

Harm Reduction International, Eurasian Harm Reduction Network, Andrey Rylkov Foundation for Health and Social Justice and the Canadian HIV/AIDS Legal Network

Submission to the Foreign Affairs Committee's inquiry into the UK's relations with Russia

1. This submission is written jointly by Harm Reduction International (HRI)¹, the Eurasian Harm Reduction Network's (EHRN)², Andrey Rylkov Foundation for Health and Social Justice (ARF)³ and the Canadian HIV/AIDS Legal Network⁴.
2. HRI, EHRN, ARF and the Canadian HIV/AIDS Legal Network welcome the opportunity to provide input to the Committee's inquiry into the UK's relations with Russia. We view this inquiry as a significant time to draw attention to the importance of prioritising health and human rights of Russian people who use drugs within the context of broader discussions on the UK bilateral relations with Russia.

Violations of human rights in the name of drug control in Russia

Violations of the right to health

3. According to the Special Rapporteur on the right to health, the right to health is essential for the exercise of other human rights. Specifically, the impact of drug control on the right to health is a cross-cutting theme across the entire market chain, arising from an often violent illicit drug market, and highly punitive and repressive State responses. Importantly, the right to health includes more than access to health services; it is also the right to the underlying determinants of health, including equality and non-discrimination, protection against violence, participation, and safe and enabling environments for health and well-being.⁵
4. The right to health requires that evidence-based drug dependence treatment be available, accessible (physically, economically, geographically), acceptable (culturally, for women, for children and other key populations), and of sufficient quality, meaning based on the best available evidence.⁶

¹ HRI is a leading non-governmental organisation working to promote and expand support for harm reduction. HRI works to reduce the negative health, social and human rights impacts of drug use and drug policy – such as the increased vulnerability to HIV and hepatitis infection among people who inject drugs – by promoting evidence-based public health policies and practices, and human rights based approaches to drug policy. <http://www.ihra.net/>

² EHRN is a regional network of harm reduction programs and their allies from across 29 countries in the region of Central and Eastern Europe and Central Asia. EHRN works to advocate for the universal human rights of people who use drugs and to protect their lives and health. <http://www.harm-reduction.org/>

³ ARF it is a grass-roots organization from Moscow, Russia with the mission to promote and develop humane drug policy based on tolerance, protection of health, dignity and human rights. The Foundation engages in 4 key strategies to advance its mission: advocacy, watchdog, service provision and capacity building of affected communities and individuals. <http://en.rylkov-fond.org/>

⁴ The Canadian HIV/AIDS Legal Network 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. <http://www.aidslaw.ca/site/>

⁵ Open Letter by the Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, Dainius Pūras, in the context of the preparations for the UN General Assembly Special Session on the Drug Problem (UNGASS), which will take place in New York in April 2016 https://www.unodc.org/documents/ungass2016/Contributions/JN/RapporteurMentalHealth/SR_health_letter_UNGASS_7.12.15.pdf

⁶ Open Letter by the Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, Dainius Pūras, in the context of the preparations for the UN General Assembly Special Session on the Drug Problem (UNGASS), which will take place in New York in April 2016

5. Russia is one of the countries most severely affected by the world drug problem and HIV epidemic. According to the UN Office on Drugs and Crime (UNODC), about 2.29% of the Russian population between the ages of 15-64 injects drugs;⁷ unsafe drug injection remains a leading cause of HIV infection in the country;⁸ and nearly one quarter (23%) of all adults imprisoned in penitentiary institutions have been convicted for drug-related offences.⁹
6. In May 2011, the UN Committee on Economic, Social and Cultural Rights expressed concerns about the spread of drug dependence and injecting drug use, which is the main driver of the growing epidemic of HIV/AIDS, hepatitis C and tuberculosis in the Russian Federation.
7. The Committee was particularly concerned about the continued ban on the medical use of methadone and buprenorphine to treatment drug dependence¹⁰ and the fact that the Russian Government does not support opioid substitution therapy (OST) and needle and syringe programmes (NSP).
8. The Committee urged the Russian Federation to apply a human rights-based approach to drug users so that they do not forfeit their basic right to health, and strongly recommended the Russian Federation to provide clear legal grounds and other support for the internationally recognised measures for HIV prevention among injecting drug users, in particular OST, NSPs and overdose prevention programmes.¹¹
9. Russian authorities similarly classify evidence-based harm reduction programmes, such as NSPs and overdose prevention programmes, which are aimed preventing the transmission of infectious diseases and overdose-related deaths, as drug propaganda at the policy level.¹²

Violations of the absolute prohibition of torture and other cruel, inhuman, or degrading treatment or punishment

10. In March 2015, the UN Human Rights Committee noted the legal ban on OST and expressed concerns and issued recommendations about the misuse of withdrawal symptoms by police to elicit forced confessions from people with a drug dependence or coerce them into cooperating with the police.¹³
11. According to the Special Rapporteur on Torture, the denial of OST in custodial settings is a violation of the right to be free from torture and ill-treatment in certain circumstances and “similar reasoning should apply to the non-custodial context,

https://www.unodc.org/documents/ungass2016//Contributions/UN/RapporteurMentalHealth/SR_health_letter_UN_GASS_7.12.15.pdf

⁷ UNODC, 2014 World Drug Report. 2014. Section B, p. 6

⁸ According to the official statistics of the Federal AIDS Center, 57.3% of all new HIV cases in 2014 were attributed to unsafe injecting drugs. Online at <http://hivrussia.metodlab.ru/files/spravkaHIV2014.pdf>

⁹ Official statistics of the Federal Penitentiary Service of the Russian Federation. Online at <http://xn--h1akkl.xn--p1ai/structure/inspector/iao/statistika/Kratkaya%20har-ka%20UIS/>

¹⁰ Human Rights Watch, *Russia: Government Shuts HIV-Prevention Group's Website*. February 8, 2012. Online at <http://www.hrw.org/news/2012/02/08/russia-government-shuts-hiv-prevention-group-s-website>

¹¹ Committee on Economic, Social and Cultural Rights. Concluding Observations on the Russian Federation, E/C.12/RUS/CO/5, May 2011, Para. 29.

¹² Strategy for the Implementation of the National Anti-Drug Policy of the Russian Federation in the Period Until 2020, adopted by Presidential Order N 690 of 9 June 2010, Para. 48. («Стратегия государственной антинаркотической политики Российской Федерации до 2020 года» (Параграф 48). Утверждена Указом Президента № 690 от 9 июня 2010 года.)

¹³ Human Rights Committee, Concluding observations on the seventh periodic report of the Russian Federation, CCPR/C/SR.3157, March 31, 2015. Para 16,17.

particularly in instances where Governments impose a complete ban on substitution treatment.”¹⁴

Discriminatory practices and violations of the right to liberty and security of person

12. Law enforcement officers in Russia often use unreasonable causes as justification for the search and arrest of people who use drugs: young age, looking like a “junkie,” association with people who use drugs, needle marks on one’s arm.¹⁵ Police have also been known to use medical data on people who have been diagnosed as drug dependent, in order to arrest them.¹⁶
13. The official court’s statistics demonstrate that annually police prosecute more than 90,000 people for “non-medical use of drugs”¹⁷. In more than half of those cases, people are punished with custodial sentences. Article 6.9 of the Code of Administrative Violations stipulates that anyone who consumes narcotic drugs without a medical prescription can be prosecuted for this, regardless of when the consumption took place, and whether or not a person is actually intoxicated and/or poses any risk to public order at the time of arrest.

Violation of the right to equality before courts and tribunals, the right to a fair trial, and the principle that criminal law must not be extensively construed to an accused’s detriment

14. The Russian judicial system is not independent of political influence.¹⁸ The rate of acquittals in drug-related cases is lower than 1%.¹⁹ The scale of drug-related offences in Russia is large,²⁰ with more than 75% of drug cases directly related to drug use, not supply. Two thirds of these cases are reviewed in the absence of a court trial, with the defendants pleading guilty to the alleged crimes.²¹
15. When sentencing people who use drugs, courts often ignore the legality of a case or procedural errors made at the time of detention or investigation, which are often suspect and unreliable.²² When making their decisions, courts often disregard police provocation (police entrapment), which occurs with great frequency.²³

¹⁴ Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Applying the torture and ill-treatment protection framework in health-care settings, A/HRC/22/53, February 1, 2013, para. 73.

¹⁵ Andrey Rylkov Foundation, Canadian HIV/AIDS Legal Network, Eurasian Harm Reduction Network, Atmospheric Pressure: Russian Drug Policy as a Driver for Violations of the UN Convention Against Torture, 2011. pp. 8–16. Online at: <http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=1949>

¹⁶ Levinson L., Torban M., *Drug Registry: As per the law or as per an instruction? Regulation of registration of people who use drugs in the Russian Federation*. Human Rights Institute, 2009. p. 20-21 (Левинсон Л., Торбан М. *Наркоучет: по закону или по инструкции? Регулирование регистрации потребителей наркотиков в Российской Федерации*. Институт прав человека. 2009. С 20-21).

¹⁷ The official statistics are available on the website of the Administration of Justice Department of the Supreme Court of Russia at www.cdep.ru.

¹⁸ Report of the Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, based on his Mission to the Russian Federation in 2008, A/HRC/11/41/Add.2, 23 March 2009, para. 58.

¹⁹ Ibid. para 37.

²⁰ According to the Director of the Federal Drug Control Service “one in every eight inmates in Russia has been punished for drug-related crimes; the number of drug users in the penitentiary system grew twice in the period of 2005 to 2011; one in every three court sentences in the largest cities is related to drug crimes; within the total number of terminated offences, drug-related crimes are the third largest group after theft and economic offences.” See Session of the Presidium of the State Council dedicated to the fight against drugs among young people, April 18, 2011. (Заседание президиума Госсовета, посвященное борьбе с распространением наркотиков среди молодежи. 18 апреля 2011 года.) <http://президент.рф/news/10986>

²¹ Analysis of statistics from the Section on court statistics on the website of the Department of Courts. (Раздел судебная статистика на сайте Судебного Департамента.) www.cdep.ru

²² Interregional public charity organization “Committee for Civil Rights,” *Main systematic violations of human rights by FSKN*. («Основные нарушения прав человека, систематически допускаемые ФСКН» (2009).

Violation of the right to freedom of expression and the right to access to information

16. The anti-drug propaganda laws provide for such a broad definition of drug propaganda that, for example, anything containing the words “heroin” or “methadone” can fall within its scope.²⁴ The Federal Drug Control Service has long been known to use this law to suppress human rights and health information.²⁵ There are cases of prosecution for drug propaganda for wearing pictures of a hemp leaf on clothing, or cases when bookshops were ordered to stop selling world-renowned books.²⁶
17. Scientific and other public discussions regarding OST are suppressed in Russia under threat of prosecution for drug propaganda.²⁷ In 2012, the Federal Drug Control Service shut down as “drug propaganda” the Andrey Rylkov Foundation for Health and Social Justice website for disseminating the recommendation concerning OST that had been delivered to the Russian government by the UN Committee on Economic, Social and Cultural Rights.²⁸

Violations of women’s rights

18. In July 2013, the UN Special Rapporteur on the right to health and the UN Special Rapporteur on violence against women brought to the attention of Russian authorities facts concerning the lack of access of women who use drugs to evidence-based drug dependence treatment.²⁹ The Russian Federation did not deny the facts of the case, but denied any human rights had been violated, stating that doctors acted in accordance with Russian laws.³⁰ Women who use drugs are criminalised to a much greater extent. Compared to men who use drugs, women who use drugs tend to face more serious charges, leading to much tougher sentences.³¹

Межрегиональная общественная благотворительная правозащитная организация «Комитет за гражданские права». Доклад.) <http://www.zagr.org/371.html>

²³ *Vanyan v. Russia*, no. 53203/99, ECHR 2005; *Khudobin v. the Russia*, no. 59696/00, ECHR 2006; *Bannikova v Russian Federation*, no. 18757/06, ECHR 2011; *Veselov and others v Russia*, nos. 23200/10, 24009/07 and 556/10, ECHR 2012.

²⁴ Federal Law No 3-FZ of January 8, 1998 “On narcotic drugs and psychotropic substances”. Article 46.

²⁵ Communication to the United Nations Educational, Scientific and Cultural Organization (UNESCO) regarding violation by the Government of the Russian Federation of the right to enjoy the benefits of scientific progress and its applications. March 2012. http://www.aidslaw.ca/newsite/wp-content/uploads/2013/04/ARF_UNESCO2April2012.pdf

²⁶ Ibid.

²⁷ T. Parfitt, “Vladimir Mendeleovich: fighting for drug substitution treatment,” *The Lancet* 2006, [Volume 368, Issue 9532](#), p. 279.

²⁸ Communication to the United Nations Educational, Scientific and Cultural Organization (UNESCO) regarding violation by the Government of the Russian Federation of the right to enjoy the benefits of scientific progress and its applications. March 2012. http://www.aidslaw.ca/newsite/wpcontent/uploads/2013/04/ARF_UNESCO2April2012.pdf. See also: Human Rights Watch, *Russia: Government Shuts HIV-Prevention Group’s Website*. February 8, 2012. Online at <http://www.hrw.org/news/2012/02/08/russia-govt-shuts-hiv-prevention-group-s-website>

²⁹ Communication of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on violence against women, its causes and consequences (reference: AL Health (2002-7) G/SO 214 (89-

15) RUS 5/2013) Online at [https://spdb.ohchr.org/hrdb/24th/Public - AL_Russia_15.07.13_\(5.2013\)_Pro.pdf](https://spdb.ohchr.org/hrdb/24th/Public - AL_Russia_15.07.13_(5.2013)_Pro.pdf)

³⁰ Information of the Russian Federation in relation to the communication of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on violence against women, its causes and consequences (reference: AL Health (2002-7) G/SO 214 (89-15) RUS 5/2013). Online at https://spdb.ohchr.org/hrdb/24th/RUS_24.10.13_%285.2013%29_TPro.pdf

³¹ Women convicted of drug-related offenses account for about 40% of all incarcerated women in Russia, whereas the proportion of men imprisoned for drug-related offenses stands at some 20% of the male prison population. In 2013, more than 14% of all Russians serving prison sentences for drug offenses were women, while the proportion of women in the overall prison population in Russia is less than 7%. (This analysis is based on sentencing statistics available from the Judicial Department of the Russian Supreme Court at <http://www.cdep.ru/index.php?id=79> and the Federal Penitentiary Service statistics <http://fsin.su/statistics/>).

19. Russian authorities fail to provide effective drug dependence treatment services for pregnant women who use drugs. Despite the fact that at least one out of ten (11%) pregnant women uses narcotic drugs,³² no medical protocols are available in Russia to guide the prenatal care of women with a drug dependence. Furthermore, Russian gynaecologists are not trained to care for women who use drugs and drug dependence is considered as a reason for abortion.³³
20. In the 'Concluding Observations on the Eighth Periodic Report of the Russian Federation' from November 2015 the Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about the absence of substitution therapy programmes for women who use drugs which contributes to the spread of HIV/AIDS in Russia and recommended the State party to develop programmes of substitution therapy, in line with the recommendations of the World Health Organization, for women drug users, and intensify the implementation of strategies to combat HIV/AIDS³⁴.

Recommendations

- We believe that the FCO should work on an international, regional and national level to promote the human rights of people who use drugs in Russia.
- We call on the FCO to work closely with Russian civil society to learn more about the situation of people who use drugs and find the best way to advocate on their behalf with the FCO's Russian counterparts.
- We advise the FCO to assess the human rights situation of people who use drugs on an annual basis, based on the information provided by civil society and human rights defenders.
- We call on the FCO to add a section on the human rights violations of people who use drugs to the 'Russia Country of Concern' report.
- We encourage the FCO to use human rights mechanisms, such as the Universal Periodic Review, to engage the Russian Government on issues relating to the human rights of people who use drugs.
- We advise Ambassadors and other senior staff to be briefed on Russian drug policy and the human rights of people who use drugs in Russia before they go to their posts.

³² Aylamzyan E. et al., *Obstetrics. National Guidelines*. (GEOTAR-MEDIA, 2009). p. 488. Online at http://med-books.by/books/Aylamzyan_Natsionalnoe_rukovodstvo_Akusherstvo.pdf

³³ Order of the RF Ministry of Health and Social Development of 3 December 2007, No. 736 endorsing the List of medical indications for termination of pregnancy.

³⁴ Committee on the Elimination of Discrimination against Women: 'Concluding observations on the eighth periodic report of the Russian Federation', November 2015, paragraph 35 and 36 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fRUS%2fCO%2f8&Lang=en