The EU HIV/AIDS Civil Society Forum

Putting health and human rights first:
EU HIV/AIDS Civil Society Forum statement on the future drug policies in the EU and beyond

Drug policies originate mainly from the desire to prevent the harmful effects of drugs at an individual and societal level. The 1961 UN Single Convention on Drugs speaks of health and welfare. Evidence shows that prohibitionist policies did not lower levels of illegal drug use, nor protected health and wellbeing - but rather created more harms. Penalizing and criminalizing drug use stigmatizes and alienates close to 16 million people who inject drugs worldwide, and can lead to increased health harms, such as HIV, viral hepatitis, tuberculosis as well as other infections and drug overdoses.

Therefore, in the context of the development of a new EU Drug Strategy, we, the HIV community across Europe, call for a reform leading to comprehensive EU and national policies that take into account the complexity of issues driving the harms associated with drugs, including social, economic, health issues as well as judicial practices, and that are based on evidence rather than focused on total prohibition as a response[i].

Through this paper adopted by the Civil Society Forum on HIV, an advisory body to the European Commission on HIV, we call on the European Commission, European Parliament and EU member states to express political leadership in combating HIV/AIDS in the EU and neighbouring countries, in compliance with the 2009 Commission communication on combating HIV/AIDS in the EU and neighbouring countries, by addressing those policies which are fuelling the HIV epidemic and related health harms.

I. Health harms and risks associated with unsafe drug injecting:

- There are between **750,000 and one million people who inject drugs** currently **in the European Union (EU)**[ii];
- While in most Western countries there is evidence that the number of frequent heroin users has been in decline[iii]; there is **no evidence of the decline of injecting in most new EU member states** that joined the EU after 2004, where **young people (under age 25) account for more than estimated 40 % of people who inject drugs** in the Czech Republic, Estonia, Latvia, Lithuania, Austria, Romania and Slovakia[iv];
- The neighbouring countries to the East experience an epidemic of drug injecting, with an estimated **1.5 million users in the Russian Federation alone**[v].
- While in Western Europe the rates of reported newly diagnosed cases of HIV infection among people who inject drugs are mostly at stable and low levels[vi], HIV is still affecting disproportionally people who inject drugs in Eastern Europe and Central Asia, **one in four injectors is believed to be living with HIV accounting for 57% of all infections**[vii];
- Unsafe injecting drug use also triggered the **hepatitis C** epidemic all across EU, **reaching prevalence up to 60 – 90% among tested people who inject drugs**[viii].
- **Hepatitis C**[ix] **and tuberculosis**[x] **are becoming leading causes of death** among people living with HIV and AIDS (PLHIV) in different parts of Europe;
- Across the European Union the **prevalence of drug injecting in prisons** ranges from 6 % to 38%[xi], while evidence based HIV prevention remains very limited in prison settings;
- **Drug-related overdose** is a significant cause of mortality among PLHIV in France, Spain and

other countries. In Russia around 21% of all deaths among PLHIV in 2007 were due to overdose. Moreover, HIV is associated with an increased risk of fatal and non-fatal overdoses due in part to systemic disease and liver damage associated with HIV infection[xii].

II. The evidence of contribution of current drug policies to drug related harms:

- **The harms caused by prohibition of psychoactive substances are clear and well documented. Prohibition has failed to prevent the availability of illegal drugs**[xiii] **as acknowledged** in a European Commission Report on Global Illicit Drugs Markets 1998-2007 stating that "current drug policies had no more than a marginal positive influence"[xiv]. Moreover, **there is no evidence that the level and intensity of law enforcement meaningfully reduces the prevalence of drug use**[xv].
- The penalization and criminalization of drug use and possession **prevents people from seeking health and social services, fearing arrest or imprisonment**. People who use drugs often find themselves **excluded and marginalized from the society** and **stigmatized by health care providers** and will avoid contact with health services[xvi].
- This is even a more severe issue in post-Soviet countries where official registries of people who use drugs exist, resulting **in reluctance to seeking health support, marginalizing and pushing people who inject drugs underground**[xvii];
- **Policies that punish and imprison people who use drugs** rather than promote evidence-based treatment (such as opioid substitution therapy (OST) and other harm-reduction interventions) **are based on fear and stigmatization of drug users by society at large.**[xviii] In turn it allows the discriminatory policies and practices to prevail. In Eastern Europe people who use drugs represent the majority of PLHIV but are the minority of those who receive HIV treatment.[xix] Even in Western countries, such as in the United Kingdom it is reported that former or current users of drugs have been denied treatment for hepatitis C, contrary to official guidance.[xx]
- In the EU a considerable proportion of the **prison population is made up of drug law offenders** and of drug users who have committed drug-related crime.[xxi] **At the same time, health services for people who use drugs in prisons are limited** putting them at even greater risk, as illustrated by HIV rates several times higher among prisoners than in the community settings[xxii];
- **Risk of imprisonment** of people who use drugs **forces people switch to legal/semi-legal drugs** e.g. alcohol many of which pose new risks and often **lead people to engage in more risky behaviours**;
- The current international drug control regime supported by the United Nations conventions of 1961, 1971 and 1988 also **limits access to essential medicines** for millions of people worldwide who require essential medicines for pain.[xxiii]

In conclusion - there is growing evidence of many current drug policies increase the harms associated with unsafe drug injecting rather than prevent the negative effects of drugs[xxiv]**.** Moreover there is **a growing recognition of the need for policy reform**. In 2010, Joint United Nations Programme on HIV/AIDS (UNAIDS) Executive Director called for decriminalization of drug use as a key in averting the HIV epidemic; the United Nations Office of Drugs and Crime (UNODC) acknowledged the many "unintended negative consequences" of drug enforcement.[xxv] Finally the concept that current drug policies are causing harm and must be changed was recently acknowledged by over 20,000 people who signed the Vienna Declaration, including Michel Kazatchkine, the Executive Director of Global Fund to Fight AIDS, Tuberculosis and Malaria, Elly Katabira, the President of the International AIDS Society, Stephen Lewis, and Former Special Envoy to UN Secretary-General Kofi Annan.[xxvi]

Both the harms caused by prohibition and the lack of effectiveness of prohibition in lowering drug use have led countries to search for **ways to make drug policy more pragmatic and conducive to better health outcomes.** There are 3 main developments.

III. Policy shift – the evidence of pragmatic approaches:

(1) Implementation of harm reduction programs. Programs focused on reducing the harms caused by drug use rather than only preventing or reducing use have emerged as a pragmatic and targeted response to the growing HIV epidemic among people who inject drugs. Timely introduction of needle and syringe exchange and OST have proven to be a low cost way to prevent HIV transmission and to improve health.[xxvii] OST is not only the scientifically proven and most effective way of drug addiction treatment, but there is also established evidence that access to OST and heroin maintenance increase the rates of success of HIV, hepatitis C and tuberculosis treatment[xxviii] and is recommended by the World Health Organization (WHO) as an integral part of comprehensive support in treatment for HIV and TB.[xxix]

During past 20 years harm reduction practices have diversified from needle and syringe exchange and OST to include a wide range of health promotion services including overdose prevention strategies, referral to other health services including HIV treatment services, provision of heroin prescription treatment, and establishment of safe injection sites. One of the greatest examples in wider Europe – Switzerland - shows that all these interventions are feasible, cost-effective, leading to health improvement and reduction of drug related crimes[xxx]. Today harm reduction is a recognized by the EU[xxxi] and is firmly established in the EU Strategy on Drugs 2005-2012[xxxii], increasingly approaching drug use as a health rather than an enforcement issue. Despite this, the level of services, including harm reduction interventions and access to drug maintenance treatment, varies considerably in the EU and neighbouring countries, which is reflected by the still high number of reported new HIV cases among people who inject drugs, mainly in the eastern part of the EU.[xxxiii]

(2) Depenalization and decriminalization of drug use/possession. An over-burdened, resource-limited criminal justice system and HIV epidemic among people who inject drugs persuaded Portugal to decriminalize the use and possession (for personal use) of all drugs in 2001. Evidence shows that this change led to a reduction in new HIV infection and reduced drug related deaths as well as increased uptake of drug dependence treatment.[xxxiv] Rates of drug use in Portugal are now among the lowest in the EU, particularly when compared with states with stringent criminalization regimes[xxxv]. This indicates that legal drug use and possession for personal use did not lead to increased rates of use. The same evidence can be drawn from the Netherlands for cannabis use, where legal access to the drug did not have a significant impact on the scale of use, instead facilitating safer drug use.[xxxvi]

Evidence show that the harms of drug injecting are managed more efficiently by public health programs than policing, and therefore a reduced focus of law enforcement on drug use and possession for personal use results in increased health benefits, as the outcomes in Portugal or Switzerland demonstrate.[xxxvii] Therefore the policy shift away from punishment of users and criminalization of personal possession is crucial for long-term sustainability of harm reduction approaches.

(3) Increased access to controlled substances - paradigm shift from prohibition to control?

Access to controlled substances (such as heroin prescription treatment and medically prescribed marijuana for pain relief including for PLHIV) marks a shift in prohibition regime towards strategies that give the government control over certain substances, their distribution, supply and use.

The practice shows, that when policies rely and respond to the evidence they tend to improve health outcomes, hence contributing to the objective of improving the wellbeing and reducing harms. Finally, there is growing momentum to bring about a shift from total prohibition of drugs to drugs consumption control: three former Latin American presidents recently backed a model of legal regulation.[xxxviii] There also are models outlining options for control over products (dose, preparation, price, and packaging), vendors (licensing, vetting and training requirements, marketing and promotions), outlets (location, outlet density, appearance), over who has access, and where and when drugs can be consumed suggesting a continuum of different regulation models, rather than focusing on two extreme options – prohibition *or* legalization of drugs. They furthermore explore different options for different drugs in different populations and suggest the regulatory models that may deliver the best health and safety outcomes.[*xxxix*]

Drug markets make an estimated 224 billion euro (US$320 billion) profits annually[xl] which remain entirely outside the control of government. Often, lack of funding is invoked to justify inadequate coverage of health programs including HIV and harm reduction programmes. A more differentiated approach to legal regulation of drug use could lead to increased state revenues. Governments could effectively invest in harm reduction, treatment, care and social support programs.

IV. Call for action:

We, the representatives of the European HIV community, stand for **safer, more efficient, health- and rights-based drug policies** and therefore call on the EU, member states and affected communities to:

- Support the Vienna Declaration calling for decriminalization and depenalization of individual drug use and possession for personal use thereby reaffirming the values of respect for human dignity, liberty, equality, solidarity, the rule of law and human rights.

- In line with the engagements of the Treaty of Lisbon for a more democratic and transparent Europe, **initiate a dialogue with civil society about the effect versus costs of current drug policies**, based on alternatives to prohibition based on best evidence available in particular when in the process towards a new EU drug strategy. Civil society and organisations of people who use drugs should be recognized as an equal partner in development, implementation and evaluation of responses to HIV and drugs at all levels in the EU and neighbouring countries.

- **Ensure that the policy principles outlined** for example in the European Parliament recommendation to the EU Council on the European strategy on fighting drugs (2005-2012)[xli], such as science driven policy approaches, are **reaffirmed and put into action** through the new EU drug strategy and national policies.

Recommendations:

EU level:

- The EU, led by the European Commission, should **use the WHO/UNODC/UNAIDS endorsed indicators[xlii] for evaluation** of EU member states compliance with the EU Drugs Strategy (2005 – 2012) **and target setting** for the new EU Drugs Strategy;
- The European Commission should ensure **overall policy coherence in the upcoming EU drug strategy** taking into consideration the EU Communication on Combating HIV/AIDS in

the EU and Neighbouring Countries (2009-2013) which prioritizes health, calling for access to sterile needles, evidence-based addiction treatment, including substitution and other harms reduction measures, as "proven to be very effective, including in high prevalence areas and in particular settings such as prisons. Investment in comprehensive IDU [injecting drug users] health care should help to decrease the number of new HIV infections among drug users, and to alleviate the burden associated with drug use"[xliii];

- The European Commission should show **leadership and unity in promotion of evidence based practices** and make health and rights issues central **including through international mechanisms** such as the UN Commission on Narcotic Drugs in accordance with the 2003 EU Council Recommendation and the 2009 Commission's Communication on Combating HIV/AIDS in the EU and Neighbouring Countries;
- The European Commission's Drug Policy Coordination Unit should review the drug related **funding in external aid** through EU Neighbourhood Policy budgets **to facilitate promotion of evidence-based policies and practices** beyond the EU;
- The Directorate-General for Home Affairs and the Directorate-General for Justice and Fundamental Rights should work in partnership and lead on the **impact assessment of the EU Drug Strategy on the drug situation, national policies and programming, and on the impact of current policies**, with the focus on health and rights of people who use drugs. The evaluation should be done in a bottom-up fashion in partnership with medical professionals, civil society and representatives of people who use drugs;
- The European Commission should initiate and lead in the debate at international, European and national levels on the **benefits and risks of alternative drug regulation regimes based on the impact assessment**;
- Meaningful involvement of civil society into drug policies requires extended and sustainable funding by the European Commission for civil society actions;

EU Member States:

- Ministries of Health, Interior and Justice in the EU member states and neighbouring countries should bring about **policy coherence** in their approach to harm reduction policies, and cooperate in the evaluation of policy costs vs. their effects;
- Ministries of Health, Interior and Justice in the EU should **adhere to previously agreed approaches to the assessment of their drug policies taken at Council level** including the positive evaluation of harm reduction measures;
- Should **use the WHO/UNODC/UNAIDS recognized indicators**[xliv] as the basis for evaluation and planning of national drug policies and their compliance with the EU principles;
- Should initiate debate among responsible Ministries, health care professionals, academics, civil society representatives and affected communities including PLHIV and people who use drugs at country level to find the optimal balance between protection of public health through substance control, on the one hand, and the negative consequences of repressive controls on the other;
- National governments should ensure sustainable and adequate funding for non-governmental organizations and drug users community both working on the ground and involved in drug policy advocacy;

Civil society:

- Finally, HIV organizations across Europe, as frontline observers of the devastation caused by HIV have a key role to play to **ensure that drug policies do not impede access to prevention and care**, as is also recognized in the Political Declaration on HIV/AIDS,[xlv] and are encouraged to work closely with the organizations advocating for drug policy reform and especially organizations of people using and affected by drugs to ensure the greater impact in building policies that rely on health and rights.

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