

# Joint Submission to the Special Rapporteur on Health's report on Harm Reduction for peace and development

May 2024

## Jointly submitted by:



An international non-governmental organization with a network nature. Geography of representation: countries of the region of Central and Eastern Europe and Central Asia. UnMode's mission is to ensure access to justice as an effective human rights tool for prisoners/ex-prisoners with a history of drug use in the region.



HRI is a leading non-governmental organisation that envisions a world in which drug policies uphold dignity, health, and rights. We use data and advocacy to promote harm reduction and drug policy reforms. We show how rights-based, evidence-informed responses to drugs contribute to healthier, safer societies, and why investing in harm reduction makes sense.

HRI is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations.



European Prison Litigation Network (EPLN) is an international NGO holding a participatory status with the Council of Europe, which focuses its activities on enhancement of the judicial protection of the fundamental rights of prisoners in the Member States of the Council of Europe. It currently brings together 25 national NGOs and bar associations from 18 Council of Europe Member States

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## Introduction

[Harm Reduction International \(HRI\)](#), [UnMode](#) and [EPLN](#) welcome the opportunity to provide input ahead of the Special Rapporteur's report on Harm Reduction for sustainable peace and development. Drawing on previous submissions and other relevant reports, this document will address Questions 1 and 2, with a specific focus on people deprived of liberty.

### **Question 1. The full-scale Russian invasion of Ukraine and its disproportionate impact on people deprived of liberty and the provision of harm reduction and other essential health services.<sup>1</sup>**

After the full-scale Russian invasion of Ukraine in February 2022, people deprived of liberty have been disproportionately impacted by the war. Despite attacks on essential infrastructure, at least 11 prisons were not evacuated, and people deprived of liberty endured numerous human rights violations, including extrajudicial killings, ill-treatment, and torture. They also experienced the disruption of essential services, including medical care and harm reduction.

Following the Russian occupation of the Kherson Region, local organisations confirmed that around 2,000<sup>2</sup> people detained in prisons in Kherson and Mykolaiv Regions of Ukraine had been illegally transferred by Russian forces to Russian territory in November 2022, in breach of international human rights and humanitarian law.<sup>3</sup> All people transferred had been convicted by Ukrainian courts before the invasion, and information collected by local actors shows that the

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<sup>1</sup> Unless stated otherwise, all information provided refers to: Protection for Prisoners of Ukraine, European Litigation Network and Русь Сидящая (2023, 5 April). Joint Submission to the Human Rights Council Working Group on the Universal Periodic Review. 4th UPR Cycle, 44th Session, Review of the Russian Federation. [https://upr.info/sites/default/files/country-document/2024-01/JS28\\_UPR44\\_RUS\\_E\\_Main.pdf](https://upr.info/sites/default/files/country-document/2024-01/JS28_UPR44_RUS_E_Main.pdf). See also Dignity, Protection for Prisoners of Ukraine, Kharkiv Human Rights Protection Group, Ukraine Without Torture, EPLN, "Nine Circles of Hell. Places of Detention in Ukraine under the Russian Occupation", March 2022-December 2022, [https://www.prisonlitigation.org/wp-content/uploads/2023/04/42-nine-circles-of-hell\\_full.pdf](https://www.prisonlitigation.org/wp-content/uploads/2023/04/42-nine-circles-of-hell_full.pdf).

<sup>2</sup> Out of a total of 2,225.

<sup>3</sup> Art. 9 of the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights; Principles 1,2,4,15,16 and 19 of the Body of Principles for the Protection of all Person under any form of detention and imprisonment; Rule 58 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and General Comment No 35 on Article 9 of the ICCPR; Articles 2, 49, 64, 76 of Geneva Convention relative to the Protection of Civilian Persons in Time of War.



transportation of people deprived of liberty was made via occupied Crimea to prisons in Russia.<sup>4</sup> Local organisations, activists and families tirelessly worked to trace the location of people transferred to Russia, finding out that most of them were ultimately transferred to correctional facilities in Krasnodar and Volgograd Regions, including medical prison facility in Volgograd (LIU-23). An unknown number of people were sent to correctional colonies in Vladimir and Sverdlovsk regions. Evidence also shows that some individuals were transferred to Rostov Region, where they were sent to a Prison tuberculosis hospital and a medical prison facility (LIU-20).

According to local organisations, all people transferred were ill-treated or tortured during their transportation to Russian territory. This degrading treatment was replicated upon detention in Russian prisons, where people were also segregated from the rest of the prison population, and deprived of contacts with the outside world and had no access to safe water, sanitation, or medical care.<sup>5</sup> This is compounded by the general poor prison conditions in Russia, with reports indicating widespread ill-treatment and a high rate of transmission of infectious diseases, such as tuberculosis and HIV; with one third of all deaths in prisons being associated with HIV.<sup>6</sup> In addition to that, from June 2022, around 100 prisoners in the occupied Kherson Region were deprived of the opioid substitution therapy which they have received before the occupation and which is prohibited in the Russian Federation.<sup>7</sup>

While some transferred individuals were released from Russian correctional facilities after serving their sentences, they were immediately re-detained under immigration powers, imposed administrative deportation and sent to immigration detention centres. While the location and conditions of many of those who were placed in immigration detention could be traced, and many of them were able to leave Russia, the location and conditions of some of them remain unknown

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<sup>4</sup> For more information see also Unmode's work at the following links <https://unmode.org/en/news/%E2%80%9Cyour-application-accepted%E2%80%9D.html>; <https://unmode.org/en/news/otkrytoe-pismo.html> and <https://unmode.org/en/news/the-problem-of-ukrainian-prisoners-in-russian-prisons-cannot-be-hushed-up!.html>

<sup>5</sup> Unmode provided legal, social and psychological support as well as material support, including medical care to 432 people illegally transferred to Russian prisons and has observed what they have endured while in detention.

Ill-treatment and torture cases can be confirmed by the work done by Protection for Prisoners of Ukraine (PPU) and Русь Сидящая, which is documented here [https://upr.info/sites/default/files/country-document/2024-01/JS28\\_UPR44\\_RUS\\_E\\_Main.pdf](https://upr.info/sites/default/files/country-document/2024-01/JS28_UPR44_RUS_E_Main.pdf)

<sup>6</sup> Harm Reduction International, European Litigation Network and Unmode (2023) Joint Submission to the Human Rights Council Working Group on the Universal Periodic Review. 4th UPR Cycle, 44th Session, Review of the Russian Federation. [https://upr.info/sites/default/files/country-document/2024-01/JS15\\_UPR44\\_RUS\\_E\\_Main.pdf](https://upr.info/sites/default/files/country-document/2024-01/JS15_UPR44_RUS_E_Main.pdf)

<sup>7</sup> Ria.ru, "In Kherson, methadone therapy for drug-dependent prisoners was cancelled" [in Russian], 5 June 2022, <https://ria.ru/20220605/terapiya-1793274479.html>.



due to the lack of official communication channels and censorship. None of the immigration centres to which civilian prisoners from Kherson were transferred have adequate medical units, medicaments, and qualified medical specialists. As documented by Unmode and other organisations, Ukrainian prisoners living with HIV find themselves in the most vulnerable position, as the detainees in the immigration detention centres are not provided with the necessary anti-retroviral therapy.<sup>8</sup> According to Unmode, an exception is that of Volgograd, where everyone who needed it received treatment for both HIV and tuberculosis.<sup>9</sup>

## **Question 2. Deprivation of liberty and its impact on the accessibility, availability, affordability, and quality of essential medicines.<sup>10</sup>**

Although over 30 countries have removed criminal sanctions for drug possession for personal use, punitive responses to drug policy remain a key contributing factor to prison overcrowding,<sup>11</sup> with drug offences accounting for 22% of the global prison population.<sup>12</sup> An estimated one third to half of people in prison have a history of drug use.<sup>13</sup> People continue using drugs while incarcerated, often resorting to harmful drug use patterns, and it is in prison that many develop a problematic relationship with drugs.<sup>14</sup>

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<sup>8</sup> Unmode (2022). Final report on the monitoring of Unmode Project PHRC. [Russian].

[https://unmode.org/assets/img/papka/itogovij-otchet-sentyabr-2022.docx-\(2\).pdf](https://unmode.org/assets/img/papka/itogovij-otchet-sentyabr-2022.docx-(2).pdf). This is also demonstrated by two individual communications to the CCPR (communication no. 4233/2022 Andrei Artemev v. Russia and no. 4488/2023 Kolesnichenko v. Russia). In both cases the CCPR granted the authors' requests for interim measures and indicated the Respondent Government to provide the complainants detained in the immigration detention centres with necessary medical care.

<sup>9</sup> It is worth noting that Russian legislation and policies does not provide HIV and tuberculosis treatment in migration detention centres, and the provision of services in Volgograd was only achieved after negotiations with the Ministry of Internal Affairs.

<sup>10</sup> Information provided here complements input provided in the Joint submission to the Special Rapporteur on Health on her report on Drug Policies and Responses: A Right to Health Framework on Harm Reduction.

<https://hri.global/publications/joint-submission-to-the-sr-on-health-harm-reduction-and-prisons/>

Unless stated otherwise, all information provided here refers to Harm Reduction International. (2022) The Global State of Harm Reduction.2022. <https://hri.global/flagship-research/the-global-state-of-harm-reduction/>

<sup>11</sup> Talking Drugs (2024) <https://www.talkingdrugs.org/drug-decriminalisation/>

<sup>12</sup> Penal Reform International and Thailand Institute of Justice, (2023) Global Prison Trend 2023, page 17

<https://www.penalreform.org/global-prison-trends-2023/>

<sup>13</sup> Fazel,S, Yoon, I.A and Hayes.A. (2017). Substance use disorders in prisoners: an updated systematic review and meta-regression analysis in recently incarcerated men and women. <https://onlinelibrary.wiley.com/doi/10.1111/add.13877>

<sup>14</sup> <https://www.sciencedirect.com/science/article/pii/S0955395923000762> among others



Punitive drug policies and limited access to quality harm reduction services in prisons negatively impact on the health of people deprived of liberty and on/which could result in deaths in custody. Prisons are high-risk environments for the transmission of diseases due to a combination of factors including overcrowding, limited access to clean water and inadequate sanitary conditions, lack of healthcare and access to good-quality food, and mistreatment of people in detention.<sup>15</sup> Additionally, the over-representation of vulnerable groups, such as people who use drugs, who are more likely to suffer from poor health, means many people in prison are at higher risk of becoming seriously ill if contracting a disease.<sup>16</sup>

While harm reduction may be somehow available in some prisons,<sup>17</sup> people in detention experience various barriers to accessing services due to, among others, stigmatisation and discrimination from prison staff and peers, which is compounded by poor prison conditions. In Asia, where only five countries provide Opioid Agonist Therapy (OAT) in at least one prison on their territory, punitive approaches to drugs have translated to poor detention conditions, which restrict the already limited access to basic harm reduction services. In Eastern and South Africa, while all countries provide HIV testing and treatment inside at least one prison, civil society has documented widespread barriers to access, particularly for women who use drugs, including humiliating and punitive treatment by prison staff, and availability of services in a limited number of facilities.

While OAT is available in most European and Eurasia regions, it is still insufficiently accessible. In Albania, Latvia, Montenegro and Serbia, people cannot start OAT while in prison, and it is only available if people were on OAT before being incarcerated. Research in Moldova in 2021 revealed that insufficient prison and medical staff is a barrier to accessing services, which is compounded by the lack of knowledge about harm reduction by existing staff. Methadone is considered a drug

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<sup>15</sup> For more detail on prison conditions, see Penal Reform International and Thailand Institute of Justice, 2023. Global Prison Trend 2022. DOI <https://www.penalreform.org/global-prison-trends-2022/>

<sup>16</sup> Dolan, K., Wirtz, A.L., Moazen, B., et al. (2017), Global burden of HIV, Viral Hepatitis, and Tuberculosis in Prisoners and Detainees, The Lancet Series: HIV and related infections in prisoners; European Centre for Disease Prevention and Control and the European Monitoring Centre for Drugs and Drug Addiction. (2017). Systematic review on active case finding of communicable diseases in prison settings. Stockholm: ECDC. 10.2900/348536; Penal Reform International (2007). Health in Prisons: realizing the right to health. Penal Reform Briefing No 2. [https://cdn.penalreform.org/wpcontent/uploads/2013/06/rf-02-2007-health-in-prisons-en\\_01.pdf](https://cdn.penalreform.org/wpcontent/uploads/2013/06/rf-02-2007-health-in-prisons-en_01.pdf)

<sup>17</sup> For more details on the availability of harm reduction in prison see Joint Submission to the Special Rapporteur on Health's report on Drug Policies and responses: a right to health framework on harm reduction. <https://hri.global/publications/joint-submission-to-the-sr-on-health-harm-reduction-and-prisons/>



for prison staff.<sup>18</sup> Lack of confidentiality and anonymity when trying to access the services, including needle and syringe programs (NSP) and OAT, is reported as a barrier by the prison population. In Romania, the National HIV/AIDS Strategy for the Surveillance, Control and Prevention of HIV/AIDS infection cases (2022-2030) recognises people who inject drugs and persons deprived of liberty as priority groups with access to free condoms, substitution treatments, and needle exchange programs. However, Asociatia Romana Anti-SIDA (ARAS) found that services are not evenly distributed or not implemented at all.<sup>19</sup> Condoms are available for visits only in some prisons, and in other cases, people must go to the doctor's office to access to the contraceptive, with the person accessing the service having to reveal they are having sexual relations in the penitentiary. ARAS also confirmed that despite NSPs being legally regulated, there is no program being implemented in prisons.

### **Conclusion and Recommendations.**

Specific obligations for protecting the health of people deprived of their liberty derive from their inherent dignity and value as human beings, as well as their rights to life, to health and to be free from torture and ill-treatment.<sup>20</sup> The increased degree of vulnerability caused by incarceration puts a heightened duty of care on the part of the State to protect their lives, and their physical and mental health. These rights are non-derogable and must be protected without exceptions, including in times of war or humanitarian crisis.

Additionally, following the principle of equivalence of care, international obligations bind States to provide at least the same standard that is available in the broader community including the provision of adequate health services that are closely linked to the general health service, continuity of care as people move between prisons and the broader community, including for

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<sup>18</sup> Doltu, Svetlana (2021). Working Paper 3. Availability, accessibility, acceptability and quality of harm reduction services in prisons in Moldova. Qualitative study research results. *Harm Reduction International*. <https://hri.global/publications/report-moldovan-prisons/>

<sup>19</sup> Asociatia Romana anti-SIDA. (2023). Human Rights for all. Report of the Analysis of Harm Reduction Services for persons deprived of liberty, Romania, December 2023.

<sup>20</sup> Art. 1 and 2 of the Universal Declaration of Human Rights; Art 6 of the International Covenant on Civil and Political Rights; Art, 12 of the International Covenant on Economic, Social and Cultural Rights; UN General Assembly (1990), Basic Principles for the Treatment of Prisoners, UNODC, et al. (2006), Prevention, Care, Treatment and Support in Prison Settings – A Framework for an Effective National Response; UNAIDS (1997), Prisons and AIDS; WHO (1993), Guidelines on HIV infection and AIDS in prisons; Istanbul Protocol (2022), UN Committee Against Torture (2014), Observations of the Commission against Torture on the revision of the Standard Minimum Rules for the Treatment of Prisoners, UN Doc. CAT/C/51/4; among others.





infectious diseases and drug dependence provision of essential medicines, including methadone and buprenorphine and underlying determinants of health such as fresh air, clean water and adequate sanitation, nondiscrimination, and active and informed participation in decisions affecting their health.<sup>21</sup>

In line with these international standards, and with the information provided through this submission we encourage the Special Rapporteur to recommend Member States to:

- Decriminalise drug use and apply health and human rights centred community-based responses to drug use to reduce prison populations and promote the right to health;
- Recognise harm reduction as an essential element of the right to health and incorporate it into prison health programmes and policies;
- Ensure that good quality harm reduction services are available, accessible on a voluntary basis for all people in detention;
- Eliminate all legal and policy barriers and stigmatising and discriminatory practices that limit the access to essential medicines and treatment for people deprived of liberty.
- To actively protect the rights to life and the right to health of people deprived of liberty, including in times of war or humanitarian crisis;
- In times of war and humanitarian crisis, prisons should be considered critical infrastructure that must be protected under humanitarian law;
- People deprived of liberty must be prioritise when addressing health emergencies, war and humanitarian crisis and ensure the continuity of harm reduction on a voluntary basis for all people in detention;
- People deprived of liberty cannot be transferred to other correctional facility outside the territorial jurisdiction without legal grounds and a fair trial. In case of war or humanitarian

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<sup>21</sup> UN General Assembly (1990), Basic Principles for the Treatment of Prisoners, Principle 9; UN General Assembly (8 January 2016), Revised UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), Rule 24(1); UNODC et al (2006), Prevention, Care, Treatment and Support in Prison Settings – A Framework for an Effective National Response; UN General Assembly (1982), Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, UN Doc A/RES/37/194, Principle 1; Council of Europe, Committee of Ministers (1998), Recommendation No. R (98) 7 of the Committee of Ministers to Member States Concerning the Ethical and Organisational Aspects of Health Care in Prison, p. 40. UN (2021) United Nations System Common position on Incarceration; UN System Chief Executives Board for Coordination (2018), United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration, CEB/2018/2



crisis, Member States must be held accountable of any human rights violation committed against people deprived of liberty.

