

Dear members of the Global Commission on HIV and the Law,

We, Lithuanian community of young people who use drugs “Young Wave” would like to draw your attention to the following issues of unacceptably low access to HIV prevention and treatment in prisons in Lithuania, and of increased criminalization of drug use and possession.

SITUATION IN THE PRISONS

In Lithuania, in 2017, every second person (51,7%) was infected by HIV through drug injecting. There were 220 new HIV cases among man and 43 cases among women in 2017. The biggest number of new HIV cases was revealed in Alytus Correction House (56 new cases) and 41 cases in other corrections houses and prisons in Lithuania. Most of new HIV cases (80%) in the prisons and corrections houses were associated with drug use. In other words, almost a half of new HIV cases were registered in the prisons of Lithuania. It is important to note that despite very long disputes and meetings with government structures and a court case against Lithuanian prisons started by the community and friendly NGOs¹, almost nothing has changed in the prisons settings: neither needles and syringes programmes nor opioid substitution treatment; until 2018 January anti-retroviral treatment (ART) was accessible only for very small number of people in prison settings, because of the national guidelines to provide ART only the CD4 cells were lower than 300 (this provision is not valid anymore from March, 2018) – now new laws are in force and basically all people can get ART, but the situation in prison settings is not changing and lots of people are not getting ART. Even though drugs are easily accessible in the prison settings and everybody knows about this issue – no serious actions are taken by the official structures.

We kindly ask you to make a strong statement in the Commission’s report that non-provision of HIV services in prison settings is a serious violation of the international law.

CRIMINALISATION OF DRUG USE/POSSESSION

While European Union countries are trying to follow recommendations on drug policy liberalization and decriminalization, Lithuania is choosing a reverse way by criminalizing possession of all amounts of the substances. Before the 1st of January 2017 the legal provision on the possession of the small amounts of the psychoactive substances was considered as a matter of the administrative liability by the Administrative Offences Code. But starting from the 1st of January, 2017 the possession of any amount of psychoactive substances is regulated by the

¹ <http://eteismai.lt/byla/46433527056905/e2-3705-467/2017> here is a final decision of the court in Lithuanian language. Case is about access to OST in the prison settings. KB was accused for the possession of drugs and got 40 days arrest. During his arrest he was refused to get methadone, which he was using for a long time. KB made a claim in the court and for 7 years, different instances were trying to make a decision. Finally in 2017, the decision was made (not in favor of KB) and KB made a claim to the European Court of Human Rights. Case in ECHR was not started, because Lithuanian institutions decided to analyze the case once again and then decision was made in favor of KB (the court stated that KB right to health was breached, for not issuing methadone in prison settings). But in the same decision it was written, that it was KB fault, that he started to use drugs and it’s not a fault of the prisons, that they didn’t give him methadone. This is a direct discrimination against person and this discriminatory statement is made by Lithuanian courts.

Criminal Code and considered as a crime or misdemeanor. In 2017, there was more than 1000 new cases investigated, based on new Criminal Code and possession of the psychoactive substances. Most of the cases were on possession of small amounts for personal use, on recreational bases, but they were investigated in the courts and people got criminal liability for this (most people got fines and arrest for 20 up to 60 days). Those who get arrests – they are put to prisons with high level criminals (murders, rapists, etc.) The penalties are not proportional, because for example for interpersonal violence a person can get the same penalty, as for the possession of drugs. There was a case when a man a person hit with the car and ran away. For this offence he got 2 years of penalty. When the driver was caught by the police, in his car the police found 400 g. of marihuana (but person was not on drugs). Court decided to merge the cases and in the final decision gave 6 years of imprisonment. This shows that a person for drug possession got more severe sentence than for hitting person and running away from the place of accident.

We have a case, which clearly shows how existing criminalization affects people's life in negative way. The case of NN (32 years old), who was accused with the misdemeanour stated in Article 259, part 2 of the Criminal Code of the Republic of Lithuania (“A person who <...> a small quantity of narcotic or psychotropic substances for the purpose other than selling or otherwise distributing them shall be considered to have committed a misdemeanour and shall be punished by community service or by restriction of liberty or by a fine or by arrest.”) The court gave a sentence by arresting NN for 20 days in Lukiskes Remand Prison. NN was arrested by the police nearby the Roma community premises because “he looked suspiciously lightheaded“. At the time, when the police arrested NN, he thought that he bought carfentanil, but expertis showed it was methadone (0,005 g.) . It's important to note, that NN uses opioids for 10 years, and was four times arrested for drugs before. What is more, during these years, he was a few times on the opioid substitution treatment (methadone).

Before going to Lukiskes Remand Prison for 20 days arrest, he went to the Center for Addictive Disorders for the detoxification and after it to “Minnesota programme”, to feel “safer“ for those 20 days of arrest in prison. During 20 days in prison he was not offered any help from psychological support or health care. Right upon release he relapsed.

This case is only one from hundreds, which are part of our life in Lithuania. From these cases we see, that prisons and criminalization is not changing people (as our government wants). It is destroying lives of people, without any humane approach to the existing issues.