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# TRANSFORMATION OF DRUG TREATMENT PATIENT RECORDS

IN EASTERN EUROPE AND CENTRAL ASIA:

FROM LIST-BASED TO INDIVIDUALISED APPROACH  
WITHOUT VIOLATING HUMAN RIGHTS

**#**  
**SOS\_**  
**PROJECT**  
**2.0**

**ehra**   
eurasian harm reduction association



**Alliance**  
for Public Health

**100%.LIFE**



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FOR MORE INFORMATION, VISIT THE WEBSITE:

**[HTTPS://HARMREDUCTIONEURASIA.ORG](https://harmreductioneurasia.org)**

**MIKHAIL GOLICHENKO**  
Author



**LANA DURJAVA**  
Editor



**ELIZA KURCEVIČ**  
Project Manager



**EIMANTĖ PUKELYTĖ**  
Designer

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# LIST OF ABBREVIATIONS



|             |                                     |
|-------------|-------------------------------------|
| <b>EECA</b> | Eastern Europe and Central Asia     |
| <b>HIV</b>  | Human Immunodeficiency Virus        |
| <b>EHRA</b> | Eurasian Harm Reduction Association |
| <b>ECHR</b> | European Court of Human Rights      |
| <b>STIS</b> | Sexually Transmitted Infections     |
| <b>USSR</b> | Union of Soviet Socialist Republics |





# INTRODUCTION

Observance of medical confidentiality with regard to information about the fact of a citizen's application for medical care, their state of health and diagnosis, and other information obtained during their medical examination and treatment is an important legal and ethical requirement of modern medical practice. Ensuring the confidentiality of information about a patient's state of health is one of the foundations of the patient's trust in the doctor and the health care system as a whole.

RESPECT FOR AND PROTECTION  
OF MEDICAL CONFIDENTIALITY IS OF  
PARTICULAR IMPORTANCE WHEN WORKING  
WITH PATIENTS WHOSE HEALTH CONDITION,  
FOR VARIOUS REASONS, CAUSES STIGMA AND  
DISCRIMINATION.

**THE PURPOSE OF THIS REPORT IS TO  
RAISE THE QUESTION OF THE STATE OF  
MEDICAL CONFIDENTIALITY AND  
PATIENT PERSONAL DATA PROTECTION  
IN THE FIELD OF DRUG TREATMENT IN  
EECA COUNTRIES AND WHAT COULD BE  
THE FOCUS OF FURTHER REFORMS OF  
LEGISLATION AND PRACTICE IN THIS  
area.**

Examples of such health conditions include HIV, tuberculosis, sexually transmitted infections (STIs), mental illness, substance use disorders and other similar conditions. Eastern Europe and Central Asia (EECA) countries have adopted effective **national laws on the protection of citizens' health, which, among other things, contain norms on the protection of medical confidentiality.**<sup>1,2,3,4,5,6</sup>

In terms of the importance of respecting the right to medical confidentiality protection, EECA countries are similar to countries in the European Union, the United States and Canada. For example, the European Parliament has adopted and actively promotes a strategy for the protection of personal data in all areas of public life, including health, security and law enforcement.<sup>7</sup>

1 Article 39-1. The right to a secret about the state of health. Fundamentals of Ukrainian legislation on health protection. Law of Ukraine dated 19.11.1992 No. 2801-XII.

2 Article 42 of the Law of Georgia No. 1139 of 12.10.1997 "On Health Protection".

3 Article 14 of the Law of the Republic of Moldova No. 411 of 28 March 1995 "On Health Protection".

4 Article 273. Secrecy of a medical worker. Code of the Republic of Kazakhstan No. 360-VI of 7 July 2020 "On the Health of the People and the Health Care System".

5 Article 13. Observance of medical confidentiality. Federal Law of 21.11.2011 N 323-FZ "On the Fundamentals of Health Protection of Citizens in the Russian Federation".

6 Article 169. Doctor's confidentiality. Law of the Kyrgyz Republic No. 14 of 12 January 2024 "On Protection of Citizens' Health in the Kyrgyz Republic".

7 This link provides a list of the main instruments in this area, from the provisions of the Lisbon Treaty to the most recent resolutions and directives: <https://www.europarl.europa.eu/factsheets/en/sheet/157/personal-data-protection>



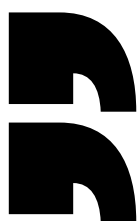
# DRUG REGISTRY

The most striking manifestation of the outdated system of working with personal data and patient confidentiality is the system of drug registry.

A DRUG REGISTRY IS A GENERALISED CONCEPT THAT INCLUDES A SET OF NORMATIVE AND PRACTICAL TOOLS OF ADMINISTRATIVE AND MEDICAL PRESSURE ON PEOPLE WHO USE DRUGS.

A drug registry is a continuation of repressive mechanisms for “squeezing” drug use out of society. It is based on the idea of forcing a person to give up drugs using administrative control measures and the defeat of rights and deregistration on the basis of sustained refusal of socially reprehensible behaviour.





## A DRUG REGISTRY IS CHARACTERISED BY TWO FEATURES:

1

### HAVING A LIST (DATABASE)

that identifies people based on whether they have a mental or behavioural substance use disorder.

2

THE LOSS OF RIGHTS that comes with the fact that a person has been placed on the list.



Drug registry was formed in the late Soviet period and permeated the practice of working with people who use drugs in all countries of the Union of Soviet Socialist Republics (USSR). The last Soviet order regulating the drug registry was approved by the USSR Ministry of Health in 1988.<sup>8</sup>

Although the Soviet order was cancelled in all former republics of the USSR, the provisions of that order were reflected in the Orders of the national ministries of health of the independent states and are still in force today.<sup>9, 10, 11, 12</sup> Such Orders are still in place even in countries that are firmly on the path of democratic transformation.

8 Order No. 704 of the Ministry of Health of the USSR of 12 September 1988 “On the terms of dispensary observation of patients with alcoholism, drug addiction and substance abuse”.

9 Order No. 306/680/21/66/5 of the Ministry of Health of Ukraine, the Ministry of Internal Affairs of Ukraine, the Office of the Procurator-General of Ukraine and the Ministry of Justice of Ukraine of 10.10.1997 “On Approval of the Instruction on the Procedure for Identification and Registration of Persons Illegally Using Narcotic Drugs and Psychotropic Substances”.

10 Available on the website of the Verkhovna Rada of Ukraine: <https://zakon.rada.gov.ua/laws/show/z0534-97#Text>

11 In the Republic of Tajikistan, the task of timely registration of persons with drug dependence is presented among the key activities for the implementation of the National Drug Control Strategy in the Republic of Tajikistan for 2021-2030. See point 5 of Annex 1 to the Decree of the President of the Republic of Tajikistan No. 145 of 20 March 2021.

12 On the negative manifestations of drug use in Kyrgyzstan and Moldova, see the material “No point in waiting: how Moldova has been trying for many years to decriminalise drug use”, dated 10 October 2023. Regional online platform of the NGO “VIRUS OFF”: <https://virusoff.info/net-smysla-zhdak-v-moldove-mnogo-let-dobivayutsya-dekriminalizacii-upotrebleniya-narkotikov/>

For example, in Ukraine,  
Order No. 306/680/21/66/5 of the Ministry of Health  
of Ukraine, the Ministry of Internal Affairs of Ukraine,  
the Office of the Prosecutor General of Ukraine and  
the Ministry of Justice of Ukraine of 10 October 1997  
“On Approval of the Instruction on the Procedure for  
Identification and Registration of Persons Illegally  
Using Narcotic Drugs and Psychotropic Substances” is  
still in force.



HOWEVER, ACCORDING TO NATIONAL EXPERTS, THIS ORDER  
IS NOT ACTUALLY APPLIED IN PRACTICE.



In Belarus, there is Decision No. 53 of the Ministry of  
Health of the Republic of Belarus of 10 July 2002 “On  
Some Issues of Recognition of a Person as a Patient  
with Chronic Alcoholism, Drug Addiction or Toxicomania,  
Procedure and Conditions of Medical Care for Patients  
Suffering from Chronic Alcoholism, Drug Addiction or  
Toxicomania” and the “Instruction on the Procedure  
of Dispensary Registration of Patients with Dependence  
on Alcohol, Narcotic and Non-Narcotic Substances and  
Preventive Surveillance of Persons with Alcoholism, Drug  
Addiction or Toxicomania” approved by this Decision.

In Kazakhstan, there is Annex 2 to the  
Order of the Minister of Health of the  
Republic of Kazakhstan dated 25 November  
2020 No. KR DSM-203/2020 “Rules of  
dynamic observation, as well as the  
termination of dynamic observation of  
persons with mental, behavioural disorders  
(diseases)”.<sup>13</sup>



In essence, it is the lost in force Order of  
the Ministry of Health of the Republic of  
Kazakhstan from 2 December 2009 No. 814  
“On Approval of the Rules of registration,  
observation and treatment of persons  
recognised as patients with alcoholism,  
drug addiction and toxicomania”.<sup>14</sup> Only in  
this case, the concept of “registration”  
was replaced by “dynamic observation”.  
A similar replacement has been made in  
Russia.<sup>15</sup>

13 See: [https://online.zakon.kz/Document/?doc\\_id=39903070&pos=6;-108#pos=6;-108](https://online.zakon.kz/Document/?doc_id=39903070&pos=6;-108#pos=6;-108).

14 See: <https://adilet.zan.kz/rus/docs/V090005954>.

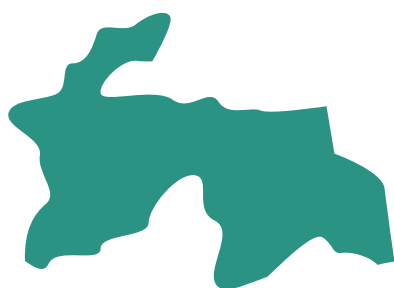
15 Order of the Ministry of Health of the Russian Federation of 30 December 2015 N 1034n “On Approval of the Procedure for the Provision of Medical Care in the Profile of “Psychiatry-Narcology” and the Procedure for Dispensary Monitoring of Persons with Mental Disorders and (or) Behavioural Disorders Associated with the Use of Psychoactive Substances”.





## UZBEKISTAN

In Uzbekistan, Act No. ZRU-644 of 27 October 2020 on the prevention and treatment of narcological diseases provides for preventive registration of persons suffering from narcological diseases by the internal affairs authorities, preventive observation (prophylactic registration) and dispensary observation (dispensary registration) in health care institutions.<sup>16</sup>



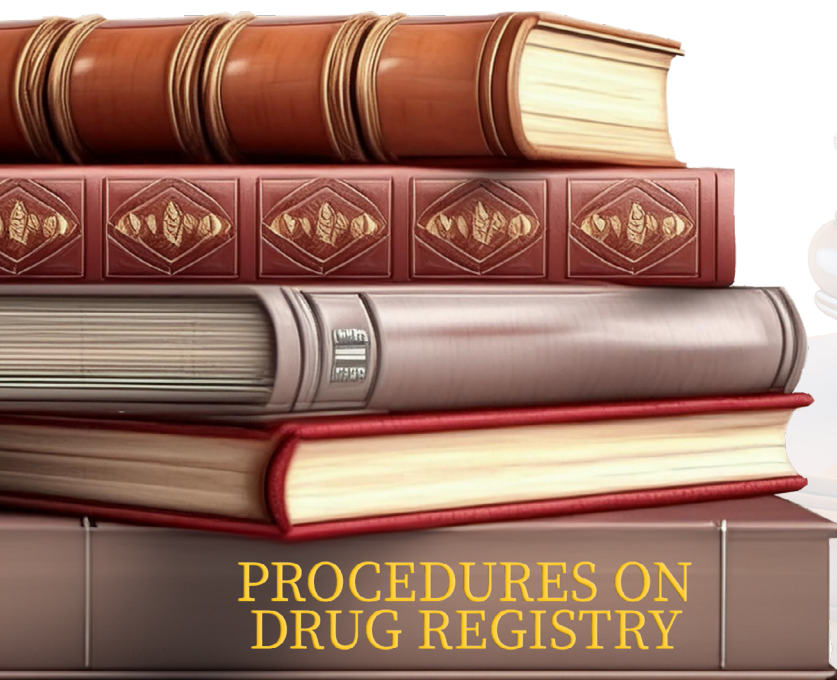
## TAJIKISTAN

Tajikistan has an Order of the Ministry of Health and Social Protection of the Population of the Republic of Tajikistan No. 227 of 11 March 2021 “On the procedure for registration and dispensary control of drug addicts with mental and behavioural disorders associated with the use of narcotic drugs, psychotropic substances and alcoholic beverages.”<sup>17</sup>



## KYRGYZSTAN

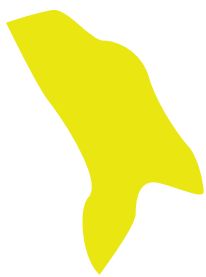
In Kyrgyzstan, the Law provides for the possibility of dynamic monitoring, which may be established regardless of the person’s consent in the presence of chronic and protracted mental and/or behavioural disorder with severe persistent or frequently worsening painful manifestations. Persons with a mental disorder are subject to restrictions on the performance of certain types of professional activities and activities associated with a source of increased danger. There is also a mandatory medical examination to establish a diagnosis of dependence on a psychoactive substance, which is carried out when hiring persons in accordance with the “List of specialities and positions subject to mandatory medical examination approved by the Cabinet of Ministers”.<sup>18</sup>



<sup>16</sup> Art. 11 and 17 of the Law. Online: <https://lex.uz/docs/5069152>.

<sup>17</sup> See: <https://online.zakon.kz/m/amp/download/33184789>.

<sup>18</sup> See Art. 78, 82, 85 of the Law of the Kyrgyz Republic dated 12 January 2024, No. 14 “On Health Protection of Citizens in the Kyrgyz Republic”.



**MOLDOVA**

Mandatory medical registration and registration as a person who uses drugs remains in place in the Republic of Moldova.

Such registration is one of the main obstacles to the availability of drug dependence treatment programmes in the country.<sup>19</sup>

IN COUNTRIES WHERE THERE IS STILL NO SPECIFIC ORDER ON NARCOLOGICAL REGISTRATION, IT IS MANDATORY TO OBTAIN A CERTIFICATE FROM A NARCOLOGIST TO:

- OBTAIN A DRIVER'S LICENCE,
- ENTER THE CIVIL SERVICE OR A WIDE RANGE OF PROFESSIONS,
- ENROL IN DEPARTMENTAL EDUCATIONAL INSTITUTIONS OF THE MINISTRY OF DEFENCE, THE MINISTRY OF THE INTERIOR, THE MINISTRY OF JUSTICE AND THE PROSECUTOR'S OFFICE.



In addition to drug treatment records in the health care system, most countries of the former Soviet Union retain preventive records of people who have committed offences and crimes related to drug trafficking by law enforcement agencies. In some countries, preventive registration is explicitly provided for in joint orders of the Ministry of the Interior and the Ministry of Health,<sup>20</sup> or there is an exchange of information with law enforcement agencies on people registered with a narcologist.<sup>21</sup>

19 Republic of Moldova: sustainability analysis of opioid agonist maintenance programmes in the context of transition from donor support to national funding. EACV, 2020. Pp. 17, see:

<https://harmreductioneurasia.org/wp-content/uploads/2020/11/OAT-sustainability-assesment-report-Moldova-2020-RUS.pdf>.

20 See, for example, Order No. 306/680/21/66/5 of 10 October 1997 of the Ministry of Health, the Ministry of Internal Affairs, the Office of the Procurator-General and the Ministry of Justice "On Approval of the Instruction on the Procedure for Identifying and Registering Persons Illegally Using Narcotic Drugs and Psychotropic Substances".

21 See, for example, paragraph 37.2 of Annex No. 1 to Order No. 205 of the Ministry of Internal Affairs of Russia of 29.03.2019 "Instruction on the performance of official duties by neighbourhood police commissioners in the served administrative area".

# ACCORDING TO THE LEVEL OF ADMINISTRATION, DRUG TREATMENT RECORDS CAN BE DIVIDED INTO THREE TYPES:

## 1 PREVENTIVE REGISTRY

Least intense and with minimal rights defeats. It is applied to people who use alcohol or other psychoactive substances with negative consequences (e.g., drunk driving or drug use in public places). As a rule, the period of such registration does not exceed one year.

## 2 DISPENSARY OBSERVATION

Assumes intensive record keeping and maximum defeat of rights. It is appointed when dependence on psychoactive substances is established by narcologists. The reason may be a request for medical assistance or committing an offence while intoxicated.

It is possible to be registered at the request of relatives. Treatment of a sub-accounted person without their consent or without a court decision is prohibited. This also implies the possibility of refusal of dynamic monitoring. However, with

## 3 ANONYMOUS RECORDS

They are kept for patients who are treated on a fee-for-service basis. Since Soviet times, the anonymous registration of “self-funded” patients has involved internal registration of patients without transferring data to the general database. In such registry, patients’ rights are not affected. However, fees for services may be high for patients in difficult life situations, which raises the question of discrimination based on a person’s property and social status.

such a refusal, the legal consequences of registration remain indefinitely. Withdrawal from dispensary observation is possible upon achievement of persistent remission lasting several years (for example, in Tajikistan and Uzbekistan, the term of persistent remission is three years). Remission is confirmed by systematic visits to a narcologist. The frequency of mandatory visits varies depending on the length of time and progress towards remission.



IN ALL CASES, THE DECISION ON REGISTRATION (OBSERVATION) IS MADE BY A DOCTOR OR A COMMISSION OF NARCOLOGISTS ON THE BASIS OF MEDICAL INDICATORS. A NARCOLOGIST ALSO ISSUES REFERRALS FOR TESTS, WRITES REFERRALS FOR TREATMENT AND DECIDES WHETHER TO DEREGISTER THE PATIENT (IN SOME COUNTRIES, THIS DECISION IS MADE BY A COMMISSION OF NARCOLOGISTS).

AT THE SAME TIME AS THE COUNTRIES WHERE DRUG RECORDS HAVE BEEN MAINTAINED, THE EECA REGION IS WITNESSING THE EMERGENCE OF COUNTRIES WHERE DRUG RECORDS HAVE BEEN CANCELLED OR ARE NOT ACTUALLY IN PLACE. FOR EXAMPLE, IN THE COUNTRIES OF THE BALTIC REGION, DRUG REGISTRY ORDERS WERE EITHER NOT ADOPTED IN THE POST-SOVIET PERIOD, WERE CANCELLED SHORTLY AFTER THE TRANSITION TO INDEPENDENCE, OR WERE NOT APPLIED IN PRACTICE.

AGAINST THE BACKDROP OF THE ONGOING REFORM OF DRUG LAWS IN THE REGION, <sup>22</sup> THE PROBLEM OF DRUG RECORDS REQUIRES NEW THINKING AND ITS HARMONISATION WITH HUMAN RIGHTS STANDARDS AND MEDICAL ETHICS, TAKING INTO ACCOUNT INTERNATIONAL PRACTICE.



IN GEORGIA AND UKRAINE, DRUG REGISTRY REGULATIONS ARE DE FACTO INACTIVE BECAUSE THEY ARE NOT ENFORCED BY NARCOLOGISTS.



A thick, expressive yellow brushstroke is located in the top right corner of the image, extending diagonally from the top edge towards the center.

**DRUG REGISTRY**

**entails a  
VIOLATION OF**

**HUMAN RIGHTS**



## DRUG REGISTRIES RESULT IN RIGHTS VIOLATIONS OF THE INDIVIDUALS SUBJECTED TO THEM.



In the first place, the right to privacy is violated due to significant restrictions on the right to hold certain positions, perform certain jobs, or drive a car.

According to the case law of the European Court of Human Rights (ECtHR) (see, for example, Oleksandr Volkov v. Ukraine, §§ 165–167), Article 8 (right to respect for private and family life) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter the European Convention) <sup>23</sup> “protects the right to personal development and the right to establish and develop relationships with others and the outside world” (see Pretty v. the United Kingdom, no. 2346/02, § 61, ECHR 2002-III).

The concept of “private life” includes occupation or business activities since it is in the course of their work that most people have a significant opportunity to develop relationships with the outside world (see Nimitz v. Germany, 16 December 1992, § 29, Series A no. 251B). Restrictions on access to an occupation have therefore been found to affect “private life” (see Sidabras and Jautas v. Lithuania, nos. 55480/00 and 59330/00, § 47, ECHR 2004-VIII, and Bigaeva v. Greece, no. 26713/05, §§ 22–25, 28 May 2009). **DISMISSAL FROM EMPLOYMENT IS AN INTERFERENCE WITH THE RIGHT TO RESPECT FOR PRIVATE LIFE** (see Ezpinar v. Turkey, no. 20999/04, §§ 43–48, 19 October 2010).



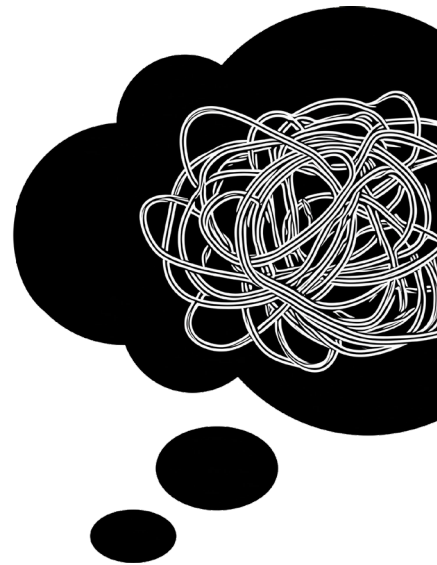
**THE PROTECTION OF PRIVACY ENCOMPASSES A RANGE OF FACTORS RELATED TO PERSONAL DIGNITY, INCLUDING, FOR EXAMPLE, THE ABILITY TO DEVELOP ONE'S PERSONALITY AND ASPIRATIONS TO DEFINE ONE'S IDENTITY AND ESTABLISH ONE'S PERSONAL RELATIONSHIPS. <sup>24</sup>**



According to the Human Rights Committee, the obligations under Article 17 of the International Covenant on Civil and Political Rights, which prohibits any “arbitrary or unlawful interference” with a person’s “private life, family, home or correspondence”, as well as unlawful attacks on a person’s “honour and reputation”, require the State to take legislative and other measures to enforce the prohibition of such interference and attacks and to protect this right. <sup>25</sup>

Drug treatment records are contrary to the obligations of States under Art. 17 of the International Covenant on Civil and Political Rights, as they constitute an arbitrary interference with the right to personal development. The expression “arbitrary interference” is relevant to the protection of the right under Article 17 and may also extend to interference provided for by law.

The introduction of the concept of arbitrariness is intended to guarantee that even interference authorised by law must be consistent with the provisions, aims and objectives of the International Covenant on Civil and Political Rights and must, in any event, be reasonable in the particular circumstances. <sup>26</sup>



24 Ibid.

25 General Comment No. 16- Article 17 (right to privacy), para. 1.

26 General Comment No. 16- Article 17 (right to privacy), para. 4.



The cumulative effect of an automatic compulsory drug registry, which has the effect of a blanket overbroad ban on more than 300 professions<sup>27</sup> for people dependent on drugs, as well as a blanket ban on them obtaining driving licences, is an arbitrary interference with the right to privacy.

The interference is arbitrary because of its automatic, general and overbroad impact, which prevents the authorities from making the interference reasonable in the particular circumstances relating to the individual.

The combined effect of the compulsory registration of people who use drugs and the blanket legal prohibition on over 300 professions also constitutes an arbitrary attack on honour and reputation in violation of Article 17 of the Covenant on Civil and Political Rights. According to decisions of the European Court of Human Rights, Article 8 extends to the protection of honour and reputation as part of the right to respect for private life (see *Pfeifer v. Austria*, no. 12556/03, § 35, 15 November 2007, and *A. v. Norway*, no. 28070/06, §§ 63–64, 9 April 2009).

De facto and de jure sub-recipients are forced to disclose their health status to a wide group of potential employers.

**GIVEN THE STRONG STIGMA ASSOCIATED WITH DRUG USE, INFORMATION ABOUT A DRUG DEPENDENCE DIAGNOSIS CAN CAUSE SERIOUS DAMAGE TO THEIR HONOUR AND REPUTATION.**

The cumulative impact of mandatory registration of people who use drugs and laws restricting their employment opportunities contradict the guarantees of the right to freedom from discrimination. THIS RIGHT IS GUARANTEED BY THE CONSTITUTIONS OF ALL EASTERN EUROPEAN AND CENTRAL ASIAN STATES, as well as by Article 26 of the International Covenant on Civil and Political Rights and Article 14 of the European Convention. The International Covenant on Economic, Social and Cultural Rights guarantees the realisation of the right to health in conditions of freedom from discrimination (art. 2 and art. 12 of the Covenant).

<sup>27</sup> There is no single list of jobs, professions and positions prohibited for people with drug dependence. More than 300 professions are restricted by a set of regulations that prohibit people who are registered from driving vehicles, taking up positions in state and municipal authorities, security bodies and organisations, educational and health care institutions, institutions and organisations with high industrial safety requirements.





According to the Human Rights Committee, “the term ‘**DISCRIMINATION**’ as used in the Covenant is to be understood as including any distinction, exclusion, restriction or preference based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of neutralising or impairing the recognition, enjoyment or exercise by all persons, on equal terms, of all rights and freedoms”. <sup>28</sup>

According to the Committee on Economic, Social and Cultural Rights, **health status can be a ground of discrimination**. <sup>29</sup> Similarly, the European Court of Human Rights considers “health status” within the term “other statuses” for the purpose of protection against discrimination under Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. <sup>30</sup>

**PEOPLE WITH DRUG DEPENDENCE  
HAVE HISTORICALLY FACED  
DISCRIMINATION.**

<sup>28</sup> Human Rights Committee. General Comment No. 18: Non-discrimination. 1989. Paragraph 7.

<sup>29</sup> General comment No. 20. Non-discrimination in economic, social and cultural rights. E/C.12/GC/20, 10 June 2009.

<sup>30</sup> Kiyutin v. Russia. Application no. 2700/10. Judgment of 10 March 2011. Paragraphs 56, 57.





According to the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, people who use drugs are often discriminated against in health care settings. Discriminatory treatment includes restrictions on access to antiretroviral drugs and hepatitis C treatment, stigma that is created or reinforced through punitive measures or treatment regimes, and policing practices ranging from surveillance to the use of excessive force.<sup>31</sup>

The UN Special Rapporteur on Torture reports that discrimination against people who use drugs in the criminal justice system,<sup>32</sup> as well as in health care settings where their experience of interacting with health care, “is often one of humiliation, punishment and cruelty”.<sup>33</sup> The Executive Director of the UN Office on Drugs and Crime has pointed out that one of the unintended consequences of drug control is that it creates a system in which **PEOPLE WITH DRUG DEPENDENCE ARE EXCLUDED, STIGMATISED AND OFTEN UNABLE TO ACCESS TREATMENT, EVEN WHEN MOTIVATED TO DO SO.**<sup>34</sup>

By introducing mandatory registration of people who use drugs and establishing a system of automatic restrictions on the ability of people who are registered to work in over 300 professions and jobs, **authorities violate the right to freedom from discrimination by ignoring the circumstances surrounding the health status of people who use drugs.**

31 2010. Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. A/65/255, paras. 22–24.

32 2009. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. A/HRC/10/44, para. 67.

33 Human Rights Council (2013). Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juana E. Mendez. UN Doc. No. A/HRC/22/53, para. 72. Available: [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53\\_English.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf).

34 UNODC (2008). Making drug control ‘fit for purpose’: Building on the UNGASS Decade, Report of Antonio Maria Costa, Executive Director, UN Office on Drugs and Crime, Vienna, 2008. UN Doc. No. E/CN.7/2008/CRP.17.

These circumstances include the degree of dependence, the person's ability to manage their life with dependence, the length of remission periods (during which the person abstains from drug use), the absence of any intoxication-related driving or public safety convictions for many people who use drugs, and other circumstances in the lives of people who use drugs that substantially mitigate the negative consequences of drug use.

The duty of the State to regulate certain occupations and professions, especially those related to safety and education, is unquestionable. However, State regulation should not be arbitrary and devoid of objective and reasonable justification.

DRUG DEPENDENCE, AS A CHRONIC DISEASE, CAN MANIFEST ITSELF IN A VARIETY OF WAYS AND CAN INCLUDE LONG PERIODS OF REMISSION WHEN A PERSON WITH DRUG DEPENDENCE DOES NOT USE DRUGS.

IN ADDITION, ADDICTION SYNDROME DOES NOT TAKE AWAY THE ABILITY OF THE PERSON WITH DRUG DEPENDENCE TO CONTROL THEMSELVES AND ACT REASONABLY.

People with drug dependence may refrain from driving or other safety-threatening activities during a relapse. The life of each person with drug dependence is unique and requires careful medical screening, assessment, and, where possible, a supportive environment and medical support.

For example, in more than 70 countries around the world, people with opioid dependence can receive opioid agonist therapy with methadone or buprenorphine to stabilise their condition and live an unimpaired life. They can drive and engage in occupations without restrictions due to the fact of drug dependence or the fact that they are receiving opioid agonist therapy.

The European Court of Human Rights points out that if a restriction on fundamental rights is applied to a particularly vulnerable group that has suffered significant discrimination in the past, such as people with mental disabilities, the State's margin of appreciation in applying restrictive measures is substantially narrowed. In other words, restrictions must be justified by compelling reasons.

The reason for this approach is that historically stigmatised groups have often been subject to social marginalisation, which has been accompanied by bias on the part of the authorities. Such bias may include legislative stereotyping that prohibits individualised assessment of their abilities and needs.<sup>35</sup>



**PEOPLE WITH DRUG DEPENDENCE ARE A VULNERABLE GROUP WHO HAVE HISTORICALLY EXPERIENCED PREJUDICE, STIGMATISATION AND HUMAN RIGHTS VIOLATIONS. IN RELATION TO SUCH A GROUP, AUTHORITIES HAVE VERY NARROW DISCRETION IN SELECTING MEASURES THAT SINGLE OUT THIS GROUP FOR DISCRIMINATORY TREATMENT ON THE BASIS OF THEIR HEALTH STATUS.**





# JUSTIFICATION

FOR THE

# RETENTION

OF THE

# DRUG REGISTRY SYSTEM



In EECA countries, the introduction and maintenance of a drug registry are usually based on the following arguments:

THE NEED FOR EARLY IDENTIFICATION  
AND INCENTIVISING PEOPLE  
WITH PROBLEMATIC SUBSTANCE USE  
TO SEEK TREATMENT.

1

2

PROTECTING PUBLIC SAFETY  
AND ENSURING SAFE PRODUCTION.

ENSURING THE OPERATION OF  
LAW ENFORCEMENT AND JUSTICE.

3

**THE FIRST ARGUMENT IS NOT BASED ON PRACTICAL EVIDENCE** about the effects of drug registers. Drug registers are a completely wrong, flawed system that leads to a loss of trust between doctor and patient, according to both people with drug dependence and health experts.<sup>36, 37</sup> The UN Special Rapporteur on the Right to Health notes that drug registers violate the right to health, as they cause people not to seek drug treatment for fear of medical confidentiality being breached, as well as a loss of rights.<sup>38</sup>

**UNDER THE SECOND ARGUMENT,** the alleged benefit of prohibiting people who use drugs from entering certain professions and obtaining driving licences is that these people are thereby restricted from driving and working with so-called “high-risk sources”, such as industrial machinery or mechanised vehicles.

In the modern industrial era, most professions that involve certain equipment involve either a driving licence or a licence for certain work. People on drug registers cannot obtain such permits, which is, in effect, a ban on the profession or employment. This prohibition is automatic and has nothing to do with the fact that many people who use drugs have never posed a safety risk and have never violated safety rules in operating industrial equipment or mechanised vehicles.

The structure of automatic and general prohibitions does not take into account the specific circumstances of each individual who engages in problematic drug use or has drug dependence. In addition, the system of automatic prohibitions does not take into

account other existing legal remedies, including penalties, that have been established for substance use behaviour. For example, all countries impose severe fines and other restrictions on people who admit to driving while intoxicated. Substance use in the workplace carries severe consequences based on labour laws, up to and including dismissal. Workers whose activities involve high-hazard sources may be tested for intoxication while performing their duties or immediately prior to the start of a work shift.

**Such measures are individualised and differ from the arbitrary “list approach” in which people are discriminated against on the basis of health status alone rather than for any specific actions that actually pose a safety risk.**

36 See, for example, the interview with T.V. Klimenko, Doctor of Medical Sciences, Assistant Minister of Health of the Russian Federation, and current head of the NSC on Narcology, “Resistance of narcologists awaits us”. Interview from 9 August 2012. “Moskovsky Komsomolets”: <https://www.mk.ru/social/2012/08/09/735264-nas-zhdet-soprotivlenie-narkologov.html>.

37 Drug registration: by law or by instruction? Regulation of drug user registration in the Russian Federation / Lev Levinson, Mikhail Torban ; Human Rights Institute.- Moscow : Anaharsis ; PiAr-Media Group, 2009.- 98 c. : ill., tab.; 30 cm.; ISBN 978-5-901352-99-1.

38 Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. A/65/255. 6 August 2010. Paragraph 20.



**THE THIRD ARGUMENT** about ensuring the work of the law enforcement and justice system is also not convincing. In most EECA countries, laws on health care and criminal and administrative procedures provide for the possibility to provide information on a person's health status upon a reasonable request from law enforcement agencies or courts.

Such requests, however, are individualised and require adherence to procedure and a justification for the request. The provision of patient information on law enforcement lists exists only for people with substance dependence. This is what distinguishes drug records from other non-arbitrary and legitimate ways of providing information to law enforcement.

Given the existence of legitimate ways of providing information about a particular suspect for justice purposes, drug records are a vestige that need not exist.

Preventive supervision of people with a propensity to commit offences exists in most countries of the world.

It is a measure that is usually imposed by court order on people who have committed offences of a certain nature. Such a measure is individualised and involves procedural safeguards, including judicial oversight.

**THE JUSTIFICATION OF DRUG REGISTERS BY THE NEED TO PREVENT OFFENCES GOES BEYOND REASONABLE JUSTIFICATION PRECISELY BECAUSE OF THE AVAILABILITY OF INDIVIDUAL SUPERVISION MEASURES FOR PEOPLE WHO HAVE ALREADY COMMITTED OFFENCES.**

Preventive registration in such a case does not single out people with substance dependence into a separate group on the basis of their health status. Thus, the availability of individual preventive registers for people who are prone to offending makes the availability of drug registers an unnecessary, arbitrary measure that discredits and discriminates against the justice system.



**THUS, NONE OF THE JUSTIFICATIONS FOR  
MAINTAINING DRUG RECORDS ARE BASED  
ON PRACTICAL, MEDICAL OR LEGAL  
CONSIDERATIONS.**



**DRUG REGISTERS SHOULD BE REPLACED  
BY A MODEL OF WORKING WITH PEOPLE  
LIVING WITH SUBSTANCE DEPENDENCE  
THAT TAKES INTO ACCOUNT THE INTERESTS  
OF SOCIETY, THE STATE AND THE  
INDIVIDUAL WHILE MINIMISING THE  
VIOLATION OF HUMAN RIGHTS.**



# PRACTICES

in

**WESTERN EUROPE,  
UNITED STATES**



**CANADA**





In addition to the examples of the Baltic States, Georgia and Ukraine, information on Western Europe, the USA and Canada should be cited. On the one hand, there has never been and is no drug registry in these countries. On the other hand, the experience of these countries is often appealed to by proponents of drug registry, WHO DRAW ATTENTION TO THE FOLLOWING FACTORS THAT RESEMBLE A DRUG REGISTRY SYSTEM:

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The existence of restrictions on certain professions and jobs related to substance use or dependence in those countries.

Availability of medical records of patients.

Having the right, and in some cases the duty, of a doctor to report patients with drug dependence to the appropriate authorities for revocation or restriction of rights or licences.

THE MAIN DISTINGUISHING FEATURE OF THESE FACTORS FROM DRUG REGISTRIES IS the individual approach to each specific patient, the preservation of a trusting relationship between doctor and patient, taking into account the individual characteristics of the course of the disease in each patient, and not singling out drug use disorders as a special health condition that requires the loss of rights simply because of the presence of such a health condition.

In other words, these countries have an INDIVIDUALISED APPROACH TO THE PATIENT, whereas the basis of drug records is a list approach, which is based on a stigmatising attitude towards a person living with substance dependence, either as a criminal or as a person who is unable to control their behaviour, lacks autonomy of will, and therefore cannot be allowed to access a source of increased danger simply because of the state of their health.





**PATIENT RECORDS FOR STATISTICAL AND HEALTH  
MANAGEMENT PURPOSES ONLY IN THESE COUNTRIES  
DO NOT IMPLY THE POSSIBILITY OF DISCLOSURE OF DATA  
ON A PATIENT WITH A PARTICULAR HEALTH CONDITION.**

**THE INDIVIDUALISED APPROACH, WITH A CHOICE OF  
POSSIBLE RESTRICTIONS THAT MINIMISE THE PATIENT'S  
RIGHTS, IS ACCEPTABLE AND DOES NOT CONTRAVENE  
HUMAN RIGHTS GUARANTEES.**

**THE LIST APPROACH IS CHARACTERISED BY  
ARBITRARINESS, DOES NOT COMPLY WITH THE  
PRINCIPLE OF PROPORTIONALITY OF MEASURES AND IS  
CONTRARY TO HUMAN RIGHTS GUARANTEES.**



# MODELS OF WORK

WITH PEOPLE WITH  
DRUG DEPENDENCE

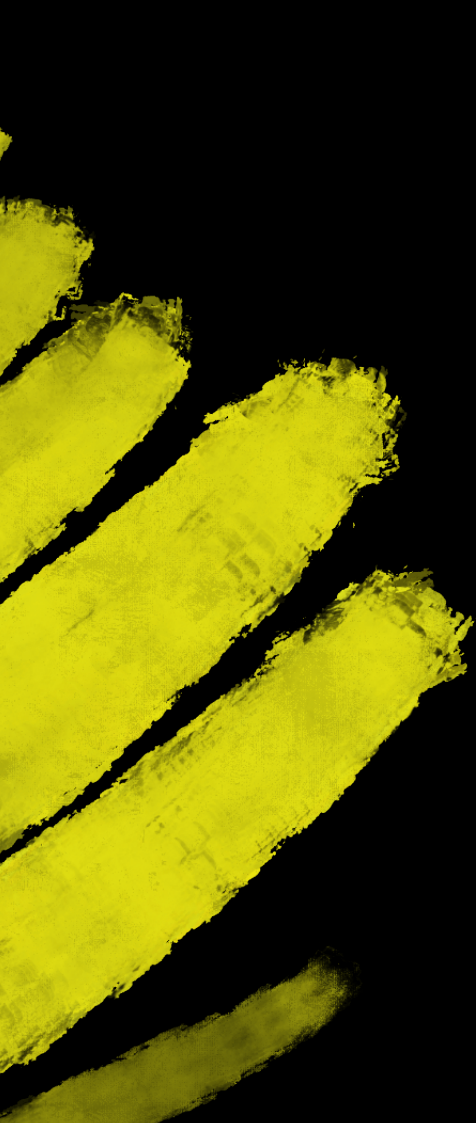
THAT ENSURE PUBLIC AND  
INDIVIDUAL INTERESTS



THE PROTECTION OF  
**HUMAN RIGHTS**







There are three factors to consider when choosing a model for registering people with substance dependence in EECA countries:

ADHERENCE TO THE PRINCIPLE OF PROPORTIONALITY.

FOREIGN EXPERIENCE, including the experience of EECA countries, which have managed to change the vicious system of drug registration of people's rights defeat.

THE REQUIREMENTS OF NATIONAL LEGISLATION.

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Taking into account these three factors, a modular registry system can be proposed in which each module fulfils a particular public interest. At the same time, all modules fulfil the proportionality requirement, i.e., **THEY CONTAIN ONLY RESTRICTIONS ON INDIVIDUAL RIGHTS THAT ARE ABSOLUTELY NECESSARY TO ACHIEVE THE GOAL OF SATISFYING THE PUBLIC INTEREST.**

# MODULE 1

RECORDING PEOPLE WITH MENTAL DISORDERS, INCLUDING SUBSTANCE DEPENDENCE, **FOR THE PURPOSES OF HEALTH STATISTICS, BUDGET PLANNING AND HEALTH SYSTEM ORGANISATION,** TAKING INTO ACCOUNT THE DEPARTMENTAL ORDERS OF HEALTH AUTHORITIES.

In this module, substance dependence is not identified as a specific diagnosis.

Patient records are kept strictly for statistical and planning purposes. Disclosure of the records is prohibited.

Any law enforcement or court requests should not relate to information from the patient list system. Instead, requests shall relate only to a specific individual and shall be justified by the specific purposes of the proceedings under the statutory procedure.

Such a patient record system exists in all Western European countries, as well as in the USA and Canada. Among EECA countries, the Baltic countries have adopted such a system of patient records.

In Ukraine and Georgia, despite the extant Drug Registration Orders, there is a de facto system of patient registration without transferring information about patients to law enforcement agencies and without the defence of patients' rights.



# MODULE 2

RESTRICTING THE RIGHTS OF PEOPLE WITH SUBSTANCE DEPENDENCE **BASED ON THE REQUIREMENTS OF LEGISLATION** ON ROAD SAFETY, SAFETY IN THE MANAGEMENT OF HIGH-RISK SOURCES AND INDUSTRIAL SAFETY.

The security interest occupies one of the most important places in the hierarchy of public interests. This interest is, in most cases, the main factor on the basis of which individual interests can be restricted. However, such limitations must be proportionate, i.e., minimally restricting human rights.

A drug diagnosis should not be a barrier to obtaining a licence to drive a motor vehicle or other high-risk vehicle. Patients with a drug diagnosis have the autonomy of will to make an independent decision to drive a high-risk source, including taking into account the existing significant penalties for driving or operating a motor vehicle or high-risk source while intoxicated. Drivers and operators of high-risk sources may be restricted from driving or operating a high-risk source if they show signs of intoxication or substance use, including when such signs are detected by tests. In the individual circumstances of a particular patient, the doctor may, and sometimes must, inform the relevant transport or other authority of the need to restrict the licence by cancelling or suspending the relevant authorisation, such as a driver's licence.

This is the approach used in Western Europe, the United States, and Canada. **PATIENTS WITH A DRUG DEPENDENCE DIAGNOSIS ARE NO DIFFERENT FROM PATIENTS WITH OTHER CONDITIONS, SUCH AS PEOPLE WITH CARDIAC, NEUROLOGICAL OR VISUAL IMPAIRMENTS. RESTRICTION DECISIONS ARE MADE ON AN INDIVIDUAL BASIS, NOT ON A LIST BASIS.**





# 3

## MODULE

### THE INTEREST OF SECURING PATIENTS' TRUST IN DOCTORS AND PROTECTING MEDICAL CONFIDENTIALITY.

Trust between doctor and patient is an important factor in the success of medical interventions, especially in cases of chronic diseases, the course of which involves prolonged contact between the patient and the health care system. Maintaining medical confidentiality is an important safeguard for maintaining trust. The provision of information about people with mental disorders, including substance dependence,

should comply with the provisions on the protection of medical confidentiality.

In all EECA countries, public health laws contain reasonable medical confidentiality requirements. The provisions of these laws should apply without restriction to people with substance dependence.

Doctor-patient confidentiality includes information about seeking drug treatment, health status and

diagnosis, as well as information obtained during examination and treatment. **PATIENTS SHOULD BE ASSURED OF THE CONFIDENTIALITY OF THE INFORMATION THEY PROVIDE WHEN RECEIVING DRUG DEPENDENCE TREATMENT SERVICES.**

Confidentiality includes the obligation of non-disclosure of information constituting a medical secret by persons who become aware of it in the course of training, professional, official and other duties.



## PROVIDING DATA ON SUBSTANCE ABUSE DIAGNOSES AND THE FACT OF SEEKING TREATMENT IS ALLOWED:

**WITH THE CONSENT** of the citizen or their legal representative in the interests of examination and treatment of the patient, for scientific research, publication in scientific literature, use of this information in the educational process and for other purposes.

**WITHOUT THE CONSENT** of the citizen or their legal representative:

- For the purpose of examination and treatment of a citizen who is unable to express their will because of their condition;
- At the request of the bodies of enquiry and investigation, the prosecutor and the court in connection with an investigation or court proceedings;
- In the case of assistance to a minor under 14 years of age, to inform their parents or legal representatives;
- If there are grounds to believe that harm to a citizen's health is caused as a result of unlawful actions.





PRIVATE

Individuals to whom information constituting a doctor's secret has been disclosed in accordance with the procedure established by law shall be liable, on an equal footing with medical and pharmaceutical workers, in proportion to the damage caused to the citizen, for the disclosure of a doctor's secret in accordance with national legislation.

THIS MODULE IS THE EASIEST TO IMPLEMENT, AS THE NATIONAL LEGISLATION OF EEC COUNTRIES ALREADY CONTAINS ALL THE NECESSARY TOOLS FOR IT. IT IS IMPORTANT THAT NARCOLOGY DOCTORS AND PATIENTS WITH NARCOLOGICAL DIAGNOSES KNOW AND COMPLY WITH THE PROVISIONS OF MEDICAL CONFIDENTIALITY LAWS.



# 4 MODULE

NORMATIVE, ORGANISATIONAL AND METHODOLOGICAL  
**SUPPORT FOR THE TRAINING OF PRIMARY CARE  
PHYSICIANS AND SPECIALIST PHYSICIANS** IN THE  
PROTECTION OF MEDICAL CONFIDENTIALITY, TAKING INTO  
ACCOUNT OTHER PUBLIC INTERESTS, INCLUDING THE  
INTEREST OF PROTECTING INDIVIDUAL RIGHTS.

**DRUG RECORDS NEED TO BE TRANSFORMED INTO A PATIENT-CENTRED  
SYSTEM** that takes into account the public and individual interests. This  
requires physicians and other health care professionals to understand  
the balance of interests and know how to apply the available recording  
tools proportionately. Departmental orders and the training system of  
doctors and other health care professionals should pay the necessary  
attention to the protection of patients' interests.

Adherence to the principle of proportionality and respect for  
patients' rights should be an important element of the training  
system. **A HEALTH PROFESSIONAL WHO, IN THE INTERESTS OF THE PATIENT,  
REFUSES TO FULFIL THE REQUIREMENTS OF A REGULATION INVOLVING THE  
DISCLOSURE OF PATIENT DATA SHOULD BE EXEMPT FROM ANY LEGAL LIABILITY.**

In such cases, the only recourse may be for  
an independent, collegial professional body of  
health professionals to review the issue and  
make recommendations on how to address  
similar issues in the future.



# CONCLUSION

DRUG REGISTERS AS A SYSTEM OF REGISTRATION AFFECTING THE RIGHTS OF PEOPLE WITH DRUG DEPENDENCE CONTINUE TO OPERATE IN ONE FORM OR ANOTHER IN MANY EECA COUNTRIES.

**This system entails breaches of trust between doctor and patient, as well as violations of fundamental human rights.** However, an analysis of the drug registry system in the light of a balanced approach to respecting public and individual interests and taking into account international experience shows that the transformation of drug registries is necessary and possible in EECA countries even without significant changes in legislation.

An important part of this is the suspension of medical confidentiality and the independence of medical professionals who make decisions on non-disclosure of information about patients in their interests.

# THANK YOU FOR READING!



FOR MORE INFORMATION, VISIT:  
[HTTPS://HARMREDUCTIONEURASIA.ORG](https://harmreductioneurasia.org)

