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SPECIAL RAPPORTEURS, INDEPENDENT EXPERTS & WORKING GROUPS

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QUESTIONNAIRE

Contact Details

Please provide your contact details in case we need to contact you in connection with this questionnaire. Note that this is optional.

	☒ Member State ☐ Observer State ☐ Other (please specify)
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Background

Within the framework of Human Rights Council resolution 51/21, the Special Rapporteur on the highest attainable standard of physical and mental health has identified health equity as a strategic priority, ranging from the underlying determinants of health to the need to eliminate structural and systemic barriers in accessing health care services, goods, and facilities, particularly among persons living under vulnerable or marginalised circumstances. In compliance with her mandate and in line with these priorities, the Special Rapporteur on the right to health has decided to devote her next thematic report to the Human Rights Council, to be held in June 2024 to the theme of "Drug policies and responses: a right to health framework on harm reduction".

Objectives of the report

All persons are entitled to the enjoyment of the highest attainable standard of physical and mental health, which includes the underlying determinants of health and timely and appropriate health care. In the present report, the Special Rapporteur intends to explore the ways in which harm reduction intersects with the enjoyment of right to health and related human rights. Relying on the frameworks of the social and commercial,[1] determinants of health, the Special Rapporteur will examine the laws, policies, and practices that give rise to the need for harm reduction, as well as the laws, policies, and practices that take a harm reduction approach, aiming to address the negative health, social, and legal outcomes in various contexts.

Harm reduction has been primarily developed in the context of drug use, including needle and syringe programs, supervised injection and drug use facilities, opioid substitution therapy, overdose prevention, and community outreach programs, as well as access to legal assistance, social services, housing, and adequate food. However, in this report, the Special Rapporteur will take a broadened view of harm reduction to examine

[1] See: www.who.int/news-room/fact-sheets/detail/commercial-determinants-of-health

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how this approach can intersect with the right to health and related human rights in other realms, including but not limited to sex work, abortion, and safe sex.

The Special Rapporteur also intends consider harm reduction as key public health interventions for populations that are often stigmatised and discriminated against. She will explore how the laws, policies, and practices that give rise to the need for harm reduction can disproportionately impact certain people, such as those in situations of homelessness or poverty, persons who use drugs, sex workers, women, children, LGBTIQ+ persons, persons with disabilities, persons who are incarcerated or detained, migrants, Indigenous Peoples, Black persons, persons living with HIV or hepatitis, and persons living in rural areas. Taking an anti-coloniality and anti-racism approach, the Special Rapporteur will explore how in some contexts criminalisation and stigmatisation can serve as a legacy of colonialism and slavery.

Definitions
Most commonly, harm reduction refers to policies, programmes and practices that aim to minimise the negative health, social and legal impacts associated with drug use, drug policies and drug laws.[2] For the purposes of this report, the Special Rapporteur defines harm reduction in a broader sense, including the policies, programmes, and practices that aim to minimise the negative health, social, and legal impacts associated with various behaviours and related policies and laws, as exemplified above.

Questionnaire
The questionnaire can be downloaded below in English (original language), French and Spanish (unofficial translations). Responses can address some of the questions or all of them, as feasible or preferred.

- Download the questionnaire (WORD): English | Français | Español

How and where to submit inputs

Inputs may be sent by e-mail by 15 November 2023.

E-mail address	ohchr-srhealth@un.org
E-mail subject line	Contribution to HRC report - SR right to health
Word limit	500 words per question
File formats	Word and PDF
Accepted languages	English, French, Spanish

Treatment of inputs/comments received
Please note that all responses will be published on the official webpage of the mandate of the Special Rapporteur by default.

[2] See also: https://undocs.org/Home/Mobile?FinalSymbol=A%2F65%2F255&Language=E&DeviceType=Desktop&LangRequested=False, para. 50.

Key Questions

You can choose to answer all or some of the questions below. (500 words limit per question).

Inputs may be sent by e-mail **by 15 November 2023**.

1. **While the concept of harm reduction has traditionally been applied to drug use, the Special Rapporteur is taking a broadened approach to harm reduction. What types of harm reduction policies, programmes, and practices are in place in your community, and what is their purpose or aim? How successful have they been at achieving that aim? Please provide data, as possible.**

   The Austrian Addiction Prevention Strategy and the nine provincial strategies are the pillows of the Austrian Harm Reduction efforts and ensure a holistic, yet in-depth approach. Thereby a focus is put on a low-threshold setting to guarantee accessibility for everyone in need. This includes, but is not limited to, social work interventions as well as medical care and treatment for high-risk users and in a broader sense opioid substitution treatment.

   The implementation and funding of harm reduction measures rests with the nine provinces, who tailor said measures to the specific needs of their population. The harm reduction interventions are primarily carried out by charities or, in the case of Vienna, by a non-profit enterprise owned by the City of Vienna. In Lower Austria harm-reduction interventions are provided by the addiction support services, and in Burgenland by the provincial Psychosocial Service. At the Klagenfurt drug outpatient clinic, an additional low-threshold service targets groups of unstable patients, patients without insurance coverage, patients not yet in treatment, as well as high-risk drug users and drug users in a crisis.

   A main focus of harm reduction policies is the prevention of drug-related infectious diseases. There are offers for drug-users to be tested for HIV and hepatitis without charge, offers for HAV/HBV vaccinations and information campaigns about safer use, safer sex and the prevention of emergencies. While treatment for drug-related health issues can be sought in the general health care system, medical specialists in low-threshold centres are available. This includes clinics in Vienna and Graz, who treat patients for hepatitis C. Free syringe exchange and sterile injection equipment is provided in many locations throughout Austria. Additionally, vending machines provide syringe sets in 16 different cities and three provinces made sterile syringes available through outreach services. In Vienna, syringes are distributed by two pharmacies and 28 centres for homeless people. Figure 1 shows the number of syringes issued in Vienna and the rest of Austria from 2014 to 2020. With around 6 Million syringes distributed in 2020, syringe services have been widely successful and reached a substantial number of persons who inject drugs.

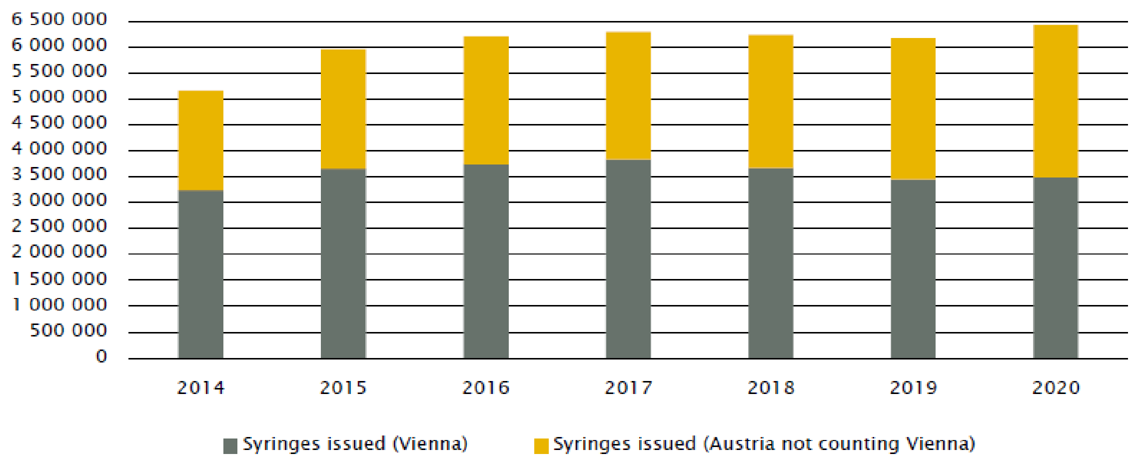

Figure 1: Syringes distributed in Vienna (grey) and in the rest of Austria between 2014 and 2020 (Source ST10; graphic representation: GÖG).

Drug checking continues to be important for preventing and reducing emergencies in party settings. Results are reported to the Austrian information and early warning system with regard to specific health hazards in the context of illicit substance use. Naloxone is part of the standard equipment of emergency physicians and ambulances to prevent opioid overdoses. Take-home-naloxone projects have been started in more than half of the Austrian provinces.

2. **How do legal frameworks affect the harm reduction policies, programmes, and practices (whether related to drug use or otherwise) that are available in your community, country, or region? Are there laws or policies that either facilitate or serve as a barrier to adopting or implementing certain harm reduction policies, programmes, and practices? Aside from legal and regulatory barriers, are there other obstacles in place? Please provide specific examples.**

   The Narcotic Substances Act (SMG; BGBl I 1997/112) constitutes the framework of Austria's drug policy. It focuses on quantities on the one hand and classes of substances on the other. This classification is based on international conventions and distinguishes between narcotic drugs, psychotropic substances and precursor substances. One can generally distinguish between misdemeanours (SMG Section 27) relating to the illicit handling of narcotic drugs, and felonies relating to preparation for drug trafficking (SMG Section 28), and drug trafficking itself (SMG Section 28a). Separate provisions exist for cannabis and hallucinogenic mushrooms. The SMG provides the basis in terms of data protection for a close cooperation of pharmacies and health authorities with doctors delivering opioid substitution treatment (OST). This applies to reporting of behaviour that constitutes harm to the patient in OST, or to a third person.

   In addition to the SMG, the Narcotic Drugs Regulation (SV) is an important legal source: for instance, it includes provisions on the prescription of medicines containing narcotic substances, and on opioid substitution treatment of addicted patients. Since 2006, the general framework for opioid substitution treatment has been provided by the Narcotic Drugs Regulation and the Regulation on Further Training in Opioid Substitution (BGBl II 2006/449). The latter defines the extent and organisation of further training that doctors have to complete to qualify for delivering opioid substitution treatment (Sections 2 to 4). The data of doctors who are permitted to deliver opioid substitution treatment are entered in a central online registry (Section 5). The amendment to the Narcotic Drugs Regulation, which entered into force on 1 January 2018, constitutes an essential part of a set of measures concerning the legal framework for opioid substitution treatment. The treatment guideline on quality standards for opioid substitution treatment drawn up by a large number of experts plays a key role in this context.

3. **How does the jurisdiction in place in your region/country/state approach the criminalisation (or decriminalisation) of drug use? Please provide disaggregated data, including but not limited to gender, age, race/ethnicity, status of poverty, sexual orientation and the number of persons deprived of liberty for drug possession or consumption.**

   Austria's drug legislation is characterised by a balanced approach combining health-related interventions and interventions aimed at controlling supply. In the Narcotic Substances Act, this is reflected in a wide range of alternatives to punishment for cases of drug use and drug dependence – including giving priority to notifying the health authorities in order to assess the need for health-related measures. Even though the use of narcotic substances as such is not punishable, under the applicable legislation it is, in fact, regularly treated as an offence on the basis of related aspects, particularly possession. For instance, the purchase, possession or production of narcotic substances constitutes a punishable act. Limit quantities have been defined in separate regulations, and the exceeding of these quantities is threatened with more severe punishment. In this respect, the Narcotic Substances Act distinguishes between misdemeanours and felonies. For the misdemeanours, punishment is up to one year of imprisonment or a fine, and in severe cases, up to three years of imprisonment; whereas for felonies, it is imprisonment for over three years, and in severe cases, up to life imprisonment. Separate provisions exist for cannabis and hallucinogenic mushrooms. The SMG also offers a wide range of alternatives to punishment. The addicted patient's voluntary participation is a general requirement for treatment, and it is the task of the health authorities to motivate patients to undergo treatment. This will be elaborated in the answer to question 6.

   In Austria, over 14 % of all convictions are related to the Narcotic Substances Act, with the majority of convictions involving misdemeanours. As far as statutory alternatives to punishment (diversionary options under SMG Sections 35 and 37) are concerned, temporary discontinuation of penal action by the public prosecutors under SMG Section 35 has been applied much more frequently than temporary dismissal of proceedings on the part of the courts (SMG Section 37). Suspension of sentence (SMG Section 39) is the alternative that has been recorded least often. Figure 2 shows the total number of convictions under the Narcotic Substances Act in 2021, giving more detailed information about age, gender and section under which convicted. As shown, men make up a vast majority of convicted persons. A peak can be seen in convictions of persons aged 20 to 24.

Offence	Gender	Aged 14-19	Aged 20-24	Aged 25-29	Aged 30-34	Aged > 34	Total
SMG total	Total	390	902	716	612	1128	3648
SMG total	Men	250	811	662	555	993	3271
SMG total	Woman	40	91	54	57	135	377
SMG Section 28/28a	Men	112	410	377	324	630	1853
SMG Section 28/28a	Woman	18	43	31	29	71	192
SMG Section 27	Men	137	400	284	230	360	1411
SMG Section 27	Woman	22	48	23	28	62	183

SMG Section 27 = illicit handling of narcotic drugs.
SMG Section 28 = preparation for trafficking in narcotic drugs.
SMG Section 28a = trafficking in narcotic drugs.

Figure 2: Persons convicted under the Narctoic Substances Act in 2021 by age, gender and section (Source Statistic Austria; graphic representation: GÖG).

Complementary to figure 2, figure 3 shows the development of convictions under the Narcotic Substances Act. While the number of convictions for illicit handling of narcotic drugs (Section 27) dropped from almost 3000 in 2012 to 1500 in 2021, the number of convictions for preparation of trafficking and trafficking narcotic drugs (Section 28 and 28a) rose from around 1400 in 2012 to over 2000 in 2021.

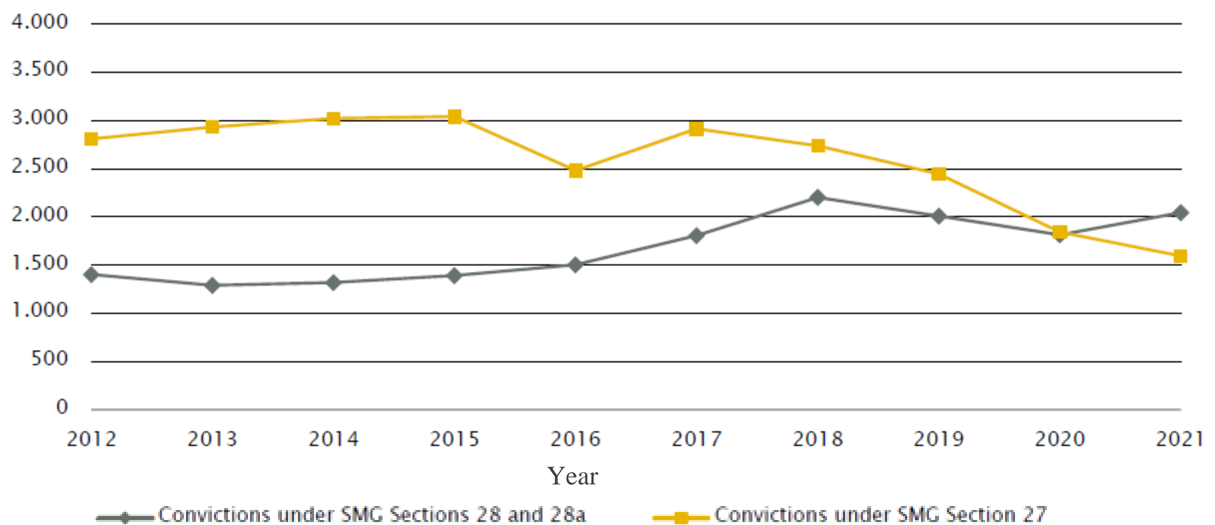

Figure 3: Development of the number of convictions under the Narcotic Substances Act Sections 27, 28 and 28a between 2012 and 2021 (Source Statistic Austria; graphic representation: GÖG).

5. **What type of harm reduction policies, programmes, and practices, as well as mental health and other support (e.g., housing, legal, social, educational, and economic), are available for people who use drugs in the community, institutions, or detention facilities? Please share examples of the impact of criminalisation, discrimination, stereotypes and stigma on the different groups of the population e.g., persons in situation of homelessness, migration, or poverty, sex workers, women, children, LGBTIQ+ persons, persons who are detained or incarcerated, persons with disabilities, Indigenous Peoples, Black persons, persons affected by HIV or hepatitis, and persons living in rural areas, etc.).**

For harm reduction policies, programmes and practices on a communal and institutional level, please refer to question 1.
In Austria, the federal government, in particular the Ministry of Justice, is in charge of matters concerning penal imprisonment and involuntary forensic placement. Health care in detention facilities is subject to the principle of equivalence of care and equal treatment of diseases, thus persons suffering from drug related diseases are entitled for the same quality of treatment they received outside of the facility. Treatment is delivered by both prison doctors and external providers. Quality assurance is based on various general circulars, e.g. the substitution guidelines, which regulate opioid substitution treatment during imprisonment. By 1st of October 2020, around 10 % of inmates received substitution treatment.

Since the amendment to the Narcotic Substances Regulation of 18 May 2020 (BGBl II 2020/215) has provided for an extension of the range of application of substitution substances to include subcutaneous injection, this method has been adopted increasingly often in the context of penal detention. As a consequence, the guidelines for opioid substitution treatment in prison are currently being revised.

6. **Are there alternative measures to institutionalisation or detention? For example, are there outpatient or inpatient facilities available in your country for people using drugs? Please provide additional details (are they compulsory, voluntary; number available in urban and rural areas; entity in charge; type of support provided and type of staff working in these facilities/centres)?**

The principle of treatment instead of punishment, which is applied all over Austria, has been referred to as the most noticeable element of Austrian drug policy. In 1971, this principle was integrated into the then Narcotic Drugs Act and has since then been expanded. This also means that, for assessing drug-related offences, intentions and the general framework have meanwhile played a more important role than the quantities of narcotic drugs involved.
As mentioned in question 3, the Narcotic Substances Act provides alternatives to punishment and imprisonment in cases of drug use and drug dependence. It is the task of the health authorities to motivate high-risk drug users to undergo a reasonable health-related measure that is acceptable and appropriate in view of their situation and not obviously unlikely to be effective. Voluntary participation is a general requirement for treatment, but refusal will have consequences in subsequent court proceedings. In principle, addicted patients are free to choose between different treatment centres, provided that it is a recognised treatment centre under SMG Section 15, whenever the cost of treatment is to be covered by the judicial system. The Narcotic Substances Act also legally requires the Federal Government to take over the cost of treatment, subject to the provisions of SMG Section 41, to avoid any non-treatment due to lack of funds on the part of the patient.

In the provinces, addiction-related as well as psychosocial and psychiatric services are increasingly often provided as integrated services and have been presented in this sense, for instance, in the regional health-care structure plans of Tyrol and Styria. Vorarlberg's psychiatry strategy 2015-2025 also includes the area of addiction diseases. In Vienna, the operating manager of the Vienna Addiction and Drug Coordination also functions as the coordinator for psychiatry, addiction and drug affairs of the City of Vienna, and is in charge of planning, steering and coordinating psychosocial and psychiatric services in Vienna.

By 2020, there were 143 facilities providing treatment services and addiction support, 37 low-threshold-agencies and 664 doctors proving opioid substitution therapy available to persons consuming drugs.

8. **Are there programmes of research and innovation related to harm reduction from a right to health perspective (e.g., needle and syringe programmes, supervised injection and drug use facilities, opioid substitution therapy, and others beyond the area of drug use), including outreach and education programmes, in your community, country, or region? Please provide good practices and examples.**

   There is a number of programmes including, but not limited to, needle exchanges, opioid substitution therapy and drug checking implemented in Austria. The extent of the programmes has been described in question 1. Many programmes have been set up on a project base and are only implemented by a particular region of Austria, a particular institution or facility, or particular health care professionals. The diversity and small scale of said projects contributes to Austria's harm reduction research and innovation. Professionals, facilities and representatives of regions are in constant exchange with each other about the progress of said projects, for example in the federal drug forum.

   Examples of particularly innovative programmes include the drug checking services check-it, Triptalks and Z6, who set up temporary laboratories at events and/or provide drug test kits for private settings, and the Network Chemsex's "Party and Slampacks", that provides information that encourages low-risk behaviour regarding chemsex practices.

   Currently, Suchthilfe Wien is conducting a study examining the feasibility of injectable opioid antagonist therapy with hydromorphone. Goals include reaching a target group that could not yet be reached through other means of opioid substitution, and thus expanding low-threshold accessibility of harm reduction measures and increasing the duration of substitution therapy length. The study is working with 30 participants over a duration of one year, with first results being expected no earlier than 2024.