**Submission to the United Nations High Commissioner for Human Rights, May 2023**

**Submitting organisation**

**Helsinki Foundation for Human Rights**

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.

**Introduction**

We welcome the opportunity to provide this submission to the Office of the UN High Commissioner for Human Rights ahead of its report on human rights challenges in addressing the world drug situation.

In February 2022, we provided contribution to the report of the United Nations High Commissioner for Human Rights on human rights in the context of HIV and AIDS. Our submission focused primarily on people who use psychoactive substances in Poland and as such face stigma, discrimination, and other barriers to the full exercise of their human rights. With this current submission we would like to re-emphasize how serious and negative the consequences of criminalising drug possession are for those who use psychoactive substances in our country, and share five key recommendations on this matter.

**Findings**

1. Consequences of the punitive drug law, which criminalises drugs possession

Despite the fact that around the world criminalisation has proven ineffective and having numerus negative consequences, including for public health and human rights, and that the UN encourages member states to seek alternatives to punishment[[1]](#footnote-1), Poland’s drug law remains one of the most restrictive models in Europe. It is defined by the Act on Counteracting Drug Addiction, according to which possession of drugs (even small amounts for personal use) is a criminal offence punishable by up to 3 years imprisonment. We believe that this violates the principle of proportionality in sentencing and reinforces the stigmatization of people who use drugs.

Every year, Polish police officers arrest around 30,000 persons on suspicion of drug possession alone.[[2]](#footnote-2) While Poland is ethnically fairly homogenous and therefore we do not see police profiling contributing to racial injustice as it is in some other jurisdictions, it is clear that the police do not intervene with the same scrupulousness in every case of possible drug possession. Young men, especially in less affluent neighbourhoods or in the nightlife areas of the cities, are more likely to be stopped and searched by the police than other citizens. The vast majority of them are arrested for possession of small amounts of cannabis.

Interestingly, there are also visible differences in the way drug law is implemented in different regions of Poland. The data shows that prosecutors from western provinces are more eager to drop cases of possession of small amounts of drugs for personal use, while those from eastern provinces of the country rarely use the provision that exists in the Polish law and allows to discretionally dismiss the case if the quantity of drugs in possession is limited and intended for personal use only, therefore if the social harm is very small.[[3]](#footnote-3) Regional differences in the way the Act on Counteracting Drug Addiction is enforced violate the principle of equality of all before the law.

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

But even if they are 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 further stigmatization. This seems to be a valid concern. NGOs involved in harm reduction, outreach work, and running drop-in community centers in Poland report that persons who inject psychoactive substances or struggle with drug use disorders and decide to seek help, face difficulties accessing appropriate health care, including HIV 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 the survey conducted in five large Polish 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[[4]](#footnote-4).*

1. Limited access to harm reduction services

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 an effective method of HIV prevention (also protecting against other blood-borne diseases and fatal overdoses). Harm reduction has been acknowledged and recommended by OHCHR, UNODC, UNAIDS, and WHO. Access to the evidence-based, cost-effective and – most importantly – life saving harm reduction services is a fundamental form of exercising the right to the highest attainable standards of health for people who use psychoactive substances.

In Poland, the national drug policy and HIV prevention strategies include harm reduction measures, but in practice access to services remains scarce, and outside urban areas – non-existent.

According to the estimates of the National Bureau for Drug Prevention (recently replaced by the National Centre for Counteracting Addictions), approximately 15,000 people in Poland qualify as problem opioid users[[5]](#footnote-5). Presumably, this includes mainly people who inject opioids. But the total number of people who inject various psychoactive substances is undoubtedly significantly higher (as only 28% of clients of the needle and syringe exchange programs report using heroin[[6]](#footnote-6)).

As estimated by UNAIDS, the risk of acquiring HIV is 29 times higher among people who inject drugs[[7]](#footnote-7). Harm reduction services are life-saving interventions that reduce the vulnerability of this key population to blood-borne diseases as well as overdose.

In Poland, however, a decrease in the number of needle and syringe programs can be observed between 2002 and 2020 - from 21 NSP operating in 23 towns to 13 in 12 towns[[8]](#footnote-8). They provide services to about 2,500 clients (latest data from 2019[[9]](#footnote-9)).

Opioid substitution treatment is available both outside and inside prison. The number of OST patients increased from 750 in 2005 to 3453 clients in 2021[[10]](#footnote-10), but it still ensures that OST is only available to 20-25% of problem opioid users.

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

There are no drug consumption rooms in Poland.

Naloxone is not available outside of the institutionalized healthcare. There is no take-home or in-community distribution option.

In general, harm reduction in Poland lacks proper recognition and adequate funding.

**Recommendations**

In light of the above, we urge the UN High Commissioner for Human Rights to recommend in his report that Member States and stakeholders:

* decriminalise and remove all sanctions for drug use and possession and seek alternatives to punitive drug polices;
* ground their drug policies in human rights, scientific evidence and reliable data;
* invest in increasing coverage and diversifying the range of harm reduction measures;
* ensure equal access to prevention and treatment for all;
* and actively combat stigma and discrimination against people who use psychoactive substances.

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1. Among others, in the UN System Common Position Supporting the Implementation of the International Drug Control Policy Through Effective Inter-agency Collaboration. [↑](#footnote-ref-1)
2. EMCDDA Statistical Bulletin 2022 – drug law offences: <https://www.emcdda.europa.eu/data/stats2022/dlo_en> [↑](#footnote-ref-2)
3. Piotr Kładoczny, Krzysztof Krajewski, Agnieszka Sieniawska, Barbara Wilamowska „Karanie za posiadanie narkotyków. Ewaluacja stosowania art. 62a ustawy o przeciwdziałaniu narkomanii. Raport z projektu badawczego 2022” (‘Punishment for possession of drugs. Evaluation of the application of Art. 62a of the Act on counteracting drug addiction. Research project report 2022): <https://politykanarkotykowa.pl/wp-content/uploads/2022/09/ebook_karanie-za-posiadanie-2.pdf> [↑](#footnote-ref-3)
4. „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. 18. [↑](#footnote-ref-4)
5. 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-5)
6. Annual National Report 2020, op. cit., p. 23. [↑](#footnote-ref-6)
7. 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-7)
8. Annual National Report 2020, op. cit., p. 21. [↑](#footnote-ref-8)
9. Ibid., p. 38; or EMCDDA, Statistical Bulletin 2021, <https://www.emcdda.europa.eu/data/stats2021/hsr_en>. [↑](#footnote-ref-9)
10. Bogusława Bukowska „30 lat leczenia substytucyjnego w Polsce” (‘30 years of substitution treatment in Poland’), 14.11.2022; <https://www.narkomania.org.pl/czytelnia/30-lat-leczenia-substytucyjnego-w-polsce/> [↑](#footnote-ref-10)