

14. Does your State provide drug treatment to people in custodial or pre-trial detention, or who have been imprisoned following a conviction? Do these drug treatment services include harm reduction services? Please describe what types of drug treatment and harm reduction services are available to detainees and imprisoned people. Please also indicate if such services are available to those in administrative detention such as undocumented migrants or those subject to a deportation order. If no such services are available, does this result in forced confessions or people not being able to participate in their defence?

There are no official data confirming the presence of drugs in prisons in Ukraine, as well as official state programs for harm reduction and syringe exchange.

Related researches state that there is an internal prison economy (inside prison-based economy), in which the possibility of purchasing sterile instruments is available for a few individuals, whereas the majority of prisoners are forced to use self-made tools or use a single syringe per group of people.

#### *Syringe exchange program*

In 2005 State Criminal Enforcement Service of Ukraine decided to launch a pilot *syringe exchange programs* in two prisons in 2006. Two colonies - No. 48 in Lviv and a colony No. 53 in Mykolaiv - were selected as pilots. Within preparation for these projects, a conference and three training sessions on program implementation were organized in November 2006 and December 2005. Two trainings were attended by staff from 2 colonies who were scheduled to start pilot projects. Due to the political changes, the pilots have not been implemented.

Rules of Internal Regulations of Detention Centers of the State Criminal Enforcement Service of Ukraine approved by the order of the Ministry of Justice of Ukraine dated June 14, 2019 No 1769/5 detained persons are not prohibited from using and storing sterile syringes and needles, but the mechanism of their receipt is not defined (regardless cases of necessity of 24-hour immediate administration of medicines and maintenance of vital activity). Generally syringes are allowed for use in case of diabetes. Legislation treats needles and syringes as medical devices that can only be provided by a doctor and, in any other case, prohibited by both in the pre-trial detention centers and prisons. Moreover, needles or syringes as separate items are prohibited items in accordance with the Rules of Internal Regulations of penitentiary institutions and detention centers.

#### *OST programmes*

Person today may have access to OST while staying in detention centers. When they are sent to a prison, they lose access to the medical service at stake.

Ability to keep drugs in temporary detention and / or detention centers is accompanied by the need to comply with the additional bureaucratic requirements - obtaining licenses for the storage of drugs, psychotropic substances and precursors - which the heads of the relevant institutions are as a rule not ready to fulfill.

There are also successful cases. In the Sumy detention center, when an OST patient enters the pre-trial detention center, he or she can immediately refer to the medical unit, which in turn informs the medical institution where they check whether the detainee is actually a participant of the OST program and further ensure that he or she receives the treatment and perform detoxification. The doctor of the medical institution provides transportation and delivery of the medicines for all detainees to the medical unit of the detention center.

In 2019 the pilot project "Complex treatment with opioid substitution treatment (OST) medication for convicts with mental and behavioral disorders due to opioid use at the Bucha Correctional Colony No 85" was launched. This pilot is being implemented as part of the Serving Life project funded by the United States Agency for International Development (USAID) and implemented by PATH.

At the same time according to the pilot architecture only limited amount of clients will become part of this project. However, according to the results of the report developed by the NGO 'Support, Research and Development Center' under support of CO "100% LIFE" on syringe exchange program in places of detention (2019) approximately 60-80% of inmates are drug users. Thus, access to the treatment even in the Bucha Correctional Colony No 85 is much limited.

Three more penitentiary institutions are planned to join the project in 2020 as part of the Serving Life project initiative.

To launch the state OST programmes within the penitentiary institutions in Ukraine the legal changes on provision and storage of OST are required. Lack of state funds for the increase of the programme is an additional obstacle.

**17. Are there any good practices being developed or implemented in your State in relation to drug-related detention and drug policies? If so, please provide examples.**

#### *Legal changes ensuring access to OST in prisons*

In 2019, the Ministry of Health of Ukraine submitted for public discussion a draft order "On Amending Order No. 200 of the Ministry of Health of Ukraine dated March 27, 2012" on expanding access to opioid substitution therapy by increasing the number of service providers, eliminating regulatory restrictions regarding the introduction of OST, inter alia in places of imprisonment.

To date, the current order, approving the Procedure for conducting OST for patients with opioid dependence, determines that such treatment can only be carried out on the basis of OST rooms, which are specialized structural units of a healthcare institution and cannot be provided in prisons. Consequently, the adoption of the draft will remove regulatory restrictions regarding the introduction of OST in prisons.

Currently, the draft is on the final stage of approval by the Ministry of Health of Ukraine. Draft has not been signed yet due to the several changes of Minister of Health within a short period of time (between September, 2019 and end of March, 2020 Minister of Health was changed 3 times).

#### *Naloxone*

Until recently, naloxone was not available in Ukrainian prisons, despite the fact that drug use by prisoners is a fairly common practice.

Prison administrations and doctors hid overdose cases even in fatal cases. At the management level of the prison service, the problem was not recognized, publicly assuring the public that "there are no drugs in prisons."

Thanks to the efforts of NGO FREE ZONE, created on the basis of communities of ex-prisoners, drug users and HIV-positive people, and CO "100% LIFE" naloxone is now available in every medical unit of all prisons in Ukraine.

The FREE ZONE and 100% LIFE advocacy campaign led to the situation when need for a naloxone drug was collected in all medical units of the penitentiary institution, procurement of the drug was conducted for the first time for the state budget money, and according to the needs, the drug was distributed to all, without exception, prisons and detention centers in Ukraine.

In parallel, a training process was organized for medical personnel regarding the use of the drug in cases of suspected overdose of opiates.

In the short time after the successful implementation of this advocacy case, there have already been several cases of using naloxone in Ukrainian prisons.

**18. Are there any new or emerging trends in drug-related detention and drug policies that could be addressed by this study?**

On January 17, 2020 the draft law № 2784 "On Amendments to certain legislative acts of Ukraine on combating the illicit trafficking of drugs, psychotropic substances and precursors and abuse" was registered in the Parliament of Ukraine.

CO "100% LIFE" opposes the project because it proposes a number of changes that will lead to greater criminalization of personal drug use, regardless of size, shadowing of consumers, and contradict both international recommendations and already adopted normative legal acts in Ukraine, in particular the National Drug Policy Strategy up to 2020. This bill, drafted by the representatives of the law enforcement committee, reflects the law enforcement agencies' policy of further criminalizing of personal consumption and neglect of human rights, including access to treatment.

The draft law envisages:

- 1) The use of the term "drug addiction" (narcomania) to indicate the diagnosis of "mental and behavioral disorder due to the use of psychoactive substances".

The diagnosis of drug addiction (narcomania) used in the draft law has not existed in Ukraine since 1998. Ever since then, the Ministry of Health has officially transitioned to the International Classification of Diseases (ICD-10). This change signals a turn towards repressive drug policy and will increase the stigma and discrimination that is already high in Ukraine.

- 2) Introduction of the term "propaganda" into legislation, which definition is not present in this draft law and in the legislation of Ukraine.

Under the draft law Propaganda includes posting, including on the Internet, of images, web addresses, accounts in social networking and messengers (including foreign languages), as well as information on the development, use, description of any advantages in the use of certain drugs. An exception is the dissemination of information within scientific activities and placement in the scientific literature. Criminal liability for propaganda is envisaged.

Thus, educational activities and dissemination of information by NGOs representing the interests of drug users, international organizations on the effects of certain substances and adverse reactions will also be prosecuted under this draft law.

This provision will facilitate end of activities in the country and the criminal prosecution of organizations that are involved in the prevention and rehabilitation of drug users; will make it impossible for drug users to obtain information about the consequences of drug use, available treatment methods, benefits and peculiarities of using various harm reduction programs.

3) Compulsory treatment of persons with “drug addiction” (narcomania) by court decision.

In Ukraine there is a separate Law "On Psychiatric Care", which clearly defines the methods of compulsory medical treatment and foresees in which cases the court makes a decision on hospitalization, the period of compulsory hospitalization, the procedure of appeal. However, this law applies to all persons with mental disorders and does not exclude drug addicts. The draft law duplicates existing rules and highlights drug users as a separate category.

It should also be also noted that in 2020, the Parliament Commissioner for Human Rights has identified rehabilitation facilities, which, according to the logic of the bill, should be used for forced treatment of drug users, as one of the priority places of detention, which needs monitoring in order to prevent torture and ill-treatment.

4) Dispensing medicines containing drugs only by e-prescription.

In Ukraine, electronic prescriptions have not yet been put into practice. A pilot project is planned to be launched in some pre-selected regions only on April 1, 2020. That is, the information system has not yet been used even within the pilot, and the draft law stipulates that this is the only way to get the medicines containing drug to a patient. Thus, the provision and obtaining of medicines in practice will be impossible. Violation of the order of provision of such treatment through e-prescription is also punishable by criminal penalties.

Draft law has received great resonance and opposition from both NGOs, experts in the field of drug policy and the expert institution of the Ministry of Health of Ukraine. Huge advocacy campaign engaging all main stakeholders was performed (press conference, meeting with authors, public statement). As of today, the project has not been put to the vote in the Parliament.

Expert community is also experiencing a worsening of relations with the Ministry of Internal Affairs, which is the main opponent of drug liberalization, blocks legislative initiatives to decriminalize personal consumption and amending the illicit drug volumes (which is the main instrument of criminalization of personal use) to comply with international experience.

The newly-adopted profile Deputy Minister of the Interior advocates for increasing responsibility for drug crimes, criticizes harm reduction programs and considers them to be the instrument of drug addiction spread and pushing of drugs legally.

In addition, instead of criminal penalties, deputy minister suggests introducing "mandatory treatment".