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The Helsinki Foundation for Human Rights (HFHR) welcomes the opportunity to provide contribution to the report being prepared by the United Nations High Commissioner for Human Rights in reference to the Human Rights Council resolution 47/17 “Human rights in the context of HIV and AIDS” adopted on 13 July 2021.

HFHR is a human rights organisation in Poland that aims to promote the development of a culture based on respect of freedom and human rights, acts as a watch dog and monitors – among numerous other issues - human rights violations resulting from drug control policy at the national level, as well as the implications of repressive drug laws for the public health sphere, including HIV and AIDS.

In light of this, and the suggested limitation on the lengths of the submissions, this paper will focus primarily on people who use psychoactive substances in Poland and as such face stigma, discrimination, and other barriers to the full enjoyment of their human rights, including but not limited to the right to the highest attainable standard of physical and mental health. The following paragraphs provide examples of drug policy-related and other systemic barriers this key population faces in accessing HIV prevention, diagnosis, treatment, care and support.

1. Significant gaps in data collection

While the recently adopted Human Rights Council resolution on the human rights in the context of HIV and AIDS *urges States to accelerate efforts to collect, use and share granular data, as applicable, that are disaggregated by income, sex,* ***mode of transmission****, age, race, ethnicity, migratory status, disability, marital status, geographic location and other characteristics relevant in national context*, HIV testing rates in Poland remain very low and the system of epidemiological data collection and analysis lacks reliable information on possible routes of HIV transmissions.

It is estimated that only about 5-9% of adults in Poland have tested for HIV at least once in their lifetime. Between 2016 and 2019, the annual testing rate dropped from 3 to 1 per 100,000 inhabitants, which equates to only about 1% of Poland's population[[1]](#footnote-1).

According to official data from the National Institute of Public Health – National Institute of Hygiene, injecting psychoactive substances was a route of transmission in only 1.6% of newly diagnosed HIV cases in Poland in the year 2020[[2]](#footnote-2) and in 15,7% of AIDS diagnoses between 1996 and 2020[[3]](#footnote-3). However, in the vast majority of HIV cases diagnosed since the research was initiated in 1985, the mode of transmission has not been examined. Despite long-standing calls from civil society to collect data on how people get infected, in 2020, in 70.8% of new HIV infections the mode of transmission remained unknown (and in 50.1% of HIV cases diagnosed between 1985 and 2020)[[4]](#footnote-4).

With such a huge data gap, Poland lacks reliable information on who is primarily acquiring HIV, and in consequence, there is a risk that the state’s response to the growing number of infections is inadequately designed (and potentially excludes prevention strategies and interventions tailored to populations at highest risk of infection). The National Institute of Public Health – National Institute of Hygiene itself warns:

*In more than 50% of the reports, the probable route of infection was not given (in 13,230 cases of HIV infection[[5]](#footnote-5)). This is a very unfavourable situation which requires actions of all those who cooperate in monitoring the epidemiological situation of HIV/AIDS in Poland. Lack of knowledge about the ways of spreading HIV in Poland leaves the question about the reason for the sharp increase in the number of HIV infections in Poland in recent years without a convincing answer, and limits the possibility of appropriate targeting of resources allocated to HIV prevention in our country.[[6]](#footnote-6)*

This is doubly disturbing given that, while the European trend of new HIV infections is declining, Poland is one of those countries where the number of newly diagnosed cases is steadily increasing (with a break in 2020, when access to HIV testing was limited due to the lockdown measures).

1. Harm reduction available on a limited scale

The Political Declaration on HIV and AIDS adopted by the UN General Assembly in 2021, as well as numerous other international documents, recognize harm reduction interventions as a cost-effective method of HIV prevention (which also protects against other blood-borne diseases). Harm reduction has been acknowledged and recommended by OHCHR, UNODC, UNAIDS, and WHO.

In Poland, the insignificant number of people who inject drugs that appears in national reports on drug-related matters, as well as the very low percentage of HIV incidence attributed to drug injection, have been used as justification for the limited scope of harm reduction services. Although national drug policy and HIV prevention strategies include harm reduction measures, in practice access to services remains scarce, and outside urban areas – non-existent.

According to estimates by the National Bureau for Drug Prevention (recently replaced by the National Centre for Counteracting Addictions), about 15,000 people in Poland qualify as problem opioid users[[7]](#footnote-7). This presumably includes mainly people who inject opioids. But the total number of people who inject different psychoactive substances is undoubtedly significantly higher (since only 28% of clients of the needle and syringe exchange programs report using heroin[[8]](#footnote-8)).

According to UNAIDS, the risk of acquiring HIV is 29 times higher among people who inject drugs[[9]](#footnote-9). Harm reduction services are the life-saving interventions that reduce the vulnerability of this key population to blood-borne diseases as well as to overdose.

However, what can be seen in Poland is a decline in the number of needle and syringe programs between 2002 and 2020 - from 21 NSP operating in 23 towns to 13 in 12 towns[[10]](#footnote-10). They provide services to about 2,500 clients (latest data from 2019[[11]](#footnote-11)).

Opioid substitution treatment is available in form of high-threshold programs (both outside and inside prison settings). Number of OST patients increased between 2005 and 2020 from 750 to 3170 clients[[12]](#footnote-12), but it still ensures that OST is available to only one-fifth of those in need.

The country lacks gender-sensitive harm reduction or health services at scale.

There are also no drug consumption rooms in Poland (with the obligation to comply with the UN drug control treaties used in the past by the decision makers as an argument against opening and operating such facilities).

1. Punitive drug law that criminalises drugs possession

Despite the fact that worldwide criminalisation has proven ineffective and having numerus negative consequences, including for public health and HIV epidemic, and that the UN has encouraged member states to seek alternatives to punishment[[13]](#footnote-13), Poland’s drug law remains one of the most restrictive models in Europe. It is defined by the Act on Counteracting Drug Dependence, under which possession of drugs (even small quantities for personal use) is a criminal offence punishable by up to 3 years of imprisonment. Each year, law enforcement arrests around 30,000 persons on suspicion of drug possession alone.

While few of those arrested are immediately sentences to prison, those who develop problem drug use and are repeatedly stopped by the police, are at greater risk of being sent to prison, where harm reduction services such as needle and syringe exchange programs do not exist.

But even if unlikely to face jail time - research shows - people who are stigmatized, marginalized, and perceived as criminals are less likely to seek professional help and medical treatment. They tend to avoid harm reduction services or medical facilities for fear of police harassment, arrest, punishment, and also stigmatization. In Poland, 77,4% of respondents in a pilot study that aimed to estimate the prevalence of HIV and HCV infections among people who inject psychoactive substances in and around the capital city of Warsaw, reported having experienced sharing injecting equipment with another user(s)[[14]](#footnote-14). These percentages vary from one report to another, depending on the geographical area they cover and the profile of survey respondents, but there is nevertheless a justified reason to argue that criminalisation of drug possession in Poland, combined with insufficient harm reduction coverage, results in people who inject drugs being exposed, at least occasionally, to greater risk of contracting blood-borne diseases and overdosing.

1. Access to HIV treatment

According to the Global AIDS Strategy 2021-2026, *the gaps in HIV responses and resulting HIV infections and AIDS-related deaths lie upon fault lines of inequality[[15]](#footnote-15)*. Although HIV/AIDS treatment in Poland is declaratively available and refundable to anyone in need, anecdotal evidence provides examples of difficulties in obtaining medication by people who openly admit to regularly injecting psychoactive substances or by those deprived of liberty.

In 2017, the National Institute of Public Health - National Institute of Hygiene, commissioned by the National Bureau for Drug Prevention (today the National Centre for Counteracting Addictions), conducted a research among people who inject drugs. The results of this study showed that 18.5% of respondents had HIV antibodies[[16]](#footnote-16), and thus required appropriate care and treatment.

However, as reported by NGOs involved in harm reduction, outreach work, and running drop-in community centres - people who inject psychoactive substances or struggle with problem drug use claim they have difficulties accessing treatment. For example, they are placed at the end of waiting lists for medical consultations or are disqualified from treatment because of active substance use. According to respondents to an assessment conducted in five of Poland’s largest cities, *this is because doctors do not trust drug users and are afraid that one day they may simply not show up for treatment, which would entail the need to return the money received from the National Health Fund[[17]](#footnote-17).*

Moreover, recently there has been a case reported of a person, who died of AIDS while serving a prison sentence[[18]](#footnote-18). Although the data collected by the Helsinki Foundation for Human Rights, during the mapping of the situation related to infectious diseases in prisons in Poland in 2015, indicated that the number of prisoners using antiretroviral therapy was increasing and every prisoner living with HIV had access to antiretroviral treatment, in this particular case the client, despite repeated requests to provide him with adequate medical care, did not receive HIV treatment in any of the penitentiary units where he served his sentence[[19]](#footnote-19). The case is still being investigated by the court, but if confirmed, it will be a very disturbing sign.

Therefore, the HFHR urges the High Commissioner to recommend in the upcoming report that States:

* remove all sanctions for drug use and possession and seek alternatives to punitive drug polices;
* base their HIV/AIDS strategies on human rights, scientific evidence and reliable data;
* invest in increasing coverage and diversifying the range of harm reduction measures;
* ensure equal access to HIV prevention and treatment for all key populations;
* and actively combat stigma and discrimination against people who use psychoactive substances.
1. See: <https://aids.gov.pl/czy_wiesz_ze-21/> (National AIDS Centre). [↑](#footnote-ref-1)
2. See: <http://wwwold.pzh.gov.pl/oldpage/epimeld/hiv_aids/index.htm> (National Institute of Public Health – National Institute of Hygiene) – data from 2020. [↑](#footnote-ref-2)
3. See: [http://wwwold.pzh.gov.pl/oldpage/epimeld/hiv\_aids/main.htm#Ryc\_2](http://wwwold.pzh.gov.pl/oldpage/epimeld/hiv_aids/main.htm%22%20%5Cl%20%22Ryc_2) (National Institute of Public Health – National Institute of Hygiene). [↑](#footnote-ref-3)
4. See: <http://wwwold.pzh.gov.pl/oldpage/epimeld/hiv_aids/index.htm> (National Institute of Public Health – National Institute of Hygiene) – data from 2020. [↑](#footnote-ref-4)
5. Out of 26,383 new HIV cases in total between 1985 and 2020. [↑](#footnote-ref-5)
6. See: <http://wwwold.pzh.gov.pl/oldpage/epimeld/hiv_aids/index.htm> (National Institute of Public Health – National Institute of Hygiene) – data from 2020. [↑](#footnote-ref-6)
7. National Bureau for Drug Prevention „Raport o stanie narkomanii w Polsce 2020” (Annual National Report 2020), p. 22; or European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), Statistical Bulletin 2021, <https://www.emcdda.europa.eu/data/stats2021/pdu_en>. [↑](#footnote-ref-7)
8. Annual National Report 2020, op. cit., p. 23. [↑](#footnote-ref-8)
9. Global AIDS Strategy 2021-2026. Executive Summary, p. 10, <https://www.unaids.org/sites/default/files/media_asset/global-AIDS-strategy-2021-2026-summary_en.pdf>. [↑](#footnote-ref-9)
10. Annual National Report 2020, op. cit., p. 21. [↑](#footnote-ref-10)
11. Ibid., p. 38; or EMCDDA, Statistical Bulletin 2021, <https://www.emcdda.europa.eu/data/stats2021/hsr_en>. [↑](#footnote-ref-11)
12. Ibid., p. 34. [↑](#footnote-ref-12)
13. For example, in the UN system Common Position on drugs. [↑](#footnote-ref-13)
14. „Iniekcyjni użytkownicy substancji psychoaktywnych. Identyfikacja problemów i potrzeb na przykładzie pięciu polskich miast: Warszawa, Kraków, Gdańsk, Poznań i Lublin. Raport końcowy” (People who inject psychoactive substances. Identification of problems and needs on the example of five Polish cities: Warsaw, Cracow, Gdansk, Poznań and Lublin. Final Report), Warsaw 2015, p. 7. [↑](#footnote-ref-14)
15. Global AIDS Strategy 2021-2026. Executive Summary, p. 11, <https://www.unaids.org/sites/default/files/media_asset/global-AIDS-strategy-2021-2026-summary_en.pdf>. [↑](#footnote-ref-15)
16. Annual National Report 2020, op. cit., p. 21 [↑](#footnote-ref-16)
17. People who inject psychoactive substances. Identification of problems and needs…, op. cit., p. 18. [↑](#footnote-ref-17)
18. See: [https://wyborcza.pl/duzyformat/7,127290,28049245,no-i-widzi-mama-dalem-sie-zlapac.html](https://wyborcza.pl/duzyformat/7%2C127290%2C28049245%2Cno-i-widzi-mama-dalem-sie-zlapac.html) [↑](#footnote-ref-18)
19. As reported by his relatives and social workers, who visited him several times during his imprisonment. [↑](#footnote-ref-19)