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## **Violations of the rights to reproductive health and of women who use drugs in Russian Federation**

### ***Communication to the Commission on the Status of Women by Eurasian Harm Reduction Network, Canadian HIV/AIDS Legal Network and E.V.A.***

#### **Background:**

An estimated 30% of people who inject drugs in the Russian Federation are women.<sup>1</sup> Drug use and possession of illegal substances for personal use are offences punished with incarceration,<sup>2</sup> which is reflected in imprisonment statistics. Russia incarcerates almost 20,000 women for drugs—more than double the total number of women in prison in all the countries of the European Union combined.<sup>3</sup>

In the Russian Federation, women who use drugs, especially pregnant women and women raising children, are disproportionately affected by stigmatizing approaches to drugs. Drug dependency is a statutory indicator for an abortion,<sup>4</sup> drug treatment protocols do not mention pregnancy, and recommendations for pregnancy assistance do not include drug dependency treatment or related assistance. Drug dependence is also statutory grounds for termination of parental rights.<sup>5</sup> These laws fuel violations of the rights of women who use drugs, including the rights stipulated in Article 12(2) of the Convention on the Elimination of All Forms of Discrimination against Women.

This submission focuses on violations of health rights in pregnancy care and of the reproductive rights of women who use drugs, in particular the right to information on health-related matters and the right to access to drug treatment services and appropriate services in connection with pregnancy, confinement and the post-natal period. The submission is mainly based on testimonies and interviews done in January - May 2012 by St. Petersburg-based NGO E.V.A among women who use drugs. In total, interviews were conducted with 124 women from 5 Russian cities who had had children during the past three years and were currently using drugs, or had been using drugs at the time of pregnancy.

The research findings show that the absence of effective drug treatment during pregnancy, stigma and discrimination from medical staff towards women who use drugs and fear of losing child custody due to drug use result in women avoiding health care services during pregnancy. Only 32% of women paid regular visits to doctors for pregnancy care; 32% either did not have check-ups at all or only once; 36% did not get any pregnancy care at all.

#### **Violations of the rights to information, and violation of the right to chose**

The Committee on the Elimination of Discrimination against Women (the Committee) in its Concluding observations on the Russian Federation in 2010 expressed concern over women's lack of access to health

<sup>1</sup> RH Needle and L Zhao, *HIV Prevention Among Injecting Drug Users: Strengthening U.S. Support for Core Interventions*, Washington, CSIS Global Health Policy Center, 2010.

<sup>2</sup> Article 228 of the Criminal Code of the Russian Federation, 1996 and Article 6.9, Section II of Code of Administrative Offences, NO. 195-FZ OF DECEMBER 30, 2001.

<sup>3</sup> Iakobishvili, E. 2012. *Cause for Alarm: The Incarceration of Women for Drug Offences in Europe and Central Asia, and the need for Legislative and Sentencing Reform*. Harm Reduction International. Available at: <http://www.ihra.net/contents/1188>.

<sup>4</sup> Order of the Ministry of Health of 3 December 2007 No 736, "On approving of the list of medical grounds for abortion." (Приказ Министерства здравоохранения и социального развития от 3 декабря 2007 г. N 736 «Об утверждении перечня медицинских показаний для искусственного прерывания беременности».)

<sup>5</sup> Article 69 of the Family Code of the Russian Federation.

services, and called upon the State party to take all necessary measures to ensure women's access to health care and health-related services."<sup>6</sup>

In its General Recommendation, the Committee on the Elimination of Discrimination against Women reaffirmed the importance of access to health care, including reproductive health, as a basic right under the Convention on the Elimination of Discrimination against Women, determined at its 20th session, pursuant to article 21, to elaborate a general recommendation on article 12 of the Convention.<sup>7</sup> The Convention further states that: "State Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation."<sup>8</sup>

No standards on drug treatment and management during pregnancy are available in the country. Coupled with stigma and discrimination, this lack means that health care professionals make decisions regarding pregnancy care on an individual basis. Health care providers put pressure on pregnant women to have an abortion at different stages of pregnancy, thus denying women's right to family. This trend is observed in different parts of the country, often by providing false information, intimidation and humiliation.

- Evidence from Yulya, 18 years old, HIV+, a former drug user, Kaliningrad: *The first words from the nurse were: "Go have an abortion". I said that I won't. Then they started from afar — how are you going to buy your child trousers? I asked them what they meant. They said — if your child is born without a leg, how are you going to buy shoes and put on trousers? ... [T]hey had advised me many times to have an abortion, I always refused. But when they told me that my child could be born without legs or arms, I agreed. The gynecologist had given me a referral to a free abortion. I came when I was 12 weeks pregnant. And the head of the clinic with whom I had an appointment had admonished me that here I was relaxing, having fun and missing the 8 weeks term, using drugs, sleeping who knows where and now coming at 12 weeks to have an abortion. And then she continued in this vein, that I am an alcoholic and a drug user. She was shouting so much, and there were people there in the corridor. Then she said that if I did not mind ruining my uterus she could do a free abortion, but if I wanted to still have [a healthy] uterus, I needed to pay 5,500 rubles [about 200 dollars]. I told them I did not have that money..... Then they started offering me an "induced labor" abortion, which means giving birth to a dead child.... I don't know how they got to know that I used to use drugs. In their eyes I was a lost cause. When they learned that I am an ex-drug user, their attitude changed. I've experienced a lot in that maternity ward — they told me that I was a drug user, an alcoholic and all the rest.*<sup>9</sup>

The CEDAW has expressed concern over the high level of abortions in the Russian Federation.<sup>10</sup> This can be partly attributed to the lack of support from health care services, which provide incorrect information and intimidate women. State-cultivated intolerance towards drug addicts leads to a situation where even if a pregnant woman who uses drugs wants to keep the baby, she is pressured to have an abortion, because

<sup>6</sup> Committee on the Elimination of Discrimination against Women in "Concluding observations of the Committee on the Elimination of Discrimination against Women." Russian federation, Forty-sixth session, 12-30 July 2010 DOC, CEDAW/C/USR/CO/7: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/485/54/PDF/N1048554.pdf?OpenElement>.

<sup>7</sup> General recommendations made by the Committee on the Elimination of Discrimination against Women, No 2 (sixth session, 1987).

<sup>8</sup> General recommendations, Art. 12.

<sup>9</sup> Andrey Rylkov Foundation, "In their eyes, I was a finished person: pregnancy and stigma of drug dependency," 2011 interview. (Фонд им. Андрея Рылкова (2011), "В их глазах я была конченный человек»: ВИЧ, беременность и клеймо наркозависимости в России". Интервью. <http://rylkov-fond.ru/blog/lichnye-svidetelstva/kaliningrad-hiv-story/>)

<sup>10</sup> Committee on the Elimination of Discrimination against Women in Concluding observations of the Committee on the Elimination of Discrimination against Women. Russian federation, Forty-sixth session, 12-30 July 2010 DOC, CEDAW/C/USR/CO/7: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/485/54/PDF/N1048554.pdf?OpenElement>.

medical specialists tell her that the child will be born handicapped. Hence the State fails to ensure the right to informed decisions on reproductive health, contrary to recommendations of the Committee to “ensure the removal of all barriers to women's access to health services, education and information, including in the area of sexual and reproductive health.”<sup>11</sup>

In 2010 Krasnoyarsk Krai Administration commissioned the production of social advertisements, and 12 videos were posted on the Internet showing different negative aspects of drug use. In one of them, a girl was shown surrounded by cans containing embryos preserved in alcoholic solution; these embryos had developmental disabilities (e.g., two heads, one leg, no brain, etc.). The girl called each embryo by name, stating that she gave birth to him or her when she was using marijuana, ecstasy or heroin. At the end of the video, an off-screen voice explained, “Any dose of any drug at any time before pregnancy results in birth defects.”<sup>12</sup> While such ads are not based on scientific evidence or facts, such scare tactics are the main “approach” in dealing with drug dependent women.

The E.V.A. research found that 26% of women interviewed reported having experienced negative attitudes from health care professionals in pregnancy care. While stigma from health care professionals is a factor in a woman's decision to avoid health services, there are other crucial factors, including self-stigma (28%) that also results from a negative public opinion about women's drug use. Apart from that, around 18% of women interviewed had avoided health care services due to a lack of IDs and 39% due to a constant need to find resources and drugs.

Self-stigma among pregnant women leads to women's “deliberate” decision to have an abortion, when women think that they simply have no other choice.

- Evidence from Oksana, 32 years old: *When I found out I was expecting in February 2011, I was really happy. I was expecting a baby from a man I was in love with. I was excited and happy just from the thought that I would be a mom. I knew I had HIV and hepatitis C, but I have heard that women like me give birth. Just when I found out I was pregnant I started taking really good care of myself--I ate well, cut back on smoking and wanted to quit all together. <...> In the beginning of May I had an ultrasound, everything seemed to be normal. I decided it was time to get pregnancy care from the gynecologist. In May 2011, in the 14<sup>th</sup> week of pregnancy, I went to the gynecologist and had my ultrasound results with me. The gynecologist accepted me and started processing my papers [in order to be admitted into pregnancy care]. She asked me about possible health problems and diseases and I said I had hepatitis C and HIV infection, I also said that I smoked and had used illegal drugs for a very long time in the past. When I said this, the gynecologist said: “Oksana, and who do you want to have? With such “scars”? You are 30 years old already. The baby will have hepatitis C and HIV, you won't give birth to a healthy baby.” She also realized from my story that I lived alone, without parents and that I was also not married to the father of the baby. She replied: “How come? You will give birth to a normal baby, will start injecting again, the baby will be taken away.” <...> I believed the doctor. In my eyes the authority of a medical professional was unshakable. It didn't even cross my mind to double check with someone else and doubt the authority of the medical professional, I kept thinking that I would have to get an induced labor abortion. I was upset. The world was turned upside-down. I wanted to give birth, I wanted the baby, but my past life caught up*

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<sup>11</sup> General recommendations made by the Committee on the Elimination of Discrimination against Women, No 2 (sixth session, 1987). Art. 12 (2) 31.

<sup>12</sup> “The Krasnoyarsk Krai administration paid 420 thousand rubles for production of 12 shocking video clips.” (“Администрация Красноярского края заплатила 420 тысяч рублей за 12 шокирующих роликов”.) ADME.RU.

*with me – I wouldn't give birth to a healthy baby. I came back home, I had a breakdown, I couldn't calm down.*<sup>13</sup>

### **Violation of the right to health: access to effective drug treatment and management during pregnancy**

In 2011, the Committee on Economic, Social and Cultural Rights expressed concern about the spread of drug use and the lack of adequate and evidence-based drug treatment services, identifying the following problems as key drivers of the HIV epidemic: “drug addiction, including by way of injection, which is the main factor for the growing epidemic of HIV/AIDS, hepatitis C and tuberculosis in the Russian Federation. The Committee also remains concerned about the continued ban on the medical use of methadone and buprenorphine for treatment of drug dependence and the fact that the Government does not support opioid substitution therapy (OST) and needle and syringe programs which are strongly recommended by WHO/UNAIDS, UNODC, and other international organizations, as effective measures for prevention of HIV/AIDS among injecting drug users (art. 12). The Committee urges the State party to apply a human rights-based approach to drug users so that they do not forfeit their basic right to health. The Committee strongly recommends that the State party provide clear legal grounds and other support for the internationally recognized measures for HIV prevention among injecting drug users, in particular OST with use of methadone and buprenorphine, as well as needle and syringe programs and overdose prevention programs.”<sup>14</sup>

Research done by E.V.A. shows that pregnancy is a strong stimulating factor in women's decision to stop using drugs. Only 13% of women interviewed responded that they had never tried to stop using drugs. 33% of women who tried to stop using drugs had tried to undergo the available drug treatment (narcology care), with 26% being rejected on the basis of pregnancy. The rest, almost 70% of the women, tried to stop using drugs with no help, by themselves:

- Evidence from Tatiana, Kaliningrad: *During pregnancy she was an active and “systemic” drug user. She really wanted a baby and decided to keep it. She went to the gynecologist at the AIDS Center and spoke openly about her drug problem. During the second trimester she decided to enter detox in a narcological hospital. She was convinced from the beginning that she would be refused treatment because of her pregnancy. Tatiana asked her girlfriend to take a urine test on her behalf, and so entered detox fraudulently. She understood that she should not take all of the prescribed drugs. She received the pills and craftily disposed of most of them, with the exception of tramadol and sleeping pills. Soon after the detox she relapsed and went on using drugs regularly. She tried entering rehabilitation at a religious center, but she could not stay there because drug treatment assistance was not available. A month before giving birth Tanya was able to quit drugs on her own. A while after giving birth she returned to systemic drug use. The guardianship agency filed for termination of parental rights. For a while Tanya hid in the rehab center, and she came sober to the court hearing on termination of parental rights. She got a six-*

<sup>13</sup> In this case, Oksana was so stressed out by the doctors, by the rejection from gynecologists as well as addiction treatment specialists, that she was driven back to drug injecting. However, during the hospital stay for the induced birth procedure her friend talked her into having the baby, saying that women all around the world with HIV are giving birth to healthy babies. In the end Oksana, who had agreed to have an induced labor abortion just in order to get drug treatment, and who was being referred from one place to the other while experiencing drug withdrawal, went into premature labor and gave birth on the 28<sup>th</sup> week of pregnancy to a healthy baby.

<sup>14</sup> Consideration of reports submitted by States parties under Articles 16 and 17 of the Covenant. Concluding Observations of the Committee on Economic, Social and Cultural Rights. Russian Federation (E/C.12/RUS/CO/5)

*month suspension of her parental rights. Now she is in the rehab center again, this time with her child. Her mother helped her keep her daughter by becoming the child's legal guardian.*

Most of the women who continue to use drugs during pregnancy inject heroin. Heroin dependency can be effectively treated with opioid substitution treatment (OST). OST with methadone or, more recently, buprenorphine is the internationally recognized best practice for pregnant opiate users, accepted by the UN.<sup>15</sup> If a woman does not choose to enter OST, medically managed withdrawal is recommended. However, in the Russian Federation pregnant women do not have that choice, as OST is legally prohibited in Russia, while other drug treatment programs contradict internationally accepted standards (pregnant women undergo detoxification that may involve drugs not approved for use in pregnancy), or at best are very limited in scope.

Lack of effective drug treatment in the Russian Federation, as well as lack of national protocols on drug treatment during pregnancy, forces women to deal with their drug use on their own. About 36% of women reported that they stopped using drugs during pregnancy.

- Evidence from Oksana, 32 years old: *When I came to the drug treatment center [as advised by the gynecologist], I was told: 'But you are pregnant, I have no right to treat you. Because we treat with drugs and I do not know what effect the treatment drugs will have on you'.*

Drug treatment and care usually is not offered in delivery clinics – in one third of cases, when women would disclose their drug use status in delivery, the fact of drug use was ignored. Over 30% of women in delivery did not get any consultations on drug use (meaning that a drug addiction specialist was not present). In addition, women in delivery face stigma and discrimination and are denied pain management medications for drug withdrawal symptoms. There are cases when women who ask for pain relief medicines (to ease the drug withdrawal symptoms) are rejected based on the prejudice that “all you need is an excuse to get high”:

- Evidence from Lilia, 28 years old from Togliatti: *I remember in the emergency I could not sleep at all for 4 days straight. When you experience withdrawal, there is no sleep. I asked for sleeping pills at least and they rejected my request saying that this is a maternity clinic, not a drug treatment center.*

### **Deprivation of parental rights**

In almost 70% of cases of delivery among interviewed women who had given birth during last three years, the personnel in the maternity ward did not favor contact of women with their babies, if they knew about the fact of drug use, and personnel would not offer consultations with psychiatrists and/or social workers. In about 20% of cases, the women were encouraged by the maternity ward staff to give up child custody.

Among those whose rights were limited, or who were deprived of parental rights altogether, more than half indicated that it was done due to the mere fact of drug use and not because these women were acting against the interest of their children.

While the well-being of the child should be the highest priority of the State, according to the UN Convention on the Rights of the Child,<sup>16</sup> and the State has the right to take any necessary actions to protect the child, the fact of drug consumption in itself cannot serve as a basis for deprivation of parental rights when there are no other factors suggesting possible harm to the child. Yet in many cases, child protection authorities

<sup>15</sup> United Nations Office on Drug Control. Substance abuse treatment and care for women: case studies and lessons learned. United Nations, New York, 2004. Available at: [http://www.unodc.org/pdf/report\\_2004-08-30\\_1.pdf](http://www.unodc.org/pdf/report_2004-08-30_1.pdf).

<sup>16</sup> Preamble, Part 1 Article 3.2. of the Convention on the Rights of the Child. Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. Entry into force 2 September 1990, in accordance with article 49.

and courts do not take into account other circumstances, and terminate or limit parental rights based only on the fact of drug consumption. Oftentimes, the fear of losing parental rights is a barrier in obtaining drug treatment; if women want to undergo inpatient drug addiction treatment (rehabilitation or detoxification), they may risk losing parental rights, as no treatment facilities accept women with children.

- Evidence from Elena, Kaliningrad: She injects drugs, has four children. She has never attempted detox because she is afraid of being added to the government registry of drug users. During her latest pregnancy she reduced her doses herself and stopped using drugs close to the end of her pregnancy term. At the maternity clinic they did not believe her and gave her baby a “preventive cleansing drip.” They did not take a blood or urine test for drugs. NGO representatives suggested helping Elena enter rehabilitation because the guardianship agency began asking questions. The woman did not want to enter rehabilitation without her children. Now she lost the rights to all four children but is fighting vigorously to have those rights restored.

The fear of state authorities and of losing their children pushes women away from state health care, often resulting in increased risks to their and their babies’ lives.

- Evidence from Irina, 26 years old, Tomsk: *Having left the maternity clinic she did not visit the children’s hospital because she was afraid the child would be stigmatized. Initially she came to see the pediatrician accompanied by social workers. As a result of the check-up the child was referred for an ultrasound and diagnosed with a bilateral cyst.*

### **Conclusions and recommendations:**

The above facts strongly suggest that the Russian Federation does not fulfill its obligations under Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women in providing adequate health and social services and ensuring women’s right to reproductive health. Women who use drugs and seek medical care, especially pregnancy care, face prejudice from health care providers who often pressure them to have abortions, provide false information and use intimidation.

Pregnant and parenting women who use substances face particular societal condemnation, and pregnant women often delay seeking services, which can have serious implications for health of both mother and baby.

One of the greatest barriers to pregnancy care in the country is the absence of an effective therapy endorsed by the international community - drug substitution treatment (OST). This absence leaves pregnant women to deal with their drug use issues by themselves; women are often forced to choose between drug treatment and keeping their babies.

### **Recommendations:**

- The Commission on the Status of Women, along with the Committee on the Elimination of Discrimination against Women, should provide a general recommendation on specific issues related to women’s right to health, including provision of drug treatment during pregnancy;

- The Russian Federation should take into account the recommendations of CEDAW and CESCR<sup>17</sup> and introduce effective drug treatment, especially for pregnant women, as well as ensure the access of pregnant women to health care services, including pregnancy care;
- The Russian Ministry of Health, in coalition with civil society representatives and representatives of women's organizations, should develop standards of drug treatment during pregnancy and pregnancy care for women who use drugs and undergo drug treatment;
- Health care professionals, especially those providing pregnancy care, should be educated on the risks and consequences of pregnancy and delivery among women who use drugs (or have used drugs) in order to stop the practice of forced abortions, and to provide accurate and scientifically based information to women who use, or have used, drugs;
- The State should develop drug treatment programs for drug using women and ensure access to these programs. Pregnant women should have access to internationally recognized treatment methods, including opioid substitution treatment;
- The State should provide access to medical care during pregnancy, including pain relief medications and accurate information on the effects of drug use on pregnancy;
- The State should introduce drug treatment in maternity clinics; drug treatment and pregnancy care should be integrated.

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<sup>17</sup> Committee on Economic, Social and Cultural Rights Forty-sixth session (2011) Consideration of reports submitted by States parties under Articles 16 and 17 of the Covenant. Concluding Observations of the Committee on Economic, Social and Cultural Rights. Russian Federation. UN Doc No. E/C.12/RUS/CO/5. Available at: <http://www2.ohchr.org/english/bodies/cescr/cescrs46.htm>.