

Questions <http://webtv.un.org/search/consideration-of-estonia-62nd-meeting-65th-session-committee-on-economic-social-and-cultural-rights/6004415710001/?term=&lan=english&page=3>

Mr Sadi (2:51 – 2:54:05)

I suspect that huge drug problem you have in your country is related to the breakdown of this family structure (early marriage, no law regarding protection from domestic violence), I hope I'm wrong, I'm not saying this in absolute terms. I mean you have a really strange way of dealing with the drug problem. First of all, drug problem seems to be rampant, it's widespread. What is worse is the treatment, the way you go about treating it. The forcible way of dealing with the drug problem, you take people forcibly and treat them. Why not apply the same methods as all the European countries do? Take it easy! I mean we can treat them but not forcibly, not by incarcerating them. There must be a better way to deal with the drug problem especially when it is so widespread. And then what compounds the whole situation is that you have a wide spread of HIV/AIDS. I suspect that the HIV/AIDS problem is related again to the breakdown of the family structure. Because if children can have sex, they can have babies, they can have drugs, they can have alcohol and then you have a problem with alcohol by the way. Alcohol is widespread. I suspect, we don't have information, cigarette smoking is also widespread. Alcohol is a really serious problem in your country. I don't know what you can do about it. And, as time is short, I'd like to go to the health issues I've already mentioned - HIV. I'm not sure all people in Estonia have access to the same quality of healthcare. You have the problem with undetermined citizens, I don't know what rights they have for health protection. And then you have a whole host of sexually related health issues. Does health insurance treat everybody equally in the country? Is it accessible to everybody? Is it affordable? And I'm just wondering if this is the case in Estonia, I'm not saying in absolute terms this is the problem, but it seems to me we need some answers on that.

Mr Uprimny (2:56:38 – 3:01:52)

My question has to do with the issue already taken by our colleague Mr Sadi about the right to health of people who use drugs, especially women. In our list of issues, we made a long question concerning drug policy and the right to health in Estonia. And we received good information about the White Paper that you have on that policy, especially on drug prevention policy and in relation to some harm reduction measures that you have adopted in the last years and that's very commendable. But on the contrary, we did not receive clear information on the gender-specific intervention targeting women who use drugs, particularly those who are pregnant or have children and other support provided for them, including rehabilitation facilities. We did not receive also information about effective access to drug treatment such as opioid substitution therapies. And we have received information on behalf of NGOs concerning that according to their study only about 20% of people in

need receive opioid substitution treatment. And according to your own data in the answer to our list of issues the use of harm reduction services has diminished since 2015 but there is no evidence that drug use has dropped. Maybe the shortage of these facilities is what is happening. And especially with women who use drugs we received information that the supply of services is not really adapted to their needs, to the specific needs as women and that there have been events that the police harassed women who use drugs and forced them to have drug testing in the streets. As for the drug use in Estonia, even if it is not a crime, it is sanctioned with a very high fine more than two times the minimum wage. And that makes the effect that women don't attend really to the services for drug users. And even though you have the possibility to have methadone substitution therapy we have received information that in certain cases, even if it is not legal, some women that have children were forced to terminate OST with a kind of threat if they don't do that, they would lose their parental rights. This is related to the fact like I said with de-facto criminalization of drug use. Because if you don't pay the fine maybe you will be arrested. So, it seems to me that in drug policy you are in a kind of tension or contradiction. There have been several advancements in your harm reduction strategy, in OST, but there is still at least in some authorities, some policy and some medical services, strong stigma against drug users especially against women who use drugs. So, with this content, I have four questions:

- How to ensure effective access not only on paper but really effective access to drug treatment like OST and HR strategies all over the country?
- How to overcome the barriers faced by women who use drugs to access treatment and develop a real gender-sensitive drug policy to avoid the pitfalls that I have described?
- How to avoid these abuses against people who use drugs like these forced examinations on the street?
- And the fourth is if you considered the total decriminalization of drug use, not only that it is not a crime but also it is not a fine because that as I said has the effect to increase the marginalization of the person?

Answers and more questions <http://webtv.un.org/search/consideration-of-estonia-contd-63rd-meeting-65th-session-committee-on-economic-social-and-cultural-rights/6004555310001/?term=&lan=english&page=3>

Ministry of Social Affairs (44:20 – 1:00:50)

I'm happy to give some insights about alcohol policy, HIV and drug addiction. All these topics have been high on our agenda during the last decades. And if I'm starting with alcohol policy then I'm very delighted to say that if we are looking for example what kind of situation, we had in 2007 and 2008 when actually we had the highest consumption of alcohol in our history, we consumed more than 14 litres per capita of absolute alcohol, it is a

tremendous amount of alcohol I would say. And if we are looking now in the latest years, for example in 2017, this number decreased to 10,3 litres per capita, I think that it is excellent results that are important to mention here. But it has not happened just by chance, behind that is really very hard work that has been done in Estonia with alcohol policy. For that in 2014 our government adopted our national alcohol strategy and during all these years we have been systematic in implementing all these activities and actions which have been set there. And we are going on with all these activities in the future because I think it is the only way how to really succeed with such kind of issue like alcohol policy which clearly needs intersectoral collaboration.

Coming to HIV and drug addiction I would like to say that if we are looking again a little bit back then during the last 10 years the number of newly diagnosed cases of HIV positive has decreased almost 2/3 and again although the situation was very bad it has improved tremendously. However, we admit that HIV will remain a public health problem also during the upcoming years. And again, this is something that we should deal with and tackle during the upcoming years as well. In total according to the latest corrected numbers at the moment 7770 diagnosed HIV positive cases most of this is in Ida-Viru county and Tallinn or Harju county. And when we are looking at this HIV epidemic in Estonia then it is mainly concentrated among specific most at-risk sub-populations, mainly people who inject drugs, their sexual partners, commercial sex workers, men who have sex with men and also prisoners. But again, we have to admit that there are some signs that it is increasingly affecting also the general public.

Regarding harm reduction and treatment services, I would like to say that all needle exchange services, counselling and also access to ART treatment and communicable disease specialists do not depend on whether the person has health insurance coverage or not. It means that these services are free for all persons. The challenging problem is how to reach these risk groups. In Estonia, the largest most at-risk groups are as I said earlier people who inject drugs. Part of this population can be reached through needle and syringe programs and also OST sites and offered also HIV-testing and counselling. It is important to improve also the quality of information, counselling, promoting OST, explaining that it is beneficial, evidence-based treatment. I would like to point out here also that we have 7 OST sites and 37 NSP programs. Starting from 2018 also two mobile stations started to work, and we hope that this new way to provide services will also improve the accessibility of these services to those who need them the most.

Health services providers who hold licenses in psychiatry treat drug addiction in Estonia. Drug treatment and also rehabilitation are financed via national health plan operational program from the state budget and from the resources of larger local governments. And as I said, and I am repeating again, these treatments are provided without any cost to the patient. And the second issue that I would like to stress here is that these services are also provided to patients only if they are willing to have these services. In the case of other healthcare services, these services are provided to drug addicts and HIV positive persons based on the

same principle as in case of the rest of the inhabitants. All the services that I've mentioned already are accessible for male and female. We have to admit that the current services should be broadened, we should increase the number of places where the services can be reached. And we also would like to elaborate further these services, in the process of this elaboration we need to pay more attention to the needs of women drug addicts. We also need to find solutions which would make the current services more accessible and work further to lessen the stigmatization of drug addicts and their treatment. If we are looking now at when and how we are planning to do it, all these topics are covered in our new national action health plan which is already currently compiled, and we hope that when we have the new government then it will be also discussed and adopted by the government. But what is also important to say here that actually already starting from 2019 we have additional recourses for HIV and drug addicts' services, and it is almost 20% of more than previous years.

It was brought up that people are forced to undergo drug tests and that in the case of Estonia penalties are very high. Here I have to say that regarding penalties if a person has drug doses for 10 persons than criminal sanctions will be applied. If the number of doses is less than 10 then it is considered a misdemeanour. If a person is convicted, then he or she should pay procedural costs and these procedural costs include also the cost of drug testing. By saying that I would like to point out also that in 2018 pilot project was performed where instead of sanctions people were provided with counselling and treatment. This pilot project was considered successful and from 2019, from this year, has also permanent financing and it is a crucial change I would say. So far, this approach has been applied only in Tallinn, in our capital, but there are already plans to broaden it also to the eastern part of Estonia.

Then there was also mentioned that in the case of methadone substitution treatment there can be cases when females are forced to interrupt this treatment or otherwise, they can lose their children. The grounds for limiting parental rights provided in our family law in Articles 134 and 135 deprivation of parent of right of custody can only happen by way of a court order and as a matter of last resort when other measures did not give any results or if there is a reason to presume that the application of the measures is not sufficient to prevent danger to the physical, mental and emotional wellbeing of the child. Here I would like to stress that custody of the child will not be limited based on a fact that parent has problems with drug use. It is not allowed to do it like that. It would have to be proven that in a specific case that parent endangered the child's wellbeing. In addition, the Child Protection Act stipulates that in a course of child protection proceedings child needs to be assisted in a manner which improves the relations between the child and the person raising the child. Child protection workers receive regular trainings from the state and on-demand provision of assistance to resolving child protection cases during which it is emphasized that assistance of children and family's needs to be solution oriented, taking into account strengths as well as weaknesses and concentrating on helping the parents improving their

parenting skills and overcoming obstacles instead of resorting purely to such radical measures as limiting custody.

Mrs Liebenberg (1:09:50 – 1:11:40)

I would be interested to know, to pick up on the responses we got on drugs and HIV prevalence, what is the current take-up rate of ART and what measures are being taken to improve HIV testing and initiation of early ART? And this is linked to the submission we've received from Eurasian Harm Reduction Association and the Canadian HIV/AIDS Legal Network there is a lot of stigma still associated with HIV and HIV positive, and people are scared of health practitioners giving the information to employers or family members, so they do not come forward to HIV testing or present early for ART therapy. And it seems to be that it is not just an abstract issue, they had a research visit in 2017 and they've actually documented cases. So there seems to be some discrepancy you described a very good and sound legal picture, but we are wondering in practice whether the picture is so rosy in fact and whether there are some issues? And also what awareness programs are being launched to reduce stigma for both drug users and also people who are HIV positive?

Mr Sadi (1:15:08 – 1:15:23)

... And again with drugs, you can tell me that is a small number but it is also a principle what is at stake and don't tell me there a few isolated cases and so on.

Mr Uprimny (1:19:58 – 1:24:32)

Thank you to the delegation for a very detailed answer to our questions especially to our question concerning drug policy and rights of drug users especially to health. I received and I think the Committee received with great satisfaction many of the statements you made about your plans to continue strengthening harm reduction policies and to continue strengthening opioid substitution therapies. That is very good, it is a correct way in this field, we received that with satisfaction. Also, we receive with satisfaction the acceptance that you make that in practice you still have problems with reaching, of a reach, especially that drug policy is not gender-sensitive and doesn't take really into account the special needs of women and that you are going to make effort in that direction. That is very important because as our rapporteur said there seems to be a kind of discrepancy between what is established in law and some practices due to stigma and especially against drug users in general and especially if they are women.

We know that according to the law you cannot annul parental rights if a woman if she is just a drug user that is correct, but in practice, we have received information that that happens, that they receive that pressure. So, the implementation issue is crucial. So, taking into account that my question is if for these efforts you are going to make consultation with the organization of drug users, the ones who know more about their special needs in this theme and especially the organizations of women drug users? I know that in Estonia you have organizations of drug users so that is my first question. The second question is about the issue of criminalization of drug use. We know that drug use is not a crime, but it is an

administrative crime if you want, you understand that if you are caught with drug use then you will be fined about 1200 euros or something like that. This is not a minor fine it is about 2,5 minimum wages and if you are taken you have to pay for your exams to. If I understand correctly, please correct me if I'm wrong, you are forced to have a drug testing and if you are tested you have to pay for these exams. This is what I understood, if it is not the case please correct me. And I think these policies are in contradiction with other policies. Because if you want to have a policy which integrates drug users in order to strength harm reduction policies, in order to strength rehabilitation programs, but at the same time it is criminalized and the fine is very heavy, then you are going to marginalize drug users. If I go in the streets, you are a small country, so what this organization said to us, then the police can recognize you this is A, B, C who used to be a drug user I am going to test him for drugs and that creates a tension in your policy. So, my question is why not totally decriminalize drug use? That would be the way to make people attend your harm reduction programs and your rehabilitation programs in a better way. Or why not use the Portugal scheme when the administrative sanction is for those people who after several cases do not enter these programs. But just to maintain seems to be contradictory to your approach. Thank you!

Ministry of Social Affairs (1:48:11 – 1:49:04)

Yes, stigmatization is a very serious issue, it is not only in Estonia and what is important is to keep in mind that we cannot get very quick results in turning or changing stigmatization. But it is a kind of systematic work what is needed to change stigmatization. And we are planning to go on with the actions which we have applied already but also looking for a new innovative way to how to tackle it.

Ministry of Justice (2:00:00 – 2:06:36)

I would start with the description of the current system that we have. In the legal act concerning drugs, I will try to translate the name of the law in English right now, but it forces the misdemeanour offence for dealing with drugs and similar substances in a small amount and it a misdemeanour. A small amount as my colleague explained before it means that the amount is less than 10 approximate doses for approximate users. So, it is not something that is fixed in the law this is something that is set by a regulation depending on the type of substance and that is then taken into account when deciding on a case. In the penal code if the amount of the substance is higher or larger then it is a crime to deal with such substance. As you well aware drugs are a problem in Estonia and the problem has at least two sides one is side of the abusers and possible abusers who use drugs, the other side is the criminals usually organized criminals who import or produce those drugs and deal them to the abusers or try to convince people to become users. And certainly, those latter persons need to be punished to prevent the number of drug abusers from increasing. And is not very often, I'm being very-very frank now it is not very simple to tell apart who is a drug abuser or a dealer when they have let's say a hundred doses of narcotics with them. So the law on that side is rather strict, it says that everybody who holds such amount of drugs shall be punished. The procedure and the policies however different and the member of the

Committee referred to the Portuguese system and in fact in Portugal it is quite the same that they don't have a system that drug offences are not punishable, there are different schemes for those who have a problem with drug abuse and that is what we are trying to do in Estonia as well. My colleague explained that in Tallinn the last year and it is going to spread in the whole of Estonia more lenient approach has been used for the persons who meet the criteria of a misdemeanour but at the same time who are drug abusers and who are willing to get treatment or advice. In such cases, they are not punished but directed to the treatment or advice. This week the parliament in Estonia will decide on the amendment of criminal procedure code and the code includes two new sections on the possibility of using the same principles for those people who have in their activity met the criteria of criminal code or penal code, meaning that if somebody has a hundred doses with him but at the same time the person is an abuser there are perspectives that it is possible to treat that person and the person is willing to undergo this treatment and agrees to that, In such cases the criminal case will be terminated and the person will be directed to the treatment. Alternatively if this has happened already for some times and the person still has a drug problem and still has committed the acts that meet the criteria of the crime they could be punished formally by the court but under the condition that they will not be sent to the jail but instead they will be sent to the treatment. And there is no limit in the law it doesn't say if you have failed three times the next time you will certainly be punished. We try as much as a person is willing to go to the treatment and it is objectively possible. So this is about the future of our drug policy especially in the field of the penal law.