

Bringing Human Rights to the Heart of Drug and Addiction Policies: Guidance for aligning drug and addiction policies with human rights

I. Introduction

1. In December 2022, at the 18th Ministerial Conference under the motto “Human Rights at the Heart of Drug Policies”, the Pompidou Group adopted the [Lisbon Declaration](#) reaffirming the Group’s commitment to a human rights centred approach in addressing drugs, addictions and related challenges. This was based on the [revised mandate of the Pompidou Group](#) adopted by the Committee of Ministers of the Council of Europe in June 2021 explicitly mandating the Group “to promote respect for human rights in the framing, adoption, implementation and evaluation of drug and addiction policies”.
2. In pursuing its mission to promote drug and addictions policy compliance with Human Rights the Pompidou Group has taken action in a variety of formats. These include policy papers, expert reports, tools and guidance documents and a broad range of capacity building activities. As a result, this work has led to a number of lasting initiatives and brought about important insights and understandings to advance drug, substance and behavioural addictions policies. This guidance document constitutes the next step forward by the Pompidou Group to bring human rights to the heart of drug, substance and behavioural addictions policies.
3. Tackling the world drug situation requires a concerted effort addressing production, trafficking, trade, distribution and use of illicit drugs, which poses several challenges in the protection of human rights. Policy makers, policy implementers and policy evaluators must be aware and mindful of the human rights dimension that should guide their choices and decisions to promote the full enjoyment of the right to the highest attainable standard of physical and mental health for the individuals and for society as a whole.

II. Protected rights

4. Human rights are rights inherent to all human beings, regardless of sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Human rights include the rights to life and liberty, the prohibitions on slavery and torture or cruel or inhuman treatment or punishment, freedom of thought, conscience and religion and freedom of expression, the right to work and education, the right to health, the right to live in an environment free of violence. Human rights also encompass social rights a particular category and are codified in the European Social Charter. Everyone is entitled to these rights, without any form of discrimination whatsoever.
5. States have obligations under international law to respect, to protect and to fulfil human rights. The obligation to respect human rights means that States must refrain from interfering with or

curtailing the enjoyment of human rights, except in the exceptional circumstances where restrictions are permissible by international human rights law. The obligation to fulfil these responsibilities necessitates that States must take positive action to facilitate the enjoyment of human rights.

6. Human rights referred to in this guidance document are enshrined in the *Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)* and other international legal instruments which are set out in detail in document *Background paper on Human Rights and Drug Policies (doc. P-PG (2020) 2)*. Governments and all relevant stakeholders are encouraged to regularly review drug policy compliance with the ECHR, the case law of the European Court of Human Rights and the International guidelines on human rights and drug policy, which are also referred to in the Pompidou Group's online self-assessment tool.
7. The key human rights to safeguard in addressing and countering all aspects of the world drug and addictions problem are:
 - a. **The right to life** means first and foremost that states must protect everyone's life, including against extrajudicial killing. All Council of Europe member States have abolished the death penalty in peacetime and the European Court of Human Rights considers that there are strong indications that the right to life requires prohibition of the death penalty in all circumstances. Furthermore, drug-related or any other substance/behavioural addictions-related violence is a serious human rights concern, especially in countries where drug production and trafficking are prevalent. Drug trafficking is a serious crime against the human life as it prevents the ability to live in an environment free of violence. Governments must take steps to ensure the safety and security of their citizens and respect the rule of law. From these flows the right to live in a safe and healthy environment.
 - b. **The right to health care** requires governments to ensure that all people, including people who use drugs and those with substance use disorder or addictive behaviours, have early access to evidence based prevention and comprehensive healthcare services, bio-psycho-social treatments, including agonist and antagonist treatment, recovery programmes and harm reduction. There should be no financial barriers to access these services. These services should also be made accessible to people in pre-trial detention and imprisonment to ensure continuity of treatment of substance use disorder and general health care, under probation and alternative measures to incarceration, as well as respecting the principle of equivalence of care with treatment options available to the community at large.
 - c. **The prohibition on torture or inhuman or degrading treatment or punishment** is absolute. No one shall be subjected to such conditions under any circumstances. Human dignity must be respected, and acts of torture or serious ill-treatment must be considered as criminal offences.
 - d. **The right to respect for private and family life**, which implies a **right to privacy**, requires governments to ensure that any surveillance or monitoring activities are lawful, proportionate, and necessary to protect certain legitimate interests, amongst which are public safety, the prevention of disorder or crime, the protection of health or morals, or the protection of the rights and freedoms of others. **The right to private and family life** also obliges states to respect the confidentiality of individuals' personal health data and includes a positive obligation to prevent the disclosure of such data, including diagnostic tests, such as drug test results, without their free and informed consent.
 - e. **The right to a fair trial** sets out detailed procedural safeguards for defendants in criminal proceedings. This means that it must be ensured that also those accused of drug offences or of offences related to the state of addiction are presumed innocent until proven guilty and have access to prompt, comprehensible information on the charges against them, legal representation, the opportunity to cross-examine witnesses, and the assistance of an interpreter if necessary.
 - f. **The right to freedom from discrimination and stigmatisation** entails that drug, substance and behavioural addictions laws and policies as well as their implementation do not discriminate against and stigmatise certain groups, including people who use drugs and

those with substance use disorder or addictive behaviours, gender groups, ethnic minorities, and affected communities. This includes also all the correlated diseases such as health status such as HIV/AIDS, C and B hepatitis, tuberculosis and a drug use disorders. Governments must ensure that drug policies are evidence based and do not unfairly target people who use drugs and those with substance use disorder or addictive behaviours.

- g. ***The right to freedom of expression and the freedom of assembly*** is the anchor for civil society participation. Civil society participation is a prerequisite for the realisation of human rights, in particular through the promotion of public awareness and securing the transparency and accountability of public authorities. This includes ***the right of people who use drugs and those with substance use disorder or addictive behaviours and their families, as well as people that are undergoing or have completed a treatment and recovery process and their families, to have their voices heard and their views considered*** in drug policy development, service delivery and evaluation as in the motto “Nothing about us without us”.
- h. ***The right to prevention, as that to treatment and harm reduction***, entails State’s commitments to provide for evidence-based measures to protect different populations, and in particular children, youth and vulnerable groups from the use and harms of drugs, of substance and addictive behaviours, and their supply. From this follows ***the right to be informed about risks and dangers of the use of all psychoactive substances***, and prevention from exposure to malicious online content.
- i. ***The prohibition of slavery and forced labour*** requires that governments act against the modern slavery and forced labour that can be found in the production, trafficking and trade of illicit drugs. Primary targets for victimization are vulnerable groups, within these particular children, women and minority populations.

III. Human rights policy objectives

8. Overall, drug policy requires a comprehensive approach that prioritizes human rights and balances public health and safety concerns with the protection of individual liberties and freedoms. In this context, it needs to be recalled that governments have obligations under international and national law to safeguard the fundamental standards of human rights and the rule of law which also apply to drug offenders.
9. Respect for human rights, human duties and the rule of law is important for effective implementation of the international drug control conventions and instruments related to addictive behaviours. Disrespect for them can hinder the ability of the criminal justice system to enforce the law, can lead to discriminatory and disproportionate responses to drug offenses and can undermine the conventions which main purpose is to safeguard health and wellbeing of humankind.
10. Policy makers, managers, professionals, and people who use drugs and those with substance use disorder or addictive behaviours must be aware and mindful of the human and social rights dimension that should guide their choices and decisions, also with respect to the safeguard of the collective health. All stakeholders should take full account of human and social rights when elaborating, implementing, monitoring and evaluating drug and addictions policies. This should be pursued on the basis of the following policy objectives:
 - a. Standing in opposition to the death penalty, in all places and in all circumstances, including for drug-related offences, and urge all States still applying this inhuman punishment to establish a moratorium towards its definitive abolition.
 - b. Promoting the respect of the rule of law and good governance.

- c. Condemning extrajudicial executions and all forms of arbitrary or extrajudicial arrest and detention, and the use of torture and other inhuman or degrading treatment or punishment in all circumstances.
- d. Ensuring the availability of evidence-based early prevention programmes at all levels- universal, selective, indicated and environmental -while ensuring they are accessible to the relevant target groups.
- e. Ensuring recovery paths and providing social and professional reintegration programmes.
- f. Providing access for all people who use drugs and those with substance use disorder or addictive behaviours, as well as those in pre-trial detention and imprisonment, to evidence-based quality healthcare, namely treatment, including opioid agonist treatment, rehabilitation, recovery, risk and harm reduction and all the interventions aimed at improving their health condition.
- g. Ensuring adequate provision and access to housing, education, employment and social benefits for people who use drugs and those with substance use disorder or addictive behaviours and their families/significant others.
- h. Investing in creating safe and healthy environments or communities free from violence, drug use, any form of addiction and drug related crimes.
- i. Mobilising opportunities to ensure human dignity and overcome stigma, discrimination for people who use drugs and those with substance use disorder or addictive behaviours.
- j. Heeding to the notion of human dignity by applying a person first approach ensuring equal opportunities for all concerned based on their individual needs with aim of leaving no one behind.
- k. Promoting the mainstreaming of gender aspects in all areas of drug policy.
- l. Striving to avoid coercive sanctioning and promoting alternatives to criminal justice sanction and proportionate sentencing in court and other judicial proceedings involving people who use drugs and those with substance use disorder or addictive behaviours.
- m. Increasing awareness of human rights and human rights instruments together with the need to implement them. Each stakeholder group should acknowledge its role and underpin action by empowering members through raising awareness about their role and through capacity building on the potential human rights impact of their actions.
- n. Studying and understanding the potential risks of new information and communication technologies. This includes developing prevention strategies to protect in particular children and young people from exposure to drug and any other form of substance or behavioural addictions, enticing content and criminal operators.
- o. Providing adequate funding for prevention, treatment and care, risk and harm reduction and recovery.
- p. Making best possible use, in accordance with human rights law of e-medicine, online counselling and support other emerging new online technologies including artificial intelligence to increase access and coverage of services and reach the hard-to-reach.

IV. Specific challenges

11. Inappropriate and disproportional use of force against people who use drugs and those with substance use disorder or addictive behaviours, as well as all forms of coercive treatment, such as mandatory testing constitute a violation of human rights, as well as a source of physical and mental harm and distress.

12. Under the international drug control conventions governments have an obligation to make adequate provision to ensure, and to not unduly restrict, the access to and availability of controlled substances that are considered indispensable for medical and scientific purposes.
13. The availability and development of evidence-based drug demand reduction initiatives, such as early prevention, screening, brief interventions, innovative treatment and recovery programmes represent an important component of the right to health. Political decision makers should remove barriers and guarantee access to an adequate and updated provision of services.
14. Evidence-based risk and harm reduction is grounded in justice, public health and human rights – it focuses on positive change and on working with people without judgement, coercion, discrimination, or requiring that they stop using drugs as a precondition of support. It must be implemented in order to prevent correlated diseases or greater harm (such as overdose) and put people with addiction in contact with healthcare services. Harm reduction improves not only the health of people who use drugs and those with substance use disorder or addictive behaviours, but also that of their families, their immediate environment, and society in general and is based on a strong commitment to human rights.
15. The crucial principles of patient consent and medical confidentiality play a major role in treatment of substance use disorder. Consent of the adequately informed patient – “informed consent” – is a prerequisite to any treatment or diagnostic test.
16. Withdrawal from psychoactive drugs without medical treatment can cause severe suffering and, particularly in case of acute withdrawal from benzodiazepines and alcohol, life-threatening conditions in need of hospital care. Not offering Medication Assisted Treatments amounts to malpractice and can constitute a human rights violation.
17. Drug use in prison settings is frequent, while people incarcerated for drug related offences make up a large proportion of prison populations. Therefore, the availability of evidence-based prevention, treatment in custodial settings, including the continuity of care is required. Furthermore, implementing alternatives to incarceration or punishment constitute alternatives that are permissible and encouraged under the United Nations drugs conventions and constitutes positive human rights practice.
18. Ensuring the proportionality of criminal sanctions by prioritising non-custodial measures at the sentencing and post-sentencing stages for persons charged with or convicted of drug offences or drug-related offences of a minor nature.
19. Engaging civil society, people with lived and living experience of drug use, and affected communities in the design, implementation and evaluation of drug and addiction policies and specific interventions, to ensure that their needs, knowledge and experience are considered and their human rights are fulfilled.
20. Serious concerns have been expressed about recent discriminatory behaviours towards people who use drugs and those with substance use disorder or addictive behaviours , emerging in the wake of global financial and economic crises, resulting in stigma and social exclusion. The political and societal acceptance of substance use disorder being no different from other chronic diseases, appears to be severely undermined by the social circumstances following austerity measures in times of financial crisis. In the light of the fact that availability, accessibility, and quality of services are elements affected by economic crisis, and which create inequalities, thus aggravating health indices, immediate political action is called for to mitigate the impact of economic crisis and to provide essential services for people who use drugs and those with substance use disorder or addictive behaviours, even under strict budgetary constraints.

V. Assessment and evaluation

21. There is a need to have processes in place for on-going assessment to ensure that human rights are and remain respected and safeguarded. Mechanisms in place should be capable of bringing

to light not only evident human rights issues – such as the death penalty – but also offer an opportunity to redress more subtle consequences that are difficult to discern when focusing on societal concerns.

22. The results of the assessment of policies from a human rights perspective should, in turn, feed back into the policy making process.
23. Governments are encouraged to conduct periodically a comprehensive review of their countries drug policy which will serve to optimise results and to promote the exchange of experiences and lessons learned. In doing so, States can rely on a range of tools, including the Pompidou Group's Self-Assessment Tool for Drug Policy Compliance with Human Rights Standards; as well as indicators available from various sources such as the World Health Organisation (WHO), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the UN Office on Drugs and Crime (UNODC), or the UN High Commissioner for Human Rights.
24. In this context it is also important to maintain good collaborative relations between the government sector and civil society stakeholders. The aim of cooperation and joint action in partnerships should be to avoid duplication and waste, create synergies, maintain service quality and wide availability and accessibility, as well as cost control.

VI. Democratic governance

25. Relevant democratic governance principles – relying on science and evidence, inclusive dialogue and participation, transparency and accountability – should be incorporated into all stages of the process of elaboration, implementation, monitoring and evaluation of drug and addictions policy. Monitoring and reporting are fundamental governance tools and should be underpinned by solid research around the drugs and addictions phenomenon.
26. Within their respective roles, duties and responsibilities, all stakeholders, that is government, non governmental organisations, scientific, professional and academic communities, international or regional organisations or agencies, as well as organisations representing people who use drugs and those with substance use disorder or addictive behaviours, their families and other service users, should contribute to the drug policy governance process

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