RESPONSE OF THE CROATIAN AUTHORITIES ON THE QUESTIONNAIRE OF THE CHAIRMAN OF THE UN WORKING GROUP ON ARBITRARY DETENTION

1. Please provide information concerning the number of people held in pre-trial detention as well as the number of those who are imprisoned pursuant to a conviction for drug-related-offences. Please indicate what percentage of the total pre-trial detention population are being held for drug-related offences. Please identify the percentage of the total prison population who have been convicted and imprisoned for drug-related offences. For those convicted of drug-related-offences, what percentage of this group have been imprisoned for acquisition, use or possession of drugs for personal use? How many people convicted of drug use belong to disadvantaged groups (e.g. women, pregnant women, children and youth, indigenous people, sex workers, lesbian, gay, bisexual, transgender (LGBT) persons, homeless people, people with HIV/AIDS, person with disabilities, ethnic minorities, migrant communities ?

With the entry into force of the new Criminal Code on 1 January 2013, the criminal offense of drug possession without the intention of placing it on the market was decriminalized and such conduct only remained sanctioned as an offense under the Anti-Drug Abuse Act. Consequently, all criminal offenses related to drug abuse relate to the unauthorized production and trafficking of drugs and enabling the consumption of drugs.

Regarding the information about the number of detainees in pre-trial detention and the number of prisoners convicted of criminal offenses related to drug abuse, the Ministry of Justice has data for the year 2019. Please, note that addicted prisoners commit various criminal offenses, not just drug abuse offenses, and that non-drug addicts also commit drug abuse offenses.

Of the total number of prisoners convicted in criminal proceedings in 2019 (N = 4199), 14.67% (N = 616) were drug addicts, of whom 16.56% committed criminal offenses of drug abuse.

Among the persons who, in 2019, were in pre-trial detention (N = 5414), 8.92% were drug addicts (N = 464) of whom 10.34% were in pre-trial detention because of the criminal offenses of drug abuse.

Of the total number of prisoners in 2019, who were convicted in criminal proceedings (N = 4199), 5.02% committed criminal offenses of drug abuse. In regard of the total number of pre-trial detainees (N = 5414) in 2019, we do not have the information about the share of those who were in pre-trial detention for having committed the criminal offense of drug abuse.

Out of 106 juveniles who served a sentence of juvenile imprisonment or a correctional measure of being sent to a correctional facility in 2019, in 38 of them, i.e. 35.85%, drug addiction, drug abuse and/or disorders caused by the use of psychoactive substances (the above data do not include minors) were found. Regarding gender, the prison system is dominated by male prisoners (95.58%) compared to female prisoners (4.42%). This trend with regard to gender has been relatively stable over the years. As in the total prison population, males are also predominant among drug addicts (of all formal legal statuses) in 2019, with a share of 93.83%. In 2019, 41 female addicts (of all ages) were serving prison sentences.

We do not have information about the distribution of juveniles and prisoners by type of criminal offense.

No separate information is kept for other (vulnerable) groups of prisoners.

The information of the State Attorney's Office of the Republic of Croatia regarding criminal offenses related to drug abuse and prohibited substances in sports (criminal offenses against human health from Chapter XIX of the Criminal Code) is as follows:

In 2019, for the criminal offenses of drug abuse and items prohibited in sports under Chapter XIX. A total of 1,273 persons were reported to the Criminal Code, of which 976 adults (76.7%), 211 young adults (16.6%) and 86 minors (6.7%).

The following is an overview of the development of the number of criminal applications related to drug abuse and prohibited substances in sports for the period from 2015 to 2019, which shows that not only was the declining trend in the number of persons reported for criminal offenses of drug abuse and prohibited substances in sports halted in 2019, but that there was a total increase in the number of reported persons by 8.6%, of whom 8.1% adults, 7.6% young adults, and as much as 17.8% juvenile perpetrators.

Year	Adults	Young adults	Minors	Total
2015	1.145	190	91	1.426
2016.	1.227	232	91	1.550
2017	1.000	198	93	1.291
2018.	903	196	73	1.172
2019	976	211	86	1.273

In this regard, the number of reported persons in the total number of reported criminal natural persons of 35,912 increased, and 1,273 persons reported for the crimes in question, make 3.5% of the total number of criminals, including young adults and juveniles.

However, as in previous years, the number of filed criminal applications was relatively small, so that the increase by a total of 101 reported persons does infer a larger number of detected and reported cases, so in this regard we can say that the "dark figures of crime" concerning the abuse of drugs and prohibited substances in sports is still particularly large and significant.

Notably, in their reports for 2019, most municipal and county state attorney's offices point to the need for intensified investigative policing, mainly due to the lack of significant results of special evidentiary activities that in previous years led to the detection of these crimes and their perpetrators, especially from the scope of the Office for Combating Corruption and Organized Crime.

In this regard, in relation to the relatively small number of people reported for this type of crime in all these years, it is important to note that the technological development of the Internet communication devices has enabled evident abuse of the Internet for drug trafficking and the organization of its trafficking network, especially on the black Internet. market, as well as the payment for drugs in cryptocurrencies, as pointed out in the reports of municipal and county state attorney's offices, and in the European Drug Report, which necessarily indicates the need for much better technical equipment and education of police officers as investigating and detecting agents.

Furthermore, the relatively small number of reported persons, as stated in the same reports, is not unaffected by the fact that in the meantime they started growing marijuana indoors, which makes it much more difficult to detect its production as a special form of this crime.

Regarding the reported persons, as in previous years, the analysis of individual cases shows a constant in terms of the characteristics of the reported persons. These are mostly young men under the age of 40, and the perpetrators are mostly citizens of the Republic of Croatia, but in addition to them, there are also foreign citizens of the neighbouring countries that belong to the so-called Balkan Route, such as Bosnia and Herzegovina, Serbia, Montenegro, Albania and Kosovo, who transport large quantities of narcotics hidden in modified vehicles across border crossings, whereas the persons reported and arrested are mostly only the carriers, while smuggling organizers remain unknown.

In relation to the breakdown of reported criminal offenses, the most common form of criminal offenses related to drug abuse and prohibited substances in sports, as in previous years, is the criminal offense of unauthorized drug production and trafficking pursuant to Article 190 paragraph 2 of the Criminal Code (77.1%), in then forms such as possession for sale, offering for sale, mediation in sale and sale of marijuana and amphetamines (the so-called speed), and smaller quantities of cocaine. This is followed by the criminal offense of enabling the consumption of drugs pursuant to Article 191 of the Criminal Code (10.8%) and the criminal offense of unauthorized production and processing of drugs pusrsuant to Article 190, paragraph 1 of the Criminal Code (6.4%), and the criminal offense of unauthorized production and processing of drugs pursuant to Article 190, paragraph 3 of the Criminal Code, which due to the threatened punishment lies within the jurisdiction of the counties (4.2%).

The table below shows the breakdown of these crimes in 2019.

	Čl. 190./1	Čl. 190./2	Čl. 190./3	Čl. 190./4-6	Čl. 191	Čl. 191.a	Total
Adults	74	791	16	17	77	1	976
Young adults	2	148	23	1	37	-	211
Minors	5	43	14	-	24	-	86
Total	81	982	53	18	138	1	1.273

In 2019, a total of 1,412 reported persons were being processed for criminal offenses related to drug abuse and items prohibited in sports, of whom 139 from the previous period and 1,273 newly reported. By age, there were 1,311 reports against adults and young adults, of which 124 from the previous period and 1,187 new reports, 101 reports against minors, of which 15 from the earlier period and 86 new reports.

The following overview shows the data concerning the decisions made, which show that out of the total number of 1,412 processed criminal applications against adults, young adults and minors, there were 1,1261 resolved cases (89.3%), retaining from the previous years the large percentage of cases resolved.

	Odbačeno	Optuženo	Presuđeno	Od toga osuđujuće
Adults	62	911	646	592
Young adults	28	54	130	121
Minors	23	40	38	35
Total	113	1005	814	748

Regarding the number of rejections of criminal applications from the annual statistics, it follows that the percentage of rejected applications against young adults (13.6%) and minors (27.7%) is higher than among adults (6.4%). The reason is that in these age groups and often in minor forms of criminal offenses they perpetrate, the principle of opportunity is more often applied, so criminal applications are rejected or proceedings suspended, especially in the case of a first criminal application.

On the other hand, 965 adults and young adults were indicted: 114 persons (11.8%) were directly charged, 60 persons (6.2%) were charged with a criminal warrant, and 791 persons (82.0%) were indicted after the investigation.

Courts handed down 776 verdicts against adults and young adults, of which 713 were convictions (93%). 191 persons (26.8%) were sentenced to prison, while in 129 persons (18.1%) the prison term was replaced by community service. 369 persons (51.70%) received suspended sentence, 26 (3.6%) received juvenile sanctions for younger adults, and the rest involved 1 person (0.1%).

Against all verdicts passed for adults and young adults, 140 appeals were filed, of which 80 appeals were only related to the sentence, 16 appeals were related to the sentence and other reasons, and 44 appeals were filed for reasons other than the sentence. Thus, every 5.5th verdict was challenged on appeal, while every 7.4th conviction was challenged on appeal related to the sentence, which supports our assessment that the penal policy of the courts, in our estimation, is still too lenient.

The gains obtained by these criminal offenses that were confiscated from adults totalled HRK 1,281,743.5, and the gains confiscated from younger adults totatlled HRK 412,745.95.

3. Has your State decriminalized the acquisiton, use or possession of illegal drugs for personal use? If so, to what drugs does this apply and what are the amounts considered to be for personal use? What is the legislative or judicial basis for such decriminalization? If decriminalization

has not taken place, what penalties apply to the acquisition, use or possession of illegal drugs for personal use?

The Law Amending the Criminal Code (OG 144/12) adopted amendments concerning, among other things, the regulation of the possession of drugs for one's own needs, which decriminalized the possession of drugs for one's own needs, and it was prescribed as a misdemeanor in the Anti-Drug Abuse Act (OG 107/01, 87/02, 163/03, 141/04, 40/07, 149/09, 84/11, 80/13 and 39/19). The reasons for the amendments to the Criminal Code (OG 144/12) adopted are:

During the drafting and enactment of the Criminal Code, which entered into force on 1 January 2013, the Croatian public often debated the issue of regulating drug possession for its own needs, also prompted by the decisions of the European Court of Human Rights in Strasbourg in Maresti vs Croatia, and Tomasović vs Croatia. In those judgments, the Court pointed to a breach of the *ne bis in idem* principle and to a violation of Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms. Namely, until the enactment of the Law Amending the Criminal Code (OG 144/12), the practice had shown that certain behaviors were incriminated and punishable as both misdemeanors and criminal offenses. Thus, for example, the possession of drugs was prescribed as a criminal offense in Article 190, paragraph 1 of the Criminal Code, and again as a misdemeanor in Article 54, paragraph 1, item 1 of the Anti-Drug Abuse Act (OG 107/2001, 87/2002, 163/2003, 141/2004, 40/2007 and 149/2009). Such double incrimination was contrary to the principle of *ne bis in idem*, and in order to strengthen legal certainty and avoid different interpretations of the law in relation to this matter, the Law Amending the Criminal Code was drafted in which the possession of drugs for personal use was deleted as a criminal offense. In addition, there were a number of arguments for retaining only misdemeanor and not criminal liability for the possession of drugs for one's own needs. Notably, the criminal prosecution in the Republic of Croatia of the possession of even the smallest amount of drugs for one's own needs was not in accordance with the European criteria in that area. The comparative review of the criminal legislation of the European Union also showed a trend towards misdemeanor liability for the possession of drugs for one's own needs. It should also be noted that the Council Framework Decision 2004/757/JHA of 25 October 2004 stipulates that it is for national legislations to decide how to regulate and penalize possession for one's own needs (misdemeanor or criminal liability), without prejudice to either view. The misdemeanor procedure is more flexible in its nature, the conviction itself is less stigmatizing (addicts or occasional drug users are not registered with criminal records, which could have adverse effect for them when seeking their place in society, finding a job, etc.), and the rehabilitation of offenders is facilitated. This approach has led to a significant relief in the criminal justice system and savings in resources that could, among other things, be redirected to treating addicts and helping families fight this grave evil.

It is particularly noteworthy that retaining the possession of drugs for one's own needs only in misdemeanor legislation does not affect other forms of this criminal offense in terms of criminal prosecution, and in the criminal sphere all other, more serious modalities (production, processing, transfer, import, export, unauthorized offering for sale, resale, organizing resale, unauthorized cultivation, enabling use to another person, giving to a child or a person with severe mental disorders) still remain punishable.

The possession of drugs for personal use refers to the drugs included in the List of Drugs published in the Official Gazette of the Republic of Croatia.

5. Does your State differentiate in its criminal procedures for persons alleged to have committed drug-related offences compared to those who have been arrested for other types of criminal offences? For example, are persons arrested for drug-related offences held in custody longer than persons arrested for other offences before being charged or before being brought before a judge to determinate the legality of their arrest? Are persons charged with drug-related offences automatically held in pre-trial detention until trial? Is legal aid avaliable for persons charged with drug-related offences in similar circumstances to which it would be avaliable for other criminal offences? Does your State allow persons convicted of drug-related offences to be considered for suspended sentence, sentence reduction, parole, release on compassionate grounds, pardon or amnesty that are avaliable to those who are convicted of other crimes? Are legal presumptions used so that persons found with amounts of drugs above specified thresholds, or in possession of keys to a building or vehicle where drugs are found, are presumed to have committed an offence?

The Law on Criminal Procedure (OG 152/08, 76/09, 80/11, 91/12 - Decision and Order of the USRH, 143/12, 56/13, 145/13, 152/14, 70/17 and 126/19-hereinafter the LCP) establishes as the basic principle of the criminal procedure the rules to ensure that no innocent person is convicted and that the perpetrator receives the sentence or other sanction under the conditions provided by law and on the basis of lawful proceedings before a competent court. This Law applies equally to all detainees, suspects and accused persons in criminal proceedings.

The grounds for ordering pre-trial detention are prescribed in Article 123 of the LCP. Thus, pre-trial detention may be ordered when there is justifiable suspicion that a person has committed a criminal offense (regardless of the criminal offense in question) and when any of the following circumstances exist:

1) the person is on the run, or special circumstances indicate the danger of fleeing (the person is hiding, his/her identity cannot be established, etc.),

2) special circumstances indicate the danger that the person will destroy, hide, alter or falsify evidence or traces important for the criminal proceedings or the person they will interfere with the criminal proceedings by influencing witnesses, experts, participants or concealers,

3) special circumstances indicate the danger that the person will repeat the criminal offense or that the person will complete the attempted criminal offense or commit a more serious criminal offense for which the law stipulates a prison sentence of five years or more severe punishment,

4) pre-trial detention is necessary for the smooth conduct of proceedings for a criminal offense punishable with long-term imprisonment and in which the circumstances of the commission of the criminal offense are particularly grave,

5) the accused who has been duly summoned avoids coming to the hearing.

Pre-trial detention is determined and extended by a written decision of the competent court (Article 124, paragraph 1 of the LCP), and its duration is determined by Article 133 of the LCP. Until the judgment of the court of first instance has been rendered, the maximum duration of pre-trial detention (Article 133, paragraph 1) is:

1) two months if the criminal offense is punishable by imprisonment for up to one year,

2) three months if the criminal offense is punishable by imprisonment for up to three years,

3) six months if the criminal offense is punishable by imprisonment for up to five years,

4) twelve months if the criminal offense is punishable by imprisonment for up to eight years,

5) two years if the criminal offense is punishable for more than eight years,

6) three years if a criminal offense is punishable by long-term imprisonment.

For the criminal offense referred to in Article 190 (unauthorized drug production and trafficking) of the Criminal Code, imprisonment is prescribed as follows (Article 190, paragraph 1 - six months to five years; paragraph 2 - one to twelve years; paragraph 3 - three to fifteen years; paragraph 4 - minimum three years; paragraph 5 –minimum five years; paragraph 6 - six months to five years).

The criminal offense referred to in Article 190 (unauthorized drug production and trafficking) of the Criminal Code may be committed as part of a criminal association (Article 329), in which case the same shall pursuant to Article 21 of the Office for Combatting Corruption and Organized Crime (OG 76/09, 116/10, 145/10, 57/11, 136/12, 148/13, 70/17) fall under the jurisdiction of the specialized prosecutor's office. In the latter case, if the investigation is extended, the total duration of the pre-trial detention referred to in Article 133, paragraph 1, of the LCP, shall be extended by the period for which the investigation was extended.

In cases where a non-final verdict has been rendered, the total duration of pre-trial detention until the verdict becomes final shall be extended by one sixth in the cases referred to in Article 133, paragraph 1, items 1 to 4 of the LCP, and by one quarter in the cases referred to in paragraph 1, items 5 and 6 of the same article (Article 133, paragraph 3 of the LCP).

When the verdict is revoked, and after the deadlines referred to in Article 133, paragraph 3, of the LCP have expired in the proceedings concerning criminal offenses referred to in Article 133, paragraph 1, items 1 and 2 of the LCP, the total duration of pre-trial detention referred to in Article 133, paragraphs 1 and 2 of the LCP shall be extended for further three months, for the criminal offenses referred to in paragraph 1 items 3 and 4 of the LCP for further six months, and for the criminal offenses referred to in paragraph 1 items 5 and 6 of the LCP for another year. If an appeal is permissible against the second-instance verdict, the total duration of the pre-trial detention referred to in Article 133, paragraphs 1 and 3 of this Article, shall be extended for another six months.

Article 65, paragraph 1, of the LCP stipulates that the accused (regardless of the criminal offense in question) may have a defense counsel before and during the entire criminal proceedings and the proceedings on extraordinary legal remedies in accordance with the LCP, as well as in procedure for the execution of the sentence, warning measures or safety measures in accordance with special regulations. Immediately upon arrest or another action envisaged in the LCP, the accused must be instructed that (s)he has the right to take a counsel and that the counsel may be present at his/her interrogation. The accused who declares that (s)he does not

want to take a defense counsel, shall be familiarized by the authority conducting the criminal proceedings in a simple and understandable way with the meaning of his/her right to a defense counsel and the consequences of waiving this right. If the accused persists in not taking a defense counsel, the proceedings may be continued, unless the accused is required by law to have a defense counsel.

Article 66 of the LCP prescribes cases of obligatory defense. Thus the accused must have a defense counsel if (s)he is:

1) dumb, deaf, blind, deafblind or incapable of defending himself/herself, from the first interrogation to the final completion of the criminal proceedings,

2) if the proceedings are conducted concerning a criminal offense within the jurisdiction of a county court, from the first interrogation or decision on conducting an investigation to the final completion of the criminal proceedings, and in criminal offenses punishable by long-term imprisonment also for the proceedings pursuant to extraordinary legal remedies,

3) from the issuance of the decision ordering custody or pre-trial detention against him/her,

4) in the criminal proceedings initiated ex officio, if (s)he has been deprived of liberty or is serving a prison sentence in another case,

5) at the time of delivery of the indictment for a criminal offense punishable by imprisonment of ten years or more, until the final conclusion of the proceedings,

6) from the issuance of the decision on a trial *in absentia* (Article 402, paragraphs 3 and 4), for as long as (s)he is absent,

7) during a hearing held in the absence of the accused (Article 404, paragraphs 2 and 3),

8) if (s)he was left without a defense counsel because a counsel was denied, through a decision, the right to action or representation,

9) from the issuance of the decision on conducting an investigation in the proceedings against an accused with mental disorder,

10) during negotiations on the conditions of admission of guilt, agreement on punishment and other measures referred to in Article 360, paragraph 4, item 3 of this Act and the signing of a statement for passing a verdict on the basis of an agreement,

11) in other cases prescribed by this Law.

If the court finds that the actions of the accused or the defense counsel delay the criminal proceedings, an *ex officio* defense counsel will be appointed, too, for further course of the proceedings until the judgment becomes final.

In case of obligatory defense, the accused will be assigned a defense counsel *ex officio*, if (s)he has no defense counsel of his/her own choice or if (s)he has not previously been assigned a

defense counsel at the expense of budget funds or if (s)he was left without a defense counsel during the proceedings and does not take another defense counsel.

When the defense is not obligatory, the accused will, at his/her own request and upon receipt of a decision on conducting an investigation or a notification of establishing evidence referred to in Article 213, paragraph 2 of the LCP, or after the indictment under Article 341, paragraph 3 of the LCP, be assigned a defense counsel atthe expense of the budget until the final completion of the criminal proceedings, if the accused makes it plausible that according to his/her financial situation (s)he cannot cover the costs of defense without jeopardizing his/her own support and the maintenance of his/her family or persons (s)he is legally obliged to support, and the complexity, grave character or special cricumstances of the case justify it (Article 72, paragraph 1, of the LCP).

Article 72 a of the LCP introduces a new institute called temporary legal aid for war veterans at the expense of budgetary funds, transposing Directive 2016/1919/EU. Pursuant to Article 72a, paragraphs 1 and 2 of the LCP, temporary legal aid is granted to a detainee from the moment of the arrest, and to a suspect when undertaking certain actions in which (s)he participates. The basic presumption, prescribed in paragraphs 1 and 2, as well as in paragraph 5 of Article 72a of the LCP, for obtaining temporary legal aid from a defense counsel at the expense of budgetary funds is the statement of a detainee or a suspect that (s)he cannot cover defense costs without endangering his/her own subsistence and the subsistence of his/her family or persons (s)he is obliged by law to support. This means that it only takes a statement by the detainee or suspect that (s)he does not have sufficient funds to cover the costs of defense, and the statement of his/her desire to exercise this right, to make a sufficient basis for granting temporary legal aid by a defense counsel at the expense of budgetary funds without prior verification of his/her financial situation and submission of proof to this end. An additional criterion is introduced in case of recognizing the right to temporary legal aid to a suspect, because this right is recognized in the proceedings concerning criminal offenses punishable by imprisonment of more than five years, when the defense is not obligatory. Pursuant to paragraph 4 of Article 72a of the LCP, the detainee shall be informed about his/her right to temporary legal aid by a defense counsel at the expense of budgetary funds upon his(her arrest or as soon as possible after the arrest, and a suspect shall be informed accordingly when the action in which he participates is undertaken, with the warning that (s)he will subsequently be - wholly or partly – required to cover the expenses of temporary legal aid, if in the later course of the proceedings it is established that, in view of his financial situation, he is able to cover the costs of defense.

Article 59 of the Criminal Code prescribes release on parole, which under the conditions prescribed by law may be applied to a person convicted of any criminal offense. Thus, the court may release a convict from prison if (s)he has served at least one half of the sentence, but not less than three months, if (s)he is reasonably expected not to commit a criminal offense, and if (s)he agrees to it. When deciding on the application, the court will assess the convict's personality, his/her previous life and criminal record, whether another criminal proceeding is underway against him/her, his/her attitude towards the committed crime and the victim, his/her behavior while serving the prison sentence, the success of the prison program, whether his/her behavior changed after the commission of the criminal offense or it is expected to change as a result of the application of the monitoring measures during his/her parole release, as well as general circumstances of life and his/her readiness to engage in life at large.

The court may issue a suspended sentence from Article 56 of the Criminal Code for a perpetrator sentenced to imprisonment of up to one year or a fine, when it finds that the perpetrator will not commit criminal offenses in the future even without serving the sentence. The perpetrator's personality, his/her previous life, especially if (s)he was previously convicted, family circumstances, circumstances of the crime and behavior after the crime will be taken into account, especially the perpetrator's attitude towards the victim and the effort to repair the damage. This alternative punishment is a general institute which, in accordance with Article 6 of the Criminal Code, applies to any criminal offense prescribed in the Criminal Code and other laws.

7. Does your State operate compulsory drug treatment centers? If so, what is the legislative basis for such deprivation of liberty? What procedures exist to ensure procedural guarantees are respected prior to confinement in such centres, including whether the detainee has the right to be represented by legal counsel and the right to appeal the decision on compulsory treatment. Is there a medical evaluation of the persons's drug dependency prior to confinement? Is treatment in such centres individualized (as opposed to en masse treatment), evidence-based and in conformity with generally accepted medical practices for drug treatment as articulated by World Health Organization (WHO). Is a person detained in such a facility for a specific amount of time, or indefinitely until treatment has been determined to be successful? Can a person, or by way of his or her representative, or a family member, file a petition either with an administrative or criminal court for a hearing on his or her release while detained?

Article 69 of the Criminal Code prescribes the security measure of compulsory treatment for addiction. The court will order this security measure in the criminal proceedings in regard of a perpetrator who committed a criminal offense under the decisive influence of alcohol, drug or other addiction, if there is a danger that due to the addiction (s)he will commit a more serious criminal offense in the future. This measure may be imposed concurrently with a fine, imprisonment and alternative sentences (community service referred to in Article 55 of the Criminal Code, and a suspended sentence pursuant to Article 56 of the Criminal Code). The measure imposed in addition to imprisonment shall be carried out within the prison system or in a medical or other specialized institution for the treatment of addiction outside the prison system under the conditions determined by a special regulation. A measure imposed in addition to a fine, community service and suspended sentence shall be carried out in a medical or other specialized institution for the elimination of addiction outside the prison system, and may, under the conditions specified in a special regulation, be carried out in a therapeutic community if such a rehabilitation is sufficient to eliminate the danger. The measure is to be carried out under the supervision of the probation authority when it is imposed with a fine, community service and a suspended sentence.

The security measure of compulsory treatment for addiction may last until the cessation of imprisonment or community service, the expiry of the probation period, or until the expiry of the term of imprisonment corresponding to the fine imposed, but not longer than three years. However, the enforcement judge shall suspend the execution of the measure if the reasons for which it was imposed have ceased to exist or if its previous and further implementation is hopeless. While this measures lasts, the enforcement judge must, at least every six months counting from the subjection of the perpetrator to the measure, review whether there are conditions for its continuation and issue a decision in this regard.

In misdemeanor proceedings, the court may, in accordance with Article 53 of the Misdemeanor Act (OG 107/07, 39/13, 157/13, 110/15, 70/17 118/18-hereinafter: Misdemeanor Act), impose

a protective measure of compulsory treatment for addiction lasting from one month to one year if the offense was committed under the decisive influence of alcohol, drug or other addiction if there is a danger that due to that addiction (s)he will commit the offense in the future.

13. Does your State provide for the involuntary detention of pregnant women who use drugs in circumstances where such drug use has been deemed to constitute a danger to the foetus, and where voluntary attempts by health professional to work with the pregnant woman have failed? Please describe the legislative basis and applicable procedural guarantees in case of such an involuntary detention.

If the inquiry concerns an accused female, and there are circumstances from Article 123, paragraph 1, items 1 to 4 of the LCP (see the answer to question no. 5), the court may order pre-trial detention at home against a pregnant woman (Article 119 paragraph 1 of the LCP). The provisions on pre-trial detention shall apply accordingly to pre-trial detention at home, unless otherwise provided in the LCP (Article 120 of the LCP - see the answer to question no. 5).

If the addiction has led to a severe mental disorder, due to which the person seriously and directly endangers his/her own or someone else's life, health or safety, please see the provisions of the Law on Protection of Persons with Mental Disorders (OG 76/14, hereinafter: LPPMD) as follows:

The LPPMD prescribes the procedure of involuntary placement of a person with severe mental disorders in a psychiatric institution on the basis of a court decision. For the purposes of the LPPMD, mental disorder is defined as a disorder according to valid internationally recognized classifications of mental disorders, while severe mental disorder is a mental disorder that by its nature or intensity limits or impairs a person's mental functions to the extent that (s)he needs psychiatric help (Article 3 LPPMD). A person with severe mental disorders who due to these disorders seriously and directly endangers his/her own or someone else's life, health or safety, will be placed in a psychiatric institution following the procedure for involuntary detention and involuntary placement (Article 27 of the LPPMD). Such a person shall be admitted to a psychiatric institution on the basis of a referral from a doctor who has personally examined that person and written a prescribed document about that examination, in which the reasons why the doctor of medicine proposes involuntary placement must be explained.

A person shall be admitted to a psychiatric institution without a referral from a doctor of medicine in particularly urgent cases of serious and direct endangerment of his/her own or another's life, health or safety. The psychiatrist who receives the person is obliged to determine without delay, and no later than within 48 hours of admission, whether there are reasons for involuntary detention pursuant to Article 27 of the LPPMD and to inform the admitted person of his/her rights, including the right to choose a lawyer. If the psychiatrist determines that there are no grounds for involuntary detention, the admitted person will be discharged from the psychiatric institution. If the psychiatrist determines that there are reasons for involuntary detention, the admitted person will be kept in a psychiatric institution, and the decision on involuntary detention with an explanation will be entered in the medical documentation. The psychiatric institution in which a person is involuntarily detained is obliged to submit a notice of involuntary detention together with medical documentation to the competent county court without delay, but no later than 12 hours after the decision on involuntary detention has been

made. In the court proceedings prescribed in the LPPMD, a person with mental disabilities must have a lawyer. If such a person, a person of trust or a legal representative does not choose a layer, the court will appoint a lawyer *ex officio*.

In the procedure of involuntary placement in a psychiatric institution, a single judge of the competent court shall decide. The procedure in which the court decides on involuntary placement is a non-contentious procedure, and the public is excluded. When the competent court receives the notification of involuntary detention, it shall immediately issue a decision on initiating the proceedings *ex officio* and appoint a counsel to the involuntarily detained person if that person, a person of trust or a legal representative has not already chosen the counsel. The judge is obliged to visit the forcibly detained person in a psychiatric institution without delay, and no later than within 72 hours from the moment of receiving the notification of involuntary detention, to inform him/her of the reason and purpose of the court proceedings and to hear him/her. The judge will inspect the medical records and hear the head of the psychiatric institution. The head of the wardis obliged to ensure that the involuntarily detained person, if possible in view of his/her state of health, is not under medical treatment that would make it impossible for such a person to be heard. The counsel of the involuntarily detained person is obliged to attend judge's visit and hearing. The hearing may be attended by a psychiatrist from the list of permanent court experts who is not employed with the psychiatric institution in which the involuntarily detained person is placed, in which case the judge will also hear the expert concerning the need to continue the involuntary detention or to release the detainee. If, after the hearing, the judge concludes that there are no preconditions for involuntary placement referred to in Article 27 of the LPPMD, the judge shall without delay issue a decision ordering the release of the involuntarily detained person from the psychiatric institution. If the judge concludes that there are preconditions for involuntary placement, it shall without delay issue a decision on the continuation of the involuntary detention and schedule a an oral hearing. Involuntary detention of a person without a court order ordering involuntary placement, may last for a maximum of eight days from the moment of the decision on involuntary detention in a psychiatric institution.

An involuntarily detained person, a legal representative, a lawyer, the head of the ward and, if necessary, a person of trust and a social welfare center shall be invited to an oral hearing. A hearing cannot be held without the legal counsel and the head of ward. For an oral hearing, the court may, and at the substantiated request of the involuntarily detained person or his/her legal counsel it must, obtain the written finding and report of one of the psychiatric experts who is not employed with the psychiatric institution in which the involuntarily detained person is placed, on whether there are serious mental disorders in the detainee due to which such a person seriously and directly endangers his/her own or another persons' life, health or safety. The psychiatric expert shall submit his/her finding and report in writing to the court at least 24 hours before the oral hearing, after personally examining the involuntarily detained person. The head of the ward is obliged to ensure that the involuntarily detained person, if possible in view of his/her state of health, is not under medical treatment which would prevent his/her participation in the oral hearing. Exceptionally, an oral hearing may be held without the involuntarily detained person, if his/her health condition prevents him/her from participating in the oral hearing. The hearing shall be held in the psychiatric institution where the person is involuntarily detained. Exceptionally, for particularly justified reasons, the hearing may be held in court, if the head of the ward agrees.

Immediately after the conclusion of the oral hearing, the court shall issue a decision on involuntary placement in a psychiatric institution or discharge from a psychiatric institution. In the decision on involuntary placement, the court shall order involuntary placement for up to 30 days, counting from the day when the psychiatrist made the decision on involuntary detention of a person with mental disorders. If the psychiatric institution determines that the involuntarily placed person should remain involuntarily placed even after the expiration of the involuntary placement specified in the court decision, it is obliged to propose to the court a decision on the extension of involuntary placement no later than seven days before the expiration of that period. The decision on the extension of involuntary placement shall be made by the court in the same procedure as the initial decision on involuntary placement. Through a decision, the court may extend the involuntary placement of a person in a psychiatric institution for a period of up to three months from the date of expiration of the time determined in the initial decision on involuntary placement. Any further involuntary placement may be extended by a court decision for a period of up to six months.

An appeal to the competent county court may be lodged against a decision ordering involuntary placement, a decision ordering the extension of involuntary placement and a decision ordering the release of an involuntarily detained or placed person. The appeal shall be filed within three days from the day of delivery of the decision, and it shall be decided on by a panel of the competent county court composed of three judges. The appellate court is obliged to decide on the appeal within eight days from the day of receipt of the appeal.

14. Does your State provide drug treatment to people in custodial or pre-trial detention, or who have been imprisoned following a conviction? Do these drug treatment services include harm reduction services? Please describe what types of drug treatment and harm reducttion services are available to detainees and imprisoned people. Please also indicate if such services are avaliable to those in administrative detention such as undocumented migrants or those subject to a deportation order. If no such services are avaliable, does this result in forced confessions or people not being able to participate in their defence?

All addicts in pre-trial detention and serving prison sentences have access to health care interventions and short psychosocial interventions, and a set of interventions and programs in the field of psychosocial treatment and general rehabilitation procedures is available to inmates serving prison sentences but not to pre-trial detaineess (inter alia due to the presumption of innocence and the shortness of stay in detention i.e. the uncertain length of stay in prison, which makes it impossible to plan a treatment). The Guidelines for the Pharmacotherapy of Opiate Addicts with Methadone and the Guidelines for the Pharmacotherapy of Opiate Addicts with Buprenorphine are applied in the treatment of drug addicts in the prison system, while the psychosocial treatment of drug addicts in the prison system is organized in accordance with the Guidelines for Psychosocial Treatment of Drug Addicts in the Health Care, Social and Prison Systems.

The tretment of drug addicts (medical and psychosocial treatment) in penal facilities includes a comprehensive approach that includes the following elements:

- Education in addiction and substance abuse – available to all categories of persons serving time;

• Reduction in harmful effects of drug and alcohol abuse (conselling with a view to damage control; healthcare for improving the overall health status and treatment of risk conditions of addicted inmates (hepatitis B and C, HIV/AIDS)) – available to all categories of persons serving time;

• Pharmacotherapy of opiate addicts with methadone and buprenorphine/naloxone (detoxification and maintenance) - available for all categories of persons deprived of liberty;

• Treatment of psychiatric comorbidities (psychiatric treatment and pharmacotherapy) - available to all categories of persons deprived of liberty;

• Abstinence controls - available to all categories of persons deprived of liberty;

• Contingency management - available to all categories of persons deprived of liberty;

• General treatment programs (involvement in work and work-occupation activities, organized leisure and training) and other programs and activities that encourage resocialization - available to all categories of persons deprived of liberty, but to a much greater extent to convicts serving prison sentences;

• Individual psychosocial treatment (interventions and methods in the field of psychosocial and socio-pedagogical treatment, in accordance with the professional competencies of officers of the penitentiary treatment department) - available to all categories of persons deprived of liberty, but to a much greater extent to convicts serving prison sentences;

• Psychosocial group treatment through the implementation of special treatment programs for addicts (modified therapeutic community based on the clubs for alcohol and drug addicts and structured programs of psychosocial treatment of addicts based on cognitive-behavioral approach, which include relapse prevention strategies - PORTOs program for drug addicts TALK program for alcohol addicts) - available only to prisoners serving prison sentences;

• Preparing post-penal admission and ensuring continuity of post-release treatment, in cooperation with probation, county mental health services, outpatient treatment and addiction prevention, and civil society organizations - available only to prisoners serving prison sentences.

Interventions, programs and methods to be applied in case of an addicted prisoner serving a prison sentence are determined through the process of diagnosis and assessment of criminogenic risks and treatment needs and become part of his/her individual prison sentence execution program.

These treatments include services in the field of drug abuse harm reduction policy. Services also include substitution therapy for opiate addicts, drugs for the treatment of drug-related infectious diseases, and psychopharmacotherapy for psychiatric comorbidities.

In accordance with the Guidelines for Drug Abuse Reduction Programs, the following activities are carried out in the prison system, available to all categories of persons deprived of liberty:

• Education and counseling aimed at reducing the health damage associated with drug use. It refers to the health risks of drug use and the prevention of infectious diseases, and education and counseling are provided by health professionals who provide health care services to prisoners.

• Providing health care in order to improve the general health of addicted prisoners. It includes the general rehabilitation of a health condition that has often been severely impaired in long-term addicts. The time spent in the penitentiary is often an opportunity to at least temporarily improve the health of addicts, given the protected conditions in which they find themselves, which relate to the unavailability of illegal drugs, regular meals, regular sleep patterns, health care and the like.

• Application of substitution therapy (methadone and combined buprenorphine-naloxone) with the aim of treatment, but also to reduce the harm associated with drug use, in accordance with existing guidelines for the use of substitution therapy. Stabilization and harm reduction are the primary goals for opiate addicts with problematic functioning with a lack of motivation and capacity for stable abstinence and insufficient social support.

• Testing for infectious diseases. Testing is carried out partly within the regular activities of the health care department of criminal authorities, and partly in cooperation with civil society organizations and county public health institutes (whereby testing is performed exclusively by the employees of the institute).

• Treatment of viral hepatitis is carried out within the prison system in cooperation with health care institutions and from the resources of health care institutions (hospitals).

• HIV/AIDS treatment; is provided at the "Dr. Fran Mihaljević" Clinic for Infectious Diseases; the preparatory procedure and referral for treatment is usually done within the Prison Hospital in Zagreb.

• Motivation to engage in treatment and rehabilitation: Addicted prisoners are always motivated to try to use the time spent in the penitentiary for treatment and/or psychosocial treatment aimed at rehabilitation.

In the prison system of the Republic of Croatia, indicators of availability of drugs in penal institutions and the incidence of drug abuse in prisons, penitentiaries and correctinal institutions are regularly monitored. These indicators refer to the number of searches of visitors and belongings, finding drugs in penal institutions and/or attempts to bring them in, finding syringes and needles for injecting drugs, regular and extraordinary urine tests, etc. In accordance with these indicators, as well as the results of operational activities of the security services in penal institutions, the Republic of Croatia cannot be placed among the countries where there is a problem with drug injection in penal institutions. Consequently, the introduction of a syringe and needle exchange program in Croatian prisons and penitentiaries is not considered necessary or justified.

15. Are juveniles (those under the age of 18) subject to arrest, detention and imprisonment for drug-related crimes? For crimes relating to the acquisition, use or possession for personal use of drugs? If so, are they detained or imprisoned in facilities for children in conflict with the law who are under 18, or are they detained or imprisoned in facilities for adults? Can such juveniles be subjected to compulsory drug treatment or treatment with the consent of their families/legal guardians?

A juvenile may be arrested and put in pre-trial detention for the criminal offenses of unauthorized drug production and trafficking (Article 190 of the Criminal Code) and enabling the consumption of drugs (Article 191 of the Criminal Code). Where there are conditions for

pre-trial detention, it shall be imposed on a juvenile only as a last resort, in proportion to the gravity of the offense and the expected sanction, for the shortest necessary duration and only if its purpose cannot be achieved by precautionary measures, temporary accommodation or pre-trial detention at home.

Pursuant to the Juvenile Courts Act (OG 84/11, 143/12, 148/13, 56/15 and 126/19), an arrested juvenile will be separated from adult detainees in the detention unit. A juvenile put in pre-trial detention will be placed in a closed facility. A juvenile who reaches the age of eighteen during pre-trial detention shall remain in the closed facility, if this is justified in view of the circumstances concerning the juvenile and if it is in the best interests of other juveniles placed with him. A juvenile prisoner put in pre-trial detention shall be accommodated separately from adults. During the placement in a closed facility, the juvenile should be enabled to work and receive instruction useful for his upbringing and occupation. The juvenile court judge is obliged to visit juveniles once a week in order to supervise the implementation of pre-trial detention, to receive oral and written complaints from them and to take the necessary measures to eliminate the identified irregularities.

Juvenile imprisonment may be imposed on an older juvenile (who at the time of the commission of the criminal offense is over the age of sixteen but not yet eighteen) for a criminal offense punishable with prison term of three years or more, when the nature and gravity of the offense and a high degree of guilt would not justify imposing a correctional measure, and punishment is necessary. For the criminal offenses referred to in Articles 190 and 191 of the Criminal Code, an older minor may be sentenced to juvenile imprisonment, given the envisaged punishment. Juvenile imprisonment may not be shorter than six months or longer than five years, and shall be imposed for full years and months. If the criminal offense is punishable by long-term imprisonment, or there is concurrrence of at least two criminal offenses punishable by a prison term of more than ten years, juvenile imprisonment may last up to ten years. The court may not impose juvenile imprisonment for a period longer than the sentence prescribed for the committed offense, but it is not obliged to impose the minimum prescribed measure of that sentence either.

A court may impose security measures on a juvenile in accordance with the provisions of the Criminal Code. The court shall impose a security measure of compulsory treatment for addiction on a perpetrator who has committed a criminal offense under the decisive influence of alcohol, drug or other addiction if there is a danger that (s)he will commit a more serious criminal offense in the future, and this measure may last max. three years.

The court shall impose one or more special obligations on the juvenile, if it assesses that it is necessary to influence the juvenile and his behavior by appropriate orders or prohibitions. The court may impose an obligation on the juvenile to undergo, with the consent of the juvenile's legal representative, a professional medical procedure or a procedure for rehabilitation from drugs or other addictions.

As stated, the possession of drugs without the intention of placing them on the market (personal use) constitutes a misdemeanour pursuant to Article 54 paragraph 1 sub-paragraph 1 of the Drug Abuse Act (OG 107/01, 87/02, 163/03, 141/04, 40/07, 149/09, 84/11, 80/13, 39/19). Pursuant to the Misdemeanor Act (OG 107/07, 39/13, 157/13, 110/15, 91/16, 70/17 and 118/18) a juvenile may be arrested for this misdemeanor and may be detained, under the conditions prescribed by law.

The older minor (a person who has reached the age of sixteen and has not reached the age of eighteen) as perpetrator of a misdemeanor may be sentenced to juvenile imprisonment for a misdemeanor for which the law prescribes imprisonment as more severe punishment, if the court finds it necessary considering the nature and gravity of the offense and the degree of guilt. For the misdemeanor referred to in Article 54 paragraph 1 sub-paragraph 1 of the Drug Abuse Act, considering the envisaged punishment, an older minor may be sentenced to juvenile imprisonment. A sentence of juvenile imprisonment shall be imposed within the framework of the prison sentence prescribed for a particular misdemeanor, and it may not be shorther than three days or longer than fifteendays. Before imposing a sentence of juvenile imprisonment, the court must first obtain the opinion of the competent social welfare center concerning the appropriateness of that sentence.

A person who committed a misdemeanor as a minor may be imposed a protective measure of compulsory treatment for addiction for one month to one year if (s)he committed the misdemeanor under the decisive influence of alcohol, drugs or other addiction, if there is a danger that due to such an addiction the person will commit a misdemeanour in the future. Also, the court may impose one or more special obligations on the minor if it assesses that their application will positively influence the minor and his behavior, and thus the court may, with the consent of the minor's legal representative, impose an obligation on the minor to go into rehabilitation from drugs and other addictions.