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SHADOW REPORT

**On the situation of women who use drugs, women living with HIV, sex workers, and lesbian,
bisexual women and transgender people in Ukraine**

Ukraine

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1. EXECUTIVE SUMMARY

This shadow report describes the situation of women who use drugs, women living with HIV, sex workers, and lesbian, bisexual women and transgender people in Ukraine. The following non-governmental organizations prepared the report: organization of sex workers Ukrainian Charitable Organization “*Legalife-Ukraine*” (hereafter, “Legalife-Ukraine”), LGBTQ organization “*Insight*” (hereafter, “Insight”), All-Ukrainian Charitable Organization “Union of Women of Ukraine Affected by HIV ‘*Positive Women*’” (hereafter, “Positive Women”), and Charitable Organization “*Club ‘Svitanok’*” (hereafter, “Svitanok”), which works with women who use drugs. The report is based on researches conducted by and cases documented by abovementioned organizations in 2011-2016, and official sources of information. The report includes information about institutionalized discrimination of women who use drugs, women living with HIV, sex workers, and lesbian, bisexual women and transgender people, such as criminalization of the marginalized groups of women, violence and brutality they face from the state institutions – law enforcement agencies and medical institutions, violation of parental and reproductive rights, status disclosure, legal recognition of transgender people, and access of women who use drugs to opioid substitution therapy. Following the 45th CEDAW Session that took place in January 2010, Ukraine received concluding observations in regards to the abovementioned groups of women that relate to health (clauses 38 and 39), vulnerable groups of women (clauses 42 and 43) and data collection and analysis (clauses 44 and 45). Thus, this report will examine implementation of concluding observations in regards to the abovementioned groups of women who face multiple forms of

discrimination.

2. KEY ABBREVIATIONS

ART - antiretroviral therapy

OST - opioid substitution therapy

3. INTRODUCTION

Sex workers, women who use drugs, women living with HIV, and lesbian, bisexual women and trans people have been facing severe human rights abuses and multiple forms of discrimination in Ukraine. Having been briefly addressed in the State's 8th periodic report, these marginalized groups have not received sufficient attention in terms of in-depth consideration and nuanced analysis of discrimination of women, based on drug use, sex work, sexual orientation and gender identity, and HIV-status. The 8th periodic report briefly mentions discrimination on the basis of sexual orientation or gender identity; it mostly conflates sex work with trafficking in women or mentions sex workers in regards to rates of HIV-infection; it discusses women who use drugs mostly in relation to the problem of violence and limited access to shelters and reveals the alarming statistics of the incidence of HIV transmission from mother to child among women who use drugs; and it discusses the problem of violence against women living with HIV and mentions the hindered access of these women to in vitro fertilization. Having acknowledged the efforts made to reveal the problems of the mentioned marginalized groups, we, however, consider crucial to address issues of institutionalized discrimination, specifically focusing on burning issues that violate women's rights and hinder access to medical and social services, as well as contribute to social and economic vulnerability. In particular, this report focuses on the issues of criminalization of the marginalized women, violence and brutality of the law enforcement agencies and medical institutions, violation of parental and reproductive rights, forced sterilization, status disclosure, legal recognition of transgender people, and access of women who use drugs to opioid substitution therapy.

In the situation of the armed conflict in Ukraine, the economic climate is deteriorating that, first of all, affects vulnerable women. The economic crisis, armed conflict, humanitarian crisis, and mass internal migration contribute to increasing spread of communicable diseases. Marginalized women experience increasing levels of poverty and gender-based violence, which further hinder their access to medical and social services. Financial situation is even more aggravated for single mothers and internally displaced persons within these groups. Since the beginning of the armed conflict, a number of state programs serving marginalized groups have been cut. For instance, regional AIDS center in Donetsk region that used to provide diagnostic services has been inaccessible, and the whole coordination and monitoring system of HIV/AIDS services has drastically deteriorated. Regional TB and HIV council has not been in operation for the last two years, whereas the number of cases of HIV infection among pregnant women in the region is steadily on the rise¹. **Thus, on the one hand, the armed conflict makes marginalized groups of women more vulnerable to social and economic injustice, and on the other hand, even less important in regards to budget relocations and respect to human rights.**

The lack of disaggregated statistics and monitoring of human rights violations makes it difficult to analyze a situation of multiple forms of discrimination and aggravates the plight of women with intersecting forms of discrimination. For example, official statistics of sex workers living with HIV is significantly lowered as a result of the refusal of women to report their occupation in sex work due to its criminalization. Also, data on opioid substitution therapy lacks disaggregated statistics by gender among people with HIV, hepatitis C, tuberculosis, receiving ART, as well as gender-specific statistics by average age of people receiving opioid substitution therapy, average period of using drugs, and minimum, maximum and average dosage of opioid substitution therapy. The lack of statistics makes it hard to trace and analyze the gaps in gender-specific prevention and treatment.

¹ "Positive Women", Project "HIV positive women and women affected by HIV are empowered and capacitated to participate in HIV/AIDS policy processes", October 2016.

This report will address the lack of information and provide the documented cases and collected data related to discrimination of sex workers, women who use drugs, women living with HIV, and lesbian, bisexual women and transgender people in Ukraine.

4. SITUATION OF WOMEN WHO USE DRUGS, WOMEN LIVING WITH HIV, SEX WORKERS, AND LESBIAN, BISEXUAL WOMEN AND TRANS PEOPLE IN UKRAINE UNDER SPECIFIC CEDAW ARTICLES:

4.1. CRIMINALIZATION AND PATHOLOGIZATION OF THE MARGINALIZED GROUPS OF WOMEN

Article 2 of CEDAW states that States Parties condemn discrimination against women in all its forms and pursue by all appropriate means a policy of eliminating discrimination against women. However, norms of Article 2, in particular parts **(d)**, **(f)**, and **(g)**, of the Convention are not implemented by Ukraine, whose legislation allows penalization of women who use drugs and sex workers. In regards to sex workers, **Article 6** of CEDAW is not implemented fully.

Women who use drugs

Ukraine's policy on drugs continues to be repressive. Drug-related crimes without intent to sell include offenses under the Article 309 of the Criminal Code of Ukraine and the Article 44 of the Code of Ukraine on Administrative Offenses. In particular, Criminal Code establishes criminal liability for the acquisition, manufacture or possession of drugs without intent to sell (from a fine to a restraint or imprisonment for up to 3 years)². According to the official statistics of the General Prosecutor's Office of Ukraine, in 2015 crimes under Article 309 of the Criminal Code constituted 57.5% of the total number of drug-related crimes³, which suggests that repressions are directed mostly towards drug users. Administrative responsibility for illegal manufacturing, purchase and possession of drugs in small amount without intent to sell entails punishment from a fine to an administrative arrest for up to 15 days⁴.

In 2010, the Order of the Ministry of Health of Ukraine No. 634 from 29/07/2010 "On amendments to Ukrainian Ministry of Health Order No. 188 from 01/08/2000" criminalized all opioid drug users in Ukraine. The Order enabled the amendments that significantly reduced the legal threshold for "small" quantities of certain types of illegal drugs, including the most commonly used ones. The threshold for criminal liability for possession of acetylated opium, for example, was reduced by a factor of 20⁵. Anyone detained for the possession of 0.005 gram of acetylated opium or heroin (approximately the amount that can be found from residue in several used syringes) faces criminal prosecution and a possible penalty of up to 3 years of incarceration. The resulted criminalization of drug users hinders access to healthcare services, in particular to prevention and treatment of HIV, tuberculosis, hepatitis, and sexually transmitted diseases. Given that women are more vulnerable to HIV infection⁶, this puts women who use drugs in a situation of multiple discrimination and stigmatization.

The State Policy Strategy on Drugs for the period until 2020, approved by the Cabinet of Ministers of Ukraine (the Order No. 735-p from 28/08/2013), is the basic national legal act that provides the implementation of international obligations to respect rights of drug users; however, it remains rather declarative. Repressive drug policy in Ukraine creates a favorable environment for

² Part 1 article 309 of the Criminal Code of Ukraine. URL: <http://zakon2.rada.gov.ua/laws/show/2341-14/print1484412951533446>.

³ National Report on Drug Situation in Ukraine (for 2015). State Institution "Ukrainian monitoring and medical center on drugs and alcohol of Ministry of Health of Ukraine", Kyiv, 2016. Gender-disaggregated statistics are not available.

⁴ Article 44, Code of Ukraine on Administrative Offenses. URL: <http://zakon4.rada.gov.ua/laws/show/80731-10/print1483933898036556>.

⁵ EMCDDA, Ukraine country overview, 2016. URL: <http://www.emcdda.europa.eu/countries/ukraine#laws>.

⁶ National Report on Drug Situation in Ukraine (for 2015). Ibid.

the violations of rights of women who use drugs, including police violence, blackmail, arbitrary detention, and lack of due judicial examination. Moreover, criminalization aggravates the economic vulnerability of women who use drugs and remains one of the main factors of the ongoing gender-based violence they face. As a result, women who use drugs believe that they are deprived from all rights and means to protect themselves. Self-stigma and vulnerability before the law and the law enforcement agencies lead to a constant fear of women for their own safety and for the safety of their relatives, fear of harassment and abuse by law enforcement representatives.

Case #1. Vika, 30 years old, Fastiv, Kyiv region, focus group of 23.04.2015⁷: *Vika went to Kyiv to work in a model agency when she was 16. She had to leave the model agency, because in 2008 her health state dramatically worsened; she was diagnosed with HIV. Vika receives ART and is a patient of the OST program. She has a disability, receives state social assistance of 860 UAH monthly, and can't find a job due to her health state. Vika was arrested by police for drug possession. Criminal proceedings were opened; she was convicted and sentenced a fine of 1800 UAH. Her income does not allow her to pay the fine. This may result in the increased amount of fine or even further increase the legal penalty if police decides to report this to the court.*

Sex workers

Criminal charges for individual adult sex work were abolished in Ukraine in 2006. However, individual prostitution is an administrative offense⁸. And everything connected with the organization of prostitution, such as: the establishment and maintenance of brothels and procuration – a criminal offense with a punishment from a fine to 5 years of imprisonment, pimping or involvement in prostitution – imprisonment from 3 to 15 years⁹. Sex workers, even in the absence of a legal basis for criminalization of operational aspects of sex work, are harassed and punished by law enforcement agencies that apply administrative offences¹⁰. Due to the legal prohibitions, sex workers, on the one hand, are forced to work in dangerous conditions and subjected to violence (often by law enforcement authorities), on the other hand, sex workers are unable to defend their rights. Thus, according to the research¹¹ of “Legalife-Ukraine” among sex workers in Kirovohrad, Vinnytsa and Rivne regions, and in Mariupol of Donetsk region, the results regarding violations of sex workers’ rights during administrative detention have shown that almost all sex workers participating in the survey had been a subject to unlawful detention. The biggest number of unlawful detentions was reported to be performed by officers of the Anti-Trafficking Department (88.9%), with the rest of cases (11.1%) performed by officers of the District Police Departments. For example, some respondents reported that Anti-Trafficking officers detained them under article 181.1 of the Code of Ukraine on Administrative Offenses (“Practicing Prostitution”). Women who had been subjected to these arrests reported that the officers arrived in a car, forced them into the vehicle and drove them to the precinct. The reports on administrative offenses were drawn up in 67% of cases; reports on detentions were drawn up in 33% of cases; the eye-witnesses were mentioned only in 33% of all the reports. Also, in November 2016, 7 sex workers from Kirovohrad region turned to “Legalife-Ukraine” and said that during one day the law enforcement officers drew up 5-7 reports on each of them without dates after having psychologically pressured and blackmailed with disclosing their information to sex workers’ relatives.

⁷ Source of information: ACF “Coalition of HIV-service organizations” together with the partner organizations ICF “Vertical” (Kyiv), CF “Spodivannya” (Zaporizhia), PO “Center for Spiritual and Psychological Support ‘Dzherela” (Ternopil). Project “Women Against Violence” of the regional program of the Eurasian Harm Reduction Network.

⁸ Article 181.1, Code of Ukraine on Administrative Offenses.

⁹ Articles 302 and 303 of the Criminal Code of Ukraine.

¹⁰ Underserved. Overpoliced. Invisibilised. LGBT Sex Workers Do Matter. Intersection briefing paper #1. International Committee on the Rights of Sex Workers in Europe, October 2015. URL:

http://www.sexworkeurope.org/sites/default/files/resource-pdfs/icrse_briefing_paper_october2015.pdf.

¹¹ Kirovohrad regional branch of the “Legalife-Ukraine”. Research on Violations of Human Rights of Sex Workers by Law Enforcement Officers in Ukraine. Open Society Foundation, 2014. URL:

https://issuu.com/natashadorofeyeva/docs/analiz_oprosa_rks_2014.

In September 2016, “Legalife-Ukraine” appealed to the Member of Parliament of Ukraine to modify the current legislation and abolish the administrative penalties for voluntary adult sex work, but the draft bill has not been registered yet, which indicates that women’s right to choose the occupation/ profession is ignored. In 2015, the legislative initiative legalizing sex work was registered in the Parliament of Ukraine, but the draft bill was later withdrawn.

The result of the criminalization of sex workers and women who use drugs is a limitation of the right to peaceful assembly and association. The repressive drug policy and the penalization of sex work lead to silencing of human rights abuses, it is difficult for women to speak out on their behalf, and they fear to go to the protests in defense of their rights due to the criminalization and stigmatization.

Women living with HIV

Criminalization of HIV transmission also adversely affects women, in particular, increases vulnerability of sex workers and drug users. Part 1 Article 130 of the Criminal Code of Ukraine¹² provides criminal penalties for posing in risk of contracting HIV or other incurable infectious disease, even without an actual intention or the consequences of infection of another person. Although this provision is intended to reduce the incidence of HIV infection, in practice it has the inverse effect – it increases the stigmatization of people living with HIV, limits their access to treatment, and reduces the effectiveness of government measures to combat HIV/AIDS. For women, it contributes to a higher risk of HIV infection, violence and gender inequality: in healthcare facilities, society, and family.

Moreover, in the context of multiple forms of discrimination, sex workers are pathologized and considered ‘contagious’, carrying the burden of HIV and STDs, that makes sex workers the cause of the problem, rather than addressing structural barriers to healthcare services. For example, according to “Legalife-Ukraine”, there is information that police officers intimidate sex workers with criminal liability for posing in risk of contracting HIV. As a result, it affects adherence to ART among sex workers, as often they try not to carry ART with them, so that in case of the arrest police officers will not find out about sex workers’ HIV-status and will not blackmail.

Trans people

Legal recognition of gender for trans people in Ukraine required establishing a diagnosis ‘transsexualism’ (according to the Order of Ministry of Health No. 60 operative until 30/12/2016) and currently requires establishing a diagnosis “gender dysphoria”. The procedure for legal gender recognition remains nontransparent and creates space for abuse and corruption from medical experts and governmental agencies. Previously, the State Evaluation Commission which was the only agency authorized to give permission for the change of documents only met twice a year in Kyiv and evaluated maximum 20 trans people a year. Trans people report having spent between 1 to 4 years in the process¹³.

The diagnosis ‘transsexualism’ is considered a psychiatric disorder and partially deprives trans people of their legal capacity. For instance, a person with a diagnosis ‘transsexualism’ is legally prohibited to be a guardian of a child.

The procedure for legal gender recognition remains inaccessible for many trans people thus leaving them with a state issued ID with gender marker that does not correspond to their appearance. Trans people who are unable, or have to wait long periods in order, to obtain legal gender recognition encounter difficult situations with the police, employers, travel, banks and other institutions that require official identification.

¹² Article 130, Criminal Code of Ukraine, “Deliberate placing another person in danger of contracting HIV or any other incurable infectious disease dangerous to human”. URL: <http://zakon4.rada.gov.ua/laws/show/2341-14>

¹³ Human Rights Watch, Allegation letter regarding the legal gender recognition procedure in Ukraine, as specified in Order No. 60 of the Ministry of Health of Ukraine. URL: <https://www.hrw.org/news/2015/04/27/allegation-letter-regarding-legal-gender-recognition-procedure-ukraine-specified>.

Recommendations:

- The State Party should develop and adopt policy of humanization in regards to drug users and sex workers, laws and practices based on respect for human rights that will ensure protection and exclude any discrimination and violence against women; revise legislation in order to prevent the criminalization of drug users and replace punitive measures against drug users with the provision of healthcare and social services.
- Carry out the analysis of compliance with the law¹⁴ during the pre-trial investigation of drug-related cases without intent to sell.
- Repeal the Order No. 188 from 01.08.2000 of the Ministry of Health so the drug enforcement is not focused on people who use drugs and does not obstruct harm reduction services; ensure that the criminal and administrative laws are drafted and implemented in full compliance with the State's human rights obligations, including those which prevent disproportionate punishment and arbitrary detentions.
- Ensure that law enforcement practices do not hinder HIV-prevention and treatment programs aimed at people who use drugs, sex workers or incarcerated people, including training on HIV, harm reduction and human rights for law enforcement officers.
- Revise legislation on prostitution in order to de-penalize sex work and not to subject sex workers to administrative or criminal prosecution; legally recognize sex work in order to bring it from the shadow and ensure labor and social rights of sex workers.
- Revise article 130 of the Criminal Code of Ukraine in order to reduce the stigma of people living with HIV and improve the effectiveness of their treatment; abolish the norm that establishes criminal liability for posing in risk of contracting HIV.
- Prosecute cases of blackmail with the disclosure of information about health status - unlawful actions of law enforcement officers - in relation to sex workers and women living with HIV.
- Educate law enforcement representatives about the rights of women who use drugs, sex workers, and women living with HIV, include these issues in the training and educational programs for law enforcement officers within new state program on equal opportunities for men and women for the period to the year 2020.

4.2. VIOLENCE FROM THE LAW ENFORCEMENT AGENCIES AND OTHER STATE INSTITUTIONS

Article 2 of CEDAW, in particular, parts **(d)**, **(e)**, and **(f)**, is not implemented by Ukraine in regards to violence against sex workers and women who use drugs.

Women who use drugs

According to the research of 2015¹⁵ conducted by “Svitanok” in Kramatorsk, Donetsk region, women who use drugs report about extreme prevalence of police brutality. Encounters with the police cause anxiety, helplessness and hopelessness among women because of their social status and stigma. Survey among women who use drugs revealed that 83.3% of women encountered police violence (beating, torture). Moreover, woman named the following types of violence and ill-treatment that have been used against them, their relatives and friends during the arrest: 36% of respondents indicated that they were held long time in unsuitable for that places; 33% indicated that

¹⁴ Article 7 “Ensuring the legality of the application of measures for administrative violations”, the Code of Ukraine on Administrative Offenses. URL: <http://zakon0.rada.gov.ua/laws/show/80731-10/page2>

¹⁵ In Kramatorsk, Donetsk region, “Svitanok” conducted the research of violence against female drug users from the law enforcement officers. The research was conducted in January – February 2015 during the armed conflict in Eastern Ukraine and in the context of police reform. Two focus groups were conducted (10 and 7 participants respectively) with women who use drugs in the age of 20-45 years old, living in Donetsk region. Also, the survey was conducted among 30 women who use drugs in the age of 17-50 years old, living in Donetsk region. URL: <http://www.club-svitanok.org.ua/snyzhenye-vreda/zhenschyna-y-narkotyky/prepyatstvyya-ne-pozvolyayuschy-narkozavysymyim-zhenschynam-postradavshym-ot-nasylyya-so-storonyi-pravoohranytelnyih-orhanov-yspolzovat-suschestvuyuschy-mehanyzmyi-zaschytyi-svoyh-prav/>

physical violence was used against them (or their family); 26% indicated the excessive use of special means (handcuffs for more than two hours, hitting by a rubber truncheon, hitting on the head, in the stomach and groin). Also, women reported abuse and ill-treatment that have been used against them or their relatives during the investigation process: 63% reported about the absence of food or malnutrition; 53% - about non-provision of medical care; 40% - about bullying / abuse; 23% - about torture. And woman pointed to the following types of psychological violence that was used against them or their relatives: 63% reported about the insults and treatment degrading to human dignity; 53% - about blackmail.

Case #2. Oksana, 37 years, Kramatorsk, focus group of February 2015: “... during the detention, when there were no witnesses, they tried to rape me, intimidated and threatened me. Police hates us. But there was one occasion when they pitied me and released, even didn't ask for money...”

Case #3. Vika, 47 years old, Kramatorsk, focus group of February 2015: “... they could beat me repeatedly, handcuffed to a radiator, put on a gas mask...”

Case #4. Oksana, 34 years old, Kramatorsk, focus group of February 2015: “... I agreed for everything if they blackmailed me with children and they never beat me...”

Also, based on the other source of information¹⁶, “Svitanok” informed that during April-May 2015 ACF “Coalition of HIV-service organizations” and ICF “Vertical” received complaints from women-patients of opioid substitution therapy on the actions of police officers in Fastov, Kyiv region: unlawful detention and documentation (fingerprinting, photographing) in order to put person's information into the database of the law enforcement agencies; unlawful frisk and seizure of personal belongings (mobile phone); intimidation and pressure to compel to cooperation; deprivation from the right of a detained person to appropriate legal aid; falsification of criminal proceedings; use of abstinence symptoms and drug intoxication to obtain depositions; violation of the right to healthcare, including uninterrupted opioid substitution therapy; blackmail.

Case #5. Alesya, 25 years old, Fastov, focus group of 23.04.2015¹⁷: *Alesya uses drugs, doesn't work and lives with a boyfriend in his apartment. A boyfriend also uses drugs. In February 2015, Alesya with her boyfriend and two other friends were returning with the drug. When they arrived to Fastov, they were detained by police. Police officers suggested that Alesya took all the blame. Alesya's boyfriend arranged with police officers that everyone would be released, with the condition that Alesya takes the blame for drug transportation. He and the friends were released because they made arrangements for money. And Alesya was told that she would get part 1 article 309 of the Criminal Code, a conditional sentence or a fine, and she agreed. She was charged with part 2 article 309 of the Criminal Code, which provides up to 5 years of imprisonment. Through participation in the focus group, Alesya was able to receive legal consultations about her rights. In May 2015, Alesya informed that she and her boyfriend were unlawfully detained and Alesya was pressured to confess to a crime, which she had not committed; the physical force and intimidation were applied to her and her boyfriend.*

Sex workers

Due to their legal status, sex workers are vulnerable to violence, including from the law enforcement officers; and sex workers face significant legal barriers in protecting themselves. According to the research 2014¹⁸ conducted by “Legalife-Ukraine”, unlawful detentions and

¹⁶ Source of information: ACF “Coalition of HIV-service organizations” together with the partner organizations ICF “Vertical” (Kyiv), CF “Spodivannya” (Zaporizhia), PO “Center for Spiritual and Psychological Support “Dzherela” (Ternopil). Project “Women Against Violence” of the regional program of the Eurasian Harm Reduction Network.

¹⁷ Ibid.

¹⁸ Kirovohrad regional branch of the “Legalife-Ukraine”. Research on Violations of Human Rights of Sex Workers by Law Enforcement Officers in Ukraine. Open Society Foundation, 2014. URL:

violence from police officers are widespread among sex workers in Kirovohrad, Vinnytsa and Rivne regions, and in Mariupol of Donetsk region: 38.10% of respondents faced threats, intimidation, and psychological pressure; 21.90% - extortion of money; 10.50% - violation of the right to physical integrity; and none of the respondents wanted to complain about their rights violation to police. Moreover, the results of the interviews in Kirovograd region in 2013¹⁹ revealed that every third female sex worker is an intravenous drug user, which increases vulnerability and criminalization of sex workers.

Case #6. Oksana, 31 years old, Zaporizhia²⁰: I am a drug addict with long experience; I earn money by sex, because I cannot do anything, I don't have any education. Once again I went to a client and was caught by the police raid. When I was brought to the police department, they beat me there; I remained in the preliminary detention cell for a long time. Then I was ordered to go upstairs to some chief. Why – they didn't explain. In that room I had to serve three police officers, that were a sergeant, a captain and a major, because they threatened to open a case. They let me out only in the morning.

Recommendations:

- Actively investigate cases of violence and any unlawful actions committed by law enforcement officials against sex workers, women who use drugs and participants of opioid substitution therapy, including cases documented and reported by the community-based organisation representing marginalised women.
- Develop mechanisms of personal safety and privacy guarantees that will allow women to report incidents of violence without fear.
- Organize in cooperation with the human rights institutions and other similar organizations Commissions that will investigate incidents of violence and discrimination committed against women drug users and sex workers by the law enforcement agencies.
- Ensure the right to the free and quality legal assistance for sex workers and women who use drugs.
- Plan and provide educational events for sex workers and women who use drugs about their rights within new state program on equal opportunities for men and women for the period to the year 2020.

4.3. VIOLATION OF PARENTAL RIGHTS

Article 16 of CEDAW states that State Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations. Norms of this article, in particular parts **(d)**, **(e)**, and **(f)**, are not fully implemented by Ukraine in regards to marginalized groups of women.

Women who use drugs and Sex workers

Article 164 of the Family Code of Ukraine includes “chronicle use of drugs” as a sufficient foundation to deprive of parental rights. Women who use drugs report that law enforcement agencies frequently exploit this legislative norm when they intimidate women.

According to “Legalife-Ukraine”, sex workers from Alexandria and Znamenka, Kirovohrad region, do not enroll in programs of opioid substitution therapy because of fear of being deprived of parental rights and intimidation from state social service workers. Consequently, sex workers who use drugs do not go to drug-addiction treatment programs, thereby, remaining in the marginalized

https://issuu.com/natashadorofeyeva/docs/analiz_oprosa_rks_2014

¹⁹ Kirovohrad regional branch of the “Legalife-Ukraine”. The Study of Sex Workers in Kirovohrad Region on Human Rights Violations by Police Officers. Open Society Foundation, 2013. URL:

https://issuu.com/natashadorofeyeva/docs/analiz_oprosa_sexwork-eng_2013

²⁰ Online Platform “Women Against Violence”, Eurasian Harm Reduction Network. URL:

<https://waveeca.crowdmap.com/reports/view/773>

and vulnerable situation due to the fear of loss of parental rights.

Women living with HIV

According to the Order of Ministry of Health of Ukraine No. 479 of 20/08/2008, women living with HIV are prohibited to adopt or take guardianship over a child as a part of state “measures to protect children’s rights and legal interests”. A “disease caused by HIV” with clinical classification of HIV infection B20-B24 is included here as a contraindication, which deems all HIV-positive people ineligible for adoption and guardianship. This is a direct contradiction to the part 3 article 14 of the Law of Ukraine “On combating the spread of diseases caused by HIV, and legal and social protection of people living with HIV”: “Discrimination of persons on the grounds of HIV-status, as well as person’s belonging to groups of risk of contracting HIV is prohibited”²¹. There have been also cases when women living with HIV were deprived of parental rights of their biological children on the basis of a mother’s HIV status.

Case #7. Marina, Kryvy Rih, 2014: *A married HIV-positive woman with a child got separated from her husband. He took a child away for the weekend and stopped answering her calls. She contacted the police but was refused help; police agreed to accept her complaint only a few days later. The husband threatened her and her friends and disclosed her HIV status. When she tried to regain custody of her child through the court, her husband disclosed her HIV status and the court refused her petition for custody on the basis of her HIV status. She managed to regain custody of her child only through appeal court with a help of lawyers from the All-Ukrainian Network of People Living with HIV/AIDS.*

Trans people

Order of the Ministry of Health of Ukraine No.60, which was in force until 30/12/2016, included having children as a contraindication to the change of documents for trans people. In practice, this regulation forced trans people to give up their parental rights in order to undergo the official procedure of change of documents or made them ineligible for the procedure until their children turn 18. In 2014, in a court case seeking to eliminate this contraindication to the legal recognition of gender, the court ruled that “change of sex of one of the parents may cause moral or psychological trauma for a child and thus violate interests and rights of the child”. Any materials that would provide any proof for such ruling were absent.

Additionally, trans people are prohibited to adopt or take guardianship over a child; the above mentioned Order of Ministry of Health of Ukraine No. 479 includes diagnosis ‘transsexualism’ in the “list of diseases which make a person ineligible to be an adoptive parent”.

Lesbians and bisexual women

Lesbian families are also ineligible to adopt or take guardianship over a child as a couple; it is only possible for one of them to adopt as 'a single woman'. Moreover, Ukrainian legislation only recognizes parental rights of biological mothers in lesbian and bisexual women who raise children together. In case if a couple gets separated or a biological mother dies, the social mother has no parental rights over a child. Lesbian couples report their concerns about their children's potential well-being, especially where grandparents are homophobic and do not approve of their unions²².

Case #8. Kherson, 2016: *A lesbian couple has lived and raised together a daughter for 11 years when a biological mother died. The 14-year-old girl regarded both women as her mothers and family. Yet, the biological mother was the only legally recognized parent, and the girl was announced a child without a parental guardianship and placed in an orphanage for 4 months. The social mother immediately filed an application for the guardianship. However, the social services*

²¹ The Law of Ukraine “On combating the spread of diseases caused by HIV, and legal and social protection of people living with HIV”. URL: <http://zakon4.rada.gov.ua/laws/show/1972-12/print1483933898036556>

²² LGBT Families in Ukraine.

found a blood relative of a child, her 70-year-old grandmother who disapproved of her daughter's homosexuality and did not contact her daughter or granddaughter for 10 years. The social mother thus was denied the application for the guardianship in favor of the grandmother. After the LGBT NGO "Inaya" got involved and convinced one of the responsible governmental officials to reconsider the case, the latter persuaded the grandmother to give up the guardianship of a child, which she has not seen for years. The social mother then received the right to guardianship over her daughter as the only applicant.

This case serves rather as an exception, and receiving guardianship of a child was only possible because of the pressure from LGBT NGO and goodwill of the responsible state official. Furthermore, involved parties were asked not to publicize this case widely due to the concern that it might cause administrative problems to the involved state official²³.

Recommendation:

- Exclude diagnoses of HIV-infection and 'transsexualism' from the Order of the Ministry of Health of Ukraine No. 479.
- Repeal article 164 of Family Code of Ukraine.
- Educate law enforcement agencies, courts and social services to prevent unlawful actions against and intimidation by deprivation of parental rights of sex workers, women who use drugs, and participants of opioid substitution therapy and monitor implementation of the sanctions for such unlawful actions.
- Provide access to state legal assistance for women living with HIV, sex workers, and drug users in case of violation of their rights.

4.4. REPRODUCTIVE RIGHTS, FORCED STERILIZATION, ACCESS TO ASSISTED REPRODUCTIVE TECHNOLOGIES

Article 12 of CEDAW states that State Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning. **Article 16 (e)** states that States Parties shall take all appropriate measures to ensure women the right to decide freely and responsibly on the number and spacing of children and to have access to the relevant information, education and means to exercise this right. These norms are not implemented by Ukraine in regards to sex workers, women living with HIV, lesbian women and trans people.

Sex workers

According to "Legalife-Ukraine", there are instances of violation of the reproductive rights of sex workers from medical personnel, in particular, tubal ligation without a woman's consent. Often, HIV-positive status contributes to the multiple forms of discrimination among sex workers:

***Case #9. Vera, 24 years old, Znamenka, Kirovohrad region:** Vera, a sex worker, has HIV. Vera came to "Legalife-Ukraine" in October 2016, when she was pregnant and about to give a birth. She didn't receive mother-to-child prevention treatment, because she had not been consulted in healthcare facilities on this matter. Vera had a cesarean section. When she woke up and asked the doctor how was the surgery, the doctor replied that she tied her tubes, because Vera has no right to build a family and have children.*

Women living with HIV

According to the research²⁴ conducted by "Positive Women" among 1000 women living with HIV, HIV-status increases the likelihood of discrimination of HIV-positive women in healthcare

²³ Information provided by the LGBT NGO "Inaya" for the purpose of this report, January 2017.

²⁴ Sexual and reproductive health, gender equality and human rights, gender-based violence, economic and political opportunities of women living with HIV in Ukraine. "Positive Women", 2016. URL: <https://goo.gl/J1G56x>

sector in 15.5 times. The following cases documented by the organization also support this statement:

Case #10. Natalia, 27 years old, Rovenskiy region, first pregnancy: *“In 2016, when it was time for a delivery, I came to the perinatal center, but the administration refused to admit me, saying that ‘for people like you, we have no place’”.*

Case #11. Oksana, social worker of Chernigiv regional affiliate of “All-Ukrainian Network of People Living with HIV”: *“In 2015, our client, HIV positive pregnant woman, was placed in the hospital in Priluki (Chernigiv region) in the room with broken windows during the cold season, explaining that there were no vacant rooms and they allegedly couldn’t put her in the general room”.*

Risk of developing cancer in women living with HIV is higher than among the general population, but only 35.6% of HIV-positive women reported regular cervical cytological investigations and 32% - consultations with doctor-mammologist; 29.6% of respondents reported that they did not have access to free family planning/contraception and 44.8% - to emergency contraception; only 17.3% have access to free or financially accessible abortion and only 10.7% - to the quality post-abortion medical care, and only 10.6% of women - have received or may receive free treatment of infertility²⁵.

Despite the fact that people living with HIV have the right to participate in assisted reproductive technologies²⁶ and that starting from 2014 at least three State centers should provide services in assisted reproductive technologies to HIV-positive people²⁷, however, the existing centers deny these services to women living with HIV due to regulatory constraints on the part of the Ministry of Health of Ukraine.

Case #12. Olga, social worker of Dnipropetrovsk regional affiliate of “All-Ukrainian Network of People Living with HIV”: *“Anna, 31 years old, Dnipropetrovsk region. She learned about her HIV-positive status eleven years ago. She is married, no children. She has been trying to get pregnant for a long time, but to no avail. In 2016, she went to the clinic for the procedure of artificial insemination, but the consultant in the clinic said that there were medical protocols and orders that prohibit carry out the procedure of in vitro fertilization for HIV-positive women. Anna requested the consultant to show her these orders, but the consultant did not provide any information”.*

Lesbian and bisexual women

Lesbian and bisexual women can have access to assisted reproductive technologies only as single women. Doctors providing such services publicly state that they will deny open lesbians these services according to their alleged right to the conscience clause²⁸. In practice, medical staff in private clinics ask women to conceal their homosexuality from head doctors or even requires women to bring their male fake partners to the procedure to ‘prove their heterosexuality’.

Trans people

Trans people face even grosser violation of their reproductive rights in Ukraine. The notorious Order of Ministry of Health No. 60 operative until 30/12/2016 required forced sterilization of trans people as a part of legal procedure for gender recognition. Current Order of Ministry of Health does

²⁵ Ibid.

²⁶ Part 2 Article 10, The Law of Ukraine “On combating the spread of diseases caused by HIV, and legal and social protection of people living with HIV”. URL: <http://zakon4.rada.gov.ua/laws/show/1972-12/print1483933898036556>

²⁷ The National HIV/AIDS Program for 2014-2018. URL: <http://zakon2.rada.gov.ua/laws/show/1708-18/print1484412951533446>

²⁸ For instance, such public statements were made during the IV National Congress on Bioethics organized by the Ministry of Health of Ukraine and the Academy of Sciences of Ukraine in cooperation with the Council of Churches and Religious Organizations in 2010.

not explicitly require coerced sterilization; however, it requires “necessary surgical intervention” which may be interpreted as implicit requirement of sterilization, at the discretion of the respective medical experts.

Current legislation includes a direct prohibition for trans people to have access to the assistive reproductive technologies, including the right to store their reproductive material, on the basis of the diagnosis ‘transsexualism’. This leads to the practice of both state and private clinics to deny trans persons the right to these technologies.

Case #13. In 2016, Insight has contacted 15 private clinics that provide services of assisted reproductive technologies in Kyiv with a query whether they would provide services of in-vitro fertilization to a trans man. Half of the clinics considered this a joke and assured that men cannot give birth. The other 7 clinics answered after lengthy consultations with their legal departments and confirmed that they could only provide the services in case if a trans man has not changed his legal documents yet. Thus, they would only provide access to the services only if legally the trans man had documents of a single woman.

Recommendations:

- Provide training for medical staff about the provision of quality services based on WHO recommendations in regards to contraception for HIV-positive women, sex workers, women who use drugs, taking into account age, receiving ART and/or OST; provide funding for contraceptives (tablets, spirals, caps and condoms) for women from disadvantaged groups.
- Ensure women living with HIV with access to assisted reproductive technologies; adjust the normative documents of Ministry of Health of Ukraine in accordance with national HIV legislation, National HIV and AIDS program for the period 2014-2018 and international standards in order to ensure access to assisted reproductive technologies for women living with HIV.

4.5. DISCRIMINATION, STIGMA, AND STATUS DISCLOSURE

Article 5 (a) of CEDAW states that States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority. This norm is not fully implemented by Ukraine in regards to women who use drugs, women living with HIV, lesbians, bisexual women, and trans people.

Women who use drugs

The interference of law enforcement officers in the work of healthcare institutions offering opioid substitution therapy is manifested in groundless presence of law enforcement officers on an opioid substitution therapy site. For example, according to “Svitanok”²⁹, on 22.01.2016, in Slavyansk, Donetsk region, police officers took all OST patients who were on the site at that time and escorted them to the police department. This action was carried out by police with violations of detention procedures and the confidentiality of the diagnosis. The legislation of Ukraine states that the information about a person, their health state and treatment can be disclosed/provided to law enforcement agencies upon official written request only in the case of bringing this person to criminal or administrative liability. According to part 5 Article 14 of the Law of Ukraine “On measures to combat illicit trafficking in drugs, psychotropic substances and precursors, and their abuse”, the person who voluntarily applies for the drug-addiction treatment has right to the anonymity of the treatment. In addition, such actions of the police officers contradict Article 286 (right to confidentiality about health state) of the Civil Code of Ukraine and Article 39.1 (right to confidentiality about health state) of the Law of Ukraine “Basis of the legislation of Ukraine about

²⁹ Video of documented incident. 22.01.2016, Slavyansk, Donetsk region. The incident was documented by the organization “Svitanok”.

health care”.

Women living with HIV

Despite interventions of the State and civil society, women living with HIV are still subject to prejudice and stigma among health care workers. According to the research³⁰ among 1000 women living with HIV: 48.7% of respondents do not believe or do not know that health care providers do not disclose their HIV status or any other details without their consent; 31.5% - do not know their rights and do not know where to complain about the actions of healthcare professionals in case of rights violation; 19% - believe that as women living with HIV they will not receive the legal protection, and 23.2% - do not know whether they can rely on legal support.

Lesbians, bisexual women, and trans people

According to Insight³¹, most cases of disclosure of sexual orientation and/ or gender identity take place in educational institutions and in employment. In cases of transgender students undergoing transition who are seeking name change in the students' lists and change of gender pronouns, administration of a university frequently demands a copy of 'transsexualism' diagnosis without providing confidentiality. It is precisely administration and teaching staff who have access to these students' lists who then disclose information about transgender status of a student, and initiate and support bullying and harassment by other students, including cases of life threats and physical violence, which in turn contributes to a high dropout level among transgender students.

There is also a widespread practice of employment termination among lesbians and bisexual women when information about their sexual orientation becomes known to colleagues and employees. This forces many women not to be open about their sexuality at work³². Masculine presenting women who have higher education are forced to look for lower paid jobs in sales and service, as those do not require intensive face-to-face job interviews. Furthermore, trans people who do not have ID documents that correspond to their gender have little choice but to settle for unofficial low-paid jobs which do not require a copy of an ID³³.

Recommendations:

- Ensure the protection of personal data and medical information of people who use drugs, including patients of opioid substitution therapy from unlawful disclosure of these data to the law enforcement agencies.
- Ensure proper confidentiality of information related to all types of drug treatment.
- Provide training for women who use drugs and HIV-positive women about their rights and ensure access to legal assistance in the case of violation of their rights in regards to the disclosure of personal information about health state.

5. SPECIFIC ISSUES OF THE MARGINALIZED GROUPS OF WOMEN:

5.1. LEGAL RECOGNITION OF GENDER IDENTITY, THE RIGHT TO VOTE AND FREEDOM OF MOVEMENT FOR TRANSGENDER PEOPLE

The previous legal gender recognition procedure in Ukraine was regulated by the Ministry of Health Order No. 60 operative until 30/12/2016. It included the following (among other) requirements for transgender people seeking to change their legal gender: mandatory in-patient

³⁰ Sexual and reproductive health, gender equality and human rights, gender-based violence, economic and political opportunities of women living with HIV in Ukraine. “Positive Women”, 2016. URL: <https://goo.gl/J1G56x>

³¹ Needs assessment among trans people and lesbian and bisexual women in the regions of Ukraine (age 18-50 years old), Insight, 2016.

³² “LGBT Families in Ukraine: Social Practices and Legal Regulations”, ed. Yarmanova G. Kyiv: 2012. URL: https://ua.boell.org/sites/default/files/insight_lgbt-families-in-ukraine.pdf.

³³ Insight, "Civil Rights of Transgender Persons in Ukraine". Kyiv: 2012. URL: <http://www.insight-ukraine.org/wp-content/uploads/2014/10/%D0%94%D0%BE%D1%81%D0%BB%D1%96%D0%B4%D0%B6%D0%B5%D0%BD%D0%BD%D1%8F.pdf>.

psychiatric evaluation of 30 to 45 days to confirm or reject a diagnosis of ‘transsexualism’; a requirement that the person seeking legal gender recognition not be married or have biological children under 18; coerced sterilization; numerous medical tests, which often require extensive time commitment, expense, and travel, and that are unrelated to Ukraine’s legal gender recognition procedure; evaluation by the State Evaluation Commission to confirm the diagnosis of ‘transsexualism’ and authorize the change in legal documents; and observation by a sexologist for a period of one year to determine degree of “social adaptation.”

Current procedure of legal gender recognition does not explicitly include forced sterilization, but it includes requirement of “necessary surgical intervention” which may be interpreted by the medical experts as irreversible sterilization. It also requires observation by a sexologist for a period of two years to determine degree of “social adaptation”. The procedure remains nontransparent, expensive and discriminatory. It violates trans people’s rights to the enjoyment of the highest attainable standard of physical and mental health, to physical integrity and freedom from inhuman and degrading treatment, as well as to private and family life. This regulation creates multifaceted obstacles for trans people who do not have a state issued ID with a proper gender marker, in particular in their freedom of movement and the right to vote.

Article 7 (a) of CEDAW states that States Parties shall ensure to women, on equal terms with men, the right to vote in all elections and public referenda. This norm is not fully implemented by Ukraine in regards to trans people who do not have ID that correspond to their gender. According to the electoral legislation, the display of passport is sufficient for participation in the voting. However, in practice trans people are denied the right to vote in parliamentary, presidential and municipal elections on the basis that their passport does not confirm their gender.

Article 15 (4) of CEDAW states that State Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons. This norm is not fully implemented in regards to trans people who do not have ID that corresponds to their gender. Trans people report frequent cases of transportation personnel denying them the right to board a train on the basis that gender in their ID does not correspond to their appearance. In cases of crossing the border, trans people often face similar denials followed by harassment on behalf of law enforcement officers.

***Case #14. Egor and Yuriy, 28 and 32 years old, Kyiv, 2015:** Two trans men Egor and Yuriy were harassed by security guards in the Kyiv Boryspil Airport after they showed their IDs to board their plane. They were escorted to the separate room where they were forced to strip to "prove that they were indeed the women whose documents they seemed to be using" to cross the border.*

5.2. ACCESS TO OPIOID SUBSTITUTION THERAPY FOR WOMEN WHO USE DRUGS

Article 12 of CEDAW is not fully implemented by Ukraine in regards to access to opioid substitution therapy for women who use drugs.

Opioid substitution therapy programs operate in Ukraine since 2004. On 01.12.2016, 174 opioid substitution therapy sites operate in 25 regions of Ukraine, the number of participants in the program amounts to 9154 people, including 1706 women (19%). Important to note that 29 sites out of 173 (17%) have no women among their patients at all³⁴, indicating unequal access to treatment for women who use drugs. The operation of the opioid substitution therapy program is regulated by the Order of the Ministry of Health of Ukraine No. 200 from 27.03.2012, which provides for: the need to ensure the uninterrupted OST in case of inpatient hospitalization (planned or emergency) (p.3); the right to receive OST in healthcare institutions in other administrative and territorial units (in the case of relocation, travel, vacation, etc.) (p.13); and the possibility of issuing OST by prescription (in the pharmacy) or in a health care setting for self-administering/takeaway dosages

³⁴ Information about the quantitative and qualitative depersonalized characteristics of OST patients as of 01.11.2016.
URL: http://ucdc.gov.ua/pages/diseases/opioid_addiction/stat-docs

(p.9)³⁵. However, due to generally strict/tough drug policy regulations and failure to perform the provisions of the regulatory act or a high threshold of access to OST, a low level of accessibility of the program remains for people who use drugs who want to take OST.

Only 10% of those dependent on opioids and in need have access to OST, much less than it is recommended by international guidelines³⁶. The existed programs are of high threshold – the geographical coverage of programs is poor, oft requiring people to travel several hours every day to get the medication, as there usually is no system for take home prescriptions - are poorly designed, including bad geographic location. Because of this often clients have to travel for several hours every day to get their dosage.

Case #15. Alla, 33 years old, Kramatorsk³⁷: *“In February 2016 <they> didn’t want to hospitalize me with trophic ulcers, because I am on the opioid substitution therapy. Because I don’t have veins to put a drip bulb. And also they did not want additional headache with me, because I need OST to be delivered to me. After the legal consultant’s request to the city health department, I was hospitalized. When <I> was in the hospital, nurses were telling visitors (my friends) about my HIV-status and tried to insult me as a drug addict”*

Also, based on the other source of information³⁸, “Svitanok” informed that according to the informal restriction of Kharkiv Regional Department of Health that hindered the implementation of the mechanism for issuing OST once every 10 days (in accordance with the Decree of the Cabinet of Ministers No.333 and the Orders of the Ministry of Health No.494, No.863, and No.200), doctors refused to work in accordance with national orders. As a result, for example, one woman-patient of OST was fired from her job because of daily trips to the OST site and, therefore, being late for work.

Also, “Svitanok” informed that during July-December 2015 there were calls to the National Hotline³⁹ in regards to hindered access to OST for women who use drugs: a woman drug user (37-38 weeks of pregnancy) who was supposed to be enrolled in OST program, but she was refused the therapy after the delivery; the OST patient who was detained in a preliminary detention cell and she was denied to be transported to the OST site until she signed “the necessary depositions”. In the latter case, there is a violation of the rights of women who use drugs to medical care because of the failure to ensure the uninterrupted OST or the failure to take measures for the removal of abstinence symptoms in case of arrest or detention. Accordingly, the joint Order of the Ministry of Health, the Ministry of Interior, the Ministry of Justice, and the State Service of Ukraine on Drugs Control No. 821/937/1549/5/156 from 07.11.2012, which provides uninterrupted opioid substitution therapy, is not followed⁴⁰.

Moreover, pregnant women who use drugs in Ukraine face poor access to medical services, including absence of the joint with the addictionologist pregnancy monitoring plan, extremely low engagement of pregnant women to programs on harm reduction, rehabilitation, and OST.

³⁵ The Order of the Ministry of Health of Ukraine No. 200 from 27.03.2012. URL:

<http://zakon5.rada.gov.ua/laws/show/z0889-12>

³⁶ WHO, UNODC and UNAIDS identify coverage of 20% and below of estimated target population as low, while 40% coverage is required for high coverage of OST and 60% for needle and syringe programs for aversion of the HIV epidemic. WHO, UNODC and UNAIDS, “Technical Guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users” (WHO, 2009).

³⁷ Interview of the legal advisor with Alla, summer 2016. Eurasian Network of People Who Use Drugs. Project “Supporting civil society efforts in advocacy of critical factors in HIV prevention among people who use drugs”.

³⁸ Source of information: Charitable Fund “Parus”, Kharkiv. Project “Increasing the respect towards the rights of women who use drugs”. Eurasian Harm Reduction Network. January-June 2016.

³⁹ Report of Charitable Organization “CF ‘Nadezhda i Doverie’”, July-December 2015. Project “National Hotline on Substitution Therapy.

⁴⁰ The joint Order of the Ministry of Health, the Ministry of Interior, the Ministry of Justice, and the State Service of Ukraine on Drugs Control No. 821/937/1549/5/156 from 07.11.2012. URL: <http://zakon3.rada.gov.ua/laws/show/z1868-12/print1471869345359858>

Criminalization of people who use drugs also significantly impedes engagement of HIV-positive women who use drugs to the continuum of HIV-related services. For example, unhindered access to OST was secured for pregnant women with drug addiction only on the level of the pilot project⁴¹ at women's health clinics in the cities of Kyiv, Dnipropetrovsk, and Poltava. The share of HIV-positive pregnant women in Ukraine with current injecting drug use, who received OST during pregnancy, constitutes 13.2% in 2014⁴².

In its concluding observations to Ukraine (45th session), the CEDAW recommended the State Party "to target high-risk groups for strategies to prevent HIV/AIDS" (#39). In this regard, it is important to note that the Order of the Ministry of Health of Ukraine No.716 from 14.11.2007, "On Approval of Obstetric Care Clinical Protocol 'Prevention of mother-to-child transmission of HIV'", was revised with consideration of the domestic and international experience. In September 2014, on the plenary assembly of obstetrician-gynecologists, the Adapted clinical evidence-based instruction, "Prevention of mother-to-child transmission of HIV", was presented. This instruction includes a section on maternal care for women with opioid addiction. The clinical protocol "Prevention of mother-to-child transmission of HIV" was approved by the Order of the Ministry of Health of Ukraine No.449 on 16.05.2016.

Recommendations:

- The government should take appropriate steps to fully implement the provisions of the Order of the Ministry of Health of Ukraine No. 200 from 27.03.2012. In particular, to make every effort to improve access to OST for those who are not covered by the criteria; to develop regulations governing the necessary preparations for the participants of OST if they receive treatment in inpatient facility; to ensure that the provision of necessary preparations for the participants of OST for self-administering was available due the remoteness of the place of residence that makes daily visits to the OST site difficult.
- Legally ensure that the depositions signed in a state of abstinence syndrome are considered as ones, which were obtained under torture, and thus are not valid; hold police officers accountable for forcing people in a state of abstinence syndrome to give depositions; ensure legal norms in police stations and detention centers to provide measures to remove abstinence symptoms, provide access to OST or anesthetic for detained people who use drugs.
- Raise the level of legal awareness of police officers based on the principles of harm reduction and prevention of drug addiction, and cooperation of law enforcement agencies, health care facilities and NGOs during OST and harm reduction programs with women who use drugs.
- Improve the legal framework to ensure uninterrupted substitution therapy for people who use drugs;
- Create a working group with the participation of law enforcement agencies and civil society to monitor the implementation of the State Policy Strategy on Drugs for the period until 2020.
- Provide training to law enforcement officers on issues of drug use, HIV, and sex work; ensure that law enforcement officers provide support to women who use drugs and sex workers for them to participate in healthcare programs.
- Secure the access to OST for pregnant women; make OST available during pregnancy at women's health clinics and maternity hospitals, include medical supervision and support during pregnancy and after childbirth according to the interdisciplinary approach (ob/gyn, addictionologist, neonatologist, infection disease doctor, general practitioner – family physician, social worker, peer consultant); secure opportunities for pregnant women to have access to high-quality integrated health care services within one medical facility.

⁴¹ Implemented according to the Order of the Ministry of Health of Ukraine as of 27.09.2011, No.623 "On implementation of the pilot project 'Securing of prevention of mother-to-child transmission of HIV and improvement of perinatal indicators in pregnant women with drug addiction and children they give birth to'" with the support from UNICEF and the Clinton Foundation in Ukraine.

⁴² GARPR (Global AIDS Response Progress Report) Ukraine, January 2012-December 2014. Kyiv, 2015. URL: http://www.unaids.org/sites/default/files/country/documents/UKR_narrative_report_2015.pdf