food, medication and harm reduction supplies to the Ukrainian regions that were cut off from supply chains or where people could not leave their homes”<sup>70</sup>, and providing funds to support the evacuation of people who use drugs from occupied areas. They also successfully advocated for reforming OAT protocols in the country, and worked to secure the uninterrupted supply of OAT in areas affected by the conflict. Despite these, many people reportedly lack access to health services such as NSPs and HIV prevention, antiretroviral therapy (ART), and OAT.

#### Surveillance/censorship of drug-related information

Evidence-based drug education is a key component of the right to health of people who use drugs as well as of the right to enjoy the benefits of scientific progress;<sup>71</sup> as well as a key prevention and harm reduction intervention. The dissemination of information on drug and drug-related harms is also protected by the right to freedom of expression. However, this is impinged by Russian drug laws and practices. As detailed by the Russian Public Mechanism for Monitoring of Drug Policy Reform, “in Russian legislation there is an article on the prohibition of drug propaganda (Article 6.13 of the Administrative Code of the Russian Federation), implying liability in the form of a fine of up to 5 thousand rubles (equivalent of 67 USD) for individuals and up to a million rubles (equivalent of 13,487 USD) for legal entities. And there is a criminal article for inducement to use (Art. 230 of the Criminal Code of the Russian Federation), the maximum punishment for which is up to 10 years in prison. [...] The article is applied mainly in cases where the actions of the responsible person were not aimed at arousing the desire to use drugs. Russian law enforcement has long been known to use this law to suppress human rights and health information. Even scientific and other public discussions regarding such WHO-recommended methods of drug dependence treatment as opioid substitution therapy (OST) are suppressed in Russia under threat of prosecution for drug propaganda. In 2012, the Federal Drug Control Service shut down as “drug propaganda” the website of the non-governmental organization Andrey Rylkov Foundation for Health and Social Justice for disseminating the recommendation concerning OST that had been delivered to the Russian government by the UN Committee on Economic, Social and Cultural Rights. In 2018, government agencies administratively blocked 24,900 webpages or web domains. In addition to this, 1,338 Internet sites were blocked based on court decisions. The Ministry of the Interior took 3,973 administrative decisions to block access to social networks groups.” The same organisation reports that “from December 2020 to February 2021, two new laws have been adopted, which increase the punishment under the above articles for the same actions using the Internet.”<sup>72</sup>

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<sup>69</sup> Shadow Report to the Committee Against Torture for adoption of list of issues for the Russian Federation on its 70th session by the Russian Public Mechanism for Monitoring of Drug Policy Reform. Available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=797&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=797&Lang=en)

<sup>70</sup> GSHR 2022, page 80.

<sup>71</sup> International Guidelines on Human Rights and Drug Policy, Page 10. Available at [https://www.humanrights-drugpolicy.org/site/assets/files/1640/hrdp\\_guidelines\\_2020\\_english.pdf](https://www.humanrights-drugpolicy.org/site/assets/files/1640/hrdp_guidelines_2020_english.pdf)

<sup>72</sup> Shadow Report to the Committee Against Torture for adoption of list of issues for the Russian Federation on its 70th session by the Russian Public Mechanism for Monitoring of Drug Policy Reform. Available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=797&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=797&Lang=en)

### Recommendations

- Lift ban on harm reduction services in the country, and ensure its availability and accessibility of the harm reduction services nation-wide. This includes access to information to harm reduction services.
- Denounce violations and abuses in private drug 'treatment' centres, and investigate careful each cases of violations and abuses

