Changes for Humane Drug Policy

(Brief description of legislative changes prepared by the National Platform for Drug Policy)
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Existing drug policy and its results

Current Georgian legislation for drug policy is one of the strictest in the world. In addition to the fact that general use of drugs is considered a criminal offence, inadequately severe sanctions for other types of drug offences (purchase/storage, cultivation) are in place. For about ¾ of drugs, the legislation does not distinguish between small and medium (initial criminal liability) amounts; this means that possession of the smallest particles of drugs is viewed as large amount by the law and is punishable by several years of imprisonment. Criminalization and isolation result in further marginalisation of these groups and increases social vulnerability for them and their families. At the same time, they remain under constant attention of the law enforcements. The desire of the police to “co-operate” with them and use them as resource of information creates the risk for psychological and physical pressure.

The implementation process of this strict policy has been even harsher; one of the most apparent examples of this is the abusive methods of mandatory drug testing. Against this background, there are not enough accessible treatment and damage reduction programs. The existing drug policy does not yield the desired effect, and for the last few years, its real nature has extended beyond the principles of the fight against crimes. The drug consumption has not decreased, while the number of problematic users has increased (according to the data from 2009-2014, the number of injecting users has increased from 40
000 to 50 000)\(^1\). Strict sanctions and controls over the specific substances does not result in less users, since new substances keep appearing on the “drug market”, which is accompanied with even less information and thus its usage is associated with more risk and damage. In these conditions, the risks of overdose and other negative effects are considerably larger.

At the same time, there is no comprehensive or institutionalized prevention system in the country. Psycho-social programs are in their initial stages, while substantial administrative resources within the law protection system, are directed at “persecuting” the users. According to the data from 2015, more than 30% of detainees have been imprisoned for drug-related crimes; and after prison term, additional limitations of rights remain in force and these make their full re-socialization and rehabilitation practically impossible.

Taking into consideration the number of legal, social, and financial factors, it is necessary to systemically develop new policy and approaches, which will be directed at general prevention of drug usage, treatment and social rehabilitation and harm reduction programs, and the repressive legal methods, will only be used against the drug traffic and related organized crimes.

In order to achieve these goals, a draft law was prepared by the National Platform for Drug Policy, which is based on the idea of creating humane drug policy and includes the needs of specific groups, as well as, of a wider society and the principle of fair balance of interests.

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1 Drug Situation in Georgia, Annual Report. 2015, p. 20
Description of the model proposed by the Platform

The proposed concept includes the following components:

- **Implementing the system of prevention** – development of the special curriculum for schoolchildren, which includes information about the harmful consequences of drug use; and, systemic informational campaign for prevention;

- **Creating commissions for assessment and referral** – the commission will be the link responsible for including the drug user in the existing rehabilitation/harm reduction programs. The commissions will also be involved in the prevention activities;

- **Widening the spectre of consultation and treatment services** – today, in the country, there are important services in this direction; however, in the conditions of liberalized drug policy, the diversification of services will be important, as well as, their geographical and qualitative expansion;

- **Creation of psycho-social rehabilitation system** – the given component involves establishing special centres, which will offer different types of psycho-social services to the user;

Also, during the transition period, it will be important to improve the qualification of specialists, which could take a total of six months to one year. In order for the above mentioned innovative components, and in general, psycho-social rehabilitation and harm reduction programs have effective outcome, it is necessary to fundamentally modify criminal legislation. In the context of drug policy, repressive mechanisms should be used only in extreme cases and the object of such mechanisms should be not the drug users, but the wider transit and distribution.

Consequently, the draft law includes the following:
• *Decriminalization of consumption/possession of small amounts of all drugs* - the need for decriminalization is especially apparent in the case of users of the so-called problematic drugs users, since they need various healthcare/rehabilitation and harm reduction services from the state. Because of the fear of the status of criminals and its consequences, these people remain invisible for the State and often say no to the offered programs;

• *Easing of legal sanctions* - In the new draft law, the main object of the criminal sanctions is supplier. Thus, the punishment for other drug-related crimes, which do not include realization, will be more liberal; the sanctions will be defined justly and according to the risks. The new law will also protect people (who do not take part in realization) from spending years in jail, which in most cases, is counterproductive;

• *Just classification of dosages of drugs* - each substances will be adequately defined into small, initial criminal liability, large and particularly large amounts. The illegal possession of small amounts of illicit substance should, by all means, be punished by the administrative measures. The quantity will be defined by preliminary methodology, which will take into consideration the level of intoxication, the subsequent risks, the damage intensity and other factors;

• *Mandatory drug test* - Normative base for mandatory drug testing will be re-developed too. Namely, the basis for mandatory testing will be defined (while driving, carrying specific actions). Also, in case there is a positive response after the so-called fast urino-test, so it is necessary to confirm the results with so-called confirmatory testing and the issuance of the report by an appropriate narcologist about the clinical intoxication. Refusal to participate will be considered as a confirmation of the fact
that the person is under the influence of drugs. In this context, as the further development of the reform, the narcological centres should be moved from under jurisdiction of the Ministry of Internal Affairs to the Ministry of Health;

- **New Psychoactive Substances** - Since the amount of new psychoactive substance cannot be determined at the level of the law, it is necessary to develop balanced regulations on the matter. The possession of new psychoactive substance (any amount) may remain within the criminal liability, but the imprisonment should not be considered as a punishment, except the cases when there is sale;

- **Legal status of the convicted** - in order to improve the legal status of those convicted for drug related crimes, the unjust mechanism of restricting the additional rights will be eliminated, in order to be available better chances of re-socialization and returning to society.

In case the above-mentioned components are implemented effectively, in the nearest future and long term, we will have a better informed society (especially teenagers) with regards to the risks of drug consumption; also more people will consider going to the State and private services to deal with drug related problems. Consequently, the State will have a better picture about the drug usage in the country and the necessary measures. At the same time, the number of problematic users will decrease, as well as, the number of deaths caused by overdose. The spread of HIV infection and B and C hepatitis will also decrease. It is also noteworthy that, as a result of the reform, significant administrative resource will become available in the penitentiary system and the police. These resources can be redirected to the fight against the distribution of narcotics.