

**Mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest
attainable standard of physical and mental health**

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health pursuant to Human Rights Council resolution 15/22.

In this connection, I would like to bring to your Excellency's Government's attention information I have received concerning **the treatment of people who use drugs and are living with HIV and Tuberculosis at the Tuberculosis Clinic No.2, at 37 Kamskaya St., Yekaterinburg, Sverdlovsk Oblast, 620050, Russian Federation.** The Tuberculosis Clinic No.2 was the subject of a previous communication sent to your Excellency's Government on 25 June 2010.

According to the information received:

It is alleged that following complaints by civil society groups and individual patients in 2010 concerning inadequate medical care and insufficient access to medicines for the tuberculosis treatment of drug-dependent persons living with HIV, the Tuberculosis Clinic No.2 has introduced a range of initiatives to improve the situation, including by allowing patients to walk outside the clinic facility, delivering anti-retroviral treatment directly to the clinic, and providing an in-house service of infectious disease physician. However, those initiatives have allegedly failed to adequately address outstanding concerns.

Since 2010, no arrangements have allegedly been made to ensure availability and accessibility of effective in-patient tuberculosis treatment for drug-dependent people living with HIV. It is also alleged that treatment programmes offered by the clinic fail to incorporate procedures and practices that address the special needs of drug-dependent patients and improve patient retention. It is further alleged that patients are coerced to sign a written undertaking before admission to the clinic that prohibits the use of illicit drugs or alcohol. A drug-dependent patient who

violates this prohibition is allegedly discharged from the clinic without possibility of re-admission.

Furthermore, it is alleged that the administration of the clinic retaliated against patients, who had complained about the clinic, by dismissing them before the completion of their treatment. As a result, patients are reportedly reluctant to express their views regarding the standard of care for fear of dismissal from the clinic and termination of their treatment.

It is further alleged that harm-reduction measures, such as opioid substitution therapy (OST), continue to be unavailable at the clinic. It is reported that methadone, internationally recommended for use in OST, is illegal in the Russian Federation and is therefore unavailable in the clinic. Buprenorphine, another recommended drug for OST, is legally available in the country but its use for OST is illegal. It is also alleged that painkillers such as analgin and dimedrol are not easily available in the clinic. As a result, many patients dependent on drugs suffer through unmedicated withdrawal, instead of receiving pharmacologically supported withdrawal or OST. This reportedly increases the risk of relapse into drug use among patients, whose treatment may be terminated by the clinic due to the breach of treatment regiment.

Finally, it is alleged that the clinic still fails to provide effective HIV/tuberculosis co-infection treatment. Although anti-retroviral treatment is delivered directly to the clinic, the immune status and viral load of people receiving treatment is allegedly not regularly monitored. According to the information received, patients are only tested for their liver function, and no tests are conducted to monitor patients' cell count. Doctors allegedly do not inform patients about the results of any tests performed or the course of treatment prescribed. While an in-house infectious disease physician is now available, patients are allegedly not informed about the treatment of co-infection and its effectiveness. Patients living with HIV are allegedly instructed to consult the Yekaterinburg AIDS Centre for information, but no system of referral and consultation reportedly exists between the two clinics. HIV treatment for people undergoing tuberculosis treatment is allegedly cancelled if there are side effects between the two treatments, even when drug reactions are common symptoms of immune reconstitution syndrome. As a result, persons living with HIV are often left without treatment, increasing the risk of HIV progression and death. Mortality rates at the Kamskaya clinic are allegedly higher than in other clinics offering tuberculosis treatment for people living with HIV who are also dependent on drugs.

While I do not wish to prejudice the accuracy of these allegations, I would appreciate information from your Excellency's Government on the steps taken by the competent authorities with a view to ensuring the right to the highest attainable standard of health of the persons who use drugs and are living with HIV. This right is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified on 16 October 1973, which provides for the right of everyone to the

enjoyment of the highest attainable standard of physical and mental health. This involves prevention, treatment and control of such epidemic diseases as HIV and tuberculosis and includes an obligation on the part of State parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination.

I also wish to refer your Excellency's Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which states that all health-related facilities, goods and services must be available, accessible, acceptable and of good quality for all, without discrimination (para.12). This includes access to rehabilitative health services and essential drugs, as well as the provision of health-related information through decision-making processes that are participatory and transparent (paras.12, 17 and 43).

According to the right to health framework, States are required to respect, protect and fulfil the right to health (para.33). The duty to respect requires States to refrain from interfering directly or indirectly with the enjoyment of the right to health, which means that States may not deny equal access to health services or health information, or initiate or enforce discriminatory practices (para.34). The obligation to protect mandates States to ensure that third parties do not limit people's access to health-related information and services (para.35) and that medical practitioners and other health professionals meet appropriate standards of education, skill and ethical codes of conduct (para.35). Under the duty to fulfil, States should adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures to fully realize the right to health.

I would like to bring to the attention of your Excellency's Government the report that I presented to the General Assembly on the international drug control (A/65/255), which observes that drug dependence should be treated as a medical condition requiring appropriate, evidence-based treatment, such as opioid substitution therapy (paras.15 and 52). Persons who are dependent on drugs must therefore have access to quality treatment and care for medical co-morbidities at all stages. The stigma created or reinforced through punitive enforcement or treatment regimes has the potential to discourage persons who use drugs from accessing treatment, perpetuating risky forms of drug use. Targeted abuse and violence by health personnel towards persons who use drugs may increase users' risk of physical and mental illness. Overly punitive approaches also have the potential to undermine the effectiveness of health interventions and programmes, such as those designed to prevent HIV/AIDS and hepatitis transmission amongst drugs users (paras. 19-29).

I also wish to bring your Excellency's Government's attention to the UNODC/WHO Principles of Drug Dependence Treatment 2008, which recommends that any drug dependence treatment should comply with human rights obligations and recognize the inherent dignity of all individuals. According to Principle 4, all staff should be properly trained in the provision of treatment in full compliance with ethical standards, and show respectful and non-stigmatizing attitudes. Hospital processes and procedures

should also require staff to adequately inform patients of treatment processes and procedures, as well as develop individual care plans jointly with the patient.

It is my responsibility under the mandate provided by the Human Rights Council, to seek to clarify all cases brought to my attention. Since I am expected to report on these cases to the Human Rights Council, I would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide the details of measures taken to ensure the enjoyment of the highest attainable standard of health, including access to prevention, treatment and care services for tuberculosis, for persons living with HIV and who use drugs, without discrimination in the Russian Federation?

I would appreciate a response within sixty days. I undertake to ensure that your Excellency's Government's response will be accurately reflected in a report to the Human Rights Council for its consideration.

While waiting for your response, I urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of persons who use drugs and are living with HIV are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurance of my highest consideration.

Anand Grover
Special Rapporteur on the right of everyone to the enjoyment of the
highest attainable standard of physical and mental health