

**Report to the International Committee on Economic,
Social and Cultural Rights (CESCR)**

**Right to health of people who use drugs and people living with HIV in Uzbekistan
January 2022**

This report is submitted by the HIV Legal Network and the Eurasian Harm Reduction Association.¹ The report is based on official statistics, information from the open sources, and communications with civil society activists in Uzbekistan.

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Summary and Introduction

In 2014, the Committee noted the growing incidence of HIV and AIDS, particularly among people who inject drugs, and urged Uzbekistan to strengthen its efforts to improve treatment and prevention of tuberculosis and HIV and AIDS, including by resuming the opioid

¹ Information about these organizations is annexed to this report.

substitution therapy (OST), as announced during the dialogue (para 24 of the Concluding Observations).²

In 2021, people who inject drugs remain the most affected population in the context of HIV with an HIV prevalence 25 times than among adults aged 15 to 49.³

Despite this, the Government of Uzbekistan did not fulfill the recommendation to resume OST, as announced during the dialogue in 2014. Instead, Uzbekistan enforces heavy-handed drug policy aimed at people who use drugs rather than at people engaged in wholesale commercial trafficking. In addition, Uzbekistan enforces laws that discriminate against people who use drugs, including those with drug dependence, based on their health status and unreasonably limit their social and economic rights. Moreover, people living with HIV are discriminated against based on their HIV status due to the broad definitions and imbalanced practices to enforce laws that criminalize HIV exposure and transmission.

We will break the report into four interrelated issues. After each pair of issues, we will present the Committee with very short draft recommendations, which, in our view, would be the most appropriate manner for the Committee to help improve Uzbekistan's performance under the International Covenant on Economic, Social and Political Rights in response to HIV and the use of narcotic drugs.

Issue 1: Disproportionate and not public health-oriented drug laws and drug enforcement that target the most vulnerable people who use drugs

Uzbekistan drug enforcement targets primarily people who use drugs rather than commercial drug traffickers. Many people who use drugs suffer from chronic health conditions and/or poverty. By way of disproportionate drug policy, Uzbekistan deploys harsh law enforcement against these people, rather than providing them with health and socio-economic support.

There are three main reasons for the disproportionate drug control system:

- Very low threshold amounts for the purpose of criminal liability for simple possession;
- No legal mechanism to delineate peer to peer distribution of narcotic drugs from commercial drug trafficking;
- No access to evidence-based drug dependence treatment.

The threshold amounts to delineate minor possession offences from serious possession offences are as small as 0.005 grams, regardless of whether the substance was pure narcotic drug or a mixture of narcotic drugs with adulterants.^{4,5}

² Committee on Economic, Social and Cultural Rights. Concluding observations on the second periodic report of Uzbekistan. E/C.12/UZB/CO/2. 2014

³ Uzbekistan. 2020 Country Factsheet. UNAIDS. Online: www.unaids.org/ru/regionscountries/countries/uzbekistan

⁴ Section XIX of the Criminal Code of Uzbekistan.

⁵ Supreme Court's Ruling of 3 July 2020 № 12 on jurisprudence concerning drug crimes instructs the lower courts to define threshold amounts taking into account the Decree of the State Commission of 2016. In 2019 the Decree was repealed but the new Decree has yet to be adopted. Постановление Пленума Верховного Суда РУз. "О судебной практике по уголовным делам, связанных с незаконным оборотом наркотических

Table 1: Threshold amounts for some substances for the purpose of liability for simple possession.⁶

Narcotic drug	Amount in grams for administrative liability (up to)	Amount in grams for criminal liability	Amount in grams for more serious criminal liability (above)
Heroin	0.001	0.001–0.005	0.005
Cannabis	1.0	1.0–10.0	10.0
Amphetamine	0.02	0.02–0.3	0.3

Low threshold amounts provide law enforcement officers with a strong incentive to pursue people who use drugs with small amounts in their possession, rather than traffickers or those who possess large amounts of narcotic drugs. The lack of access to evidence-based drug dependence treatment (see Issue 2 below) puts people with drug dependence at a very high risk of the misuse of power by law enforcement when such people are in police custody and suffer the withdrawal syndrome. People who use drugs often cannot afford good quality defense counsel. Because of these factors, people who use drugs, especially those who suffer from drug dependence, are an easy target for law enforcement to make an initial arrest for possession or any other minor offences; when the withdrawal syndrome kicks in, officers can then force a suspect to confess to drug distribution. Criminal laws and policies in Uzbekistan do not distinguish between low-level distribution and high-level commercial trafficking. Instead, the same threshold amounts used to determine possession are used to calculate punishment for distribution. An act of peer-to-peer distribution of any amount of narcotic drugs is a serious crime punishable with imprisonment or the limitation of freedom from three to five years.

средств, их аналогов и психотропных веществ (в редакции постановления Пленума Верховного суда Республики Узбекистан от 3 июля 2020 года № 12) (доступно онлайн: <https://www.lex.uz/acts/3203272>) указывает, что при определении размеров для целей уголовной и административной ответственности необходимо руководствоваться Постановлением Государственной Комиссии от 2016 года (доступно онлайн <https://lex.uz/docs/2920744>). При этом данное постановление утратило силу 10.10.2019, а новое постановление не принято..

⁶ Ibid.

Table 2: Threshold amounts for the purpose of liability for the crimes of distribution.⁷

Narcotic drug	Amount in grams (up to) for criminal punishment of imprisonment or the limitation of freedom from three to five years	Amount in grams for criminal punishment of imprisonment from five to seven years	Amount in grams (above) for criminal punishment of imprisonment from 10 to 20 years
Heroin	0.001	0.001–0.005	0.005
Cannabis	1.0	1.0–10.0	10.0
Amphetamine	0.02	0.02–0.3	0.3

The fact that law enforcement targets at best a low-level distribution rather than trafficking is supported by the small total annual amount of heroin and opium seized in Uzbekistan, even though Uzbekistan borders Afghanistan — the world leader of opium and heroin production. The annual amount of the seized heroin in Uzbekistan varied from 12.43 kg in 2017 to 40.94 kg in 2019.⁸ To compare, the annual amount of the seized heroin in Russia — a country with a similar drug control system and only three times as large as Uzbekistan in terms of its population — ranged from 499.83 kg in 2017 to 502.6 kg in 2019.⁹

According to the official statistics of the Supreme Court, the number of criminal cases adjudicated by all courts of Uzbekistan is about 4,000.¹⁰

Table 3: Criminal offences detected by law enforcement in 2017

Distribution of narcotic drugs	Contraband	Illicit cultivation of controlled plants	Maintaining drug dens	Simple possession
2,233 (40.7%)	553 (10%)	1,142 (20.9%)	95 (1.8%)	1,456 (26.6%)

⁷ Ibid.

⁸ Statistical Annex. World Drug Report 2021. UNODC. Online: www.unodc.org/unodc/en/data-and-analysis/wdr2021_annex.html

⁹ Ibid.

¹⁰ According to courts' statistics, from 2018 to 2020, courts considered 4,059; 4, 293; and 3, 941 criminal cases concerning drug crimes. See Supreme Court of Uzbekistan. Online: <https://stat.sud.uz/>

Table 4: Narcotic drugs (kilograms) seized in 2019 in Uzbekistan¹¹

Hashish (resin)	111.635
Marijuana (herb)	736.405
Heroin	40.944
Opium (raw and prepared)	224.624
Tramadol	23.825
Poppy straw	62.853
Non-specified sedatives and tranquillizers	0.532
Other sedatives and tranquillizers	0.628579986
Synthetic cannabinoids (spice)	0.19409

Below is brief information about some typical drug cases in Uzbekistan

Case 1: *In January 2021, police detained a 35-year-old person who injects drugs, a resident of Tashkent city. Police suspected him of theft of a mobile phone. The suspect was in police custody for three days with no access to any drug treatment to alleviate the opioid withdrawal syndrome. When officers learned that he was injected drugs, they misused the pain and suffering he experienced due to withdrawal syndrome to persuade the suspect to become a police informant.*¹²

Case 2: *A person from Kibray district, not far from Tashkent, cultivated cannabis in several flowerpots.*¹³

Case 3: *On October 2, 2021, police of Yshnabadskiy, district of Tashkent, discovered a plot of land with 22 cannabis plants. The land was near the house of a 54-year-old man. Police initiated a criminal case against the man for cultivating cannabis.*¹⁴

¹¹ Statistical Annex. World Drug Report 2021. UNODC. Online: www.unodc.org/unodc/en/data-and-analysis/wdr2021_annex.html

¹² Information about this case was documented during an interview with civil society activists in Uzbekistan.

¹³ In Tashkent Oblast, the cultivation of cannabis was stopped (В Ташобласти пресекли выращивание каннабиса) Sputniknews. 20.04.2020. Online: <https://uz.sputniknews.ru/20200420/V-Tashoblasti-ostanovili-vyraschivanie-kannabisa-13959851.html>

¹⁴ Law enforcement reported about fighting illicit drugs (Правоохранители отчитались об оперативных мероприятиях по борьбе с оборотом наркотиков) Sputniknews. 05.10.2021. Online: <https://nuz.uz/proishestvie/1210054-pravoohraniteli-otchitalis-ob-operativnyh-meropriyatiyah-po-borbe-s-оборотом-narkotikov.html>



Case 4: A 48-year-old man provided his apartment to his three peers to cook and use a homemade narcotic drug, “dezomorphine,” that contains opium alkaloid. In the apartment, police discovered empty boxes of pharmaceutical medicines, empty matchboxes, two metal boxes with yellow residuals, used syringes with traces of blood (photo attached).¹⁵

Below is one of publicly available press reports of police activities to fight “drug traffickers.”¹⁶

A 53-year-old resident of Bukhara district attempted to sell 15.5 grams of marijuana to police agents;

On February 27, 2020, police conducted a test purchase operation in Gidzhuvansky district of Bukhara Oblast. A 43-year-old local resident was arrested for the attempted sale of 1.95 grams of hashish;

On February 18, 2020, a 39-years-old man attempted to sell two matchboxes with 5.1 grams of marijuana in Gala-Osiya township;

On February 15, 2020, patrol police officers of Central Market area of Bukhara city arrested a 36-year-old homeless man for smoking in a public place. In his pockets, police found two matchboxes with 5.69 grams of marijuana. During the interrogation, a suspect informed the police that he purchased marijuana from a 46-year-old resident of Bukhara district whom police also soon arrested.

Drug prosecutions in Uzbekistan disproportionately affect people who are economically or socially vulnerable, including due to chronic health conditions such as drug dependence. Instead of targeting wholesale drug trafficking and disrupting illicit drug markets, the imbalanced drug policy targets people who should benefit from a health-centered approach though the access to harm reduction and evidence-based drug dependence treatment.

¹⁵ A drug den was discovered in Novoi, a prosecution started (В Навои выявлен наркопритон, возбуждено уголовное дело). Darakchi. 17.04.2020. Online: <http://darakchi.uz/ru/90719>

¹⁶ Several drug traffickers were arrested in Bukhara Oblast (В Бухарской области задержали нескольких наркоторговцев) Sputniknews. 10.03.2020. Online: <https://uz.sputniknews.ru/20200310/V-Bukharskoy-oblasti-zaderzhali-neskolkikh-narkotorgovtsev-13635494.html>

Issue 2: The lack of effective drug dependence treatment, including the OST, and the discriminatory laws against people with drug dependence.

Table 5: People registered as drug dependent in Uzbekistan in 2015¹⁷

The number of registered people with drug dependence	13,218
The number of registered people who inject drugs	3,825
The number of registered people with heroin dependence	3,517
The number of registered people with drug dependence also living with HIV	5,665

The only method of drug dependence treatment available in Uzbekistan is detoxification with subsequent abstinence-based short rehabilitation. WHO-recommended opioid substitution therapy (OST) is not available. In 2014, during the constructive dialogue with CESC, representatives of the Government of Uzbekistan informed the committee that the Government would resume OST soon. But as of 2021, the Government had not fulfilled this promise. In response to the lack of access to effective drug dependence treatment, Uzbekistan employs coercive drug treatment, as well as such coercive measures as drug registry and unreasonable limitations of social and economic rights of people who use drugs.

The Law No. 3PY-644 of 27 October 2020, “*On prevention and treatment of narcological illnesses,*”¹⁸ provides for two coercive measures:

- Coercive drug dependence treatment, including in labour camps, and
- Mandatory registration of drug users leading to limitation of their socio-economic rights.

Coercive treatment is stipulated as one of measures to improve drug dependence treatment.¹⁹ This is despite the fact that most available scientific literature evaluating compulsory drug treatment do not demonstrate better outcomes with such coercive treatment but some studies suggest potential harms.²⁰ According to CESC,

obligations to respect include a State’s obligation to refrain from applying coercive medical treatments, unless on an exceptional basis for the treatment of mental illness

¹⁷ National Center for Drug Control. Drug Demand Reduction. Online: <http://m.ncdc.uz/en/sokrashchenie-sprosa-na-narkotiki/informatsiya-i-statistika/>

¹⁸ Article 32, Law No. 3PY-644 of 27.10.2020 “On prevention and treatment of narcological diseases”

¹⁹ Постановление Кабинета Министров Республики Узбекистан от 3 октября 2019 года № 842 «О мерах по совершенствованию системы лечения наркозависимости населения Республики Узбекистан».

²⁰ Werb D, Kamarulzaman A, Meacham MC, Rafful C, Fischer B, Strathdee SA, Wood E. The effectiveness of compulsory drug treatment: A systematic review. *Int J Drug Policy*. 2016 Feb;28:1-9. doi: 10.1016/j.drugpo.2015.12.005. Epub 2015 Dec 18. PMID: 26790691; PMCID: PMC4752879.

*or the prevention and control of communicable diseases. Such exceptional cases should be subject to specific and restrictive conditions, respecting best practices and applicable international standards, including the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care*²¹

Mandatory registration of people who use drugs goes far beyond the public health needs. According to Article 24 of the Law No. 3PY-644, medical information about people registered as using drugs should be shared with law enforcement for crime prevention purposes. Because of this, mandatory registration discourages people who use drugs from seeking medical help. It also creates the atmosphere of distrust between patients and doctors.

Mandatory registration also influences the family rights. According to Article 79 of the *Family Code* of Uzbekistan, the diagnosis of chronic drug dependence can be a sole reason for the deprivation of parental rights. A good parent can be deprived of parental rights simply because he or she is registered as a person with drug dependence. Because of this, parents, and in particular women, who suffer from drug dependence, refrain from seeking medical help.

Labour laws stipulate that drug dependence is a legal barrier for dozens of occupations in food industries, education, as well as driving a vehicle.^{22,23} In order to avoid limitations of their labour rights, people with drug dependence avoid seeking medical help to prevent mandatory registration.

Suggested recommendation to the Government of Uzbekistan with respect to Issues 1 and 2:

Apply a human rights– and health–based approach to people who use drugs and in particular:

- (a) Adopt a comprehensive, proportionate, and balanced policy to combat drug problems, including by applying criminal law and law enforcement only against commercial level drug trafficking, and consider lifting criminal and administrative sanctions for drug possession with no intention to distribute as well as for low level peer to peer distribution that occur in the context of drug use;*
- (b) Conduct broad awareness-raising programmes about the serious health risks associated with drug use;*
- (c) Address discrimination against people who use drugs, including with regard to their access to health-care services as well as in the area of labour rights;*
- (d) Provide appropriate health care, psychological support services and rehabilitation to drug dependent people, in particular by legalizing effective drug dependence treatment, such as opioid substitution therapy;*
- (e) Continue supporting harm reduction programmes, such as needle and syringe exchanges, while ensuring their coverage, particularly in prisons with a view to*

²¹ CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), 11 August 2000. E/C.12/2000/4. Para 34

²² Decree of the Ministry of Health, Ministry of Labour № 8/46/14-10 of 7 April 2003 “On the list of occupations, restricted for people with drug dependence.”

²³ Decree of the Ministry of Health and the Ministry of the Interior № 14/16 of 11 June 2013

combating the spread of tuberculosis, and support non-governmental organizations that provide such services.

(f) Refrain from applying coercive drug dependence treatment, unless on an exceptional basis, respecting best practices and applicable international standards, including the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care

Issue 3: Criminalization of HIV

Article 113 of the Criminal Code of Uzbekistan criminalizes the exposure of another person to HIV transmission by a person living with HIV, and the transmission of HIV from a person living with HIV to another person. The enforcement of Article 113 is driven by a strong stigma against people living with HIV. In 2016 and 2017, courts convicted 25 and 29 people under article 113.²⁴ According to official information from the Statistics Centre of the Ministry of the Interior, police registered 131 criminal cases under article 113 of the Criminal Code in 2020 and registered a further 100 cases under this article during the first nine months of 2021.²⁵

Often police prosecute a spouse living with HIV for exposing a seronegative spouse. The fact that the seronegative spouse objects to such prosecution does not matter. For police and the courts, the very fact that a person living with HIV had unprotected sex with a seronegative person is enough to prosecute them under article 113.

***Case 1:** A man living with HIV, former prisoner, was arrested for theft. When police learned that he was living with a seronegative woman, they charged him with the exposure of another person to HIV. The woman objected to the prosecution, but the court convicted the man for both the theft and HIV exposure.*

Police promote stigma against people living with HIV by public warnings about the criminal liability for HIV exposure and transmission under article 113 of the Criminal Code.²⁶ In some cases, police initiate the investigation based on the tip from health care workers.²⁷

***Case 2:** In October 2020, police prosecuted N, a 52-year-old woman living with HIV, under article 113 of the Criminal Code for exposure of another person to HIV. Health care workers informed police that N. had tested positive for HIV and continued to work in a barber salon. Laws of Uzbekistan prohibit people living with HIV from working as barbers.²⁸ Based on information from health care workers, police prosecuted N. even though N. took ART and had an undetectable viral load, meaning that she could not transmit HIV.²⁹*

²⁴ К.Ш.Арсланова, О.О.Ахмадов. Аналитический обзор законодательства Республики Узбекистан о правах человека в контексте ВИЧ/СПИДа. – Ташкент. Ответственный редактор академик А.Х.Саидов. Национальный центр Республики Узбекистан по правам человека. 2019. С. 16

²⁵ Official letter of the Statistics Center №7/9-3192 of 18 October 2021.

²⁶ Ibid.

²⁷ Spreading venereal diseases and HIV is a crime. Police of Tashkent. (Распространение венерического заболевания или ВИЧ-инфекции/СПИД – уголовно наказуемое преступление. ГУВД г.Ташкента) 02.06.2020. Online: <https://iibb.uz/ru/news/oiv258>

²⁸ Order of the Ministry of Health Министерства of 7 May 2014, No 2581.

²⁹ Punishment for the health condition: why HIV is still a crime in Uzbekistan. (Наказание за болезнь: почему ВИЧ в Узбекистане до сих пор преступление). SPUTNIKNEWS. 28.10.2020. Online:

Issue 4: Discriminatory laws against people living with HIV

The Ministry of Health Order of May 7, 2014, No. 2581 contains a list of occupations prohibited for people living with HIV. Such occupations as barber, tattoo artist, body piercer, and manicure worker are in the list. This list is unreasonable because such workers must fulfill sanitary requirements regardless of whether they are living with HIV.

The Law on HIV of September 23, 2013, No. 3PY–353 calls for mandatory HIV testing for people wanting to marry. This law also mandates that all people living with HIV disclose their status to their sexual partners, medical workers, and all workers who provide services that may disrupt the integrity of the skin or mucosa. Such obligations are unreasonable and excessive because medical and service workers should fulfill sanitary requirements when working with all patients/clients. Safe sex is a responsibility of all sexual partners, not just people living with HIV. Promotion of condom use, access to voluntary HIV testing and ART medications for those living with HIV are public health measures that have proved to be more effective than discriminatory laws.

Child adoption procedure stipulates a mandatory HIV certificate for the adoptive parents (article 300 of the Civil Procedural Code of Uzbekistan). In practice, that means that people living with HIV cannot adopt children, even if they take ART and achieve an undetectable viral load.

Suggested recommendation to the Government of Uzbekistan with respect to Issues 3 and 4:

Apply a human rights– and health–based approach to people living with HIV and in particular:

- (a) End HIV-specific criminalization by repealing article 113 of the Criminal Code, and create an environment to enable people to seek testing, support, and treatment, and to safely disclose their HIV status as an alternative to a punitive approach to HIV prevention;*
- (b) Limit possible application of general criminal law only to cases of intentional HIV transmission (e.g. where a person knows their HIV status, acts with the intention to transmit HIV, and does in fact transmit the virus), informed by the best available scientific and medical evidence about HIV and modes of transmission, prevention, and treatment. The harm of HIV non-disclosure or potential or perceived exposure, without actual transmission, is not sufficient to warrant prosecution and should not be criminalized;*
- (c) Repeal laws that discriminate against people living with HIV in child adoption, marriage, labour relations, and the access to health services.*

Annex I. Information about the applicants



The HIV Legal Network (www.hivlegalnetwork.ca) promotes the human rights of people living with, at risk of, or affected by HIV or AIDS, in Canada and internationally, through research and analysis, litigation and other advocacy, public education, and community mobilization.

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Eurasian Harm Reduction Association (EHRA) (<http://harmreductioneurasia.org>) is a non-profit public organization, uniting 303 organizational and individual members from 29 countries of the Central and Eastern Europe and Central Asia region (CEECA) with a mission to support communities and civil societies to ensure the rights and freedoms, health, and well-being of people who use psychoactive substances.

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