



**Committee on Economic, Social and Cultural Rights
Parallel Submission for 62 Pre-Sessional Working Group
with respect to Kazakhstan**

The access of people who inject drugs to drug dependence treatment¹

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Summary

Despite the 2010 recommendations of the Committee on Economic, Social and Cultural Rights (CESCR), by the end of 2017, the Republic of Kazakhstan

- a) Did not make Opioid Maintenance Therapy (OMT) available for all in need. Only 322 patients (2.69% of all injecting drug users on the outpatient register) are receiving OMT, contrary to WHO recommendations of at least 20% coverage;
- b) Put OMT program at the risk of the complete termination contrary to 2011, 2013, and 2016 positive assessment of OMT program by international experts and 2017 Decision of the Inter-Sectoral Working Group on effectiveness of OMT for people with opioid dependence in the Republic of Kazakhstan.

Issues to be taken up in connection with the consideration of the second periodic report of the Republic of Kazakhstan

- Please, provide information concerning the reasons, mandate, and the results of the Inter-Sectoral Working Group created according to the Ministry of Health Order No 709 of 20 September 2017 “On some issues regarding the implementation of the program of substitution maintenance therapy”
- Please, provide information about the plans of the State party to ensure that OMT is available for at least 20-40% of people with opioid dependence.
- Please, provide information about how the State party insures the human rights based approach to people who use drugs and people living with drug dependence.
- Please, provide information about how the State party insures the protection of human rights of bio-medical research participants, including people living with drug dependence and/or living with HIV

Background information

1. In May 2010 CESCR expressed its concerns regarding the fact that few drug users have access to methadone as a substitute drug dependence therapy, as this program of treatment was still in a pilot phase. CESCR called on Kazakhstan to ensure that methadone as substitute drug dependence therapy was made accessible to all drug dependents (art. 12).²
2. In its second periodic report Kazakhstan stated that from 2008 to 2016 OMT has been expanded to the cities of Aktobe, Taraz, Kostanay, Oral, Ekibastuz, Semey, Karaganda and Öskemen. As of 2016 it was available for the total of 307 patients (244 men and 63

² Concluding observations of the Committee on Economic, Social and Cultural Rights concerning Kazakhstan. E/C.12/KAZ/CO/1. May 2010

women), which amounted to 1.6 per cent of all injecting drug users on the outpatient register.³

3. In 2012 OMT was positively assessed by the International Center for AIDS Care and Treatment Program (ICAP) of Columbia University. ICAP researchers found that OMT pilot in Kazakhstan demonstrated its feasibility and effectiveness in the local context and should be recommended for scale-up throughout the country.⁴
4. In 2013 and 2016 UNODC researchers came to similar conclusions concerning OMT in the Republic of Kazakhstan.^{5,6}
5. Despite the positive results of these international assessments, from the very beginning (the year 2008) the OMT program was considered highly controversial by a significant group of drug dependence treatment doctors, police officers, Members of Parliament (MPs) and members of the general public. This controversy was to a significant degree attributed to the lack of science-based information about OMT available for the public in Russian and Kazakh languages, as well as the lack of educational programs about OMT and human rights of people who use drugs for police and drug dependence treatment doctors.

Violations of Article 12 of the International Covenant on Economic, Social and Cultural Rights.

6. The government of Kazakhstan did not make OMT available, accessible, acceptable, and of a good quality.
7. Official data demonstrate that as of 2017 the coverage of OMT program remained very low (2.69%). Thus, OMT is not available for at least 17.3% of opioid dependent people, if the necessary coverage is estimated at the lowest threshold of the internationally recommended 20-40%.
8. The research reports referenced above, as well as the 2014 Assessment Report by the Pompidou Group, conclude that legal and political barriers prevent the OMT to become available, accessible, acceptable, and of a good quality.⁷ The legal criteria for OMT often run contrary to WHO recommendations, which include making OMT only available to

³ Second periodic report by Kazakhstan on implementation of the International Covenant on Economic, Social and Cultural Rights is submitted in accordance with articles 16 and 17 of the Covenant. E/C.12/KAZ/2. September 2017, paras 416-418

⁴ Boltaev A. A. at al., *Evaluation of a Pilot Medication-Assisted Therapy Program in Kazakhstan: Successes, Challenges, and Opportunities for Scale-up*. Advances in Preventive Medicine Journal. Volume 2012 (2012), Article ID 308793.

⁵ Subata E. at al., *Evaluation of opportunities for scaling-up of opioid maintenance therapy*. (Анализ осуществимости расширения доступности поддерживающей заместительной терапии опиоидной зависимости), UNODC, 2016

⁶ Дворяк С., Каражанова А. Отчет по реализации проекта опиоидной заместительной терапии в Республике Казахстан за 2013 г.

⁷ Fedorova O., Chingin A., Kazakhstan: Drug treatment and anti-drug policy. (Казakhstan. Наркологическая ситуация и антинаркотическая политика. Казахстан). Pompidou Group of the Council of Europe, December 2014.

patients who failed abstinence based treatment at least twice. OMT is not available to take home even for stable patients. Many patients have to travel very far distances every morning to receive their daily dose of OMT medications.

9. Police also remains a significant obstacle for OMT. Patients complain that doctors often make available medical information about OMT clients to police, which harass clients demanding them to supply crime related information. This discourages drug dependent people from seeking access to OMT.
10. The OMT Program continues as a pilot program largely supported by the Global Fund to fight HIV, TB, and Malaria.

Massive violations of OMT patients' rights in October 2017 and the risk for the complete termination of OMT in 2018.⁸

11. In June 2017 the Ministry of Interior requested immediate termination of OMT. The request was supported by seven MPs. The Office of the Prime Minister sought consensus between the Ministry of Health and the Ministry of Interior on the necessity to continue OMT in Kazakhstan. In this regard, on 20 September 2017, the Minister of Health issued Order No. 709 "On some issues regarding the implementation of the program of substitution maintenance therapy". The Inter-Sectoral Working Group (Working Group) of 17 members was created in order to assess the effectiveness of OMT in Kazakhstan.
12. During the first meeting of the Working Group, a decision was made to analyze the available data and to interview OMT patients. Subsequently, a questionnaire with 15 questions and the protocol for interviewers was developed. By October 30, 2017, the Working Group completed the data analysis and interviewed 129 OMT patients in cities of Pavlodar and Karaganda. On October 30, 2017 the Inter-Sectoral Working Group produced a Resolution with the conclusions that OMT is effective in Kazakhstan and should be continued with some improvements regarding the accessibility and the quality of services.
13. Four members of the Working Group (Ms. Ahapoiva O.G., Ms. Vaganova E.N., Ms. Kazbekova M.A., Ms. Sadikova A.B.) were not satisfied with the positive Resolution of the Working Group. They decided to collect their own data with the help of police and conduct the "alternative research" in the cities of Temirtau, Karaganda, Pavlodar, Taraz, Kyzylorda, and Ekibastuz. These members acted outside the mandate of the Working Group, did not follow the approved methodology and acted contrary to patients' right to informed consent, the right to confidentiality of medical information, and the right to respect for human dignity. In the cities of Pavlodar and Timirtay, the "alternative research" group members committed the most profound violations of patients' rights.
14. As a result of its work, the "alternative research" group produced a "Special Opinion" with a conclusion that OMT is not effective and should be terminated. The "Special

⁸ Information is based on the results of interviews with OMT patients conducted from November 27, 2017 to December 1, 2017 by Dasha Matyshina, a staff member of the Eurasian Harm Reduction Association (EHRA). The additional information was collected during the visit to Kazakhstan from December 7 to December 9, 2017 by Mikhail Golichenko, a staff member of the Canadian HIV/AIDS Legal Network.

Opinion” is based on the misleading information apparently from Russian language internet. For example, the “Special Opinion” asserts that Australia, Holland, Netherlands, Sweden and Switzerland have stopped OMT in their countries.

15. Despite the fact that the “alternative research” group acted outside the mandate of the Working Group and health law procedures, and despite the magnitude and the severity of human rights violations committed by the “alternative research” group, as well as the misleading facts, the “Special Opinion” apparently was presented during the meeting on 20 December 2017 with participation of representatives of the Ministry of Health, the Ministry of Interior, the Ministry of Justice, and the Prosecutor General’s Office. Subsequently, the Ministry of Interior issued information about establishing a new commission for additional assessment of effectiveness of OMT with participation of the National Security Committee and Foreign Intelligence Service. Following this information the admission of new patients in the methadone maintenance therapy was stopped as of January 2018.
16. The situation of uncertainty continues, while the time is critical because the Global Fund will not provide funding for 2019 and the national funds should be allocated for OMT.

Violations of the right to informed consent

17. According to OMT clients, the “alternative research” group members often did not introduce themselves or their official mandate or duties. Some patients were led to believe that there was a Parliament’s Commission which consisted of some MPs.
18. Members of the “alternative research” group coerced patients to submit to interviews about the OMT Program and some patients were forced to give urine for drug testing. No consent forms were signed for the taking of these urine sample and patients were threatened with the termination of the OMT program if they did not cooperate. Patients felt very disturbed and frightened that the government could terminate the program.
19. Patients were not informed of how the urine test results would be used. Patients were not provided information about how they could contact any authority to learn more about the research and the research results.
20. In some cities, the “alternative research” group members accompanied by local police officers visited patients’ homes at around 11 pm and demanded access to their homes under threat of some vague, adverse legal consequences. In some cases, “alternative research” group members forced former OMT patients and their family members to provide information about OMT Program and other clients of the Program.
21. No single patient gave his/her informed consent to medical doctors to disclose information about their diagnosis to any “alternative research” group members or other government bodies. The laws of the Republic of Kazakhstan do not permit doctors to share legally protected medical and personal information with any research groups. In fact, the laws of the Republic of Kazakhstan do not provide a Parliament or a Minister of Health to form commissions/working groups to conduct any research of medical services or programs. There is a legal procedure for the evaluation of the quality of medical services but neither Parliament nor the Minister of Health has any mandates as part of this procedure.

Violations of the right to dignity and the right to non-discrimination

22. Some patients report that “alternative research” group members referred to them as people with weak will power (allegedly referring to their inability to stop using methadone), provoking emotional responses from patients.
23. Some “alternative research” group members promoted private (commercial) drug rehabilitation centers, advising patients to stop taking methadone and to start abstinence-oriented treatment in those centers.
24. Some “alternative research” group members often spoke to patients in a disrespectful, loud tone, and were present when male and female patients collected urine samples. In at least one case, local police officers waited for patients near the OMT site in the morning to escort them for an interview with the “alternative research” group members acting on their own initiative.
25. Patients confirm that they strongly suspect that medical doctors share medical information with police in order for police to harass OMT clients, inflicting much harm on patients’ willingness to join and remain in the program.
26. The “alternative research” group members rarely asked patients about their past criminal behavior, HIV-related behavior, or other changes in their life style after patients started participating in the OMT program. The “alternative research” group members only seemed to want to inform patients that Parliament was considering terminating the Program because it was ineffective.

Conclusions.

The Republic of Kazakhstan did not fulfill CESCR recommendations to ensure that methadone as substitute drug dependence therapy is made accessible to all in need. Moreover, the current activities of the selected Members of the Working Group and the decision not to scale up OMT program, directly contravene the CESCR recommendations and article 12 of the International Covenant on Economic, Social and Cultural Rights. We request CESCR to include these issues into the List of issues in connection with the consideration of the second periodic report of the Republic of Kazakhstan.

Annex I



The Canadian HIV/AIDS Legal Network (www.aidslaw.ca) promotes the human rights of people living with and vulnerable to HIV/AIDS, in Canada and internationally, through research and analysis, advocacy and litigation, public education and community mobilization. The Legal Network is Canada's leading advocacy organization working on the legal and human rights issues raised by HIV/AIDS. (An NGO with Special Consultative Status with the Economic and Social Council of the United Nations)

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Eurasian Harm Reduction Association (<http://harmreductioneurasia.org>) is a non-for-profit public membership-based organization, which strives for a progressive human rights-based drug policy, sustainable funding advocacy and quality of harm reduction services oriented on needs of people who use drugs in Central and Eastern Europe and Central Asia (CEECA) in 2017.

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