

Švitrigailos g., 11B • Vilnius LT-03228, Lithuania
tel. +370 5 2691 600; fax +370 5 2691 601; e-mail: office@harm-reduction.org
www.harm-reduction.org

Violation of the right to health and reproductive choice

Submission to the *Communication to the Commission on the Status of Women by the Eurasian Harm Reduction Network*¹

Background: Estimated at 1.6 % of the adult population, Ukraine's HIV prevalence is the highest in the region of Europe and Central Asia. According to the United Nations Development Programme (UNDP), women account for 48 % of all HIV cases among adults in the country. Analysis suggests that most cases are largely attributable, either directly or indirectly, to injection drug use, with 30% of all people who inject drugs being women.²

This submission is based on testimonies of women who use drugs and women in opioid substitution treatment who have recently given birth.

Violations of women's right to reproductive choice occur due to lack of information about pregnancy and drug addiction among health professionals, especially gynecologists, and due to prevailing negative attitude towards women who use drugs. Health care professionals usually suggest abortion, based on the Decree of the Ministerial Cabinet from 02.15.2006 No. 144 "The list of conditions for termination of pregnancy from 12 to 22 weeks." While use of psychoactive drugs may serve as a reason for termination of pregnancy, health care professionals rely on their own opinion, not on scientific data or medical contra-indications, often intimidating women by predicting that they will have handicapped babies. The lack of integration of pregnancy care and drug treatment means that women are denied the right to continuation of drug treatment.

At the same time, drug laws prohibit the possession of narcotic drugs and put people who use drugs in a vulnerable position. Judicial practice in Ukraine has established that even traces of certain drugs in a used syringe may be enough for bringing a person to criminal liability under p. 309 or p. 311 of the Criminal Code of Ukraine and imposing punishment of up to 3 years of imprisonment. As the specific substances, especially acetylated opiate, are commonly used in Ukraine by people who inject drugs, this amendment virtually criminalizes drug dependence.³ Women who use drugs in Ukraine are often subjected to law enforcement harassment and violence.

Violation of access to health care: opioid substitution treatment and harassment

The Committee on Economic, Social, and Cultural Rights in its concluding observation on Ukraine stated that it was "gravely concerned at the high prevalence of HIV/AIDS in the State party, including among women; discrimination against persons with HIV/AIDS and high-risk groups such as sex

¹ The submission is done in cooperation with the charitable fund "Virtus", Coalition of HIV Service Organizations and public organization "Association of Substitution Treatment Advocates of Ukraine".

² Open Society Foundation (2010) *Making Harm Reduction Work for Women: The Ukrainian Experience*, available at: http://www.soros.org/initiatives/health/focus/ihrd/articles_publications/publications/harm-reduction-women-ukraine_20100429.

³ Golichenko M, Merkinaite S. (2011) *In breach of international law: Ukrainian drug legislation and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Discussion Paper*. Canadian HIV/AIDS Legal Network, Eurasian Harm Reduction Network, 2011. Available at: http://www.harm-reduction.org/images/stories/documents/links/european_convention_ukraine.pdf.

workers, drug users and incarcerated persons; disclosure of information about their HIV status by law enforcement agencies, healthcare and educational institutions; and the limited access by drug users to substitution therapy," and recommended that "the State party (...) make drug substitution therapy and other HIV prevention services more accessible to drug users."⁴

Prescription of opioid substitution treatment (OST) is the internationally recognized standard of treatment for pregnant opiate users.⁵ The Government of Ukraine has undertaken significant steps to institutionalize OST and harm reduction programs on the national level. In December 2010, amendments were made to the Law on HIV prevention, stipulating guarantees for access of people who inject drugs to harm reduction programs, including OST. The national budget for HIV/AIDS has been consistently increasing during the past several years.

However, progress is very slow and coverage of harm reduction services remains low. While HIV/AIDS funding is increasing, HIV prevention programming among vulnerable populations comprised less than 1% of all HIV/AIDS expenses in 2010-2011.⁶ By April 2012, OST programs in Ukraine had only 6,678 clients,⁷ although 56,973 people were officially registered as chronically dependent on opioids (11.7%),⁸ making access to OST for those in need 6 times less than is recommended by international guidelines.⁹

Accessibility and availability of OST clinics are hindered by drug law enforcement practices. Women who are clients of OST are especially vulnerable to law enforcement violence due to gendered factors. OST sites are used by law enforcement as places where they search for drugs in order to make arrests; law enforcement also uses OST as a way of harassing activists working to advocate for human rights. The example of Victoria, who works with drug-using women, indicates this:

- Evidence from Victoria, Kyiv: *"Treatment facilities providing medical services and OST have become one of the "favorite" places for police raids. Needle exchange programs are probably the only places that are of greater interest for the police. As a rule, detention occurs at the entrance to the clinic – for our law enforcement it seems to be more effective to detain OST program participants before they take their medication, as that is when people are more vulnerable to manipulations and pressure. Law enforcement representatives equate drug dependence, which is an illness, to a crime. I often observe unlawful detention only due to a person's status – because he/she is an OST program participant. Police use drug withdrawal as a means for obtaining testimony. The attention paid by law enforcement representatives to OST was so high that OST clinics in some cities had a policeman assigned, armed with an automatic gun. This negative attention to a medical program impacts the program participants, of course; people live and*

⁴ Committee on Economic, Social, and Cultural Rights (2008) Concluding Observations: Ukraine, UN Doc No E/C.12/UKR/CO/5, para. 28 and 51. Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/400/43/PDF/G0840043.pdf?OpenElement>.

⁵ WHO/UNAIDS/UNODC (2004) *Substitution maintenance therapy in the management of opioid dependence and HIV/AIDS prevention : position paper*. World Health Organization, United Nations Office on Drugs and Crime, Joint United Nations Programme on HIV/AIDS, 2004. Available at: http://www.who.int/substance_abuse/publications/en/PositionPaper_English.pdf.

⁶ Merkinaite S. (2012), "The war against people who use drugs: the costs." Eurasian Harm Reduction Network.

⁷ Recent information on OST patients in Ukraine. Resource center of the Ukrainian Institute on Public Health Policy <http://www.uiphp.org.ua/media/1475>

⁸ National report on drug situation for European Monitoring centre for Drugs and Drug Addiction (data as of 2010). Ukrainian Medical & Monitoring Center of Alcohol And Drugs, by the Ministry of Health of Ukraine. REITOX 2011, page 33, http://www.damonitoring.net.ua/file/zvit_2011.pdf

⁹ WHO, UNODC and UNAIDS. *Technical Guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users* (WHO, 2009).

receive treatment in constant fear of being detained by police and being hurt as a result of this encounter.

Despite the relative uneventfulness and well-being of my life, as an OST program participant, I was invited to the police station and asked about activities aimed at protecting the human rights of OST clients. A Drug Control Unit representative called my personal phone and explained to me that, "it will be better for you if you come yourself." I am no longer afraid of anything, but my reaction to the police has become an unpleasant "reflex." In the beginning they asked me questions about my work and activism – but the most important information that the Drug Control Unit was interested in was incriminating evidence against medical personnel working in the program, identifying collusions between program staff and clients, and corruption in OST programs. If they do not have any evidence, they try to fabricate and drag facts in; at the same time they tried to persuade me that the Drug Control Unit representatives are friendly toward OST and also want to combat AIDS in Ukraine. They persisted that I should give them my mobile phone number to verify personal information, but I answered with a polite refusal; this made the Drug Control Unit representatives less polite."

Women drug users are especially vulnerable, in part because of an overlap between drug use and sex work.¹⁰ Sex work is an administrative offense and therefore interaction with police often results in harassment.

- Evidence from Lena, 23 years old, Zaporozhie, injecting drug user, sex worker: *I use home-made opium. I work on the highway. I want to tell you about the police there. They drive by, demand money from you. If you do not give any money, they will take you to the district department. They beat you up and harass you. They can paint you with brilliant green. They can cut your hair. Pour syrup on you. If you do not want to cooperate with them – they will make you "work" with them for free. I mean, have sex with them. They threaten you. Overall they treat us like we are not human beings.*
- Evidence from Dasha, 21 years old, Zaporozhie: *an 18 year old "vint" [methamphetamine] user and sex worker who worked on the highway. When she was 4 months pregnant, she was detained by a human trafficking police squad. They beat her up kicking her in the belly. Dasha reports that the police knew that she was pregnant. When asked why they did this, she answered: "They said that they like to beat me up." She was 6 months pregnant when she felt pain in her belly and called the ambulance. She was hospitalized; in the hospital she had a stillbirth. Doctors provided first aid.*

The extortion, harassment, wrongful incrimination, and physical and sexual violence reported by women drug users and sex workers are clear human rights abuses that reduce women's ability to access health care and practice less risky behavior. For example, one respondent reported that she hid condoms, or did not carry them at all, in an attempt to avoid contact with police and to avoid providing grounds for penalizing or harassing her.

Violation of the right to health of pregnant women

¹⁰ Pinkham S, Malinowska-Sempruch K. (2007) *Women, Harm Reduction, and HIV*. New York: Open Society Institute, 2007. Available at: <http://www.soros.org/publications/women-harm-reduction-and-hiv-0>. Sex Workers' Rights Advocacy Network (2009) *Arrest the Violence Human rights abuses against sex workers in Central and Eastern Europe and Central Asia*. Budapest: SWAN, 2009. Available at: <http://www.soros.org/reports/arrest-violence-human-rights-violations-against-sex-workers-11-countries-central-and-eastern>.

In its General Recommendation, the Committee on the Elimination of Discrimination against Women reaffirmed 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.¹¹ It further stated, “States 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.”¹²

Medical personnel, including gynecologists, are poorly informed about pregnancy care and drug treatment. This often results in the provision of inaccurate information and pressure to abort pregnancies. Such pressure is rooted in prejudice towards women who use drugs, rather than in any scientific or medical data. In turn, women who decide to have a baby face tremendous pressures from medical personnel, which results in their reluctance to get on-going pregnancy care.

- Evidence from Tatiana, 21 years, Kyiv: *“Me – yes, they were trying to talk me out of it [giving birth]. I was registered in the woman’s consultation. I was going there for two weeks. But they were trying to talk me out of it, they said “think about it, think about it”, etc. Finally, I stopped going to these check-ups. For myself. Every visit ended with grief. I understand that I am a drug addict. Despite that - I wanted this baby very much. I stopped going to these check-ups. Because I realized that this is very painful. They were women, but they were making me have an abortion: “Do you understand that your child is doomed to become a life-long addict? What kind of a mother are you? You are a bitch. What are you doing?”*

Women who give birth are deprived of drug treatment and care. An assessment done between February and July by charity fund “Virtus” among women who use drugs shows that out of 4 women who gave birth during that time, only one received a consultation from an addiction treatment specialist in delivery. Other women are forced to experience drug withdrawal (even women who undergo OST treatment are not provided OST in delivery):

While in some maternity clinics women are provided with OST, due to increasing linkage between the work of maternity and OST clinics, in around 40% of cases women still do not have access to OST in maternity clinics.¹³ The right of women to continued care is not ensured, while OST programs simply exclude women who stay at maternity clinics from the patient lists:

- Evidence from Katya, Kyiv: *“The doctor told me before the delivery: While you are at the maternity clinic just inject whatever you can find, just like before you got OST. And then we will take you back into the program. The treating doctor not only failed to provide continued care to a pregnant women, but also excluded me from the program, suggesting I go back to illegal use.”*

Medical personnel also demonstrate a very negative attitude during delivery towards women who use drugs:

- Evidence from Tatiana, 21 years old, Kyiv: *“I arrived and in 20 minutes.... I held my baby’s head with my hand. They took her away from me and didn’t bring her back to me for 3 days. I was in the maternity clinic and they neither gave nor or showed her to me. My neighbor worked in this*

¹¹ General recommendations made by the Committee on the Elimination of Discrimination against Women, No 2 (sixth session, 1987).

¹² General recommendations, Art. 12.

¹³ The estimation by Charitable Fund Virtus, personal communication, July 30, 2012.

maternity hospital, and at night she secretly led me to my baby, "Here, take a look at your daughter." She was tiny, about 2 kg, but she was wearing a very large diaper. They took her away from me and sent her to a hospital for kids. I visited that hospital several times, but could not get in there to see my daughter.

Disclosure of personal information

It is also the case that pregnant women and women in delivery sometimes do not disclose their drug use and possible HIV infection, and decline consultations with social workers due to fear of their personal information being disclosed.

There are several legal acts that promote the confidentiality of personal information, including the Law on protection of personal data¹⁴ that aims to ensure non-disclosure of all information including medical records. In relation to pregnancy care, there is a standard of the Ministry of Health, "Informed consent form," in Decree No. 417 "On organization of pregnancy – gynecological care in Ukraine."

Evidence from Oksana, 39 years old: "I came to the OST program to receive treatment; before that I was registered as a drug user in a drug treatment dispensary. Four months after I was registered as a drug addict, people from social and guardianship agencies came to my apartment.

They threatened me that they would take my kids away (my daughter was 16 years old and my son was 3 years old), because we do not have enough furniture for children. They said to each other that I am a drug addict and they can skip beating around the bush. After that visit of social service representatives I asked my doctor about how they learned that I was a drug dependent person. He said that this information is passed on to doctors in a general clinic, to social services and to somebody else. I decided to leave OST and to move to another apartment so that I and my children would be left alone."

Conclusions and 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 special issues related to women's right to health, including provision of drug treatment during pregnancy;
- The State should ensure uninterrupted access to health care, including to drug treatment, for pregnant women and women in delivery;
- The State should develop drug treatment programs for women who use drugs, and ensure access to these programs for pregnant women, as well as for women in maternity clinics, in order to ensure uninterrupted health care;
- The State should monitor abuses of power by health care professionals and provide them with information on drug addiction and pregnancy issues, including development of clear guidelines on drug treatment during pregnancy;
- The State should take all necessary measures in order to protect access to health services and the right to confidential information.

¹⁴ Відомості Верховної Ради України (ВВР), 2010, № 34, ст. 481.

For more information:

Daria Ocheret

Program Manager

Policy and Advocacy Program

Eurasian Harm Reduction Network

Tel.: +370 5 2691 600

Fax: +370 5 2691 601

Cel.: +370 6 8271 517

E-mail: dasha.ocheret@gmail.com

Simona Merkinaite

Program Officer

Policy and Advocacy Program

Eurasian Harm Reduction Network

Tel.: +370 5 2691 600

Fax: +370 5 2691 601

Cel.: +370 6 8254 401

E-mail: simona@harm-reduction.org