

## **Submission to Global Dialogue: HIV, Rights and Law in the Era of 2030 Agenda for Sustainable Development**

*From the Estonian Association of People who Use Psychoactive Substances LUNEST*

LUNEST is a voluntary non-governmental organization. Its mission is to represent the Estonian community of people who use drugs and advocate for their human rights.

We are presenting two cases of women, who have encountered numerous violations of their rights: the right to health, the right to non-discrimination, the right to be free from ill-treatment. Moreover, in both cases parental rights of these women were deprived or limited because they used drugs.

HIV prevalence in Estonia is one of the highest in Europe. HIV in Estonia is primarily spread among people who use drugs (50% prevalence in Tallinn and 60% in Ida-Viru County), and women represent 40% of new HIV cases since 2013.<sup>1</sup> People who use drugs in Estonia are subject harsh drug laws. A total of 4,982 initial reports on drug-related criminal offenses and misdemeanours were reported in 2015, which was more than in 2014. This indicates that Estonia prosecutes 3.7 persons per 1,000 for drug offenses and crimes. The consumption or possession of narcotic drugs or psychotropic substances in small quantities is punishable by a fine of up to EUR1200 or detention of up to 30 days.

Poorly drafted drug laws make people who use drugs very vulnerable to the misuse of police powers, arbitrary detentions, ill-treatment, and other human rights violations. Due to the stigma related to both narcotics and women, and social stereotypes, women who use drugs are the most vulnerable to human rights violations.

In August 2017, LUNEST, together with the Eurasian Harm Reduction Association and the Canadian HIV Legal Network, organised a research study to assess the situation regarding the protection of human rights of women who use drugs in Estonia. The study revealed ongoing systematic and serious violations of human rights against women who use drugs, which contributes significantly to the HIV epidemic in the country. Women who use drugs often face legal challenges such as police prosecutions, legal proceedings related to the child protection services, and discrimination in labour and healthcare. Yet there is very limited access to free legal support services.

The police, child protection services, and medical services feature in every interview of the study as the main actors who violate the human rights. The right to health is either violated directly, as in cases of a lack of access to drug dependence treatment or antiretroviral therapy (ART), or indirectly as a result of the cumulative effect of violations of other interrelated human rights.

A number of interviewed women have experienced repeated cases of violence by their intimate partners, which often required medical assistance. Most of these women did not trust the police or social services to help them in such cases. None of the women who participated in the study had heard about special services designed to help victims of domestic violence such as shelters, case management, or individual or group therapy. When women call the police in cases of aggressive behaviour by their male partners, the police often inform child protection services, which may result

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<sup>1</sup> HIV in Estonia. Situation, prevention, treatment, and care. Narrative report for Global AIDS Response Progress Reporting; 2016.

in the loss of custody of the child. The police may also prosecute a woman for a drug offense, instead of protecting her from violence. Therefore, women prefer not to call the police at all.

Although they often act like the police, representatives of child protection services are not bound by any procedural rules. Allegedly trying to protect the best interests of the child, they visit parents who live with drug dependence to conduct home inspections. Home inspections are often conducted along with the police; where the police are there allegedly to ensure the safety of the representatives of child protection services. In practice, the presence of the police inside or outside of a house serves as additional pressure on the parents.

During criminal proceedings, accused mothers often have to sign papers to relinquish their parental rights under the threat that if they do not sign, their children would be sent to an orphanage and later to unknown foster parents, instead of to their grandparents, for example. The police often misuse the fact that an accused person has children to threaten her and extract a confession or an accusation or evidence against somebody else.

Women reported strong evidence of child protection services either forcing them to stop opioid substitution treatment (OST) under the threat of losing custody of their children, or not allowing a child to stay with another parent because this parent was a methadone patient. Child protection services insist that drug-dependent women stop OST and get clean. This advice in itself is in strike contrast to World Health Organization (WHO) recommendations which state that OST is the most effective type of opioid dependence therapy.<sup>2</sup> There are no drug dependence treatment centres for women with children or during pregnancy in Estonia.

On a number of occasions women lost cases to restore the custody of their child because of their low social status (having no regular job) or because there were people with disabilities in their families. Twenty-five women reported the restriction or deprivation of child custody and/or parental rights because a parent was a drug user or drug dependent. Medical information about a parent's health condition was shared between child protection and medical services. In several cases women were forced to sign documents to show their "willingness" to have their parental rights limited. In these cases child protection services said that if the women refused to sign the papers to voluntarily relinquish their parental rights, their other children would be taken away.

The women reported that they did not want to get tested or start ART because of the stigma associated with HIV and cases of people's HIV status being disclosed at their workplace or the workplaces of relatives and partners. In the reported cases of disclosure, medical professionals or child protection services acted as if they wanted to protect the public from HIV by sharing information about HIV-positive clients. There are cases of women being denied admission to hospital or being improperly cared for because of their drug dependence or HIV status.

For the majority of women who participated in the study, the disclosure of their health status (drug dependence and/or HIV) was the main reason for their unemployment. Unemployment, in turn, decreases their chances for social reintegration and limits their ability to regain custody of their children, given current juridical practice. Six respondents reported violations of their labor rights.

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<sup>2</sup> Guidelines for the psychosocially assisted pharmacological treatment of opioid dependence. Geneva: WHO; 2009.