

**Responses in connection with the questionnaire prepared by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to inform the thematic report «Drug Policies and responses: a right to health framework on harm reduction»**

**1. How harm reduction intersects with the enjoyment of right to health and related human rights. Harm reduction and the vulnerable members of society.**

The Strategy of the National Counter Narcotics Policy of the Russian Federation for the period till 2030 aims at curbing illicit drug production and trafficking leading to availability of illicit drugs for drug abuse; reducing the severity of consequences of drug abuse and promoting a conscious negative attitude towards drug abuse and participation in drug trafficking among the population.

The Russian drug control strategy is based on the concept of harm prevention, which is recognized by the Commission of Narcotic Drugs, the UNODC, the INCB and the WHO as a cost-effective way to facilitate healthy lifestyles and to promote a society free of drug abuse in order to help to ensure that all members of society can live in health, dignity and peace, with security and prosperity.

Russian healthcare system provides a continuum of scientific evidence-based interventions, including prevention, early intervention, treatment, care, recovery, rehabilitation and social reintegration measures. Medical organizations of the state and municipal healthcare systems provide high quality modern evidence-based drug treatment and care to all drug-dependent patients free of charge and with their informed consent (Article 54 of the Federal Law “On Narcotic Drugs and Psychotropic Substances” №3-FZ of January 8, 1998<sup>1</sup>). Article 32.6 of the mentioned federal law contains an explicit ban on using narcotic drug and psychotropic substances included in List II of the federal law in the treatment of drug use disorders.

The so-called harm reduction approaches, which in some countries include opioid substitution therapy (by substituting illicit drugs among drug users with

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<sup>1</sup> <http://pravo.gov.ru/proxy/ips/?docbody=&nd=102050997>

methadone, buprenorphine and heroin), deny the individuals with drug use disorders a chance to lead a healthy, sober and productive life free of drug abuse. The UNODC continuously reports a rise in the number of lethal cases due to poly-drug use among patients receiving methadone treatment by combining it with other drugs from illicit market.

Moreover, harm reduction approaches put particular burden on vulnerable members of society (children, youth and women). According to the Report of the Drug Situation in the Russian Federation in 2022 published by the State Counter Narcotic Committee a rising trend of illicit trafficking of methadone is noted by competent authorities, in particular in North-western and Central Federal regions bordering the countries, which permit the use of methadone substitution treatment within harm reduction programs. Abuse of methadone happened to be the cause of every one in five intoxications in Russia in 2022 (21.6 per cent). A growing merge between the methadone and heroin trafficking markets in the country has also been identified. One of the factors for methadone intoxication is the abuse of this drug as part of developing poly-drug use.

Therefore, there is a strong recognition among the Russian medical community that in the Russian context harm reduction approaches are not conducive to the enjoyment of the highest attainable standard of physical and mental health as well as other human rights, such as the right to life, the rights of the child to be protected from the illicit use of narcotic drugs and psychotropic substances as well as not to be used in the illicit production and trafficking of such substances (Article 33 of the Convention on the Rights of the Child).

**2. How does the jurisdiction in place in your country approach the criminalization (or decriminalization) of drug use? Are there alternative measures to institutionalization or detention?**

The legal system established in the Russian Federation is aimed at achieving a balance between the severity of criminal sanctions for especially serious crimes and the liability for offenses and crimes that pose a lower degree of public danger.

All aspects of combating illicit trafficking in narcotic drugs, psychotropic substances and their precursors are regulated in the three international conventions ratified by the Russian Federation - the Single Convention on Narcotic Drugs of 1961 as amended in accordance with the 1972 Protocol on Amendments to the Single Convention on Narcotic Drugs of 1961, the Convention on Psychotropic Drugs substances of 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. By virtue of Part 4 of Article 15 of the Constitution of the Russian Federation, generally recognized principles and norms of international law and international treaties of the Russian Federation are an integral part of its legal system.

The Constitution of the Russian Federation (Article 55, Part 3) guarantees that the rights and freedoms of man and citizen can be limited by federal law only to the extent necessary in order to protect the foundations of the constitutional system, morality, health, rights and legitimate interests of other persons, and ensure defense country and state security.

To ensure the above-mentioned cornerstone principles, non-medical use of any drugs and in any quantities is prohibited in the Russian Federation, which is reflected in Articles 6.9, 20.20 and 20.22 of the Administrative Code of the Russian Federation, which establish administrative liability for offenses related to drug abuse by imposing an administrative fine, administrative arrest or administrative deportation.

The criminal liability provided for in Article 228 of the Criminal Code of the Russian Federation occurs only in the case of illegal trafficking of a significant amount of drugs, and its severity is differentiated with an increase in the size of the drugs with which illegal actions were committed without the purpose of sale, namely depending on the significant (Part 1 of Art. 228), large (part 2 of article 228) and especially large (part 3 of article 228) sizes. The severity of criminal liability provided for in Art. 228.1 of the Criminal Code of the Russian Federation is also differentiated with an increase in the size of the drugs with which illegal actions were committed, as well as depending on other aggravating circumstances.

In accordance with Article 60 of the Criminal Code of the Russian Federation, a person found guilty of committing a crime is given a fair punishment within the limits provided for by the relevant article of the Criminal Code of the Russian Federation, and taking into account the provisions of the General Part of the Criminal Code of the Russian Federation. A more severe type of punishment from among those provided for the crime committed is assigned only if a less severe type of punishment cannot ensure the achievement of the goals of the punishment.

A priority is given to judicial incentives for drug abusing offenders to encourage them to undergo voluntary prevention, treatment and rehabilitation programs provided in nine specialized inpatient medical correctional institutions of the penal system (eight of them are for men, one is specifically tailored to female offenders)<sup>2</sup>.

At the same time Art. 82.1 and Article 72.1 of the Criminal Code of the Russian Federation provide for a deferment of a sentence for drug addicts combined with the obligation to undergo drug treatment and medical and (or) social rehabilitation, which the court has the right to impose on the convicted person when imposing the main sentence. According to Part 1 of Article 73 of the Criminal Code of the Russian Federation, if, having imposed a sentence of imprisonment for a term of up to eight years, the court comes to the conclusion that it is possible to correct the convicted person without actually serving the sentence, it decides to consider the imposed sentence suspended.

Countering the organized criminal groups and networks as well as detection and interdiction of serious and gravest crimes are the priority areas for law-enforcement authorities in addressing and countering the world drug problem.

As a result by the end of 2022 the number of serious and gravest crimes registered by competent authorities in the Russian Federation had increased by 2.6 per cent (to 135560 cases), which constitute an increase from 73.5 to 76.3 per cent

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<sup>2</sup> As described in Article 72.1, Part 5 of Article 73, Article 83.1 of the Criminal Code of the Russian Federation – <http://pravo.gov.ru/proxy/ips/?docbody&nd=102041891> as well as Part 4.1 of the Administrative Code of the Russian Federation – <http://pravo.gov.ru/proxy/ips/?docbody=&prevDoc=102435144&backlink=1&nd=102074277>.

in the overall structure of the drug-related criminal activities committed in Russia. Drug-trafficking offences amounted to 62.4 per cent (a 7,2 per cent increase from 2021 to 110895), while offences related to illicit drug possession without the purpose to sale constitute 33.5 per cent (a 12.2 per cent decrease from 2021).

Thus, the state seeks to create a balanced system of administrative and criminal liability for relevant illegal acts, and the legal mechanism for imposing punishment established by the Criminal Code of the Russian Federation provides for its clear differentiation, allowing the court to impose more lenient punishments for crimes that pose a lower degree of public danger.