



Committee on Economic, Social and Cultural Rights (CESCR)
Parallel Submission for 62nd Pre-Sessional Working Group with respect to Estonia¹

***The situation with the enjoyment of social rights among women who use drugs
and/or living with HIV in Estonia***

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¹ This report has been drafted and submitted by the Canadian HIV/AIDS Legal Network, the Eurasian Harm Reduction Association, and the Estonian Association of People Who Use Psychotropic Substances. See Annex I for information about these organizations. Please contact: Mikhail Golichenko (mgolichenko@gmail.com) or Dasha Matyshina (dasha@harmreductioneurasia.org).

Introduction and summary

1. People who use drugs in Estonia, men and women, are equally subject to draconian drug laws. Per capita, Estonia prosecutes more people for drug crimes and offenses than Russia, one of the world-renowned leaders in the war on drugs (CESCR reviewed some aspects of Russian drug policy in September 2017 (E/C.12/RUS/CO/6)).
2. However, 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. This report attests to the ongoing systematic and serious violations of human rights against women who use drugs in Estonia, which contributes significantly to the HIV epidemic in the country.
3. The report is based on findings of research from 2017.² As part of the research, 38 women who use drugs were interviewed.³ The research was designed to investigate reported cases of human rights violations against women in the two regions of Estonia most affected by HIV and drug use.⁴
4. The research findings demonstrate that women who use drugs and those who are drug dependent are very vulnerable to violations of their human rights, including the right to health. The police, child protection services, and medical services feature in every interview as the main actors who violate the human rights of women who use drugs.
5. 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, such as the right to non-discrimination, the right to be free from ill-treatment, and the right to be free from arbitrary detention.
6. In both cases, the State is violating its obligations to respect, protect, and fulfill the right to health.
7. The State's obligation to respect the right to health, for example, is gravely and systematically violated in cases when police officers conduct forced street drug testing on drug-dependent women; or when child protection services force drug-dependent women to stop taking medically

² The preliminary draft of the report is available the Eurasian Harm Reduction Association website:
<http://harmreductioneurasia.org>.

³ In August 2017 a research mission to Estonia was organized in partnership between international and local organizations: the Eurasian Harm Reduction Association (EHRA), the Canadian HIV Legal Network, and a local Estonian organization of people who use drugs, LUNEST. The goal of the research was to assess the situation regarding the protection of human rights of women who use drugs. The research methodology, developed by EHRA and the Canadian HIV Legal Network, was based on in-depth interviews carried out by international and local experts. Thirty-eight interviews took place in Russian and Estonian during the field visit to Estonia: 29 in Ida-Virumaa and nine in Tallinn, all female interviewees, 26–46 years old. All respondents had either Estonian citizenship or a permanent residence permit. Thirty-three of the respondents had Russian as their first language, and six were Estonian native speakers. One of the interviews has been excluded from the data set because of the unstable mental state of the respondent at the time of the survey. Twenty interviews were transcribed, and 37 were analyzed through thematic content analysis. To ensure personal data protection and participants' safety, their names were coded, and no reference to their real names is made in the report. Representatives of local community-based organizations and activists were involved in planning the field work and acted as gatekeepers to contact women from the most oppressed groups. Local activists were also important partners in interpreting the research results and, later, in developing an advocacy strategy.

⁴ All participants were literate. Only eight participants are currently employed. Four participants were married, and 11 were in a civil partnership. Thirty-five participants had children, and seven of them had three or more children. All of the participants were drug dependent, and 20 of them were receiving opioid substitution treatment (OST) at the time of the interviews. Twenty-one participants were living with HIV, and all of them were receiving ART at the time of the interviews. Fourteen participants had a history of imprisonment, related to drug crimes.

prescribed methadone under the threat of terminating their parental rights; or when the police abuse the vulnerability of drug-dependent women, including women with children, to obtain evidence from them; or when child protection services systematically conduct inspections of houses of drug-dependent women with children, in complete disregard of their right to privacy and family life.

8. The State violates its obligation to protect the right to health when the police is ill equipped to protect women who use drugs from gender-based violence; or when women who use drugs are subject to dubious quasi-judicial drug treatment proceedings; or when the police and health services routinely force women to undergo drug testing with the use of urinary catheters, subjecting them to extreme humiliation, pain and suffering; or when medical doctors and child protection services disclose private medical information to the police, members of the public, employers, and family members of women living with HIV and/or drug-dependent women.
9. The State violates its obligation to fulfill the right to health when state authorities do not ensure adequate access, and quality of opioid substitution therapy (OST) for women with children; or when drug-dependent women face obstacles in accessing HIV testing, ART, or Hepatitis C treatment; or when there is very limited social support for drug-dependent women with children, or when no rehabilitation services are available for women with children.
10. Although the interviews took place between June and August 2017, we would like to emphasize that in January 2018 the situation regarding human rights violations against women who use drugs has not changed, and the violations continue.

We request the Committee to consider the following items for the List of Issues for Estonia

11. How does the State ensure that its drug laws target high-level drug traffickers rather than people who use drugs, including the most vulnerable of them such as drug-dependent people and women who use drugs?
12. Please explain why, although drug use and drug dependence are not grounds for the deprivation of parental rights, there are many reports of cases of women who use drugs being deprived of their parental rights specifically due to their drug use and/or drug dependence and despite offering no threat to their child's safety and health?
13. Which measures of social support does the State employ to help parents living with drug dependency?
14. How does the State ensure that women who use drugs are protected from gender-based violence?
15. How does the State ensure that people who use drugs, including OST clients and women, are not discriminated against in health care, labor, child protection, and other areas?

Drug laws in Estonia

16. In terms of drug laws and drug enforcement, Estonia is more repressive than Russia. A total of 4,982 initial reports on drug-related criminal offenses and misdemeanors were reported in 2015,

which was more than in 2014.⁵ This indicates that Estonia prosecutes 3.7 persons per 1,000 for drug offenses and crimes. This is much higher than Russia, with 2.3 persons per 1,000 in 2015 (as for Estonia we count the initial reporting, not the final results of drug prosecutions).⁶ Around seven out of 10 reported offenses in Estonia were related to use and possession.⁷ Repressive drug policies fuel overdoses in Estonia.⁸

17. As a former Soviet republic, Estonia has significantly reformed its domestic laws, especially since joining the European Union in 2004. However, drug laws remain archaic, with their roots in the Soviet legal system, and resemble those of the Russian Federation, which were the subject of a CESCR review in September 2017 (E/C.12/RUS/CO/6).
18. The consumption or possession of narcotic drugs or psychotropic substances in small quantities is punishable by a fine of up to EUR1,200 or detention of up to 30 days.⁹ This fine is large for Estonia, where the current minimum wage is EUR500.¹⁰ People who are convicted also have to pay financial compensation to cover the drug laboratory's forensic examination costs.
19. Any act of illegal possession or dealing in drugs not intended solely for personal use is considered a criminal offense, regardless of the type and amount of illicit drug.¹¹ Activities such as the illegal manufacture, acquisition, theft or robbery, storage, transport, or delivery of narcotic drugs or psychotropic substances with the intent to supply are punishable by up to three years' imprisonment for the smallest quantities, and by 6–20 years' imprisonment or even life, depending on the quantities involved and other aggravating circumstances identified, such as organized crime.¹²
20. Poorly drafted drug laws, especially the ease with which the police can turn any simple possession into a case of trafficking, make people who use drugs very vulnerable to the misuse of police powers, arbitrary detentions, ill-treatment, and other human rights violations, and ultimately prevent the Estonian authorities from respecting, protecting, and fulfilling the right to health of women who use drugs.

HIV in Estonia

⁵ Ibid.

⁶ Information about Russian drug crimes statistics is available on the official website of the Ministry of the Interior (<https://xn--b1aew.xn--p1ai/reports/item/7087734/>) and the website of the Judicial Department of the Supreme Court (<http://www.cdep.ru/index.php?id=79>).

⁷ Ibid.

⁸ Repressive Drug Policies Fuel Overdoses in Estonia – An Interview with Mart Kalvet. DrugReporter. November 20, 2017. Online: <https://drogriporter.hu/en/repressive-drug-policies-fuel-overdoses-estonia-interview-mart-kalvet/>.

⁹ According to the Act on Narcotic Drugs and Psychotropic Substances and Precursors thereof § 151 (1). The text is available in English at <https://www.riigiteataja.ee/en/eli/506052016001/consolide>.

¹⁰ According to the Ministry of Justice of Estonia, the average fine for possession of cannabis in 2015 was EUR80, the average fine for possession of any other drugs was EUR100, and the average fine for possession of any and all drugs was EUR90. Presentation “Drugs, crime, and punishment — what, how much, and to whom?” at the conference “Drugs, crime and punishment – where to draw the line?”, Tallinn University, March 2016. Online: https://www.just.ee/sites/www.just.ee/files/jako_salla.pdf.

¹¹ Penal Code of Estonia, 2001. The text is available in English at <https://www.riigiteataja.ee/en/eli/ee/509012018005/consolide/current>.

¹² Estonia. Country Drug Report 2017. Drug laws and drug law offences. Lisbon: EMCDDA; 2017. Online: http://www.emcdda.europa.eu/countries/drug-reports/2017/estonia/drug-laws-and-offences_lv.

21. 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-Virumaa county), and women represent 40% of new HIV cases since 2013.¹³
22. On the one hand, the Government of Estonia should be commended for its progress in scaling up harm reduction services among people who use drugs. However, on the other hand, human rights violations and cases of systematic and egregious discrimination against people who use drugs, including women who use drugs, are hindering this progress.

Violations of human rights and the right to health of women who use drugs

23. There are three state agencies which, according to drug laws, family and public health law, hold significant power with respect to women who use drugs:
 - The police
 - Child protection services
 - Medical doctors and public health authorities
24. These three agencies were reported in every interview as either preventing women from making healthy choices or directly violating their human rights, including their right to health.

The role of the police in violating the right to health and other human rights

The police is ill equipped to protect women who use drugs from gender-based violence (GBV)

25. Nine respondents out of the 37 interviewed 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 be in a position 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.

Police practices discourage women with children from contacting the police in cases of GBV

26. When women call the police in situations of aggressive behavior by their male partners, the police often inform child protection services, which may result in the loss of custody of the child. The police may also prosecute a woman for a drug offense, instead of protecting her from GBV. Thus, women who use drugs prefer not to call the police in cases of GBV.

Lack of access to legal support services for women who use drugs

27. Women who use drugs often face legal challenges such as police prosecutions, legal proceedings related to the child protection services, and discrimination in labor and public health matters. Yet there is very limited access to free legal support services. Women report that legal support services related to cases of criminal prosecution are of very poor quality. According to the women

¹³ HIV in Estonia. Situation, prevention, treatment, and care. Narrative report for Global AIDS Response Progress Reporting; 2016.

interviewed, lawyers provided by the State do not provide a legal defense but rather act as an extension of the police.

Street drug tests: cases of ill-treatment and arbitrary detention

28. According to four women, the police recognized them as being drug dependent and stopped them on the street to undergo a saliva drug test. According to these women and other interviewees, if they refuse to have the test, they will be taken to a police station for a urine drug test and if they refuse to do it voluntarily they will be forced to have it through a urinary catheter. This procedure is regulated by Government Decree.¹⁴ If the test is positive, the person needs to pay a fine and also reimburse the cost of the drug test — a total of more than EUR100 — which is unaffordable for women who use drugs, many of whom live below the poverty line.
29. The use of urinary catheters has significant health risks of infections of the urethra, bladder, and kidney. Depending on the circumstances, forced urine tests with a urinary catheter can also be qualified as torture or a form of cruel, inhuman, or degrading treatment or punishment.
30. The reason for this policing practice is the fact that the faces of people who use drugs are familiar to the police, not any specific behavior or suspicion. This type of random drug testing constitutes arbitrary arrest and has severe consequences for women who use drugs, making them even more vulnerable to losing custody of their children. As a result of such practices women lose their confidence in state services. This lack of trust represents a barrier to drug and HIV prevention, treatment, and care, as well as to effective social reintegration for drug-dependent women.

Child protection services are the main obstacle to access to effective drug treatment, including OST, for women with children

Child protection services often act in a similar way to the police and as such play a role in drug enforcement

31. 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 (for the inspection of a child's living conditions). During the home inspections they conduct a house search, obviously without any search warrant, inspect refrigerators to see how much food parents have, search wardrobes to see the number of clothes in the household, and talk to neighbors about the parents, often disclosing their HIV status and/or other health conditions, such as drug dependence.
32. Child protection services often act together with the police, including to facilitate the extraction of confessions.
33. 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 to apply additional pressure on the parents.

¹⁴ Government Decree No. 88 of June 19, 2014 “Rules for taking bio samples.”

34. 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.
35. 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.

Female clients of OST programs are forced to stop OST and “get clean”, despite the importance of OST for their health and stability

36. Although a discriminatory provision for the deprivation of parental rights due to the drug dependence of a parent was repealed in 2009,¹⁵ child protection services still consider drug use and dependence as reasons for restricting or depriving parental rights, assuming that any substance use puts a child in danger and thus is contrary to the child’s interests, even when a parent takes medically prescribed methadone.
37. Women reported strong evidence of child protection services either forcing them to stop 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.

Women who use drugs are coerced into abstinence by child protection services with very limited or no social or legal support

38. Drug dependence treatment, including OST, is available in Estonia. However, the coverage of OST is assumed to be relatively low (<20%).¹⁶
39. 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.¹⁷ However, in addition to this, there is no single drug dependence treatment center for women with children or during pregnancy.
40. To regain custody of their children, women have to go to an abstinence-based rehabilitation center for 12 months, immediately find a job (even though the Narva region has an unemployment rate that is double the Estonian average), and equip their apartments to a high standard.
41. On a number of occasions women lost cases to restore custody of their child because of their low social status (having no regular job) or because there were people with disabilities in their families. There are currently three known cases of women fighting to restore their parental rights and in need of quality legal and social support.

Health services violate and/or contribute to violations of the human rights of women who use drugs

Discrimination against women with drug dependence based on health status

¹⁵ Family Law Act, 2009. Online: <https://www.riigiteataja.ee/en/eli/530102013016/consolide>

¹⁶ Drug treatment overview for Estonia. EMCDDA. Online: <http://www.emcdda.europa.eu/data/treatment-overviews/Estonia>.

¹⁷ Guidelines for the psychosocially assisted pharmacological treatment of opioid dependence. Geneva: WHO; 2009.

42. Twenty-five women (67% of respondents) 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.
43. Nobody advised these women to enroll in an OST program or other drug treatment or social support program, even though, according to Estonian laws and practices, OST is available for women during pregnancy. Women who use drugs were afraid of losing custody of their newborn child due to their drug use/dependence. Thus, they either did not inform their gynecologists about their drug use/dependence or informed them only after the child was born.
44. According to the study participants, the majority of drug treatment doctors would be ready to provide drug dependence treatment for women before, during and after pregnancy. But the fear of child protection services, to which doctors disclose medical information, is the main obstacle to OST for women with children. The women also report a very poor quality of OST in general, but especially for women with children, in particular because the specific needs of women with children are not accommodated.
45. In a number of cases newborn babies were taken away from their mothers immediately after delivery and placed in a prenatal clinic in Tartu (130–170km from their birthplace). The mothers were not allowed to participate in any decision-making related to the child's health, and were poorly informed about their status. Despite a lack of legal grounds, they were not permitted to take their children home from the hospital with them. Yet, in many cases, mothers traveled to Tartu to see their babies. Their travel expenses were not reimbursed.
46. 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.
47. The reason given by child protection services for restricting parental rights was the participation of a parent in a drug treatment program and/or other mental health issues.
48. Where mental health issues were established, psychiatric examinations were conducted without informed consent and with an apparent intention to use the psychiatric diagnosis along with the mother's drug use to substantiate the case to deprive her of her parental rights. No social or medical support was offered in such cases.

HIV: stigma and discrimination against women living with HIV and women who use drugs based on their health status

49. Despite the HIV treatment guidelines of 2013, which recommend the initiation of HIV treatment at a CD4 count of >500, most of the respondents' HIV treatment was delayed, leading to severe health conditions, lower treatment efficiency, and a higher risk of HIV transmission to their partners. Research studies, including those by the WHO, demonstrate that people who use drugs have low

access to HIV testing and ART, and drug dependence treatment, including OST, is poorly connected to HIV services.^{18,19}

50. 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.
51. There are cases of women being denied admission to hospital or being improperly cared for because of their drug dependence or HIV status.
52. According to the women interviewed, child protection services can proactively contact OST patients' family members or employers to inform them that they are receiving treatment. The main reason for such behavior is a misunderstanding of OST by the child support services. Interviewees reported that child protection services stigmatize OST patients, wrongly believing that OST is no better than using street drugs.
53. 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.
54. Drug treatment in Estonia is organized in such a way that women can hardly combine it with work, as only two options are available: either 12 months at an in-patient rehabilitation center or OST.
55. Spending 12 months at a rehabilitation center is not viable for women with children. Neither is it viable for the majority of women with temporary work, who cannot be absent for such a long period of time.
56. OST is a better option for working patients. However, according to national guidelines, the majority of clients have to attend clinics daily. Take-home options are very restricted, even for clients who have to travel for an hour every day to take the medication. It is often impossible to combine such trips with a work schedule, especially considering the desire of OST clients not to disclose their health status to an employer.

The particular vulnerability of women who use drugs or who are drug dependent is not being addressed

57. All the women interviewed reported very little if any social support, such as job placement or opportunities to improve their housing conditions to meet the standards required by the child

¹⁸ A study among people who use drugs in Estonia demonstrated that about half of them had not been tested for HIV in the past year. See Vorobjov S. HIVi levimuse ja riskikäitumise uuring Kohtla-Järve süstivate narkomaanide seas 2012. Uuringu kokkuvõte. [HIV and other infections and related risk behaviors among injecting drug users in Kohtla-Järve. Study report]. Tallinn: National Institute for Health Development; 2014. In Estonian. Online: https://intra.tai.ee/images/prints/documents/139685709195_Kohtla_Jarve%20systivate%20narkomaanide%20uuring_report.pdf.

¹⁹ World Health Organization Regional Office for Europe. HIV/AIDS treatment and care in Estonia. Evaluation report June 2014. Copenhagen: WHO/Europe; 2014. Online: <http://www.euro.who.int/en/countries/estonia/publications/hivaids-treatment-and-care-in-estonia-2014>.

protection services. Instead, the child protection services used the lack of good-quality living conditions and/or the lack of a permanent job as a reason for restricting or depriving parental rights and/or taking a child away from the parents.

58. Respondents were left on their own to cope with their mental health, social, financial, and juridical problems. The child support services prefer to choose the toughest measure: deprivation of parental rights.

Conclusions

59. Drug laws and drug enforcement practices, combined with stigma related to drugs and HIV, are the main drivers of systematic and serious violations of the human rights of women who use drugs or who are drug dependent. Stigma and human rights violations undermine the State's efforts in HIV prevention, care, and treatment, and its overall efforts to respect, protect, and fulfill the right to health of women who use drugs or who are drug dependent. For these reasons we request the Committee to include the issues mentioned above in the List of Issues for the Government of Estonia.

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-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 the needs of people who use drugs in Central and Eastern Europe and Central Asia.

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Estonian Association of People Who Use Psychotropic Substances is a pro-bono, voluntary, private-law, non-profit organization of natural persons and legal entities acting in common good. The mission of the association is to represent the Estonian community of people who use drugs and advocate for their human rights.

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