



To: Mr. Anand Grover, Special Rapporteur on the right to health
Mr. Juan E. Méndez, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
Prof. Michel Kazatchkine, UN Special Envoy on HIV/AIDS in Eastern Europe and Central Asia
Mr. Michel Sidibé, Executive Director, UNAIDS
Mr. Yuri Fedotov, Executive Director, UNODC
Dr Margaret Chan, Director-General, WHO
Mr. Mark Dybul, Executive Director, Global Fund to Fight AIDS, Tuberculosis and Malaria
Ms. Helen Clark, Administrator, UNDP
Ms. Navi Pillay, UN High Commissioner for Human Rights

URGENT APPEAL: Health and human rights crisis imminent for opiate substitution therapy clients in the Crimea

As networks of people who use drugs, harm reduction, drug law reform, and human rights organisations we wish to call your attention to a largely overlooked aspect of the catastrophic situation currently unfolding in the Crimea.

As has been widely reported, the Crimean peninsula, previously an autonomous region of Ukraine has been unilaterally annexed by the Russian Federation in defiance of international law.

The aspect of this crisis that most concerns us and that we would like to raise with you is the situation that will be faced by the more than eight hundred clients of Crimean opiate substitution programmes should the region become subject to the current legislative framework of the Russian Federation which includes the outlawing of opiate substitution therapy. Indeed, on 20th March 2014, Mr. Ivanov, the head of the Russian Federal Drug Control Service, the ministry responsible for drug policy in the Russian Federation announced his intention to close the opiate substitution therapy programmes as his first priority¹. Carrying out this intention would be a presumptively illegal measure under Article 12 of the International Covenant on Economic, Social and Cultural Rights and specifically would represent a retrogressive measure with regards to achieving the highest attainable

¹ <http://mir24.tv/news/society/10105992>

standard of health, and in particular, access to essential medicines. This point is clarified in General Comment 14 of the Committee on Economic, Social and Cultural Rights (UN Doc. E/C.12/2000/4).

According to the ICESCR, states have a legal obligation to take all measures, whether they be legislative, administrative, budgetary, to the maximum of their available resources, to realize progressively the rights in the covenant, including the right of all persons to the highest attainable standard of health. Following the UN Committee on Economic, Social and Cultural Rights, it is presumptively illegal to take retrogressive measures that would undermine or move back from this progressive realization which is embodied in the provision of OST programmes.

We note that "there is a strong presumption that retrogressive measures taken in relation to the right to health are not permissible. If any deliberately retrogressive measures are taken, the State party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant in the context of the full use of the State party's maximum available resources" (UN Doc. E/C.12/2000/4). Whilst it is possible for states to justify taking a step backward, the onus is on the state to make that case and to show that the measure in question has been taken after the most careful consideration of all alternatives and is duly justified by reference to the totality of the state's obligations under the Convention. We conclude from an examination of the facts and the Convention that not only is denying current recipients of OST presumptively illegal as a retrogressive measure but also that it cannot be justified by the Russian Federation.

Methadone and buprenorphine are commonly prescribed to opiate dependent people and both are included in the WHO Model List of Essential Medicines. The provision of opiate substitution therapy is recognised by WHO, UNAIDS and UNODC as an essential part of an effective response to HIV amongst people who use opiates and is a key element of the package of internationally recognised harm reduction interventions. In spite of this international guidance, the provision of opiate substitution therapy is illegal in the Russian Federation. Denial of access to such essential medicines - including abrupt "weaning" to a zero dose for those receiving this treatment - defies the internationally accepted scientific consensus and is a fundamental breach of human rights, principally that of the right to the highest attainable standard of health. Denial of opiate substitution therapy has been described by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Juan E. Méndez, as a "particular form of ill-treatment and possibly torture

of drug users" (A/HRC/10/44 and Corr.1, para. 57). The World Health Organisation has also noted that cutting opiate maintenance patients off abruptly and arbitrarily from their medicines can be clinically harmful and constitutes inhuman treatment². Furthermore, this action would breach the human right to non-discrimination as the rights in the ICESCR, including that to the highest attainable standard of health, are to be enjoyed without discrimination, including on the basis of "other status." (ICESCR, Article 2.2). Depriving patients of access to methadone, an internationally recognized and recommended essential medicine, by criminalizing it is to effectively discriminate against people based on their health status, in this case, opiate dependence.

We also draw your attention to the fact that the Committee on Economic, Social and Cultural Rights has expressed its concerns over the legal ban on OST in Russia and strongly advised Russia to provide access to OST in order to fulfil its obligations under Article 12 of the International Covenant on Economic, Social and Cultural Rights (CESCR. Concluding Observations. Russian Federation, June 2011, para 29).

Current supplies of methadone and buprenorphine in the Crimea are expected to last for at most another month, and in some cities, for only two weeks, and in preparation for the likelihood that the region will become subject to the legislative framework of the Russian Federation, doctors working in opiate substitution programmes have already begun reducing the doses of their clients, some of whom report that their doses have been cut by as much as 25%. Members of the drug using community, and in particular clients of the OST programmes are likely therefore to be amongst the first refugees from Crimea now that the territory has come under Russian control, and if they cannot leave they will experience immediate and wide ranging breaches of their human rights and a decline in their health. Closure of the OST programmes would in addition to being a retrogressive measure subject the current clients to a treatment program that has been widely condemned as unscientific, ineffective and cruel.³

One further likely consequence of closure of the programs is a rise in both HIV and HCV prevalence rates, as well as overdose, as many of those currently in receipt of OST are almost certain to return to injecting drug use. Given the reluctance of the Russian authorities to provide needle and

² WHO, UNODC, UNAIDS (2004), 'Substitution maintenance therapy in the management of opioid dependence and HIV/AIDS prevention: position paper'.

³ Human Rights Watch (November, 2007), Rehabilitation Required: Russia's Human Rights Obligation to provide Evidence-based Drug Dependence Treatment.



syringe programs, needle sharing is an inevitable consequence. The human rights and public health cost is therefore significant.

We are therefore calling upon you all to issue a public statement making clear the imminent risk that this population faces of losing access to essential medicines, we are requesting that you raise the issue with the Russian government urging them not to close down the currently running opiate substitution programmes; and we are calling upon you to raise the issue with utmost urgency with the Human Rights Council with a view to ensuring continued access to the programmes. We request that the Global Fund makes contingency plans to cater for the possible relocation of large numbers of Crimean OST patients, and ensures that provision is made for their uninterrupted access to the essential medicines that they are currently receiving. We call upon UNAIDS to withdraw sponsorship from, and not to participate in, the upcoming Eastern Europe and Central Asian HIV/AIDS Conference (EECAC) in May in Moscow, and to make it clear that this is as a result of Russian actions in the Crimea as well as the ongoing human rights violation of denying access to an essential medicine for people who use drugs in the Russian Federation for whom it should be a therapeutic option (which means that members of one of the key populations most affected by the HIV epidemic in Russia and the region cannot safely attend the conference without risking their health and/or their liberty).

We would like to further request a meeting with Mr. Sidibé, Dr. Chan, and Mr. Dybul to discuss this urgent situation and possible remedies next week as our representative will be in Geneva.