



Joint Submission of Georgian Harm Reduction Network and Eurasian Harm Reduction Network to the Committee on Human Rights (under CCPR - International Covenant on Civil and Political Rights)
111 Session

For the Consideration of fourth periodic report of Georgia

Regrettably human rights violations continue to occur in the implementation of drug control policies by States. Violations of the right to life, the right to health, the prohibition of torture and other forms of ill treatment, the prohibition of arbitrary detention, the right to equality and non-discrimination, the rights of indigenous peoples and the rights of children are all sources of serious concern.¹

June 2014

¹ Statement of High Commissioner for Human Rights, High Level Segment of the Drug Policy Discussion at the UN Commission on Narcotic Drugs, 14 March, 2014

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1. Synopsis

It has been over a decade that Georgia joined UN drug conventions: Single Convention on Narcotic Drugs, 1961, Convention on Psychotropic Substances, 1971, United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.² It has been almost two decades since Georgia also joined International Covenant on Civil and Political Rights.

In practice these conventions are contained in number of laws and regulations in Georgia, including in the areas of criminal justice, drug policies and general human rights issues. While there has been no comprehensive research or comparison on the impact of drug policies on the rights and freedoms of people in Georgia, scarce data indicates number of international recommendations made to bring the laws and regulations of Georgia in line with international standards on human rights.

The country's drug laws focus on punishment, not treatment or prevention, something that may run afoul of its upcoming commitments to the European Union – has been recently stated by number of experts.³

Drug policies in Georgia have been one of the harshest in the entire region.⁴ 2006 was the year marked by president of the country making an announcement on zero tolerance for any crime. This statement was instantly materialized, number of laws and other sub-normative acts were adopted to make criminal justice system harsher among all of the Post-Soviet countries⁵. Recent data shows that since Georgia has made numerous substantial attempts to enact key anti-drug strategies in 2006, the governmental strategies have been oriented at policing, healthcare, treatment and rehabilitation at the declaratory level. In practice however this meant that all the moves were particularly active and determined to target the implementation of only policing methodologies resulting in hypertrophied criminal policies and unjustified restriction of drug users.⁶

Available research shows that legislative changes of the period of 2006-2007 have substantially worsened legal environment for people who use drugs.⁷ Research also indicates on the impact of drug policies on the rights of people revealed that all respondents (who were interviewed during the assessment) have been through the criminal justice systems at some points, though some of them have been to prisons for over 5-6 times. Almost all (99%) interviewees were on probation⁸ - is noted in the research.⁹

Georgian drug policies are directly linked with thousands of Georgian citizens criminalized for use of drugs as well as extorting money from drug users and their families in the form of plea bargaining. Data has shown that over 44 million GEL was collected from people who use drug between 2008 and 2009 while only 2 million was spent on their treatment and other rehabilitation services offered annually (mostly detox).¹⁰ Spending on treatment has increased up to 5 million as of 2014, though information on how much money is collected in the form of administrative and/or criminal fines became undisclosed.¹¹

Impact of drug policies on variety of human rights will be analysed in this report. Present alternative report aims to brief the members of the Human Rights Committee on how Georgian drug policies impede the implementation of civil and political rights enshrined in the ICCPR

² Levan Jorbenadze, Drug Policy, Georgia 'ნარკოპოლიტიკის საკანონმდებლო მიმოხილვა, ივლისი, 2012 წელი

³ <http://www.eurasianet.org/node/68434> accessed on 10 June 2014

⁴ <http://gcr.ge/sites/default/files/Exploring%20Illicit%20Drug%20Use%20in%20Prisons%20of%20Georgia.pdf>

⁵ <http://www.eurasianet.org/node/68434> accessed on 10 June 2014

⁶ Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia

⁷ Ibid

⁸ E. Iakobishvili, 'Assessment of Social and Economic Impact of Drug Policies on Injecting Drug Users in Georgia: A Qualitative Insight', Georgian Harm Reduction Network, September 2012

⁹ Ibid

¹⁰ Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia

¹¹ Ibid

and focus on number of human rights: Right to life (article 2) Discrimination (article 26), Right to Liberty and Security of Person (article 9), and Conditions of Detentions (article 10) of the ICCPR.

2. Drug policy and legal regulatory framework

Georgian drug policies are composed of number of national legislation adopted by the parliament of the country. Administrative Offences' Code¹², Criminal Code,¹³ Law on Combating Drug Crime, Law 'On Narcotic Drugs, Psychotropic Substances, Precursors and Narcological Aid'¹⁴ are the main legal tools for law enforcement while

Starting from 2006 Georgia announced zero tolerance towards various types of crimes, including drug related crimes. Despite the fact that criminalization of illegal consumption of drugs is not required under UN drug control conventions, according to Georgian legislation illegal drug consumption is punished by administrative and criminal penalties. The drug related administrative and criminal legislation is very stringent in Georgia, illegal consumption of drugs is punishable by an administrative fine of 500 GEL (210 Euros)¹⁵, if the offence is committed for the second time in one calendar year fine of 2000 GEL (840 Euro) and imprisonment up to one year is envisaged by Criminal Code of Georgia.¹⁶ Possession of illegal drugs even for personal use is punishable under Georgian legislation with imprisonment up to 11 years, and there is no distinction between those who use drugs and those who sell or are otherwise engaged in illegal drug trade.¹⁷ Joint decree of Minister of Internal Affairs and Minister of Labour, Health and Social Affairs grants wide authority to patrol police to detain and take a person to test on drugs.¹⁸ Minimal quantities for most of the drugs are not defined and the prosecutors can ask for the higher penalties (mostly imprisonment) for carrying drugs without an intent to sell.

Drug policy in Georgia is mainly focused on punishment rather than rehabilitation of those who use drugs as well as preventing drug use through the means of education and social engagement. Official statistics from 2008¹⁹ show that 89% of those who served imprisonment sentences for drug use, continued consumption of drugs instantly after release from prisons and other 11% started using drugs again in no more than 11 months from release.²⁰ Some available numbers also indicate that twice as many cases have been reviewed by courts in relation to possession of drugs during ten months of 2013 than in the entire year of 2012. As for the use of drugs, numbers are even higher. There has been four times increase in the cases reviewed by courts in relation to drug use in ten months of 2013 than in the entire 2012: (2012 - 938; 2013 (ten months) – 3 234).²¹

Since the introduction of 'plea bargaining' institution in the country much criticism has been made how the government uses the mechanism to extort money from socially deprived families mostly. This is particularly true in relation to the application of plea bargaining in the cases of drug use and possession of drugs for the personal use. The official statistics from 2008-2009 show that total amount of money (fine as a criminal sanction) imposed for possession of drugs amounted to over 24 million GEL, and for the use drugs it reached 11 million GEL. At the same time, over 8 million GEL was raised through imposing administrative fines for first time drug users. In total, these fines in the course of two years amounted to 44 49 14 14 GEL.²² At the same time, government spent less than 2 million GEL on treatment programmes

¹² ადმინისტრაციულ სამართალდარღვევათა კოდექსის 45-ე მუხლი (2000 წლის 1 აგვისტოს მდგომარეობით)

¹³ Adopted on 3 July 2007, №5183-RS

¹⁴ Adopted on 5 December 2002 (№1831-IS)

¹⁵ Art. 45, Administrative Offence Code of Georgia, 2005

¹⁶ Art. 276, Criminal Code of Georgia, 1999

¹⁷ Levan Jorbenadze, Drug Policy, Georgia 'ნარკოპოლიტიკის საკანონმდებლო მიმოხილვა, ივლისი, 2012 წელი

¹⁸ Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia

¹⁹ <http://feradi.info/ka/visualizations/dasjaze-orientirebuli-narkopolitika-ar-mushaobs> inserted in Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia

²⁰ Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia

²¹ *Ibid*

²² *Ibid*

annually²³ – 20 times less than what it received including from socially deprived families of those who use drugs.²⁴ These statistics have been closed since 2010.²⁵

The UN Special Envoy for HIV/AIDS in Eastern Europe and Central Asia, Michel Kazatchkine visited Georgia in April and discussed the opportunities for the evaluation of drug policies in the country. He moreover offered that the Global Commission on Drug Policy would offer a help to the government of Georgia to undertake such an impact assessment.²⁶ There is no clear message for the moment from the government whether such assessment will take place in the country with or without the help from the Global Commission on Drug Policy.

Recommendations:

- Undertake nationwide assessment of impact of drug policies in Georgia to evaluate the success/failure of the existing zero tolerance policy against people who use drugs including costs of human rights with the involvement of Global Commission on Drug Policy as already offered to the government of Georgia on 24 April 2014
- Revise existing regulatory framework on drug policies against international human rights obligations and standards
- Take measures to assess national priorities and spending in the context of budgetary allocation for law enforcement and treatment in the context of drug policies in accordance to the obligations taken under variety of inter-governmental organisations including EU

3. Right to Non-Discrimination (ICCPT - Articles 2, 26)

Georgian legislation provides number of provisions that directly and indirectly discriminate people who use drugs. In 2007, new Law on Combating Drug Crime was adopted by the parliament of Georgia 2007 as part of the zero tolerance policy that established derogation of number of rights from people who use drugs up to 3 to 15 years. These prohibitions include: the right to drive a vehicle; the right to practice a medical profession; the right to practice a legal profession; the right to work in pedagogical and educational institutions; the right to work in national and local governments and public (government-funded) government agencies; the right to stand in elections; the right to manufacture, purchase, store, and carry weapons.²⁷ Law also allows government to confiscate the property of those individuals who have been convicted with the possession of narcotic drugs within the framework of article 260 of the Criminal Code.²⁸

A long terms deliberate exclusion and governmental policy to stigmatise drug user communities have worked in its own way to generate hatred and complete mistrust towards these groups. Governmental policies have been severely repressive and as experts note, 'reinforce the long-term social exclusion of and stigma against drug users (with the possible exception of that concerning weapons) alongside institutionalised discrimination against people who use drugs.'²⁹

'Nobody wants to communicate with you, never mind giving a job. It is like you are a leprous person. People turn back as soon as they hear your story and background.' Male IDU, Georgia³⁰

²³ *Ibid*

²⁴ It is fair to note that state budget has been increased since and as of 2014 there was 5 million GEL allocated to the treatment programmes for people who use drugs. Though indeed, this does not mean that government has changed its political message of social stigmatisation of people who use drugs and their isolation of from society including forced street drug testing which is still continuing.

²⁵ Human Rights Education and Monitoring Centre '*Unethical Drug Policy: The analysis of national legislation and practice*', 2014, Georgia

²⁶ News report available from http://www.osgf.ge/index.php?lang_id=ENG&sec_id=15&info_id=3755; accessed on 14 June 2014

²⁷ Georgian Law on Combating Drug Crimes, 3 July 2007; please note, that there used to be no appeal mechanism for the revival of the deprived rights until 22 May 2012. Since the changes to the drug legislation on 22 May 2012 these rights can be restored through the Ministry of Corrections and Legal Aid in Georgia

²⁸ Georgian Law on Combating Drug Crimes, 3 July 2007 (№5183–RS)

²⁹ E. Iakobishvili, '*Assessment of Social and Economic Impact of Drug Policies on Injecting Drug Users in Georgia: A Qualitative Insight*', Georgian Harm Reduction Network, September 2012

³⁰ *Ibid*

One of such discriminatory provision has also been highlighted in the state report. In specific, paragraph 8 of the report indicates on the grounds prohibiting of person's participation in criminal trial as a jury – one of the grounds being if the person 'has been found administratively liable for use of drugs'.³¹

Policy framework on combating drug offences in Georgia is the foundation for stigmatisation of people who use drugs in the country, their isolation and exclusion from society. Not only they are deprived of number of human rights on the ground of belonging to certain social group, but also their drug use is perceived as personal fault and social status which makes it easy for the government to be ignorant to this particular group of people. Deprivation from number of rights directly affects their right to work.³² This and lack of income than often becomes a main reason for committing a crime including drug related and they get caught in a vicious circle of drug use – fine – deprivation of human rights – prison.

During the interviews, a person who uses drugs stated: ***'Human rights are for those humans. We are not considered as humans in this country and society hates us. How can one talk of human rights when they do not exist? They do exist but remotely for those who are able to defend themselves. We have been disempowered so that our voices will not be heard.'*** Male drug user, Georgia³³

Another drug user noted: ***'It is not easy to see ourselves in the position that we are now. It cost us our health and social position. Most of the IDUs if not all are infected with HCV and many more with other diseases, never mind the humiliation, stigma and exclusion we face on daily basis.'*** Male drug user, Georgia³⁴

Georgia recently adopted a new law on 'Eradication of All Forms of Discrimination'³⁵ which defines that roles and responsibilities of those involved in discriminatory actions. And while some argue that this law is a step forward in creating a protection mechanism against widespread discrimination and violence in the country, it is believed that for people who use drugs it will not have any effect.³⁶ The law lists prohibited grounds for discrimination but the practical application of the act is early to assess. In addition, the Law on 'Eradication of All Forms of Discrimination' was adopted within the framework of EU-Georgia Associated Agreement which also foresees other issues such as visa liberalisation, drug strategy including action plan, indicators for the assessment and budgetary allocations. Though none of these has been implemented in practice so far.

Recommendations:

- To revise the legislation that prohibits people who use drugs from realising their human rights with the aim of ceasing the practice of legislated discrimination of people who use drugs
- To design and implement programmes across the country with the aim of awareness raising on the issues of drug policies and its implications on human rights
- To develop comprehensive programmes to tackle the issues of social stigma, violence and institutionalized discrimination against people who use drugs

4. Right to liberty and security of person – article 9 of ICCPR

Since the enactment of zero tolerance and harsh drug policies in 2006, tens of thousands of people annually have been detained by the

³¹ Criminal Procedure Code of Georgia (2009), Art.30, Art.223

³² Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia

³³ E. Iakobishvili, 'Assessment of Social and Economic Impact of Drug Policies on Injecting Drug Users in Georgia: A Qualitative Insight', Georgian Harm Reduction Network, September 2012

³⁴ *Ibid*

³⁵ Georgian Law on 'Eradication of All Forms of Discrimination' was adopted on 7 May 2014; available fro

https://matsne.gov.ge/index.php?option=com_ldmssearch&view=docView&id=2339687&lang=ge; accessed on 12 July 2014

³⁶ Personal Communication with groups of people who use drugs; Communication files are kept with authors of the report

police on the streets and tested for the presence of illegal drugs and metabolites of illegal drugs in their body. Positive test results lead to heavy fines or imprisonment.³⁷

According to Georgian 'Law on Police', if there is a 'sufficient reason for assuming' that a person is under the influence of narcotic drugs the police, upon its decision, can stop the person and ensure the person undergoes 'narcological check'³⁸. Despite the fact that the term 'sufficient reason for assuming' was defined in an objective scale by the Constitutional Court³⁹, as well as the legislators at the later stage, (that once again proved the objective orientation of the national legislation as well as the law on police), observing the actual practices we can say that the reasons for making people undergo the checks are subjectively defined by the police and only serving to the goals of reinforcing their intuition and prejudice.

Current Law on Policing in Georgia allows patrol police to stop anyone who according to his/her presumption maybe under the influence of drugs. At the same time he/she can apply administrative measure to forcefully detain a person as well as force drug testing upon the detainee.⁴⁰ A person who is requested to stop and undergo drug testing shall obey the demand from the police and submit urine for testing.⁴¹

From this moment, legislation does not specify the rights of those who are requested to submit urine for drug testing and responsibilities of those who make such request. If a person who is requested to submit for drug testing refuses to do so, it is perceived as disobedience to police and additional administrative and/or criminal measures are applied to punish him/her.⁴² At the same time, in case of such refusal, an expert is requested to issue confirmation stating that a person was under drug influence (in which case a confirmation of person using drugs is a mere observation). If a person refuses to undergo drug test in a laboratory, mandatory clinical drug test is requested and the person has no right to appeal the decision. Both of these institutions (laboratory and clinical testing) are part of the Ministry of Interior. Legislation also is not clear on what will happen when person rejects drug test and he/she is forced into such test. There is a legal gap on to show what is the methodology used by police on making decision to impose another criminal sanction for disobedience.

The paper issued by the personnel of the Ministry of Interior is accepted as an evidence in courts and often indicated as a major evidence confirming the fact of drug use by a defendant.⁴³ There is no transparent and independent mechanism to balance police actions in this regard. Even if a person presents alternative evidence from independent experts, such is not accepted and no other mechanism exists to monitor the qualification of police and other narcologists involved in the case.⁴⁴

Mandatory street drug testing have been included in the report of the national ombudsman and the National Preventive Mechanism has studied the situation in some of the regions. The report from the Ombudsman's office notes: 'While checking the journals in the places of detention, the National Preventive Mechanism was struck by the number of cases concerning detaining people for mandatory drug testing. For example, in Samegrelo-Upper Svaneti region, between January and June 2013 there was more than 1600 people detained and forced into street drug testing. Only 130 cases out of 1600 proved positive when detainees were found with fact of having used various types of

³⁷ Otiashvili D., Tsertsvadze V., Kirtadze I., Chavchanidze M., Zabransky T.; 'How Effective is Street Drug Testing?' (2012) available: <http://altgeorgia.ge/2012/myfiles/narkotestireba%20ENG-1.pdf>; accessed on 10 June 2014

³⁸ Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia

³⁹ საქართველოს საკონსტიტუციო სასამართლოს 2013 წლის 11 აპრილის N1/2/503,513 გადაწყვეტილება „საქართველოს მოქალაქეები - ლევან ოზორია და დავით-მიხეილ შუბლაძე საქართველოს პარლამენტის წინააღმდეგ. Inserted in Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia; More extensively on this issue, see EC., Fox, Campbell and Hurlley v. United Kingdom, 1991 წლის 21 მარტი, No. 12244/86, §32-34.

⁴⁰ Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia

⁴¹ *Ibid*

⁴² *Ibid*

⁴³ Otiashvili D., Tsertsvadze V., Kirtadze I., Chavchanidze M., Zabransky T.; 'How Effective is Street Drug Testing?' (2012) available: <http://altgeorgia.ge/2012/myfiles/narkotestireba%20ENG-1.pdf>; accessed on 10 June 2014; also Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia

⁴⁴ Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia

drugs. The office of the Ombudsman is appalled by police activities as these numbers show that in more than 90% of the given numbers people were deprived of their liberties and other human rights. This further casts doubt in how police uses its power and the concept of 'reasonable doubt' when making arrests for mandatory street drug testing.⁴⁵

International human rights law is clear that taking a sample of a body represents an intervention in private life, for the justification of which legal regulations must exist that will permit the use of specific forms of intervention in person's private life. In addition, the regulations themselves must be satisfying qualitative criteria, particularly, they should be accessible for a person concerned and the latter should be able to foresee expected legal outcomes. The legislation should be guaranteeing one's protection from wilful acts of government organs.⁴⁶

The analysis of Georgian legislation shows that in the cases when the targeted person refuses to undergo drug test, there are no mechanisms on administrative and legal stages for coercion. However, it is possible to use medical intervention by coercion after the investigation is initiated. Although, as the practice shows, in cases of presumable drug abuse, the police reacts with administrative mechanisms first and starts the investigation only after the facts are proven.

The study that investigated government spending on street drug testing in Georgia confirms that **tens of thousands of people are subject to administrative and criminal proceedings (including sentencing to prison terms) as a consequence of positive rapid immunoassay test results.** To the best of our knowledge no other jurisdiction uses the results of rapid screening as evidence of drug use because of the issues related to the often low specificity of the tests, cross-reactivity, and the stability of these devices (their ability to resist certain conditions, such as temperature and humidity). **Elsewhere these results are considered preliminary and indicative, and advanced confirmatory laboratory tests are required for a court trial.**⁴⁷

Results of these rapid and inaccurate tests are used as one of the main sources of evidence in court, leading to heavy fines or the imprisonment of thousands of people each year.⁴⁸ This contradicts established international practice and is not in conformity with the standards of human rights law, namely personal liberty and security as well as fair trial standards established under the ICCPR.

Furthermore, researchers indicate that **'massive drug testing, with the majority of the test results being negative, raises an ethical question. Subjecting tens of thousands of people to a humiliating and lengthy drug-testing procedure infringes the dignity of citizens and undermines the public perception of a just and democratic policy.'**⁴⁹

There is no information available on how many people are taken on the drug tests since the legislation came into force in 2006. Sporadic studies though show that these policies aggregated the number of prisoners up to 23,684 in 2010⁵⁰ out of almost 2/3 served drug related sentences (use of drug and possession of drugs for personal use)⁵¹. Other statistics show that only in 2011 3,543 people were convicted for

⁴⁵ Report of the Ombudsman of Georgia on the protection of human rights and freedoms in 2013; available from www.ombudsman.ge; accessed on 2014

⁴⁶ Human Rights Education and Monitoring Centre *'Unethical Drug Policy: The analysis of national legislation and practice'*, 2014, Georgia

⁴⁷ UNDCP. (2001). Rapid on-site Screening of Drugs of Abuse. Scientific and Technical Notes, inserted in *'How Effective is Street Drug Testing?'* By Otiashvili D., Tsertsvadze V., Kirtadze I., Chavchanidze M., Zabransky T.; available: <http://altgeorgia.ge/2012/myfiles/narkotestireba%20ENG-1.pdf>; accessed on 10 June 2014

⁴⁸ Otiashvili D., Tsertsvadze V., Kirtadze I., Chavchanidze ;8M., Zabransky T.; *'How Effective is Street Drug Testing?'* (2012) available: <http://altgeorgia.ge/2012/myfiles/narkotestireba%20ENG-1.pdf>; accessed on 10 June 2014; also Human Rights Education and Monitoring Centre *'Unethical Drug Policy: The analysis of national legislation and practice'*, 2014, Georgia

⁴⁹ *Ibid*

⁵⁰ International Centre of Prison Studies, accessed on 18 October 2013: <http://www.prisonstudies.org/info/worldbrief/wpbcountry.php?country=122>

⁵¹ Drug Situation in Georgia, Overview, The Foundation "Global Initiative on Psychiatry – Tbilisi" (GIP-Tbilisi), 2011

drug offences with absolute majority of them (95%) convicted for illegal consumption and possession of drugs.⁵² Other statistical data shows that out of the 216 215 people brought before respective institutions for narcological checks only 78 501 of them were proven using narcotic drugs.⁵³ In 2/3 of the cases when people are forced into drug testing and deprived of their liberties for days to carry out street drug testing proved groundless and the governmental resources wasted.⁵⁴

Researchers have long advocating against street drug testing indicating that it causes significant economic costs to Georgian society, together with difficult-to-monetarise intangible costs (secondary market consequences, the humiliation of those tested, the suffering of their families, the criminalisation of drug users, etc.). Costs of human rights goes uncalculated in Georgia in the context of drug policies having very little attention paid to the issues of people who use drugs, their families and loved ones. Even more, high level officials repeatedly make stigmatizing and discriminatory statements against people who use drugs isolating them from society and contribution to the deeper social stigma.⁵⁵ During the interviews to assess the impact of drug policies in Georgia, one of the state officials stated: ***'They need to feel disgust and hatred towards themselves, because they do not contribute to the well-being of society. Only in this way can they be awoken and lead drug free life.'***⁵⁶

Recommendations:

- To repeal the laws that provide mandatory 'street drug testing' with the aim of creating an alternative mechanism and providing respect to human rights, specifically respect to right to liberty and personal security of those forced into drug testing
- To clearly define the role of the police and the court in the case of criminal proceedings and evaluation of evidence in criminal cases where drug use is at stake
- To abolish mandatory street drug testing; and meanwhile create an independent mechanism to monitor the impact of such street testing on human rights of people who use drugs, their families and loved ones
- To assess the national spending on street drug testing against policing and treatment programmes (harm reduction) and apply human rights approaches in it

5. Overdose - Right to life (article 6)

Drug overdoses are the leading cause of accidental death among people who use drugs in many countries in the world.⁵⁷ Most overdose deaths in EECA are caused by respiratory depression when people take more heroin or another opioid than they can tolerate, or mix it with other drugs such as alcohol, antihistamines, or psychoactive pills.⁵⁸ Studies from dozens of countries have documented that a majority of people who inject drugs experience or witness an overdose at some point in their lives, and that overdose has become a leading cause of death among people who inject drugs.⁵⁹

Although it is difficult to give statistics on how many overdoses happen, and how many result or not result in death, some anecdotal numbers show that this is as high as over 5-7 overdoses a month, and one death almost every month.⁶⁰ Study on the overdose in Georgia shows that 1/3

⁵² 'Plea Bargaining in Georgia: Negotiated Justice', Transparency International Georgia, p. 10., 15 December 2010, available from http://transparency.ge/sites/default/files/post_attachments/Plea%20Bargaining%20in%20Georgia%20-%20Negotiated%20Justice.pdf; accessed on 29 June, 2013

⁵³ Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia

⁵⁴ *Ibid*

⁵⁵ <http://www.president.gov.ge/PressOffice/Documents/AnnualReports?p=4951&i=1>; accessed on 31 August 2012;

<http://www.president.gov.ge/en/PressOffice/Documents/AnnualReports?p=7367&i=1>; accessed on 31 August 2012

⁵⁶ E. Iakobishvili, 'Assessment of Social and Economic Impact of Drug Policies on Injecting Drug Users in Georgia: A Qualitative Insight', Georgian Harm Reduction Network, September 2012

⁵⁷ Prevention from Overdose, EHRN, 2012. Available from http://harm-reduction.org/sites/default/files/pdf/overdose_edition_september_2012_0.pdf; accessed on 10 June 2014

⁵⁸ *Ibid*

⁵⁹ *Ibid*

⁶⁰ Personal Communication with people who use drugs in Georgia; Communication files are kept with authors of this report.

of the respondents experienced overdose in last one month from the interview.⁶¹ The same research shows that 42.1% of the interviewees have witnessed overdose in last month from when the interview took place.⁶²

According to the harm reduction programs the scale of drug related overdoses and related death is much higher in the country, but the legal regulation due to which emergency physician has to report police in case of facing drug related overdose, prevents drug users to sick for medical help in case of such emergencies. This, on its turn, increases risk for fatal over doses.⁶³

According to decree of the ministry of health of Georgia, every doctor who receives a call/information about overdose on drugs is obliged to notify the police before taking any medical action.⁶⁴ If they fail to do so, administrative and disciplinary measures will be applied against them.⁶⁵ Notification of the police means there will be an administrative or criminal proceedings started against the person who are overdosed, against friends (if the overdose happens among friends) and against family should such overdose happen in the family.

The research national organisations working in the area of public health indicate that in 55% cases they avoided making any contacts with medical services, hence direct contacts with police.⁶⁶

Death related to overdose comes slowly. A testimony from a social worker:

'There are dozens of people who use drugs that we know or have known, who have families, who might have a work too and are supported by their families but one day they vanish. Then you hear that they died of Krokodile overdose, or Vint, or Jeff.' NGO activist from Georgia

Due to distrust towards doctors who cooperate with police, people who use drugs prefer not to call the medical teams rather try to revive the overdose person by themselves. This indeed increases the risk of death of overdosed person twice as very often these individuals are not equipped with relevant skills to revive overdosed person. Consequently, reliable and valid national data on patients treated for drug use disorders does not exist⁶⁷ as either such information is not reported, or is reported and registered through administrative and criminal proceedings and results in monetary punishment or the prison if the overdosed person survives.

Such attitudes show that government has adopted a policy that ignores people who most need help especially when their lives are in danger, and even more, obliges the doctors who first ethical responsibility is to help out the patients to communicate the message with police and then should there be a possibility to help out the overdosed person, such help will be provided. In such occasions, it is clear that the drug dependent persons (and other people around them) necessitating urgent medical treatment are pressured to make a tough choice between self-incrimination and saving the life.⁶⁸ Even more, the government has created a ground for directly affecting the communities of people who use drugs to choose whether they continue life in prison or die with the overdose. Lives of people who use drugs and overdose are entirely dependent on the government's good will. Georgian draconian drug policies significantly restrict the freedom of doctors to carry out their original mission – provide medical assistance and lead the people who use drugs to death.

⁶¹ Study of Georgian legislation in relation to overdosing with illicit drugs, Georgian Harm Reduction Network report, Tbilisi, 12 December 2011

⁶² *Ibid*

⁶³ Javakhishvili D., Balanchivadze N., Kirtadze I., Sturua L., Otiashvili D., Zabranskt T.,; 'Drug situation in Georgia: annual report 2010'; available from http://altgeorgia.ge/2012/myfiles/drug-2012-geo-eng-bolo-bolo-bolo_ENG.pdf; accessed on 11 June 2014

⁶⁴ Ministerial decree is available here: https://matsne.gov.ge/index.php?option=com_ldmssearch&view=docView&id=51754&lang=ge; accessed on 12 June 2014

⁶⁵ *Ibid*

⁶⁶ წამალდამოკიდებულ პირთა სარისკო ქცევაზე მოქმედი ფაქტორების შესწავლა (საინჟინერო და სექსობრივისარისკო ქცევა); კვლევა განახორციელდა ა.ო. "ახალი ვექტორის" მიერ; თბილისი, 12 დეკემბერი, 2011

⁶⁷ Javakhishvili D., Balanchivadze N., Kirtadze I., Sturua L., Otiashvili D., Zabranskt T.,; 'Drug situation in Georgia: annual report 2010'; available from http://altgeorgia.ge/2012/myfiles/drug-2012-geo-eng-bolo-bolo-bolo_ENG.pdf; accessed on 11 June 2014

⁶⁸ Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia

Recommendations:

- To repeal the legislation on mandatory notification of overdose cases by medical staff
- To undertake nationwide assessment on overdose cases to establish data
- To design and implement special programmes on overdose with respect of right to life of those who overdose or are in danger of overdosing

Information about GHRN:

The Georgian Harm Reduction Network (GHRN) is a national NGO which works to develop and support harm reduction attitudes in the fields of drug use, HIV/AIDS, public health and social isolation. The Network acknowledges and respects the principles of humanism, tolerance, partnership and human rights. The network believes that every person has the right to health and well-being and is able to take care of oneself, his/her close people and society. The Network supports the implementation of efficient and pragmatic drug policy.

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Information about EHRN:

The Eurasian Harm Reduction Network (www.harmreduction.org) is an NGO with a Special Consultative Status with the Economic and Social Council of the United Nations which operates as a regional network with a mission to promote humane, evidence-based harm reduction approaches to drug use, with the aim of improving health and protecting human rights at the individual, community, and societal level.

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