



Drug policy in Belarus:

status and prospects of reforms

This document was developed in close cooperation between two Belarusian public organizations:



The Youth Bloc is a nationwide movement of young activists who want to live in a modern and free Belarus.



Legalize Belarus is a civil and political movement engaged in advocacy for the decriminalization of small amounts of controlled substances, education on the issue of psychoactive substances, as well as support for convicts under Article 328 and their relatives in Belarus.



The translation and layout of this document were supported by the **Eurasian Harm Reduction Association**.

AUTHORS

Mikhail Varantsou, expert on harm reduction in the users of psychoactive substances and on the effect of psychoactive substances on the body (chapter The Educational Aspects of Drug Policy. Raising Awareness in Educational Institutions, NGO Work, Harm Reduction Programs).

Mikhail Golichenko, PhD in Law, lawyer (chapter The Position of International Organizations on Drug Policy. The Correlation of International Norms with the National Legislation of the Republic of Belarus).

Liudmila Kazak, lawyer. On February 24, 2021, she was disqualified from practicing her profession for political reasons. Liudmila is the winner of the Lawyers for Lawyers 2021 and IBA 2021 awards (chapter The Legal Aspects of Drug Policy: Procedural Framework, Proportionality of Crime and Punishment, Regulation of Illicit Trafficking).

Danila Lavretski, economist, secretary of the Rada of the Youth Bloc, Master's student of the Czech Cevro Institut (chapter The Economic Aspects of Drug Policy Softening in Belarus. Prospects for Creating a Legal Market for a Number of Psychoactive Substances).

Stanislav Shashok, lawyer, human rights activist (chapter The Result of Repressive Drug Policy and the Legal Aspect of Its Reform).

Psychiatrist-narcologist of the 1st qualification category [for security reasons, the author's name is not indicated], (chapter The Medical Aspects of Drug Policy in Belarus: Harm Reduction, Prevention and Treatment of Addiction, the Potential Use of Some Psychoactive Substances in Medicine).

EDITOR

Katsiaryna Shmatsina, lawyer, political scientist, researcher at Virginia Tech University (US). In 2016–2018, she worked in the International Law Section of the American Bar Association, where she coordinated the provision of technical legal assistance to the country offices of UN agencies.

The Youth Bloc and Legalize Belarus express their gratitude to the authors who participated in the creation of this analytical document, providing a significant part of their expertise on a *pro bono* basis.

The opinions expressed in the analytical document reflect the position of the authors and may not coincide with the point of view of the initiatives Legalize Belarus and the Youth Bloc.

LIST OF ABBREVIATIONS

ART	Antiretroviral therapy
WHO	World Health Organization
ENPUD	Eurasian Network of People Who Use Drugs
1988 Convention	UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances
CESCR	International Committee on Economic and Social Rights
OAT	Opioid agonist therapy
PWUD	People who use drugs
PWID	People who inject drugs
MDMA	Methylenedioxymethamphetamine
Narcotic drugs	narcotic drugs, psychotropic substances, precursors, and analogues
NGO	Non-governmental organizations
NPS	New psychoactive substances
OST	Opioid replacement therapy

LIST OF ABBREVIATIONS

OIA	Operational and investigative activities
OIM	Operational and investigative measures
PS	Psychoactive substances
NEP	Needle and syringe exchange programs
UNDP	United Nations Development Programme
THC	Tetrahydrocannabinol
CC	Criminal Code of the Republic of Belarus
UNAIDS	Joint United Nations Programme on HIV/AIDS

TABLE OF CONTENTS

7

ABSTRACT

9

INTRODUCTION

10

CHAPTER 1

The Position of International Organizations on Drug Policy. The Correlation of International Norms with the National Legislation of the Republic of Belarus.

18

CHAPTER 2

The Result of Repressive Drug Policy and the Legal Aspect of Its Reform.

30

CHAPTER 3

The Legal Aspects of Drug Policy: Procedural Framework, Proportionality of Crime and Punishment, Regulation of Illicit Trafficking.

37

CHAPTER 4

The Medical Aspects of Drug Policy in Belarus: Harm Reduction, Prevention and Treatment of Addiction, the Potential Use of Some Psychoactive Substances in Medicine.

46

CHAPTER 5

The Economic Aspects of Drug Policy Softening in Belarus. Prospects for Creating a Legal Market for a Number of Psychoactive Substances.

58

CHAPTER 6

The Educational Aspects of Drug Policy. Raising Awareness in Educational Institutions, NGO Work, Harm Reduction Programs.

70

RECOMMENDATIONS

ABSTRACT

Repressive drug policy is detrimental to society; it does not fulfill its stated goals, and, on the contrary, aggravates the situation with human rights and public health.

In the Republic of Belarus, neither legislation nor law enforcement practice serve to effectively distinguish between acts related to use and acts related to commercial sale for the purposes of systematic enrichment. Law enforcement agencies mainly detain people who use drugs and commit crimes in the context of use, not commercial sale. As a rule, the victims of the repressive approach in drug policy are ordinary users of PS, minors and young people who have committed crimes for the first time, as well as local distributors and lower links in the distribution chain. At the same time, their terms of imprisonment are as high as those of any persons brought to justice for the illegal trafficking of PS.

The investigation and consideration by the courts of cases related to the illegal trafficking of controlled substances is often carried out with numerous violations: the charge is formulated broadly ("as part of an organized group consisting of unidentified persons, using an unidentified mode of transport, etc."), the roles of participants in the alleged organized group are determined arbitrarily, and the courts neglect to check the quality of OIA materials and the validity of their legalization, which leads to the imposition of illegal sentences.

A review of world practice shows the popularity of treating various diseases and disorders using certain controlled substances and drugs. For example, cannabinoids can be used in oncology, in the terminal stage of HIV, and in the treatment of multiple sclerosis. Another promising direction of the use of narcotic substances and drugs is the use of ketamine for the treatment of resistant depression. At the same time, in Belarus, legislative prohibitions are the most significant barrier to the research and use of substances labeled as narcotics.

The only example of the introduction of new treatment methods using narcotic substances and drugs is an opioid substitution therapy program with methadone (OST) which was launched in Belarus. One of the sensitive issues is the need to be placed at the clinic supervision in order to become a participant in the OST program, with the resulting restrictions in later life.

In Belarus, there is a widespread practice of violating the rights of OST patients, HIV+ people, and other members of vulnerable groups associated with the use of PS. There are cases when the Ministry of Internal Affairs forced OST patients to take the blame for petty thefts and other crimes under the threat of taking away the access to drugs.

The analysis carried out in this document demonstrates both the economic and law enforcement inefficiency of the prohibitive policy. In the foreseeable future, the law enforcement system will hardly cope with the tasks set by the state: the demand for PS continues to grow, albeit in fits and starts, and especially dangerous NPS appear on the market. At the same time, most of the efforts of law enforcement agencies are aimed at combating consumers who are not involved in the distribution of PS and are not associated with organized crime.

The calculation of economic efficiency, as well as alternative scenarios modeling show that decriminalization and decriminalization, coupled with reinvestment of saved funds in medicine, are less costly for the budget and can directly contribute to improving the quality of life and welfare of Belarusian citizens.

Education on psychoactive substances can effectively achieve its goals if it is redirected from intimidation to the transfer of accurate, balanced knowledge, without imposing a certain choice and misinformation. For some groups, such as youth, social workers, risk groups, and vulnerable groups, specialized approaches to the education process are required.

Education on psychoactive substances should be humanistic in its essence, focus on human rights, pay attention to people's personal choices, and use respectful, inclusive language.

INTRODUCTION

Drug policy in Belarus is repressive, and contrary to its goals, does not lead to a significant reduction in the spread of psychoactive substances. In law enforcement practice, there is a bias against persons accused of drug-related offenses, and de facto such persons face significant violations of their rights during detention and trial and have "special treatment" in places of detention. Law enforcement agencies mainly focus in individuals who either purchased substances for their own use, or are involved in a distribution network at the lowest levels, and at the same time the "big players" who are engaged in large supplies of psychoactive substances remain unpunished. At the same time, the Belarusian legislation restricts the use of psychoactive substances in medicine, and people with addictions who seek help from narcologists face restrictions and stigmatization.

The work on this analytical document brought together experts on healthcare, legal protection, education, assistance to people with addictions, as well as legal support to drug defendants, which allows us to talk about the problem and consequences of drug policy based on practical experience.

The purpose of this document is to initiate a broad public discussion about the problems of the existing drug policy which entails multiple violations of human rights, and the need to reform it based on the principle of humanism.

The recommendations in this document are developed by experts based on a review of international practices, taking into account the Belarusian context, and can be incorporated into existing Belarusian legislation.

CHAPTER 1

The Position of International Organizations on Drug Policy. The Correlation of International Norms and National Legislation of the Republic of Belarus

At the international level, the official position of the UN has changed from rejection of the decriminalization of storing psychoactive substances without the purpose of sale¹ to calls for decriminalization. In January 2019, the Coordinating Council of the Heads of the UN System announced the need to decriminalize storing psychoactive substances for personal use². Previously, a similar position was expressed by twelve UN agencies and programmes³.

In March 2019, the World Health Organization (WHO), the Joint United Nations Programme on HIV/AIDS (UNAIDS), and the United Nations Development Programme (UNDP) supported the international guidelines on human rights and drug policy with recommendations on decriminalizing the storage, acquisition, and cultivation of narcotic substances for personal consumption⁴.

The Committee on Economic, Social and Cultural Rights (CESCR) monitors compliance by states with their obligations, including obligations under the International Covenant on Economic, Social and Cultural Rights. In addition to recommendations regarding the Republic of Belarus, from 2016 to 2022, CESCR made recommendations on decriminalizing the storage of psychoactive substances without a marketing purpose in relation to the Philippines, Russia, and Ukraine⁵.

¹ The United Nations Conferences on Drugs 1961–2016.

² Second session of the United Nations System Chief Executives Board for Coordination. [Electronic resource] / CEB. — New York, 2018.

³ Ending discrimination in health care settings [Electronic resource] / World Health Organization — 2017.

⁴ International Manual on Human Rights and Drug Policy [Electronic resource] / UN, UNAIDS, UNDP, WHO. — 2019.

⁵ Final recommendations on the Philippines / Committee on Economic, Social and Cultural Rights // E/C.12/PHL/CO/5-6.2016. P. 53–54. Russia: E/C.12/RUS/CO/6. 2017. P. 51–52. Ukraine: E/C.12/UKR/CO/7. 2020. P. 42–43.

At the same time, decriminalization should be understood as the abolition of administrative sanctions for the use or storage of small quantities without the purpose of sale, as well as the abolition of criminal sanctions for the storage of any quantities, unless intent to sell is proven.

In the final recommendations of 2019–2020, in relation to Kazakhstan⁶ and Benin⁷ and the sale and/or use of controlled substances. In the final recommendations of 2019 for Estonia, CESCR points out that excessive fines imposed on users of psychoactive substances *"lead to the actual criminalization of drug use, since many drug users cannot afford to pay a fine and end up in prison."*⁸

The International Network of People Who Use Drugs and the Eurasian Network of People Who Use Drugs are in favor of complete depenalization (including administrative sanctions) of drug possession and behavior in the context of use⁹.

The main international standards on the issue of regulating the turnover of controlled substances, including countering illicit drug trafficking, are contained in three international documents:

- **United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances** (concluded in Vienna on 12/20/1988)¹⁰;
- **Convention on Psychotropic Substances** (concluded in Vienna on 02/21/1971);
- **The Single Convention on Narcotic Drugs, 1961**, as amended in accordance with the 1972 Protocol on Amendments to the Single Convention on Narcotic Drugs, 1961 (concluded in New York on 30.03.1961).

These documents allow us to separate three important areas of regulation of the turnover of psychoactive substances:

⁶ Final recommendations on Kazakhstan / Committee on Economic, Social and Cultural Rights // E/C.12/KAZ/CO/2. 2019. P. 46–47.

⁷ Final recommendations on Benin / Committee on Economic, Social and Cultural Rights // E/C.12/BEN/CO/3. 2020. P. 41–42.

② ⁸ Concluding observations on the third periodic report of Estonia / Committee on Economic, Social and Cultural Rights [Electronic resource] E/C.12/EST/CO/3. – 2019. P. 44.

② ⁹ Drugs Decriminalization: Progress or A Political Distraction? Assessment of the Impact of Current Decriminalization Models on People Who Use Drugs / INPUD Secretariat – London, 2021.

¹⁰ The Republic of Belarus acceded to the Convention on October 15, 1990.

- ensuring the availability of controlled substances for medical and scientific purposes,
- countering illegal trafficking of controlled substances,
- promoting prevention, treatment, harm reduction, and rehabilitation.

The balance of legal instruments within these three directions allows us to adjust the national drug policy in such a way that the application of social, medical, and scientifically based measures is effective and does not create unreasonable, punitive, stigma and discrimination based policies and law enforcement practices.

At the international level, an example of a violation of this balance was the international decision to classify cannabis as narcotic drugs which are subject to the strictest control and which are considered unacceptable for medicinal purposes. This decision was largely based on the stigma promoted by many states.

Cannabis has been subject to strict international control for more than 50 years, despite numerous scientific evidence that it is unjustified and that cannabis can be successfully used for medical purposes.

Another example of an unbalanced approach to regulating the turnover of controlled substances is excessively limited access to psychoactive substances for the treatment of pain.

The Republic of Belarus, along with other countries of Eastern Europe and Central Asia, is one of the countries with the least access to opioid analgesics. For comparison, the countries of Central and South-Eastern Europe provide access to opioid analgesics five times less than Germany; and the countries of Eastern Europe, such as Belarus, Moldova, Russia, and Ukraine provide access to opioid analgesics ten times less than the countries of Central Europe and Southern Europe¹¹.

In March 2022, the International Committee on Economic, Social and Cultural Rights (CESCR) reviewed the report of the Republic of Belarus on compliance with the Covenant on Economic, Social and Cultural Rights and, among other things, expressed concern that "some drug users face long prison terms, including due to insufficiently clear delineation in criminal law legislation of actions related to drug use and actions related to the commercial sale of drugs."

¹¹ Availability of Internationally Controlled Drugs: Ensuring Adequate Access for Medical and Scientific Purposes [Electronic resource] / International Narcotics Control Board, 2015, p. 18–19.

CESCR recommended the Republic of Belarus:

- to develop an effective mechanism to prevent criminal prosecution for personal drug use;
- to consider abolishing criminal liability for possession of drugs for personal consumption and expand harm reduction programs, such as opioid substitution therapy, including in places of temporary detention, pre-trial detention, and prisons.

The concern of the CESCR aligns with general modern drug policy development, with a special focus on the separation of law enforcement and socio-medical tools of work on an important public problem related to drug trafficking.

The most acute legal and law enforcement issue in drug policy of the Republic of Belarus is the disproportionality of measures to counter the illicit trafficking of controlled substances. From the point of view of international law, the UN Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (1988 Convention) in Article 3 contains a list of acts that the participating states are obliged to recognize as criminal offenses. They can be divided into two groups:

- acts related to sales (all acts listed in Part 1 of Article 3 of the Convention);
- acts related to personal consumption (storage, acquisition, or cultivation).

According to the logic of the Conventions, against the background of the general prohibition of both groups of acts, acts related to personal consumption require a qualitatively different approach, including alternatives to any punishment, not just imprisonment¹². However, in the Republic of Belarus, neither legislation nor law enforcement practice serve to effectively distinguish between acts related to use and acts related to commercial sale for the purposes of systematic enrichment.

Law enforcement agencies mainly detain people who use drugs and commit crimes in the context of use, not commercial sale.

This focus diverts significant resources of the law enforcement and judicial system to work that does not affect the market of controlled substances in any way,

¹² Alternatives to punishment for drug-using offenders [Electronic resource] / EMCDDA – Luxembourg, 2015, p. 16.

but entails negative consequences in health protection. Persons who have committed acts in the context of use, rather than commercial sale, receive draconian terms of 13–17 years in prison, since law enforcement agencies classify their acts as sales.

Part 1 of Article 328 of the Criminal Code is applicable to the storage of any quantities of controlled substances without a marketing purpose. Parts 2–5 of Article 328 of the Criminal Code collectively cover acts in relation to any quantities of controlled substances, if law enforcement agencies prove the existence of intent to sell. The Supreme Court of the Republic of Belarus understands any transfer of controlled substances, including gifting, sharing, or exchange in any form, as sales. At the same time, neither the law nor practice take into account the context in which the transfer takes place: while sharing or in commercial sales.

Figure 1: Laws and penalties in the Republic of Belarus¹³

ART. OF THE CC	Part 1 of Article 328
AMOUNT OF THE CONTROLLED SUBSTANCE	No minimum amount
DEFINITION OF THE ACT	Illegal actions without a marketing purpose
PUNISHMENT	2–5 years of imprisonment or restriction of freedom
NUMBER OF PEOPLE PROSECUTED IN 2020	1,344 or 69.7% of all people sentenced to punishment under Article 328
THE PROPORTION OF THOSE WHO RECEIVED IMPRISONMENT AS A PUNISHMENT	250 or 18.6% of all people sentenced to punishment under Part 1 of Article 328

¹³ Data for 2020 on crimes related to illicit trafficking of narcotic drugs, psychotropic substances, their precursors and analogues. The Supreme Court of the Republic of Belarus [Electronic resource] / Internet portal of courts of general jurisdiction of the Republic of Belarus. – Minsk, 2021.

ART. OF THE CC Part 2 of Article 328**AMOUNT OF THE CONTROLLED SUBSTANCE**

No minimum amount

DEFINITION OF THE ACT

Illegal actions without a marketing purpose

PUNISHMENT

3–8 years of imprisonment with or without a fine

NUMBER OF PEOPLE PROSECUTED IN 2020

86 or 4.5% of all people sentenced under Article 328

THE PROPORTION OF THOSE WHO RECEIVED IMPRISONMENT AS A PUNISHMENT

581 or 99.7% were sentenced to imprisonment under Parts 2-5 of Article 328

ART. OF THE CC Part 3 of Article 328**AMOUNT OF THE CONTROLLED SUBSTANCE**

No minimum amount for particularly dangerous substances (such as heroin or amphetamine). Large amount for cannabis is 80 grams, 25 grams for hashish

DEFINITION OF THE ACT

Illegal actions for the purpose of selling with a large amount substances, or with especially dangerous substances (for example, heroin or amphetamine)

PUNISHMENT

6–15 years of imprisonment with or without a fine

NUMBER OF PEOPLE PROSECUTED IN 2020

425 or 22.1% of all people sentenced under Article 328

THE PROPORTION OF THOSE WHO RECEIVED IMPRISONMENT AS A PUNISHMENT

581 or 99.7% were sentenced to imprisonment under Parts 2-5 of Article 328

ART. OF THE CC Part 4 of Article 328**AMOUNT OF THE CONTROLLED SUBSTANCE**

Similarly, Parts 2-3 of Article 328

DEFINITION OF THE ACT

The actions specified in Paragraphs 2 and 3 of Article 328, committed by an organized group or associated with the manufacture or processing using laboratory utensils or laboratory equipment intended for chemical synthesis

PUNISHMENT

10–20 years of imprisonment with or without a fine

NUMBER OF PEOPLE PROSECUTED IN 2020

68 or 3.5% of all people sentenced under Article 328

THE PROPORTION OF THOSE WHO RECEIVED IMPRISONMENT AS A PUNISHMENT

581 or 99.7% were sentenced to imprisonment under Parts 2-5 of Article 328

ART. OF THE CC Part 5 of Article 328**AMOUNT OF THE CONTROLLED SUBSTANCE**

No minimum amount for particularly dangerous substances (such as heroin or amphetamine). Large amount for cannabis is 80 grams, 25 grams for hashish

DEFINITION OF THE ACT

Actions specified in Part 2–4 of Article 328, which resulted in accidental death of a person as a consequence of their consumption of controlled substances

PUNISHMENT

12–25 years of imprisonment with or without a fine

NUMBER OF PEOPLE PROSECUTED IN 2020

4 or 0.2% of all people sentenced under Article 328

THE PROPORTION OF THOSE WHO RECEIVED IMPRISONMENT AS A PUNISHMENT

581 or 99.7% were sentenced to imprisonment under Parts 2-5 of Article 328

There are cases when Belarusian law enforcement agencies actually stopped commercial sales. For example, in 2019, the actions of a group that tried to transport 400 kg of heroin from Afghanistan to European countries through the territory of Belarus were thwarted¹⁴. However, in practice, there are many more instances where drug cases are initiated against persons who committed acts in the context of use, rather than commercial sale.

Thus, the drug policy that has developed in the Republic of Belarus discriminatorily affects people who use psychoactive substances.

The most socially and economically vulnerable persons receive severe punishment instead of social and medical support. It violates the basic provisions of the Constitution of the Republic of Belarus on the protection of human rights and non-discrimination and comes at the expense of funds and forces that could and should be directed at countering commercial sales.

¹⁴ Afghan heroin worth \$50 million: a trial of dealers has begun in Minsk [Electronic resource] / Sputnik Belarus, 2021.

CHAPTER 2

The Result of Repressive Drug Policy and the Legal Aspect of Its Reform

Introduction

At the moment, after the 2020 presidential elections, Belarus is in the deepest human rights crisis in the entire history of the country's independence. There are thousands of political prisoners in the country, and tens of thousands of people have gone through administrative arrests, searches, and detentions. However, mass persecution and human rights violations had taken place long before 2020, in particular in the field of drug policy. One of the key regulatory legal acts that initiated the repressive drug policy is Decree No. 6 On Urgent Measures to Counter Drug Trafficking (*hereinafter Decree No. 6*).

The adoption of the decree was preceded by the so-called "spice epidemic", i. e. a mass arrival of a new synthetic psychoactive substance (NPS) on the market and a number of accidents caused by its use by young people. The danger and unpredictability of "spice" was largely due to the constantly changing formula, altered by the manufacturer in the attempt to avoid prohibition and liability.

On December 4, 2014, at a meeting on countering illicit drug trafficking, A. Lukashenko said that it is necessary to create the most stringent conditions for drug criminals so that "they, in penal colonies, would beg for death."¹⁵

This statement determined the drug policy of the state for the following years, marked by the mass imprisonment of citizens who violated the law on illicit trafficking of PS. Thousands of young people fell under the steamroller of persecution, most of whom were consumers of PS, as well as small and domestic distributors.

Decree No. 6 and the subsequent revision of Article 328 of the Criminal Code

¹⁵ Belarus will adopt a decree with strict measures of responsibility for the distribution and use of drugs [Electronic resource] / Belta. — Minsk, 2014.

established criminal liability for drug trafficking from the age of 14¹⁶. The penalty for illegal distribution of PS was set to up to 15 years in prison. For actions committed by an organized group — up to 20 years in prison. For actions resulting in death as a result of PS use — up to 25 years in prison. According to Part 1 of Article 328, criminal liability of up to 5 years of imprisonment was established for the storage of any amount of PS¹⁷.

According to the statistics of the Supreme Court of the Republic of Belarus for 2015–2020, 17,217 people were convicted under Articles 327–332 of the CC^{18, 19}. At the same time, the number of convicts under Part 2–5 of Article 328, where sentences until 2020 began from 5, 8, 10, and 12 years of imprisonment, respectively, in 2017–2018 amounted to 32–34% of the total number of convicts. 10.8% and 7.3% received sentences of more than 10 years in prison. 64.9% and 67.2% of the total number of people convicted under this article in 2017–2018 were sentenced under Part 1 of Article 328 of the CC, providing for the responsibility in persons who are not involved in the distribution and sale of controlled substances. Of these, 27% and 17% of the total number of convicts were sentenced to imprisonment. The total number of those sentenced to imprisonment under all parts of Article 328 of the Criminal Code was 59% and 51% of the total number of those convicted under anti-drug articles. Article 70 of the Criminal Code, which allows for a more lenient punishment, was applied in less than 1% of cases. Despite the state announced trend towards a decrease in the number of convicts under Article 328, it can be assumed that on average more than 50% of those convicted under anti-drug articles are sentenced to imprisonment. 7–10% of all convicts receive terms of more than 10 years of imprisonment.

According to various estimates, the number of prisoners in Belarus is about 30–33 thousand people²⁰. Thus, the total number of prisoners under "anti-drug" articles in

16 On Urgent Measures to Counter Drug Trafficking [Electronic resource] : Decree of the President of the Republic of Belarus, 28 Dec. 2014, No.6 / National Center for Legal Information of the Rep. of Belarus. — Minsk, 2021.

17 Illegal Trafficking of Narcotic Drugs, Psychotropic Substances, their Precursors and Analogues : The Law of the Rep. of Belarus No. 275-Z dated 09.07.1999 [Electronic resource] / National Center for Legal Information of the Rep. of Belarus. — Minsk, 1999.

18 Data for 2018 on crimes related to illicit trafficking of narcotic drugs, psychotropic substances, their precursors and analogues. The Supreme Court of the Republic of Belarus [Electronic resource] / Internet portal of courts of general jurisdiction of the Republic of Belarus. — Minsk, 2019.

19 The number of people convicted of drug trafficking decreased by 12% in 2020 [Electronic resource] / Belta. — Minsk, 2021.

20 The number of prisoners by country [Electronic resource] / NoNews Information Portal. — 2022.

Belarusian penal colonies can be up to 9,000 people or 28%, which is almost a third of the total number of persons sentenced to imprisonment.

These data indicate the repressive nature of the Belarusian drug policy and a disproportionately high percentage of those serving sentences in the form of imprisonment in penal colonies for drug offenses.

For comparison, during the same period, 2015–2022, only a few high-profile criminal cases were opened against the owners and leaders of illegal PS sales networks.

In addition to the huge number of people deprived of their liberty, the repressive drug policy in Belarus is associated with numerous human rights violations, disproportionate and unreasonable sentences, negative impact on the health of society, as well as a tragic blow to the fate of young and underage people sentenced to huge terms.

In the last decade, more and more countries, governments, and world leaders have recognized that the so-called war on drugs had been lost with disastrous consequences.

The war on drugs or repressive drug policy has generated human rights violations around the world, led to the growth and enrichment of organized crime and mass incarceration of ordinary consumers and small distributors, while not solving any of the problems associated with the illegal trafficking of PS²¹.

While many states around the world are turning their drug policy 180 degrees, decriminalizing the consumption and storage of PS, applying alternative measures to criminal punishment and solving problems related to illegal trafficking of PS, drug policy in Belarus essentially remains the same and does not move towards respect for basic human rights, reducing negative consequences for the health of the individual and society, as well as decreasing the negative consequences of illegal PS trafficking.

The purpose of this chapter is to illustrate by the example of the situation in Belarus and world experience why repressive drug policy is detrimental to society, does not fulfill its stated goals, but only aggravates the situation with human rights and public health.

²¹ The War on Drugs [Electronic resource] / Report of the Global Commission on Drug Policy. – 2011.

- 1** The repressive approach does not separate real criminals from petty offenders and distributors. It punishes people, whose actions cause very different degrees of harm, in an equally severe manner.

Here are some examples from the practice of applying punishments under Article 328 of the Criminal Code.

Members of the organized criminal group in the Case of 17 (where KGB and Interior Ministry officers were involved), who sold synthetic PS with unpredictable consequences for human health, and earned about \$ 1.7 million, received from 2 to 10 years of imprisonment²². The only exception was the main person involved and two young women who received 16–19 years of imprisonment.

A couple of underage teenagers who got a job as *kladmen* (drop-off drug deliverers) worked for only two weeks and were detained and subsequently sentenced to 10 years of imprisonment²³. They committed the crime for the first time and did not manage to get money for their work.

The girl who brought one and a half ecstasy pills to Belarus and wanted to treat her friend with the substance received 12 years in prison for smuggling and acquisition for the purpose of sale²⁴.

The girl who brought one and a half ecstasy pills to Belarus and wanted to treat her friend with the substance received 12 years in prison for smuggling and acquisition for the purpose of sale²⁵.

We see a general trend in these real cases. All these people were sentenced to long terms of imprisonment, and everyone for the illegal distribution of PS. At the same time, the nature and social harm of these actions are completely different and in most cases does not correlate with the prescribed punishment.

As a rule, the victims of the repressive approach in drug policy are ordinary users of PS, minors and young people who have committed crimes for the first time, as well

²² The Supreme Court considered the appeal of the persons involved in LegalMinsk and softened the terms for the former security officers and the organizer [Electronic resource] / Onliner – Minsk, 2017.

²³ How our children become drug dealers. Stories of mothers 328 [Electronic resource] / Kyky.org – Minsk, 2019.

²⁴ "Dasha was thrown into prison for 12 years for one and a half ecstasy pills. As if she were a murderer!" The life of the parents of drug convicts [Electronic resource] / Imena – Minsk, 2017.

²⁵ "9 years for wild cannabis is too much!" [Electronic resource] / Legalize Belarus – Minsk, 2019.

as local distributors and lower links in the distribution chain. The least dangerous people are sent to jail en masse, while their terms of imprisonment are as high as those of any persons brought to justice for the illegal trafficking of PS.

2 The repressive approach does not stimulate the Ministry of Internal Affairs to search for the most dangerous criminals, but incentivizes searching for and detaining those who are the easiest to capture and most numerous offenders, imputing heavy responsibility to them.

It is much easier for employees of the Ministry of Internal Affairs to achieve their crime detection targets by catching the most "easy" and "accessible" criminals. This is also facilitated by the lack of detailed differentiation of types of crimes in the legislation.

Responsibility for sales under Part 2 of Article 328 of the Criminal Code comes regardless of the size and nature of this sale. So, for example, Daria Bondarkova received 8 years in prison as a distributor for lifting a package of PS and handing it to her friend²⁶. Yulia Krupitsa received 5 years in prison for giving 2 tramadol pills to her friend²⁷.

Part 3 of Article 328 of the Criminal Code, among other things, establishes responsibility for actions committed by a person previously convicted under Articles 327–329 and Article 331. Thus, a simple consumer of PS previously convicted under Part 1 for the storage of substances can be sentenced for a period of 6 to 15 years for sharing the substance with another consumer and this will be qualified as "sale".

Part 4 of Article 328 establishes responsibility for actions within an organized group. Any teenager and young person who has become a kladman can receive from 10 to 20 years in prison. Minor Emil Ostrovko received 10 years of imprisonment under this part. KGB and GUBOPiK (Main Directorate for Combating Organized Crime and Corruption) officers received a little less in the Case of 17 for prolonged actions as part of an organized group, ensuring the operation of an illegal PS store Legal Minsk.

Often, the Interior Ministry employees themselves provoke people to commit crimes, while increasing the statistics of solving "dangerous" crimes and earning

²⁶ Up to 12 years for a drug stash. How Belarusian teenagers are imprisoned for "drug distribution" [Electronic resource] / Nastoyashcheye Vremia – Minsk, 2019.

²⁷ "Everyone is scared and rat on each other." This couple served time for drugs in different colonies and shares what it's like to be in a Belarusian prison and leave it [Electronic resource] / Kyky.org – Minsk, 2020.

awards and bonuses for the capture of "dangerous" criminals.

Yulia Belskaya was provoked to commit a crime by her friend, who at the time of its commission was cooperating with the Ministry of Internal Affairs²⁸. Police officers, taking advantage of the vulnerable position of detainees under Article 328, use them to provoke other consumers to commit crimes that could formally be qualified as distribution and impute the heavier part of Article 328.

Repressions against consumers and small distributors have practically no effect on the PS market and do not reduce consumption. Young delivery people, the lowest segment of the drug market, are tried as members of organized gangs that control the market, but this does not affect the scale of the PS market, because such workers are the easiest to replace.

3 Repressive drug policy generates multiple violations of human rights.

Many of those detained under Article 328 are subjected to torture and beatings by operatives in order to obtain confessions, phone passwords, or other information to formalize the corpus delicti, or to use a more severe article. This was repeatedly stated by the defendants under Article 328 at meetings, in letters to relatives, and in court²⁹. Some cases have led to the suicide of convicts³⁰.

Torture and ill-treatment are also practiced in places of deprivation of liberty. Guided by the statements of A. Lukashenko, "special" conditions have been created in colonies for people convicted under Article 328. Persons convicted under the "anti-drug" article are kept in separate detachments, and they wear green tags. For refusing to wear such tags, convicts are punished: they are put to punitive confinement cell (PKT) and taken to a "covered" colony³¹.

The conditions of people convicted under such articles may differ for the worse, compared with other prisoners: they are more often accused of violations and deprived of visits and calls. The humiliating and cruel treatment of this category of convicts is described by the prisoners themselves when they fully serve their

²⁸ "You can't survive in a colony without support." The story of a 16-year-old Belarusian girl sentenced to eight years for drugs [Electronic resource] / Nastoyashcheye Vremia – Minsk, 2020.

²⁹ Torture in Belarus: broken lives [Electronic resource] / Human Rights Defenders against Torture Initiative.

³⁰ Two cases of suicides of persons convicted under Article 328. They were bullied / Legalize Belarus – Minsk, 2019.

³¹ "I saw real suppliers in the penal colony 2 or 3 times." A talk with a person who did 7.5 years for drugs [Electronic resources] / Radio Svaboda – Minsk, 2018.

sentences under Article 328³². In addition, according to former prisoners, the majority of convicts under Article 328 in the colonies are consumers of PS.

Prisoners in the colonies are involved into hard unpaid work in unhealthy conditions, which cause various chronic diseases and other complications³³. In the colonies, there is practically no time for rest, leisure, or normal conditions for eating and personal hygiene²⁷.

In the overwhelming number of cases under Article 328, the right to a fair trial is violated. During detention and initial interrogation, detainees are not provided with the right to defense, as a result of which, under pressure, they give testimony and information that the accusation is later based on. During the trial, the accused under Article 328 are kept in cages, which violates the presumption of innocence. In "anti-drug" cases, evidence is not subjected to thorough verification and convictions are often based on the assumptions of the court and the testimony of one witness who cooperated with the investigation. So, based on the assumptions of the court and the testimony of one witness, Ernest Koroliuk and Vladislav Vakulchik received 10 years in prison³⁴.

The repressive drug policy in Belarus has given rise to systematic violations of children's rights. According to the Convention on the Rights of the Child, state bodies ensure that the interests of children are respected in all actions, including in the context of criminal justice. The arrest or imprisonment of a child should be used only as a last resort and for as short a period of time as possible³⁵.

In April 2021, the Zhlobin District Court sentenced two teenagers to 11 years of imprisonment for distributing PS by an organized group³⁶. Several underage girls at different times were sentenced to terms from 10 to 14 years under Article 328 for working in delivery in online stores³⁷. In judicial practice, there are many similar

32 "You are under a decree, so suffer!" A Mogilev resident talks of detention conditions of drug convicts [Electronic resources] / Radio Svaboda – Minsk, 2018.

33 "Because of soot lumps start to grow in one's nose". People convicted under Article 328 talk of working in colonies [Electronic resources] / Belsat – Minsk, 2019.

34 Ernest Koroliuk: 10 years for yopo, dust, and assumptions [Electronic resource] / Legalize Belarus – Minsk, 2019.

35 Convention on the Rights of the Child [Electronic resource] : approved by resolution 44/25 of the General Assembly, November 20, 1989 // United Nations.

36 A trial of minors who distributed drugs was held in Zhlobin [Electronic resource] / Gomel Vedomosti – Gomel, 2022.

37 Girls convicted under Article 328: torture, huge terms, and a salary of \$10 per month [Electronic resource] / International Center for Civil Initiatives OUR HOUSE – Vilnius, 2021.

sentences against minors, on a par with adults, which absolutely does not take into account their age and special legal and psychological state.

In an educational colony, children are engaged in the same unhealthy unpaid work, for example, disassembling tires. In addition, in the colony they do not have time for leisure, self-development, eating properly, and also they have problems with access to comfortable and replaceable clothes³⁸.

Thus, the rights of children who have become victims of repressive drug policies are not respected and are systematically violated with disastrous consequences for their lives and health.

In Belarus, there is a widespread practice of violating the rights of OST patients, HIV+ people, and other members of vulnerable groups associated with the use of PS.

These persons face discrimination, close monitoring and pressure by Interior Ministry employees; moreover, they are denied employment. There are cases when the Ministry of Internal Affairs forced OST patients to take the blame for petty thefts and other crimes under the threat of taking away the access to drugs. There are cases of dismissal from work due to participation in the OST program, as well as disclosure of medical secrets to drug control officers. Unfortunately, these cases are not available in open sources, as the victims refuse to make public statements fearing even greater stigmatization and undue pressure.

Repressive drug policy is accompanied by a violation of the right to receive objective and reliable information. State anti-drug campaigns are based on such statements as "Drugs are Evil!", "Give up drugs". Instead of providing accurate and objective information regarding the use of PS, on risks and harm reduction and on the possibility of receiving assistance, as well as on the value and benefits of using PS for various purposes.

Multiple human rights violations in Belarus caused by the repressive drug policy have led to tens of thousands of victims and unjustly convicted, to the broken lives of young people and their families, and also negatively affected the health and situation of vulnerable groups.

³⁸ Auschwitz? How people live in a labor concentration camp for children in Bobruisk [Electronic resource] / Legalize Belarus – Minsk, 2019.

4 The repressive approach stigmatizes and marginalizes users of PS, and it can cause many deaths and exacerbate drug addiction and problematic use.

With this repressive approach, a sense of fear dominates among PS users, which prevents them from seeking medical help because of possible punishment. UN Special Rapporteur on the right to health noted that criminalization of drug use and possession, as well as registration of drug users and police violence, repel children and young people from health services³⁹.

With this repressive approach, a sense of fear dominates among PS users, which prevents them from seeking medical help because of possible punishment. UN Special Rapporteur on the right to health noted that criminalization of drug use and possession, as well as registration of drug users and police violence, repel children and young people from health services. Modern drug policy aggravates and justifies discriminatory practices against PWUD in education, housing, and employment, and it can become a special deterrent to seeking medical help⁴⁰. Repressive drug policies also contribute to the stigmatization of people who use PS, who are usually considered sick, mentally ill, criminal or immoral, which has led to segregation and further marginalization of this population⁴⁰.

All this drives people who use drugs out of society and normal life. People do not get the help and support they need. This leads to deterioration of health, complication of addiction and the emergence of problems caused by regular use. This can make the life of some consumers unbearable and provoke them to commit crimes or influence their decision to engage in drug trafficking.

Repressive drug policies can also be the cause of deaths due to the fear of the PS consumer to seek emergency medical care. In the summer of 2018, at a party in Minsk, a young woman who was taking antidepressants died from a serotonin coma after doing MDMA. One of the reasons of her death could be the fear of her friends to call an ambulance for about an hour, because this could threaten them with a two-digit term of imprisonment⁴¹.

³⁹ Human rights and drug policy: a paradigm shift: note prepared for the Committee on Legal Affairs and Human Rights of the Council of Europe's Parliamentary Assembly [Electronic resource] / Amnesty International – London, 2019, p. 24.

⁴⁰ Human rights and drug policy: a paradigm shift: note prepared for the Committee on Legal Affairs and Human Rights of the Council of Europe's Parliamentary Assembly [Electronic resource] / Amnesty International – London, 2019, p. 15.

⁴¹ The case of death from MDMA in Belarus highlights the danger of the prohibition policy [Electronic resource] / TalkingDrugs – UK, 2019

5 Repressive drug policy prevents the study and ranking of PS in legislation according to the degree of their harm, potential for abuse, danger to society and opportunities for medical, recreational, and other use.

There are thousands of different psychoactive substances, and not all PS have the same effect on the human body. PS have various effects, dosages, and methods of application, as well as at least more than a dozen main classes differing in their effect on humans.

Drug policy in Belarus does not distinguish between cannabis and alpha-PVP, psilocybin, and heroin. The law is also indifferent to quantities: for the storage and circulation of absolutely different amounts and types of substances, a person receives almost the same term of imprisonment, although some of the PS may already be legal in neighboring countries and are practically freely sold in pharmacies and other points of sale.

A good example of ranking in the legislation of various PS is the Czech Republic. This country has decriminalized the storage of PS in small quantities and has established acceptable amount for the most popular of them. In the Czech Republic, you can store up to 15 g of cannabis, up to 40 units of psilocybin mushrooms, 5 g of hashish, 5 blotters of LSD, 1.5 g of heroin, 1 g of cocaine, and 2 g of methamphetamine, without the risk of prosecution⁴².

In the Czech Criminal Code, actions with the cannabis plant are separate crimes, and are punished milder than similar actions with other controlled substances⁴³.

Several dozen countries in the world have legalized cannabis fully or partially (for medical use)⁴⁴. This may indicate a great medical and recreational potential of this plant, as well as minor harm and side effects for the human body.

And in some US states, psilocybin and some other psychedelics have already been decriminalized and legalized for medical purposes⁴⁵. Australia has allowed the use

⁴² Nový trestní zákoník. Změny v postihu (nejen) drogové kriminality [Electronic resource] / Národní monitorovací středisko pro drogy a drogové závislosti – Praha, 2010.

⁴³ Přechovávání omamné a psychotropní látky a jedu [Electronic resource] / Trestní zákoník č. 40/2009 Sb.

⁴⁴ The world map of cannabis legalization [Electronic resource] / CannaReporter – Portugal, 2023.

⁴⁵ Mapping Psychedelic Drug Policy Reform in the United States [Electronic resource] / Psychedelic Alpha – 2023.

of MDMA and psilocybin for the treatment of mental illness⁴⁶.

Scientific studies of psychedelics, their effects on humans and the possibility of using these drugs in medicine are conducted all over the world⁴⁷. For example, psychedelic therapy has already been actively developing in Ukraine⁴⁸.

Unfortunately, with the existing repressive drug policy in Belarus, where all the drugs mentioned above are prohibited, it is impossible to conduct scientific research, use such PS in medicine, and explore those drugs deeper in order to rank them according to various criteria.

6 Another problem of repressive drug policy is the emergence of new psychoactive substances (NPS) and their unpredictable effect on the human body.

In the early 2010s, there was the so-called "spice epidemic" in Belarus. New synthetic substances came to the market, in the form of smoking mixtures, which imitated tetrahydrocannabinol in their action.

"Spices" quickly flooded the market, thanks to the low price, ease of manufacture, and most importantly their legality. New psychoactive substances had not been banned by the existing legislation in Belarus.

The effect of those PS was often unpredictable and led to disastrous consequences. It was the wave of accidents, as well as the massive influx of "spice" into the illegal PS market, that gave impetus to the adoption of Decree No. 6 and mass repressions against PS consumers and small distributors.

It is worth noting that the so-called "spice" appeared quite recently, in 2006 in China. The reason for its appearance was an attempt to create a legal equivalent of banned THC products.

The repressive drug policy and the policy of strict prohibitions is not effective because the manufacturer will try to circumvent the prohibitions, come up with a new similar, but not prohibited substance, if there is demand on the market. Thus, it

⁴⁶ Australia to allow prescription of MDMA and psilocybin for treatment-resistant mental illnesses [Electronic resource] / Guardian News & Media – London, 2023.

⁴⁷ How To Join a Psychedelic Clinical Trial [Electronic resource] / Psychedelic Support Inc. – U.S., 2023.

⁴⁸ Belarusian woman saves the psyche of Ukrainian soldiers with the help of psychedelic therapy [Electronic resource] / Legalize Belarus – Minsk, 2022.

leads to the appearance of thousands of new unexplored substances with unpredictable effects for the human body.

This can lead to tragic consequences for the health of many PS consumers and ultimately negatively affect the situation as a whole.

7 Repressive legislation does not stop the consumption of PS.

The level of PS consumption in regions with criminal liability for storage and consumption does not decrease, and in some cases only increases over time.

Drug addiction is a complex disease caused by a whole complex of reasons: social, psychological, and physiological (for example, difficult living conditions, psychological trauma, or emotional problems). Attempts to manage this complex disease by punishing the patient are ineffective. Much more success can be achieved with the help of evidence-based methods of drug addiction treatment²¹.

8 Repressive drug policy stimulates criminal activity and enriches the criminal world.

Criminal groups benefit and expand from the criminalization of PS and enrich themselves with high remuneration for their risks. They recruit people suffering from addiction into their business, and the latter are forced into drug trafficking to earn a living and pay for a dose, instead of getting proper support and opium substitution therapy. Due to the steady demand for the product, as well as the lack of legal alternatives among consumers of PS, criminal groups have a stable huge profit, which allows them to expand, increase their influence and boost corruption and violence in the country.

The expansion of such criminal groups is usually accompanied by other violent crimes, which negatively affects the criminal situation in the country.

9 . Because of the repressive drug policy, thousands of innocent users of PS who have not committed violent crimes and have not harmed anyone are in the dock.

This statement is supported by the statistics of the Supreme Court, according to which more than 50% of sentences under Articles 327–332 correspond to Part 1 of Article 328 for possession without a marketing purpose. Thus, up to 10 thousand people in 2015–2023 could be convicted and get real terms for nonviolent actions that did not cause harm to anyone except the consumers themselves.

CHAPTER 3

The Legal Aspects of Drug Policy: Procedural Framework, Proportionality of Crime and Punishment, Regulation of Illicit Trafficking

Countering the illicit trafficking of narcotic drugs, psychotropic substances, precursors, and analogues is regarded by the Belarusian legislator and law enforcement officer as one of the priorities in the fight against crime. For example, drug trafficking is considered as one of the challenges included in the Concept of National Security of the Republic of Belarus⁴⁹. Similar assessments linking national security and drug trafficking are also heard from law enforcement agencies, in particular in the statements of the head of the Investigative Committee⁵⁰. The discourse of state bodies is as follows: the spread of the use of psychoactive drugs, especially among adolescents and young people, the emergence of new ways of trafficking in such substances pose an increased threat to the demography and health of the nation, and therefore enhanced state control is aimed at preventing crimes in this area as effectively as possible.

The legal and organizational foundations of the state policy on trafficking and combating illicit trafficking of narcotic drugs, as well as the prevention of their consumption are regulated by the Law on Narcotic Drugs, Psychotropic Substances, their Precursors and Analogues (*hereinafter referred to as the Law*)⁵¹. Relations in trafficking and countering illicit drug trafficking are regulated by the Law, other legislative acts, international treaties of the Republic of Belarus, as well as international legal acts constituting the law of the Eurasian Economic Union.

As a party to the UN Convention against Illicit Trafficking in Narcotic Drugs and

⁴⁹ The Concept of National Security of the Republic of Belarus [Electronic resource] / Ministry of Emergency Situations of the Republic of Belarus – Minsk, 2010.

⁵⁰ Gora: cybercrime and drugs are a threat to the national security of Belarus [Electronic resource] / Sputnik Belarus, 2021.

⁵¹ Illegal Trafficking of Narcotic Drugs, Psychotropic Substances, their Precursors and Analogues : the Law of the Rep. of Belarus No. 408-Z of 13.07.2012 : as amended. by the Law of the Rep. of Belarus from 15.07.2021 // Etalon – Belarus [Electronic resource] / National Center for Legal Information. Rep. of Belarus. – Minsk, 2006.

Psychotropic Substances⁵², the Republic of Belarus collaborates with UN structures on international cooperation in combating illicit trafficking in narcotic drugs⁵³.

The main directions of the state policy in trafficking and counteraction to illicit drug trafficking, prevention of drug consumption, are:

- licensing of activities related to the circulation of narcotic drugs;
- state control (supervision) over the circulation of narcotic drugs;
- identification of offenses related to illicit drug trafficking;
- application of measures to counter illicit drug trafficking;
- prevention of drug use;
- development of a network of organizations providing medical care to people with drug addiction, as well as their social rehabilitation.

In the search for a balance between the severity of criminal sanctions for general and particular prevention and their effectiveness, the legislator experiments with measures of responsibility for illegal trafficking of controlled substances. At the same time **excessive severity of criminal punishment is an invariable component of state policy in criminal responsibility.**

On December 4, 2014, at a meeting on countering drug trafficking, A. Lukashenko proposed to toughen penalties for drug crimes:

“ Those who have distinguished themselves in this regard should get 20–25 years. Those who have distinguished themselves less, naturally, should get less. Tell us what kind of gradation it is, what the deadlines should be, and we will write it down in the law. The deputies will support us. ”

A. Lukashenko also emphasized that it is necessary to create the most stringent conditions for drug criminals in places of imprisonment:

52 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances [Electronic resource] / UN Office on Drugs and Crime, 1988.

53 Countering drug crime was discussed by the the UN and the Investigative Committee of Belarus [Electronic resource] / Sputnik Belarus, 20 22.

“ It is necessary to create unbearable conditions in places of imprisonment. I don't think we have that many of them to create a separate colony for them. But if there are a lot, let's spare one of the colonies for this. Moreover, we have reduced the number of prisoners by half, there are enough colonies today. If we don't have enough such people, let's create one unit, barracks, or something else. Let's establish such conditions for them, so that they, staying in this colony, would ask for death. The same goes for the distributors⁵⁴. ”

On January 29, 2015, amendments were made to the Criminal Code of Belarus, as a result of which the upper limit of punishment in the form of imprisonment under Part 3 and Part 4 of Article 328 was increased from 13 to 15 and from 15 to 20 years, respectively; Part 5 of Article 328 of the Criminal Code was also introduced with a penalty of 12 to 25 years of imprisonment⁵⁵.

People sentenced under Article 328 of the Criminal Code are sent to the penal colony 22, known as Wolf Holes, which was tacitly assigned for them, where convicts are put into really "unbearable conditions"⁵⁶.

The practice of imposing huge terms of imprisonment in combination with inhumane conditions of detention showed the ineffectiveness of the decision taken and the lack of preventive effect, leading to the emergence of a broad public campaign aimed at reducing the sentences under Article 328⁵⁷.

Under the influence of public pressure, taking into account judicial statistics confirming a decrease in the number of persons prosecuted for drug trafficking by almost 2 times⁵⁸, amendments to Article 328 of the Criminal Code were adopted on

⁵⁴ "It is necessary to create unbearable conditions for them in places of imprisonment" [Electronic resource] / Salidarnast, 2014.

⁵⁵ On amendments and additions to the Criminal Code of the Republic of Belarus on combating illicit trafficking of narcotic drugs, psychotropic substances, their precursors or analogues : Law of the Republic of Belarus No. 245-Z dated 29.01.2015 // Etalon — Belarus [Electronic resource] / National Center for Legal Information. Rep. of Belarus. — Minsk, 2006.

⁵⁶ Penal colony 22, aka "Wolf Holes". How do prisoners live and work? [Electronic resource] / Legal Initiative, 2019.

⁵⁷ Mothers 328: The president wanted to fight drug traffickers, not our children [Electronic resource] / Sputnik Belarus, 2017.

⁵⁸ Data for 2019 on crimes related to illicit trafficking of narcotic drugs, psychotropic substances, their precursors and analogues. The Supreme Court of the Republic of Belarus [Electronic resource] / Internet portal of courts of general jurisdiction of the Republic of Belarus. — Minsk, 2006.

July 18, 2019, according to which the minimum limit of punishment in the form of imprisonment under Part 2 and Part 3 of Article 328 was reduced from five to three and from eight to six years, respectively⁵⁹.

The changes in the Criminal Code, which are retroactive, led to a massive revision of the criminal cases of convicts under Parts 2–3 of Article 328 of the Criminal Code with a reduction in the term of the sentence by 2 years.

At the same time, it was decided to extend the effect of the amnesty laws of 2019⁶⁰ and 2020⁶¹ to persons convicted under Parts 1–3 of Article 328 of the Criminal Code.

The loosening of the state policy on the punishment for illegal trafficking led to the release of a significant number of convicts.

A steady trend to reduce the total number of convicts under Articles 327–332 of the Criminal Code for crimes related to illegal actions with drugs was observed from 2016 to 2020 (from 3,608 persons in 2016 to 2,002 persons in 2020).

However, in 2021, the number of people convicted of drug trafficking increased by 48 persons compared to 2020 and amounted to 2,050 persons. At the same time, the number of convicts who committed these crimes under the age of eighteen has almost doubled⁶².

In the first half of 2022, the number of convicts under Articles 327–332 of the Criminal Code in relation to the 1st half of 2021 increased by 41.4%⁶³. Based on these data, the law enforcer again spoke about the ineffectiveness of liberalizing criminal punishment, which in turn affected the provisions of the Amnesty Law of 2022.

⁵⁹ On the amendment of the Criminal Code of the Republic of Belarus : Law of the Rep. of Belarus No. 220-Z dated 18.07.2019 // Etalon — Belarus [Electronic resource] / National Center for Legal Information of the Rep. of Belarus. — Minsk, 2006.

⁶⁰ On amnesty in connection with the 75th anniversary of the liberation of Belarus from the Nazi invaders : Law of the Rep. of Belarus No. 230-Z dated 07/19/2019 // Etalon — Belarus [Electronic resource] / National Center for Legal Information of the Rep. of Belarus. — Minsk, 2006.

⁶¹ On amnesty in connection with the 75th anniversary of the Victory in the Great Patriotic War of 1941–1945 : the Law of the Rep. of Belarus No. 17-Z dated 18.05.2020 // Etalon — Belarus [Electronic resource] / National Center for Legal Information of the Rep. of Belarus. — Minsk, 2006

⁶² Data for 2021 on crimes related to illicit trafficking of narcotic drugs, psychotropic substances, their precursors and analogues. The Supreme Court of the Republic of Belarus [Electronic resource] / Internet portal of courts of general jurisdiction of the Republic of Belarus. — Minsk, 2022.

⁶³ Data for the first half of 2022 on crimes related to illicit trafficking of narcotic drugs, psychotropic substances, their precursors and analogues. The Supreme Court of the Republic of Belarus [Electronic resource] / Internet portal of courts of general jurisdiction of the Republic of Belarus. — Minsk, 2022

Excessively strict criminal punishment is still recognized by the state as the main way to combat illegal trafficking of controlled substances and prevent drug crimes.

The novelty of the Amnesty Law of 2022 is a ban on the application of amnesty to persons who have committed crimes under Article 328 of the Criminal Code, with the exception of persons who have committed crimes under the age of 18. As a result, only a small number of convicts who committed crimes under the age of 18 can count on amnesty under Article 328 of the Criminal Code.

It should be noted that recently numerous facts of illegal refusal to submit convicts for parole and replacement of punishment with a milder one have become known from convicts under Article 328 of the Criminal Code serving a sentence of deprivation and restriction of liberty, which is also a hidden manifestation of the harshening of state policy.

The peculiarities of the current practice of investigation and consideration by the courts of criminal cases related to drug trafficking, ending with the imposition of penalties in the form of huge terms of imprisonment, raise many questions. Thus, the number of convicts under Part 4 of Article 328 of the Criminal Code (drug trafficking as part of an organized group, i. e. online stores) is steadily growing: 50 convicts in 2021 relative to 33 in 2020⁶³. As a rule, in such offenses, the preliminary investigation authorities **formulate the charge in broad terms ("as part of an organized group consisting of unidentified persons, using an unidentified mode of transport, etc.")**, the roles of the participants of the alleged organized group are determined arbitrarily, the description of the signs of an organized criminal group consists of a set of general phrases.

Evidence reliably confirming the existence of an organized group with the signs established in Part 1 of Article 18 of the Criminal Code⁶⁴, as well as the intent of the accused to commit a crime as part of an organized group, as required by the Resolution of the Plenum of the Supreme Court of 25.09.2003 No. 9⁶⁵, during the preliminary investigation it is not collected. In this "raw" form, criminal cases under Part 4 of Article 328 of the Criminal Code go to court.

Despite the fact that the Supreme Court of the Republic of Belarus, when analyzing

⁶⁴ A crime is recognized as committed by an organized group if it is committed by two or more persons who have previously united into a managed stable group for joint criminal activity.

⁶⁵ On judicial practice in cases of crimes related to the creation and activities of organized groups, gangs, and criminal organizations : Resolution of the Plenum of the Supreme Court of the Republic of Belarus of 25.09.2003 No. 9 (ed. of 23.12.2021)// Etalon — Belarus [Electronic resource] / National Center for Legal Information of the Rep. of Belarus. — Minsk, 2006

judicial practice, has repeatedly stressed the need for strict compliance with the provisions of Part 1 of Article 18 of the Criminal Code and for the evidence of signs of an organized criminal group⁶⁶, courts without legal grounds establish the commission of crimes as part of an organized group instead of reclassifying the actions of the accused to Part 3 of Article 328 of the Criminal Code (commission of a crime by a group of persons). **That is how juvenile *kladmen* increasingly receive huge terms of imprisonment without proper evidence, under Part 4 of Article 328 of the Criminal Code.**

A separate problem is the presentation of the materials of operational investigative activities (OIA) to the court as evidence of being guilty in a drug crime⁶⁷. **The results of the OIA are provided as a source of evidence in the vast majority of cases, and are often the main evidence for a guilty verdict.**

According to the current legislation, the court is obliged to evaluate the materials of the OIA for strict compliance with the norms of the Criminal Procedure Code and the Law on Operational Investigative Activities⁶⁸. The results of operational investigative measures (OIM) are recognized as admissible evidence only if they are legally validated. The court has a special responsibility to assess the admissibility of the OIM materials as evidence, since the defender and the accused are not entitled to access to the operational investigative case, and therefore they are forced to accept as indisputable evidence a court certificate on the legality of the conducted OIM, compiled on the basis of studying the materials of the OIA. **Practice shows that courts often neglect to check the quality of the materials of the OIA and the validity of their legalization, which leads to the imposition of illegal sentences.**

The problem is also non-compliance with the requirement to show a strictly individual approach to the sentencing of persons guilty of these crimes, taking into account the circumstances of their commission, the type and amount of drugs, substances, and their analogues involved in illegal trafficking, information about the identity of the perpetrators, their role and degree of participation in criminal acts.

66 Topical issues of consideration by courts of criminal cases on crimes related to illicit trafficking of narcotic drugs, psychotropic substances, their precursors and analogues (based on the materials of the review) [Electronic resource] / National Center for Legal Information of the Rep. of Belarus. – Minsk.

67 Materials obtained in the course of operational investigative activities : Article 101 of the Criminal Procedure Code of the Rep. of Belarus No. 295-Z dated 16.07.1999 // Etalon — Belarus [Electronic resource] / National Center for Legal Information of the Rep. of Belarus.— Minsk, 2006.

68 On operational investigative activities : The Law of the Rep. of Belarus No. 307-Z of 15.07.2015 : as amended. by the Law of the Rep. of Belarus from 06.01.2021 // Etalon — Belarus [Electronic resource] / National Center for Legal Information of the Rep. of Belarus. – Minsk, 2006.

Despite the fact that the Supreme Court calls for paying attention to the issue of individualization of punishment and discussion of the possibility of using the mechanisms provided for by the Criminal Code to reduce punishment, for example, in the form of the application of Article 70 of the Criminal Code, in practice such mechanisms are not used.

CHAPTER 4

The Medical Aspects of Drug Policy in Belarus: Harm Reduction, Prevention and Treatment of Addiction, the Potential Use of Some Psychoactive Substances in Medicine

To date, methods of treating various diseases and disorders based on the use of certain controlled substances and drugs are gaining popularity all over the world.

For example, cannabinoids can be used in oncology, in the terminal stage of HIV, and in the treatment of multiple sclerosis.

The medical use of cannabinoids is advisable in several aspects. Most often we are talking about wasting, which is observed in the last stages of HIV infection. A study by Lutge, Gray, Siegfried (2013) found that the use of tetrahydrocannabinol (THC) and the use of cannabis can increase the appetite of patients in this group and contribute to weight gain⁶⁹. In an earlier work by Jatoi et al. (2012), dronabinol (a synthetic analogue of THC) was compared in effectiveness with megestrol acetate in terms of weight gain in patients with wasting on the background of cancer⁷⁰. It turned out that megestrol acetate copes with this task better than its competitor.

Another area of cannabinoid use is the treatment of nausea and vomiting during chemotherapy in cancer treatment⁷¹.

The area of the brain responsible for vomiting (area postrema) is rich in type 1 cannabinoid receptors. These same receptors are present in large numbers in other brain structures that are also involved in nausea and vomiting. Stimulation of cannabinoid receptors on these nerve structures leads to a decrease in the feeling of nausea and the cessation of vomiting. As the above studies have shown,

⁶⁹ The medical use of cannabis for reducing morbidity and mortality in patients with HIV/AIDS [Electronic resource] / E. E. Lutge, A. Gray, N. Siegfried. — National Library of Medicine, 2013.

⁷⁰ Dronabinol Versus Megestrol Acetate Versus Combination Therapy for Cancer-Associated Anorexia: A North Central Cancer Treatment Group Study / A. Jatoi, H. E. Windschitl, C. L. Loprinzi, J. A. Sloan, Shaker R. Dakhil. — Journal of Clinical Oncology 20, 2002, p. 567–573.

⁷¹ Cannabis use in palliative oncology: a review of the evidence for popular indications / I. Turgeman, G. Bar-Sela. — The Israel Medical Association Journal 19, 2017, p. 85–88.

cannabinoids cope better with nausea and vomiting caused by chemotherapy than neuroleptics, but they lose in this respect to ondansetron. Usually, cannabinoids are not first-line drugs and are used when other treatment methods are ineffective.

In addition to its use in oncology and in the terminal stage of HIV, cannabinoids can be used in the therapy of multiple sclerosis.

They are better than placebo at coping with spasticity in this disease (but the difference is not very great). In addition to this, **cannabinoids help against neuropathic pain of various origins.**

There are already three cannabinoid-based drugs on the world market that are used quite successfully:

Nabiximols

is a spray containing a mixture of two cannabinoids: THC and cannabidiol. It is used to treat spasticity and pain in multiple sclerosis. It is also used for the treatment of pain syndrome in oncological diseases.

Dronabinol

is a synthetic THC that has an antiemetic effect and increases appetite. It is used by emaciated patients in the terminal stage of HIV and patients with nausea and vomiting during chemotherapy.

Nabilone

is a drug based on a cannabinoid structurally close to THC. It is used for nausea and vomiting caused by chemotherapy.

Another promising direction of the use of narcotic substances and drugs is the use of ketamine for the treatment of resistant depression.

In 1999, at the European Journal of Pharmacology conference (EJP Spring 1999 Meeting, Netherlands), the report Antidepressants of the New Millennium was presented, justifying the search for new antidepressants in a number of compounds affecting glutamatergic processes in the brain, primarily among NMDA receptor antagonists (experimental data on the antidepressant-like activity of such substances were obtained earlier)⁷². In 2000 R. Berman and his colleagues from Yale University (USA) for the first time reported the effectiveness of ketamine in patients

⁷² Antidepressants for the new millennium [Electronic resource] / P. Skolnick. — European Journal of Pharmacology, 1999.

with depression resistant to "classic" antidepressants: the drug in a sub-narcotic dose caused a rapidly advancing, pronounced effect lasting up to 7 days a few hours after the start of the procedure⁷³. Subsequently, the antidepressant effect of ketamine has been repeatedly confirmed in clinical studies. A positive response to ketamine administration was recorded in various studies in 25–85% of patients 24 hours after administration and in 14–70% of patients 72 hours after administration. A longer lasting effect was noted when using repeated procedures: 2–3 times a week. Unlike traditional antidepressants, the NMDA receptor antagonist ketamine causes the effect quickly, i. e. within a few hours, notably, in patients with resistant depression. Experimental and clinical studies carried out over 20 years indicate multicomponent in the mechanism of the antidepressant effect of ketamine⁷⁴.

Scope of application of MDMA: eliminates the symptoms of PTSD in combination with psychotherapy.

According to the results of clinical trials, MDMA (methylenedioxymethamphetamine) successfully copes with the symptoms of severe post-traumatic stress disorder (PTSD) when used together with psychotherapy. 90% of the study participants who received MDMA during treatment showed improvements compared to patients who underwent therapy and took inactive placebos. Two months after the start of the test, 67% of the participants no longer had signs of PTSD, compared with 32% in the placebo group. According to scientists from Johns Hopkins University and the University of California, MDMA does not lead to serious side effects, but only to mild temporary symptoms, such as nausea and loss of appetite⁷⁵. In 2022, the first phase of testing took place, about 100 people participated in the study. In order for MDMA to be approved for therapeutic use, the second phase of the test must also be completed successfully. Depending on the timing of the second phase of the test, the new method will be legally applied in 2023 or later.

In the case of successful clinical trials, the scope of MDMA may cover assistance to people suffering from drug addiction, obsessive-compulsive disorder, depression, eating disorder, various phobias, and anxiety.

⁷³ Antidepressant effect of ketamine in depressed patients / R. M. Berman. — Biological Psychiatry journal, 2000, p. 351–354.

⁷⁴ Кетамин: «атипичный» антидепрессант, новый эффект старого анальгетика / В. В. Чурюканов, М. В. Чурюканов. — Российский журнал боли 19 (1), 2021, с. 40–45.

⁷⁵ MDMA-assisted therapy for severe PTSD: a randomized, double-blind, placebo-controlled phase 3 study [Electronic resource] / J. M. Mitchell, M. Bogenschutz, A. Lilienstein. — Nature Medicine 27, 2021.

Studies on the use of psilocybin look quite promising. The first experiments with it showed that in terms of its effect on the body, it is similar to dimethyltryptamine, a compound remotely similar to serotonin and produced in moderate amounts in the human body. Unlike serotonin, even moderate doses of dimethyltryptamine can cause hallucinations and other psychedelic effects. But at the same time, it is able to have a noticeable antidepressant effect.

In clinical trials in 2020, psilocybin showed efficacy slightly higher than a modern antidepressant escitalopram (regulates brain processes associated with serotonin)⁷⁶. Most people with depressive disorder who received psilocybin stopped experiencing it. Some of those who did not recover reported a reduction in the intensity of depression. Thus, the US Food and Drug Administration (FDA) licensed esketamine (derived from ketamine) in March 2019 for controlled use in the treatment of depression, and in December 2019 the European Commission did it, but critics warn of the possibility of abuse of this drug. Studies of psilocybin, in turn, show that its therapeutic benefits are fast-acting, non-addictive, and have no side effects. However, due to legal prohibitions in the USA and the European Union, conducting research with this type of substances is difficult.

Medical aspects of the use of narcotic and psychotropic substances and drugs in the Republic of Belarus

Legislative prohibitions are the most significant barrier to the research and use of substances labeled as narcotics. In Belarus, this list is established by the Decree of the Ministry of Health of February 11, 2015 No. 19 On the Establishment of the Republican List of Narcotic Drugs, Psychotropic Substances and Their Precursors Subject to State Control in the Republic of Belarus⁷⁷ and their medical use is regulated by the Instruction on the Procedure for the Acquisition, Storage, Sale, Release (Distribution) of Narcotic Drugs and Psychotropic Substances for Medical Purposes approved by Resolution No. 51 of the Ministry of Health of the Republic of Belarus dated December 28, 2004, as amended by Resolution No. 98 of the Ministry of Health of the Republic of Belarus dated November 17, 2020⁷⁸. New comments

⁷⁶ Trial of Psilocybin versus Escitalopram for Depression [Electronic resource] / R. Carhart-Harris, B. Giribaldi, R. Watts. — The New England Journal of Medicine, 2021.

⁷⁷ On the establishment of the republican list of narcotic drugs, psychotropic substances, and their precursors subject to state control in the Republic of Belarus : Resolution of the Ministry of Health of the Republic of Belarus No. 19 dated 11.02.2015 // Etalon — Belarus [Electronic resource] / National Center for Legal Information of the Rep. of Belarus. — Minsk, 2006.

⁷⁸ On approval of the Instruction on the Procedure for the Acquisition, Storage, Sale, Release (Distribution) of Narcotic Drugs and Psychotropic Substances for Medical Purposes : Resolution of the Ministry of Health of the Republic of Belarus No. 51 dated 28.12.2004// Etalon — Belarus [Electronic resource] / National Center for Legal Information of the Rep. of Belarus. — Minsk, 2006.

and edits are constantly being made to the above decrees and instructions, the list of substances is expanding, and control over the turnover of these substances in medical use is being strengthened.

The only example of the introduction of new treatment methods using narcotic substances and drugs is an opioid substitution therapy program with methadone (OST) which has opened in Belarus.

The OST program in the Republic of Belarus began in 2007 as a pilot project financed by the Global Fund to Fight AIDS, Tuberculosis and Malaria. In the autumn of 2022, the program was attended by more than 600 people in 21 offices in different cities of Belarus. In 2020, the efforts of public organizations resolved the issue of the introduction of a new drug buprenorphine, which has a higher efficiency and fewer side effects compared to methadone.

One of the sensitive issues is the need to be placed at the clinic supervision in order to become a participant in the OST program, with the resulting restrictions in later life.

Making OST participants a separate registered group has been discussed more than once at meetings of public organizations with representatives of the Ministry of Health and the Ministry of Internal Affairs, since **a patient who came to therapy voluntarily, in order to get away from street drug use, falls under the prohibitions imposed by clinic supervision.**

Along with the issue of supervision, the issue of replacing the criminal penalty under Part 1 of Article 328 of the Criminal Code of the Republic of Belarus with entering the OST program for people who use opioids intravenously is also being considered.

Also, when conducting a study of the level of satisfaction with the services of the opioid substitution therapy program in the Republic of Belarus in 2022, with the support of the Eurasian Network of People who Use Drugs (ENPUD), **more than 90% of respondents expressed support for the continuation of substitution therapy in prisons, because opioid withdrawal is one of the most severe among narcotic substances**⁷⁹.

In 2021–2022, Belarus faced an increase in the number of overdoses of street

⁷⁹ A study of the basic level of patient satisfaction with the opioid substitution therapy program [Electronic resource] / Your Chance, 2022.

methadone imported from the Russian Federation. **These deaths could have been prevented with the established mechanism of over-the-counter delivery of naloxone at the points of prevention and providing this tool to social workers from among drug users.** However, to a letter about the exclusion of naloxone from the list of prescription drugs the Ministry of Health answered that over-the-counter delivery could affect an increase in the number of drug users⁸⁰.

In general, any initiatives of the community or public organizations to liberalize narcotic substances and drugs face misunderstanding and rejection from the Ministry of Internal Affairs and the Ministry of Health, and only with the support of international donors with the involvement of external funding, one can count on any changes in the medical aspects of the use of these substances.

Optimization of harm reduction programs

Unbalanced legislation in the turnover of controlled substances is an obstacle to the development of harm reduction services. The Republic of Belarus officially supports harm reduction and opioid substitution therapy services, but coverage of services remains at an extremely low level: 2–3%⁸¹.

The estimated number of people injecting drugs in Belarus is between 73,800 and 87,000 people⁸². Most of them use several substances, including opiates and synthetic stimulants such as alpha-PVP and mephedrone. Synthetic substances are usually purchased on the Internet^{83, 84}. By purchasing controlled substances on the Internet, young people chip in and get a "cache", risking criminal prosecution for crimes related to sales, despite the fact that the acquisition and further distribution of controlled substances among group members is carried out for personal use, and not for commercial sales. In addition, group use may be associated with unprotected sex, as well as with the use of contaminated injection equipment, which in turn

⁸⁰ Internal communication in the healthcare system.

⁸¹ PWID's potential interest in OST / E. K. Artemenko. — "Your Chance" Republican Public Association with the support of the BPA Positive Movement, 2018.

⁸² The study of the peculiarities of HIV prevalence among vulnerable groups (PWID, FSW, and MSM) and the assessment of their number in the regions of the Republic of Belarus / E. Kechina. — Republican Center of Hygiene, Epidemiology, and Public Health, 2020.

⁸³ To determine and influence the readiness of the OST program to accept people with combined addiction. — "Your Chance" Republican Public Association and the Eurasian Harm Reduction Association, 2019.

⁸⁴ DrugStat. Research of the darknet drug market in the Republic of Belarus. — Minsk, the Republic of Belarus, 2020.

increases the risk of HIV and hepatitis transmission^{3, 85}.

Against this background, the focus of law enforcement activities on the context of drug use significantly complicates access to social and medical services for people who use drugs, and also hinders the development of client-centered support services for people who use stimulants or several controlled substances at once⁸⁵. Due to law enforcement restrictions and the risks of prosecution, web outreach⁸⁶ on the darknet is severely curtailed (and often simply impossible). In addition, **being mandatory put on a drug registry reduces the appeal for drug treatment services and destroys the trust relationship between the narcologist and the patient**⁸⁷. In violation of international human rights norms, forced treatment of addiction is practiced in Belarus^{88, 89}.

As a result of an unbalanced drug policy and the focus of law enforcement agencies on drug users, the prevalence of HIV among people who inject drugs is about 30%⁹⁰; and one of hepatitis C is about 58%³.

Figure 2: HIV prevalence among key populations⁹¹



⁸⁵ New psychoactive substance use in Moldova and Belarus: research results from the Republic of Belarus [Electronic resource] / School of Law, Swansea University & Eurasian Harm Reduction Association. – 2019.

⁸⁶ Web outreach for people who use drugs [Electronic resource] / Regional Program Office of the United Nations Office on Drugs and Crime in Eastern Europe. – Minsk, 2021.

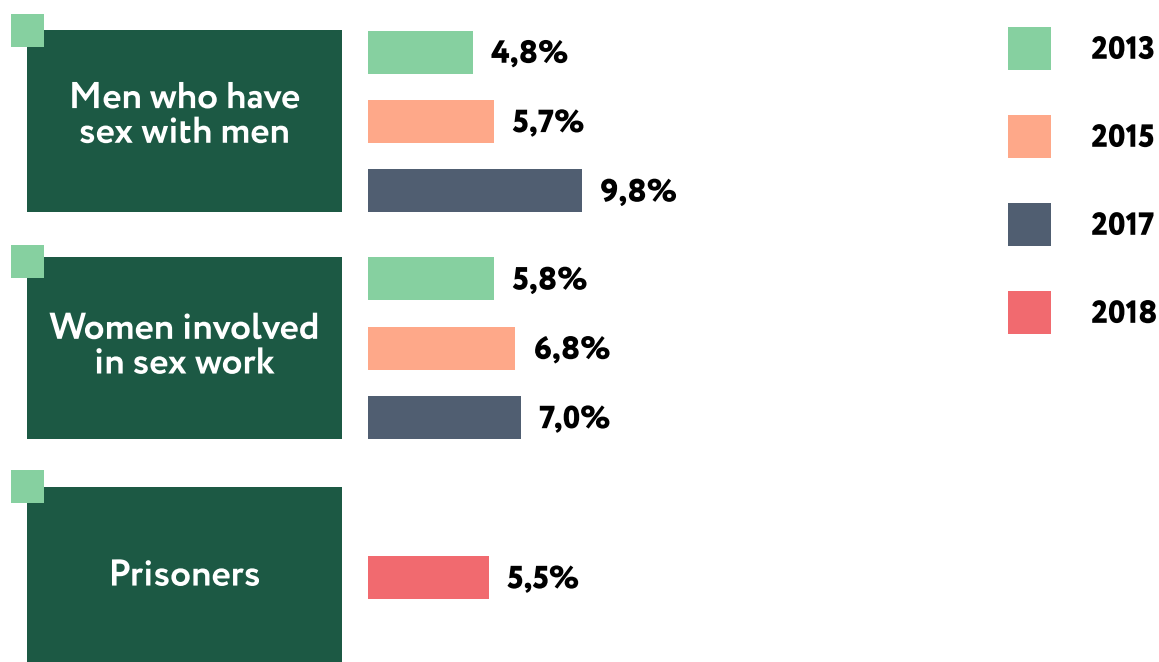
⁸⁷ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health [Electronic resource] / The Office of the United Nations High Commissioner for Human Rights, 2010.

⁸⁸ On the procedure and conditions for sending citizens to compulsory rehabilitation centres and conditions of stay in them : Law of the Rep. of Belarus No. 104-Z of January 4, 2010// Etalon – Belarus [Electronic resource] / National Center for Legal Information of the Rep. of Belarus. – Minsk, 2006.

⁸⁹ CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12) [Electronic resource] / Committee on Economic, Social and Cultural Rights, par. 34, 2000.

⁹⁰ Results of sentinel surveillance to assess the situation of HIV infection among population groups at high risk of HIV / E. Kechina. – Minsk: Republican Scientific and Practical Center of Medical Technologies, Informatization, Management, and Economics of Healthcare, 2018.

⁹¹ HIV infection situation: the Republic of Belarus. Regional workshop on new psychoactive substances / L. Trukhan – Kyiv, 2019.



A deep reform of the system of control over the turnover of controlled substances is needed, which would be aimed at bringing the control system into balance between the applied prohibition measures and all other measures, including, first of all, methods of informing and socio-medical support. In the part concerning punitive laws, the reform should include two components:

Component 1

is the abolition of any punishment for possession of drugs without a marketing purpose and for drug use. To deal with such a broad public problem as drug use, punishment is too harsh a measure of influence on people's behavior. Scientific data show that measures of socio-economic and medical impact are much more effective, that is, support, not punishment.

Component 2

is guaranteed restriction of the application of the Criminal Code in actions for the sale of drugs, by introducing a note to the article on the sale of the following content: *the effect of this article does not apply to acts concerning narcotic drugs or psychotropic substances in amounts equal to or less than ten-day doses, unless the existence of intent to sell for the purpose of systematic enrichment is proved beyond reasonable doubt. The size of the daily dose is determined individually for each person who declares the purpose of use in a particular case.*

Ten daily doses should not be set by the government, but based on the circumstances of the case, such as the purity of the mixture (based on chemical

examination) and the tolerance of a particular person (medical examination). At the same time, the establishment of the amount of narcotic drugs and psychotropic substances corresponding to criminal or administrative responsibility loses its meaning, since it is needed primarily for the purposes of holding accountable for storage. If there is no responsibility for storage, then the threshold values disappear as unnecessary. It will be equally difficult for the prosecution to prove the sale of a gram and the sale of a kilogram, which will increase the guarantees of human rights protection. It is not easy to prove sales, especially if there is a presumption that ten daily doses or less imply a storage purpose, and not a marketing purpose.

As a result of the reform, the efforts of the law enforcement system will be redirected to countering commercial sales for systematic enrichment. There will be guarantees protecting people from the arbitrary application of the article on sale and mass violations of human rights. There will be budget savings when conditions for effective prevention of drug addiction, HIV infection, and other socially significant diseases will be created. In addition, conditions will be ensured to reduce corruption in law enforcement agencies, as well as to reduce criminalization of the population.

In the long term, the control over the turnover of psychoactive substances should be regulated on the basis of the same principles that apply to alcohol and tobacco. In 2010, the UN Special Rapporteur on the Right to Health recommended that states adopt an alternative way to control the trafficking of psychoactive substances using the Tobacco Control Convention⁸⁷ as an example. The Special Rapporteur proposed a mechanism for the regulation of psychoactive substances, which will lead to a gradual decrease in use. **Below is a list of countries that use an alternative drug policy, ranging from the most successful to less successful:**

- 1 Canada, the USA (in more than 20 states), and Uruguay regulate the sale of cannabis.
- 2 Portugal, Uruguay, Colombia, Georgia, and South Africa have *de jure* decriminalized drug use and possession of psychoactive substances for personal use (cannabis only).
- 3 Most countries in Western Europe have *de facto* decriminalized drug use and possession of controlled substances for personal use.

CHAPTER 5

The Economic Aspects of Drug Policy Softening in Belarus. Prospects of Alternative Approaches to Drug Policy.

Introduction

It is difficult to underestimate the economic consequences of a particular drug policy in a state system. Following a certain policy in PS regulation entails not only direct costs in the form of a burden on the law enforcement and judicial systems, medical institutions, as well as an impact on the labor market, but also indirect: in the form of opportunity costs (lost benefits) and a decrease in labor productivity.

Despite the prohibitive policy (criminalization) against PS present in most countries of the world, including Belarus, the black market shows stable growth, and the demand for PS remains difficult to change. Cases of revision of the prohibitive policy for individual PS and the impact of such changes on direct and indirect economic costs deserve special attention.

This chapter analyzes the level of supply and demand in the PS market, calculates the approximate costs of the criminalization policy, and also presents alternative models aimed at increasing the welfare of Belarusian citizens. The focus is on the three most common types of illegal PS: cannabinoids, opioids, and so-called NPS.

How the criminalization policy works

Legislators and representatives of law enforcement agencies strive to bring society into a "drug-free world"^{92, 93}, or at least to prevent an increase in the number of PS users⁹⁴. Thus, the prohibitive policy sets itself two main goals: reducing the demand

⁹² A happy world without drugs! [Electronic resource] / Department of Internal Affairs of the Gomel Regional Executive Committee, 2022.

⁹³ A world without drugs: a formula for a successful future [Electronic resource] / Scientific and Methodological Institution "National Institute of Education", 2019

⁹⁴ Determinants of crime related to drug trafficking (on the example of the Republic of Belarus) / S. M. Kazakevich // Bulletin of the Belgorod Law Institute of the Ministry of Internal Affairs of Russia named after I. D. Putilin. — 2020 (No. 1). — pp. 59–61.

for PS to the lowest possible point and reducing the volume of the PS black market, in other words, reducing the level of supply of illegal PS.

However, international and national practice demonstrate questionable success in achieving these goals and there are several fundamental reasons for this, identified directly by analyzing the levels of supply and demand in the market of illegal PS.

- *Firstly*, due to addiction and dependence, most PS have almost inelastic demand, which means that as a consequence of a decrease in the level of supply the price grows, only increasing the profitability of illegal traders, thereby provoking the expansion of the drug business, but does not reduce the number of consumers⁹⁵. Pronounced examples are PS with a high addiction potential, such as heroin, whose users, at the peak of their addiction, are willing to pay any price for the next dose.
- *Secondly*, an increase in prices may force consumers with a significant degree of dependence, who are in a poor financial position, to resort to criminal actions to satisfy their needs⁹⁶. This, in turn, directly affects the level of crime in society, and also does not leave dependent persons with opportunities for social adaptation and treatment, further driving them into PS abuse.
- *Thirdly*, even if for some reason it is possible to significantly reduce the supply of certain PS on the market, consumers begin to turn to substitute products⁹⁵. As a rule, substitutes are cheaper and at the same time more dangerous or poorly studied analogues, often in a temporarily legal status, for example, the so-called NPS ("spices", "salts", etc.).

The analysis of the available national statistical data over the past years largely confirms these theses. To begin with, let's turn to the assessment of the level of supply. Despite the absence of official estimates of the volume of the illegal PS market, the analysis of the dynamics of the supply level can be determined to some extent by the level of activity in the illegal PS market. The level of activity, in turn, can be characterized by three indicators: the number of registered crimes related to the illicit trafficking of PS, the amount of confiscated narcotic drugs, psychotropic substances, and their analogues, and the activity of transactions on the darknet (*Graph 1*).

⁹⁵ The Economics of Drug Control Policies / J. V. Koch, S. E. Grupp. — International Journal of the Addictions, p. 572, 1971.

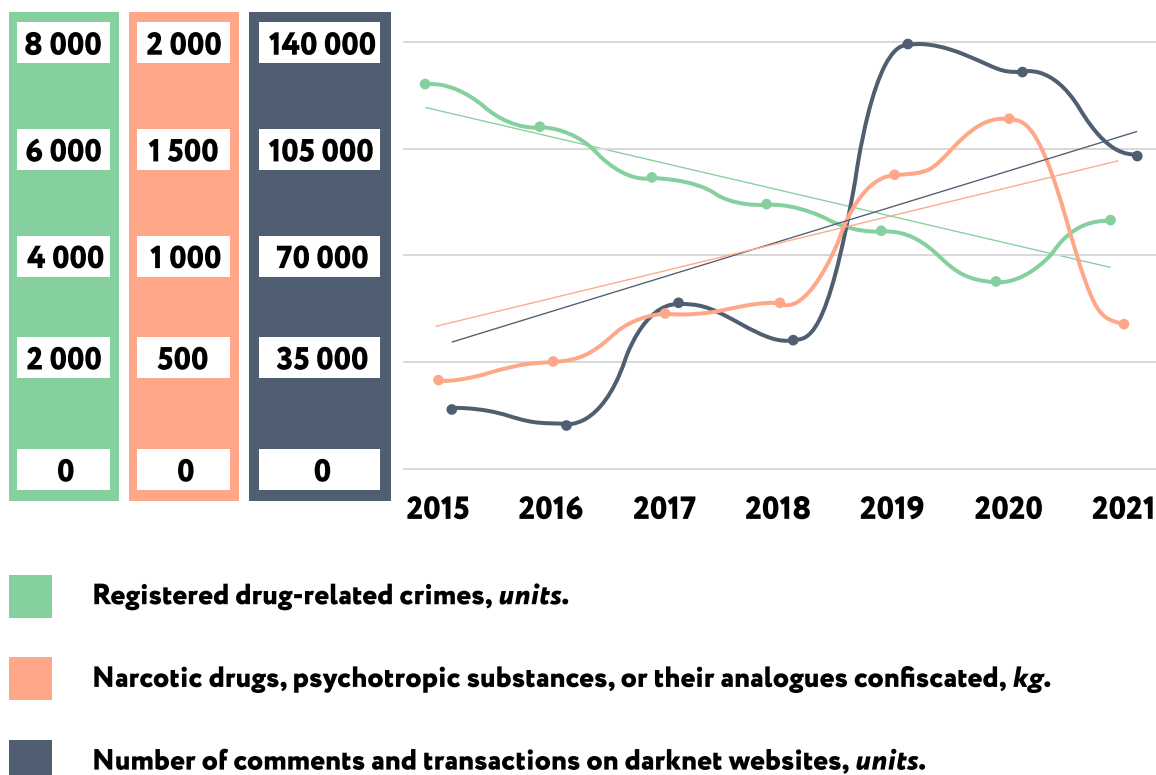
⁹⁶ Rational Addiction and the Effect of Price on Consumption / G. Becker, M. Grossman, K. M. Murphy. — The American Economic Review. p. 237–241, 1991.

The number of registered crimes in 2021 actually became less (4,707 cases) than it was recorded in 2015 (7,296 cases). At the same time, their number in 2021 has increased compared not only with 2020 (3,531 cases), marked by the beginning of the COVID-19 epidemic and partial closure of borders, but also with 2019 (4,505 cases).

The amount of confiscated narcotic drugs, on the contrary, grew throughout the specified period and in 2021 amounted to 691 kg against 430 kg in 2015. In addition, in 2019–2020, the volumes of confiscated substances amounted to record values: 1,384 and 1,656 kg, respectively.

The level of transaction activity on the darknet is reflected in the aggregate of the number of comments left and the number of transactions concluded, on the LegalRC and Hydra platforms, respectively⁸⁴. According to the Ministry of Internal Affairs, 95% of illegal PS are distributed via the Internet⁹⁷, which means that the data of the largest Internet sites on the illegal sale of PS allow us to adequately assess the market as a whole. As can be seen from the above graph, the number of comments and transactions has increased 5 times: from 20 thousand in 2015 to 103 thousand in 2021.

Graph 1: Indicators reflecting the supply of PS



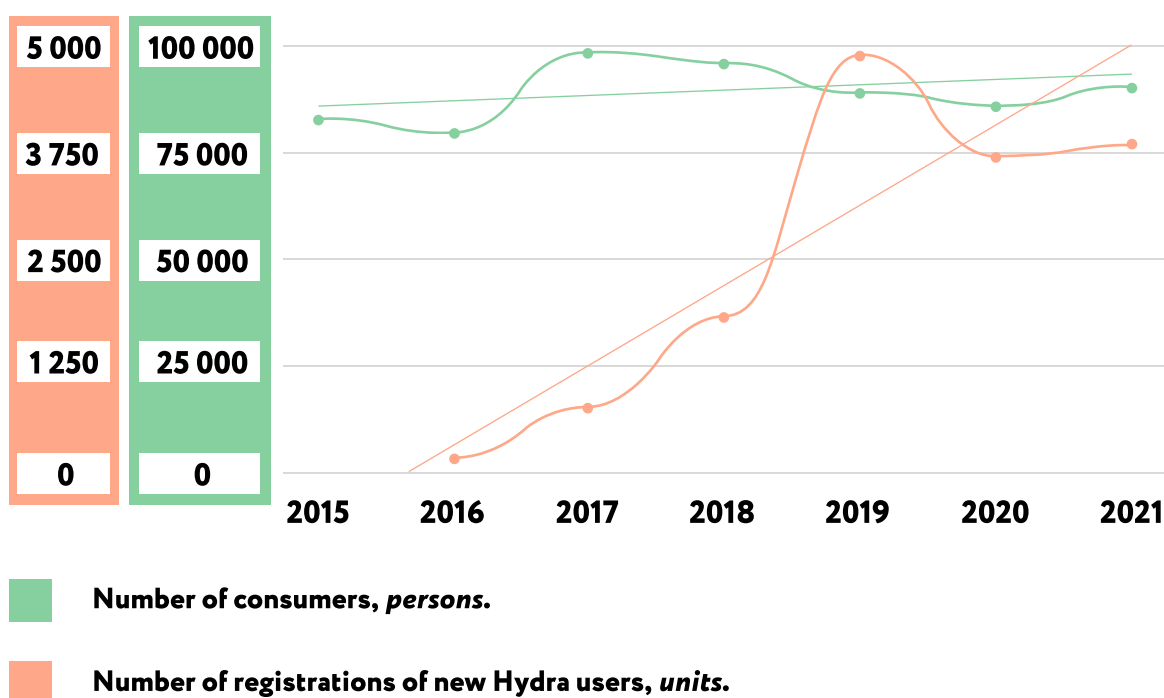
⁹⁷ Gennady Kazakevich: Chop off the hydra's head — the fight against drugs on the Internet in Belarus [Electronic resource] / The Ministry of Internal Affairs of the Republic of Belarus. — Minsk, 2019.

The analysis of the dynamics of the demand level can be based on two indicators: the number of PS consumers, as well as the number of new registrations on Hydra, a darknet website (*Graph 2*).

There are no recurrent monitoring of the number of PS users in Belarus that can provide sociological data, therefore, the so-called drug addiction latency index and data on the number of registered drug users are used for calculation. Based on official medical and law enforcement statistics for 2019, it was found that the latency index of drug use in the Republic of Belarus is about 7 units⁹⁸. Thus, by using the latency index, it turns out that the number of PS consumers has increased from 82 thousand in 2015 to almost 90 thousand in 2021. At the same time, it is not possible to identify a certain trend: in 2018–2020, there was a clear decrease in the value, before a rollback in 2021.

The number of new registrations on Hydra darknet platform shows stable growth and corresponds to the growth rate of the level of activity of transactions and comments on the entire darknet market. It is worth considering that these data do not include the websites LegalRC and Legalizer, also popular in the specified period of time, as well as the fact that at the time of December 2022 Hydra is no longer functioning.

Graph 2: Indicators reflecting the level of demand for PS



⁹⁸ Causes of drug addiction latency, effectiveness of rehabilitation and treatment methods, prevention measures, forecasting of drug situation development, directions of adjustment of measures to counter drug threat [Electronic resource] / Ministry of Internal Affairs of the Republic of Belarus. — Minsk, 2021.

Thus, the intensified fight against consumers has a rather limited impact on supply and demand. At the same time, activity indicators on darknet websites show a certain noticeable growth, although the amount of available data is clearly insufficient to judge the trend as a whole.

More notable is the surge in the spread of NPS. Thus, according to the estimates of the former head of the drug control Gennady Kazakevich, in 2017 40% of the total drug market in Belarus consisted of synthetic substances, overtaking the traditional dominance of opioids (10%) and cannabis (30%)⁹⁹. At the time of January 1, 2019, out of almost 8000 citizens under medical supervision, 37.5% were users of NPS, 60% were opioids users, and only 1.6% were cannabis users⁸⁵. In the same year, more than 60% of all offers on LegalRC and more than 30% on Hydra were alpha-PVP and mephedrone⁸⁴.

Consequently, it indirectly confirms that the prohibitive policy certainly leads to cheaper and at the same time more unpredictable substitutes for traditional PS appearing on the market. According to a survey conducted in 2019, representatives of the medical community, as well as the users of NPS themselves, agree with this conclusion⁸⁵. It is also important to note that the phenomenon is cyclical: complete criminalization, which has always existed in Belarus, led to the appearance of NPS on the market in 2013–2015 (the so-called "spice epidemic"), which in turn provoked an intensified fight in 2015–2017, the direct consequence of which was the filling of the market with even more dangerous and cheap NPS.

The price question

The main additional burden of criminalization policy falls on the law enforcement and judicial systems.

Activities related to the illicit trafficking of PS are consistently among the three most common types of crimes in Belarus.

In 2018 (*note: the most up-to-date information available*), from 18.4% (5,984 people)¹⁰⁰ to 42.2% (13,760 people)¹⁰¹ of all prisoners in Belarus who are in places

⁹⁹ Drug control answered to Mothers-328 [Electronic resource] / Sputnik Belarus, 2017.

¹⁰⁰ Figure of the day: how many people are behind bars in Belarus for drugs [Electronic resource] / Sputnik Belarus, 2019

¹⁰¹ To prison at the age of 14 with a huge term: the fight against drug trafficking in Belarus [Electronic resource] / BBC News. Russian Service, 2018.

of deprivation of liberty (32,556 people)¹⁰² were in prison under Articles 327-332 of the Criminal Code of Belarus. At the same time, in 2021, 64.7% of all persons brought to responsibility were tried under Part 1 of Article 328⁶³, aimed directly at consumers.

The volume of available data allows us to give an approximate estimate of the amount of costs for combating illicit trafficking in PS in general (*Figure 3*), as well as the amount of costs for fighting PS consumers.

To calculate the approximate amount, the corresponding expenditure items of the republican budget for 2021 are used: expenditures on bodies and organizations of the penal enforcement system, judicial authorities, prosecutor's offices, and internal affairs bodies.

To calculate the costs of detention, the average value provided by the Ministry of Internal Affairs and human rights defenders was taken: 9,872 people or 30.32%.

Taking into account the fact that the judicial authorities deal not only with criminal cases, but also with administrative, civil, and economic ones, the share of criminal cases in the total mass of other types of cases is calculated: 6.29%. At the same time, it should be taken into account that the consideration of criminal cases is more time-consuming, therefore, a coefficient of 1.76 was introduced for the balance, based on data from a study of the average time spent on the consideration of cases in Ukraine¹⁰³, a country similar in its legal structure. Thus, the costs of conducting criminal cases should be approximately 11.1% of the allocated funds, of which 5.63% fall on the activities related to sentencing under Articles 327–332 of the Criminal Code of Belarus.

It is difficult to estimate the share of expenditure of the prosecutor's office on the direct consideration of criminal cases. At the same time, according to former Prosecutor General of Belarus Grigory Vasilevich¹⁰⁴, up to 90% of all verdicts are carried out with the involvement of prosecutors. Due to the lack of data on the distribution of the workload of prosecutors by type of cases, the calculation is based on the indicators recorded in Poland, where in 2019 criminal cases accounted

¹⁰² Statistical Yearbook [Electronic resource] / National Statistical Committee of the Republic of Belarus, 2019.

¹⁰³ A report based on the results of evaluating the average time spent on considering cases to determine the load factors for judges / Marina Ogai [Electronic resource] // Kimonix International Ink – 2020.

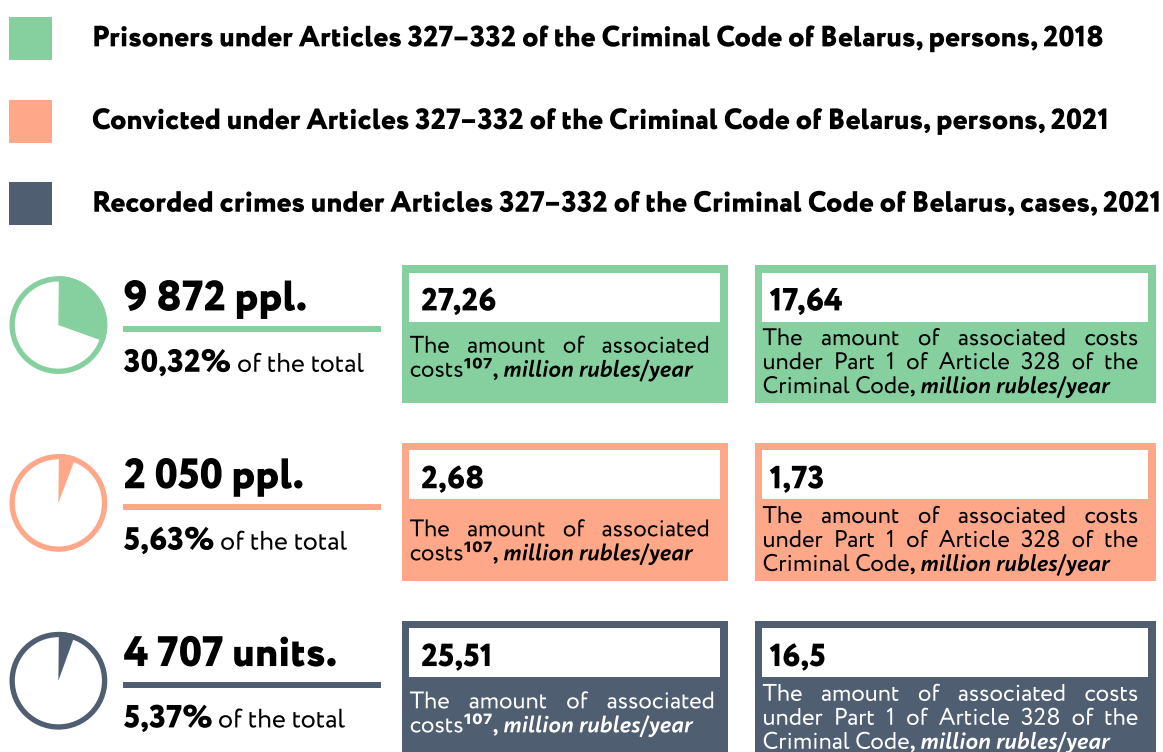
¹⁰⁴ Offenses. Law. Responsibility / G. A. Vasilevich [Electronic resource] // Law and Economics. – Minsk, 2011.

for 22.7% of all cases considered by prosecutors¹⁰⁵.

The assessment of the burden on conducting criminal cases directly in the units of the Ministry of Internal Affairs is based on available data on the number of personnel of the units¹⁰⁶, the share of criminal cases in the total mass (6.86%, with the exception of traffic police offenses excluded from general calculations), as well as using the coefficient obtained when assessing the distribution of working time in the judiciary. Crimes under Articles 327–332 of the Criminal Code of the Republic of Belarus amount to 5.37%.

Due to the limited data, the proposed estimate is approximate and may not take into account the specifics of the work in the direction of combating the illegal PS market, as well as the specifics of the work of these bodies. A more detailed analysis is possible only when the necessary statistical and monitoring data are published by the relevant authorities.

Figure 3: Costs of combat against illicit trafficking of PS



¹⁰⁵ Comparative study of methods of measuring the workload of prosecutors in selected member states of the Council of Europe [Electronic resource] / Council of Europe – 2020. [Link](#).

¹⁰⁶ ByPol [Electronic resource] / Telegram. – 2021.

¹⁰⁷ On the republican budget for 2021 : The Law of the Rep. of Belarus No. 73-Z dated December 29, 2020 // Etalon – Belarus [Electronic resource] / National Center for Legal Information of the Rep. of Belarus. – Minsk, 2006.

IN TOTAL:**55.45**The amount of associated costs¹⁰⁷, *million rubles/year***35.87**The amount of associated costs under Part 1 of Article 328 of the Criminal Code, *million rubles/year*

As can be seen from the table, the amount of direct law enforcement and judicial costs for combating illicit PS trafficking is **55.45 million rubles**. Of these, **35.87 million rubles** is the cost of persecution under Part 1 of Article 328 of the Criminal Code of the Republic of Belarus, namely of consumers who do not have a sales purpose.

Alternative models of drug policy

In addition to the direct effect of saving funds allocated to law enforcement and judicial activities associated with the implementation of a prohibitive policy, it is necessary to take into account alternative opportunities in healthcare, as well as a positive impact on the labor market.

Special attention should be paid to the problem of the spread of opioids and NPS, not only because they are preferred by more than 50% of PS consumers in Belarus, but also because they are particularly dangerous to health and their use contributes to the expansion of the HIV epidemic. Problems associated with injectable use play a significant role.

The practice of a number of European countries demonstrates¹⁰⁸ that the implementation of the so-called harm reduction policy best copes with reducing HIV-prevalence, drug overdose mortality, and other health-related risks. Harm reduction usually involves three main interventions: opioid agonist therapy (OAT), needle and syringe exchange programs (NEP), and antiretroviral therapy (ART). This approach may also include outreach work and health awareness¹⁰⁹. According to the latest estimates, the coverage of OAT in Belarus is only 3.7% of all people who inject drugs (PWID), the coverage of ART among PWID and people with HIV is 40.5%, the coverage of NEP in the civil sector is 69.4%¹¹⁰. At the same time, the estimated cost of OAT per person per year is 1,476 rubles and 810 rubles for ART. Cost-effectiveness studies have shown that OAT can help to save funds while

¹⁰⁸ D. Riley, N. Thomson, J. Monaghan, M. Jardine / Training manual for law enforcement officers on the provision of HIV services for people who inject drugs // UNODC. — Vienna, 2014.

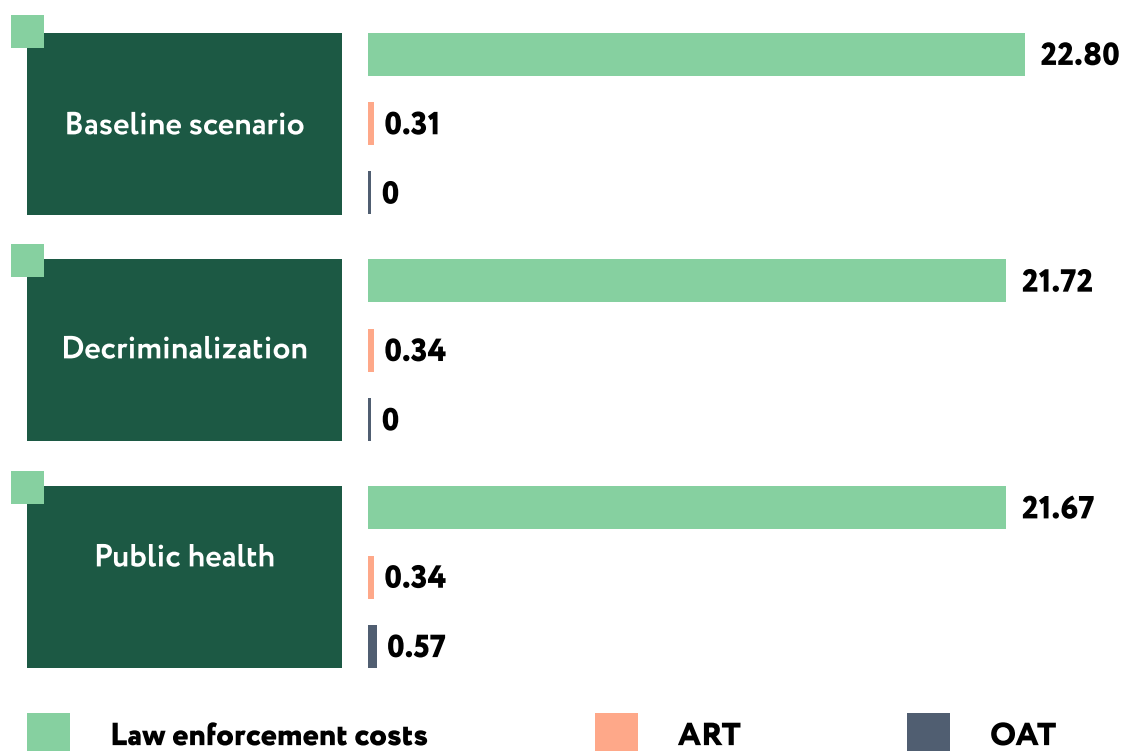
¹⁰⁹ European Monitoring Center for Drugs and Drug Addiction. Health and social responses to drug problems: European Guidelines / Publishing House of the European Union. — Luxembourg, 2017.

¹¹⁰ Drug policy in Eastern Europe and Central Asia: economic, medical, and social consequences [Electronic resource] / The Economist. Intelligence unit. — 2021.

taking into account the reduction in crime^{111, 112}.

Taking into account the data obtained, as well as based on the modeling of the impact of decriminalization and expansion of public health programs proposed by The Economist¹¹⁰, 3 scenarios of the drug policy of Belarus, their cost to the state and consequences in healthcare are calculated: the baseline scenario (continuation of the prohibitive policy), the scenario of decriminalization of the storage and use of PS without a marketing purpose (without investment of the saved funds in medicine), a public health scenario (with reinvestment of saved funds in healthcare) (*Figure 4*).

Figure 4: Drug policy scenarios for Belarus (billion rubles)



The calculations were made for a period of 20 years (2023–2043), taking into account the inflation rate of 3%, as well as maintaining the level of drug use, law enforcement efforts, and judicial statistics at the current level.

In the baseline scenario, the total amount of law enforcement costs over 20 years

¹¹¹ M. Chetty, J. Kenworthy, S. Langham, S. A. Walker, V. S. Dunlop / A systematic review of economic models of treatment with opioid agonists in the supportive treatment of over-the-counter opioid addiction // *Narcological science and clinical practice*. – 2017, 12 (1): 6.

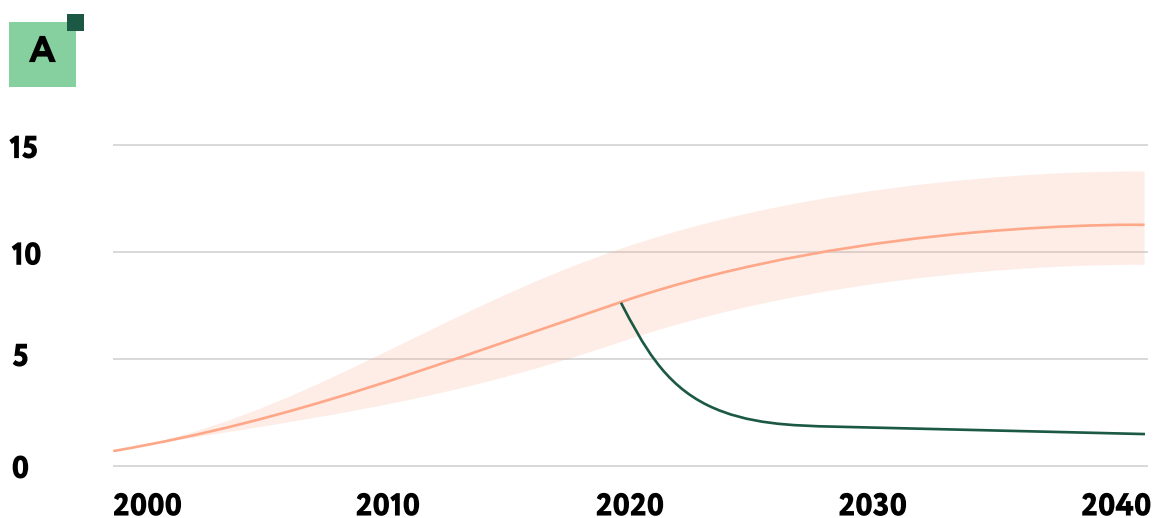
¹¹² The use of opioid substitution therapy in the treatment of opioid use disorders: the results of a British study on economic efficiency modeling / J. Kenworthy, A. Wright, J. Brown, V. S. N. Dunlop // *MedEcon*. 2017; 20 (7): 740–8.

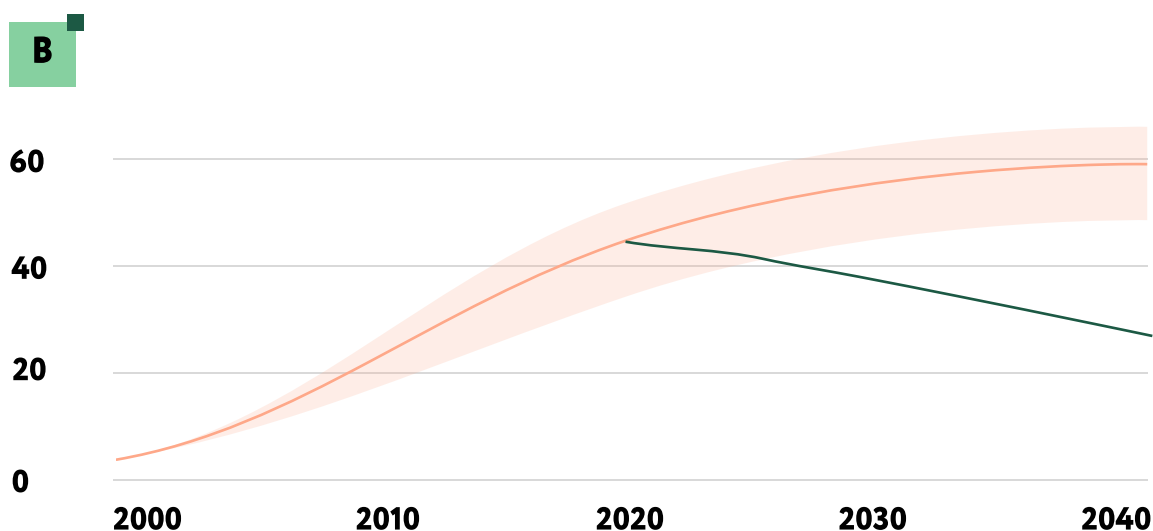
will amount to 22.8 billion rubles. At the same time, the amount of ART expenditures (for basic coverage of 39.6%) aimed at maintaining the lives of people living with HIV and preventing HIV infection will amount to 0.31 billion rubles.

The decriminalization scenario will reduce law enforcement costs by 1.03 billion rubles and increase labor productivity by 45.4 million rubles, thanks to the exclusion of consumers from correctional institutions, allowing them to fully participate in the country's economy, as well as the expansion of the ART program (up to 43.7%), access to which is significantly limited in correctional institutions.

The public health scenario will not only reduce law enforcement costs by the same amount, but will also allow for an even greater increase in labor productivity (by 100 million rubles) due to an even greater expansion of the ART program (up to 83.8% according to the recommendations of UNAIDS/WHO) and by expanding the OAT program (up to 40% according to the recommendations of UNAIDS/WHO), contributing to the treatment of addiction and the ability for dependent consumers to fully function even during the treatment period. At the same time, the net savings will amount to 537 million rubles, which in turn can be directed to educational prevention or treatment for non-opioid addictions.

Graph 3: Forecast for the level of new HIV diagnoses among PWID (A) and the level of the total share of people living with HIV among PWID (B)





Following the public health scenario will not only significantly reduce the % of new HIV infections among PWID (a), but will also contribute to reducing the overall proportion of people living with HIV among PWID (b) in the 20 future years. Thus, reinvesting the funds saved from decriminalization will allow meeting the targets recommended by UNAIDS and WHO and will significantly reduce the spread of the HIV epidemic.

Conclusion

The analysis carried out in this document demonstrates both the economic and law enforcement inefficiency of the prohibitive policy. In the foreseeable future, the law enforcement system can hardly cope with the tasks set by the state: the continuing, albeit intermittent, but still growing demand for PS, as well as the expansion of the PS market, including particularly dangerous NPS. At the same time, most of the efforts are directed at combating consumers who are not engaged in the distribution of PS and do not contribute to organized crime. The calculation of economic efficiency, as well as alternative scenarios modeling show that decriminalization and decriminalization, coupled with reinvestment of saved funds in medicine, are less costly for the budget and can directly contribute to improving the quality of life and welfare of Belarusian citizens.

It is also worth noting that insufficient accountability and transparency of state institutions does not allow for a full analysis of the effectiveness of the measures taken. The Belarusian authorities should provide more statistical data so that independent researchers can carry out in-depth analysis and monitoring on an ongoing basis.

In addition, the analysis carried out in this chapter does not include possible approaches to the legalization of a number of PS, in particular medical and industrial cannabis, the development of the market of which can bring additional income to the Republic of Belarus and increase the scale of harm reduction policy.

CHAPTER 6

The Educational Aspects of Drug Policy (Raising Awareness in Educational Institutions, NGO Work, Harm Reduction Programs)

Introduction

Education plays an important role in overcoming the challenges associated with psychoactive substances. In 2020, in the world, among all people using PS, about 13.6% had problems related to their use (addiction and/or need for medical services)¹¹³. Social damage can also be added to this: for example, driving under the influence.

The documents of UN agencies related to education in the field of PS¹¹⁴ speak about the prevention of use in general. But in other areas related to PS, in recent years there has been a departure from the fight against use as such; the focus is shifting to the fight against problems caused by use. This is just beginning to affect education, but already there are examples of educational projects built on a new paradigm: Drug Education Resources from Drug Policy Alliance¹¹⁵; Drug Education Youth¹¹⁶; Teacher, Teacher, Take a Dose of Knowledge from Krytyka Polityczna¹¹⁷.

Drug Policy Alliance offers a course for high school students in the USA¹¹⁸. During 15 lessons, it tells about various types of drugs that change the state of consciousness, the concept of harm reduction, physical and mental health, and so on. Such a series of lessons could be adapted for Belarusian schools.

¹¹³ World Drug Report [Electronic resource] / UNODC. – 2022, p. 29.

¹¹⁴ Education sector responses to the use of alcohol, tobacco and drugs [Electronic resource] / UNESCO. – 2017.

¹¹⁵ Drug Education Resources [Electronic resource] / Drug Policy Alliance.

¹¹⁶ Drug Education Youth [Electronic resource].

¹¹⁷ Teacher, Teacher, Take a Dose of Knowledge [Electronic resource] / Krytyka Polityczna. – 2019.

¹¹⁸ Safety First: Real Drug Education for Teens [Electronic resource] / Drug Policy Alliance. – 2022.

General principles

In accordance with the concept of harm reduction¹¹⁹, the goals of education on PS are to preserve and improve the health and quality of life of people, within the unconditional framework of human rights.

Education may include, but is not limited to, the following topics:

- types of PS, their history, methods of use,
- positive, neutral, and negative short- and long-term effects on the nervous system and the body as a whole,
- addiction,
- risk reduction,
- international and local laws, human rights, and law enforcement practice.

According to the Drug Policy Alliance, education must comply with the following principles¹²⁰:

- to be scientifically correct;
- to be objective, i. e. not to reduce or exaggerate the risks, and to imply that not all PS carry the same risk;
- to be interactive;
- to take into account that some young people will use and (or) distribute PS;
- not to force anyone to prefer a certain choice.

According to the International Drug Policy Consortium¹²¹, preventive programs (including educational ones) must meet the following criteria:

- to be based on existing performance indicators within available resources;

[119](#) What is Harm Reduction? [Electronic resource] / Harm Reduction International. – 2022.

[120](#) Safety First: Real Drug Education for Teens [Electronic resource] / Drug Policy Alliance.

[121](#) IDPC Drug Policy Guide International [Electronic resource] / Drug Policy Consortium, p. 34.

- not to contradict accepted international standards;
- to have clear goals that are realistic in local conditions;
- not to increase the stigma and marginalization of people who use PS;
- to be amenable to short- and long-term evaluation of the process and results to determine the consequences and effectiveness;
- to be modified for a changeable drug scene (new ways of use, new substances, etc.).

However, according to Drug Education Youth¹²², evaluation of results is not always possible. And according to UNESCO, randomized controlled trials most accurately assess the effectiveness of various approaches; at the same time, they require significant resources and expertise and therefore are not always possible¹²³.

The language used when discussing people who use PS significantly affects how such people perceive themselves and are perceived by others. Incorrect language can create stigma, and stigma can lead to discrimination. To avoid this, one needs to use respectful language¹²⁴.

Let's divide the education audience into groups, and consider them in more detail below:

- **Young people**
- **Teachers, social workers, and government workers**
- **Specialists whose activities are related to human behavior**
- **Risk groups**
- **Vulnerable groups**
- **The rest of society**

Young people

Tens of thousands of young people in Belarus use controlled psychoactive

¹²² How to communicate with young people about drugs [Electronic resource] / Drug Education Youth, p. 40. — 2022.

¹²³ Education sector responses to the use of alcohol, tobacco and drugs [Electronic resource] / UNESCO. — 2017, p. 56.

¹²⁴ How to communicate with young people about drugs [Electronic resource] / Drug Education Youth, p. 35. — 2022.

substances¹²⁵. When educators ignore this fact and make young people "say no to drugs", a number of problems arise: young people do not have the knowledge and skills to make conscious decisions, do not seek help and do not receive it in case of problems, and they start to mistrust and dismiss the information from adults. Thus, any approach to education that focuses on the safety of young people should not only encourage them to avoid PS, but also provide information on how to reduce the risk if they or their friends use psychoactive substances. In other words, how to follow the concept of responsible use¹²⁶.

Modern official events for Belarusian youth almost never recognize responsible use nor teach it^{127, 128, 129}. Concurrently, they often focus on the legal consequences, and not on the consequences for the body. On the one hand, this is justified, since the harm from criminal prosecution often exceeds the harm from the use. On the other hand, there is much less time left for the transfer of knowledge about health risks and reducing them than there could be within a health-oriented approach.

An important factor protecting adolescents from addiction is the absence of psychological trauma¹³⁰. It means that educational institutions in general should be comfortable for students, i. e. safe, ruling out bullying.

The content and concepts of the training programs can be divided into two categories¹³¹:

- 1** Aimed at those personal and social skills that are associated with the beginning and continuation of PS consumption. This includes responsible decision-making and goal setting, self-control, emotion management, and social relationship skills. Suitable for teenagers before or during the typical

¹²⁵ What you need to know about drugs [Electronic resource] / Belarusian State Medical University. – 2022.

¹²⁶ Responsible drug use [Electronic resource] / Wikipedia.

¹²⁷ For parents and children about criminal and administrative responsibility [Electronic resource] / Chechen State Technical College. – 2022.

¹²⁸ Drugs. Responsibility. Consequences [Electronic resource] / Belarusian State University of Informatics and Radioelectronics

¹²⁹ Drug addiction is killing the future! [Electronic resource] / Belaya Rus.

¹³⁰ Traumatic childhood may increase the risk of drug addiction [Electronic resource] / University of Cambridge.

¹³¹ Education sector responses to the use of alcohol, tobacco and drugs [Electronic resource] / UNESCO, p. 38.

age of first use: about 13 years¹³².

2 Aimed at providing specific knowledge about PS, including effects and consequences. Suitable for teenagers past the typical age of first use.

Indeed, self-responsibility and the ability to make informed decisions looks like a critical skill. When confronted with a psychoactive substance, a teenager may ask questions such as "What is this substance?", "How much is that?", "Do I want to take it?", "Why do I want to take it?", "What harm can it bring?", "Which ways of using it are the least harmful?", "What will I do in case of harm?". A large-scale study on the testing of PS at music festivals in the UK¹³³ showed that 61% of people decide not to use the purchased psychoactive products if the test result shows that their composition is completely or partially not what was expected. This principle of responsible use can reduce the risks for young people outside of festivals as well. Groups of educators and harm reduction providers are needed both at festivals and clubs, and in any places where young people like to gather and spend time¹³⁴.

In order to reduce the damage from stigmatization and respect the rights of the child, the following practices of Belarusian educational institutions should stop:

- unexpected testing for PS consumption (urine, blood, hair, etc.),
- show trials and detentions in front of classmates¹³⁵,
- unexpected searches in dormitories using dogs^{136, 137}.

Drug testing, dog searches, strip searches, and similar serious interventions in a teenager's private life should be thoroughly checked for violations of the rights of the child before implementation, and carried out only in a situation of extreme

¹³² Education sector responses to the use of alcohol, tobacco and drugs [Electronic resource] / UNESCO, p. 9.

¹³³ Who uses drug checking services? Assessing uptake and outcomes at English festivals in 2018. [Electronic resource] / Drugs, Habits and Social Policy (volume 23, issue 3). – 2022.

¹³⁴ How to communicate with young people about drugs [Electronic resource] / Drug Education Youth, p. 30. – 2022.

¹³⁵ What is "shock prevention"? Show trials of Belarusian teenagers are held for their peers, as well as trials of drivers for students of driving schools [Electronic resource] / Mediazona Belarus. – 2021.

¹³⁶ Drugs and "extremists": a raid was organized on a vocational school dormitory in Kobrin [Electronic resource] / Malanka.Media. – 2021.

¹³⁷ "Children are becoming more conscientious". We joined operatives on a raid to search for drugs in a student dormitory [Electronic resource] / Belarus Today. – 2021.

necessity¹³⁸. In general, the evidence in support of student usage testing is very limited, and most studies have not revealed a preventive effect¹³⁹. The visit of the police with dogs to classes, as well as the use of other approaches based on intimidation, also does not contribute to the prevention of problematic use in adolescents¹⁴⁰.

One of the methods recommended by UNODC¹⁴¹ and Drug Education Youth¹⁴², which allows one to teach healthy behavior to young people effectively, is the use of peer-to-peer mentors (or P2P). A peer-to-peer mentor can be a person who has experience related to PS and has the same age, gender, sexual orientation, profession, economic and social status, or health status¹⁴³. Young people are often cynical about information from health authorities. They feel that government officials are trying to manipulate them by providing propaganda instead of reliable and balanced information¹⁴¹. The best approach for them is to present a relevant, objective view on PS and the true consequences of their use. Young people will respect such classes and will be able to make an informed choice in the future. Peer mentors know how to communicate with their peers in a way that makes sense to them. This is a distinctive feature of P2P education. The participants of the classes can get to know each other on equal terms, share their stories and experiences. An open exchange of personal stories leads to the formation of strong relationships between peers, and they develop a sense of connection with others. Most people usually listen to the person with whom they may have a similar relationship. They willingly turn to such a person for advice and help¹⁴⁴.

When planning any course and choosing certain psychoactive substances to focus on, one should pay attention to the most common ones. According to WHO,

-
- 138 Human rights in drug policy: a self-assessment tool [Electronic resource] / Council of Europe, Pompidou Group, p. 25. — 2021.
 - 139 Education sector responses to the use of alcohol, tobacco and drugs [Electronic resource] / UNESCO, p. 45.
 - 140 How to communicate with young people about drugs [Electronic resource] / Drug Education Youth, p. 41.
 - 141 Peer to peer. Using peer to peer strategies in drug abuse prevention [Electronic resource] / UNODC. — 2003. p. 15.
 - 142 How to communicate with young people about drugs [Electronic resource] / Drug Education Youth, p. 48.
 - 143 How to communicate with young people about drugs [Electronic resource] / Drug Education Youth, p. 49.
 - 144 Peer to peer. Using peer to peer strategies in drug abuse prevention [Electronic resource] / UNODC. — 2003. p. 12.

alcohol is the most popular PS among young people¹⁴⁵. It is also one of the most harmful among the entire spectrum of substances¹⁴⁶. However, in Belarus, the risk of criminal prosecution is added in the use of illegal psychoactive drugs, whereas there is no risk in the use of legal alcohol. This significantly affects the choice of young people, and this should be taken into account when planning a course. The local situation is also of great importance, which may include the availability of certain substances, prices, local culture of use, etc. Even the proximity of the educational institution to a store with alcohol or cigarettes can be of influence.

School

WHO recommends that adolescents up to the typical age of first use should be taught personal and social skills that help healthy emotional and communicative development, omitting the effects of substances, consequences, and ways to reduce harm¹⁴⁷. At this stage, it is important to ensure that students attend classes, make progress, are socially active and generally happy¹⁴⁸.

During and after the typical age of first use, it is recommended to add specific knowledge about PS, their effects and consequences to the program¹⁴⁸. An adapted course from the Drug Policy Alliance¹⁴⁹ or a similar one could be suitable for students of grades 8-9 of a Belarusian school. Programs of 10 or more classes are the most effective, and it is recommended to conduct lessons at least once a week for several years¹⁵⁰.

The methods of PS education that have proven effective for young people include: broad coverage of topics, sufficient duration of the program, involvement in the process, focus on short-term consequences, attention to age, voluntary participation, trust, etc¹⁵¹.

¹⁴⁵ Education sector responses to the use of alcohol, tobacco and drugs [Electronic resource] / UNESCO, p. 18.

¹⁴⁶ Drug harms in the UK: a multicriteria decision analysis [Electronic resource] / The Lancet. — 2003.

¹⁴⁷ Education sector responses to the use of alcohol, tobacco and drugs [Electronic resource] / UNESCO, p. 37.

¹⁴⁸ Education sector responses to the use of alcohol, tobacco and drugs [Electronic resource] / UNESCO, p. 44.

¹⁴⁹ Safety First: A Comprehensive, Harm-Reduction-Based, Drug Intervention Curriculum [Electronic resource] / Drug Policy Alliance.

¹⁵⁰ Education sector responses to the use of alcohol, tobacco and drugs [Electronic resource] / UNESCO, p. 40.

¹⁵¹ How to communicate with young people about drugs [Electronic resource] / Drug Education Youth, p. 42.

School classes give better results if they involve interaction between the students themselves, and not just between teachers and students¹⁵². This is especially important for elementary school.

The school course of biology or health and wellness can include a separate section on the use of psychoactive substances in medicine, since many PS have important medical and (or) scientific significance¹⁵³.

Each educational institution can introduce a general algorithm for responding to cases of PS use among students¹⁴⁸. Have their own policy regarding psychoactive substances¹⁵⁴, as well as a medical service whose employees help with mental problems. Such a function can be performed by a psychologist. This position already exists in many Belarusian schools¹⁵⁵.

Non-specialized institutions of post-secondary education

The examples of events in public institutions listed above show that the current official approach to PS education is definitely one-sided. In institutions of secondary vocational and higher education in specialties not related to PS, it is limited to lectures on life safety, inspections of dormitories, actions and posters "against drugs" from the Belarusian Republican Youth Union and the "student activists". At the same time, in theory, if youth organizations were independent in choosing their activities, they could organize harm reduction activities, among other things.

The discussion of psychoactive substances can be integrated into lectures and seminars on the basics of law, revealing the state of legislation in Belarus and the world and its application, allowing students to form their own opinion. Historical, religious, cultural studies can also touch upon the phenomenon of PS, since they had an impact on these branches of human activity.

Teachers, social workers, and government workers.

Adapted to the Belarusian conditions, Drug Policy Alliance materials aimed at

[!\[\]\(7294993fb1bbe2afbeb9b19d00db5332_img.jpg\)](#) **152** Education sector responses to the use of alcohol, tobacco and drugs [Electronic resource] / UNESCO, p. 38.

[!\[\]\(e598ffc4fb50c546c17b948a0c264bfa_img.jpg\)](#) **153** Psychoactive drug [Electronic resource] / Wikipedia.

[!\[\]\(bdbe5c2a9369dcb25db0198c79fa539d_img.jpg\)](#) **154** Education sector responses to the use of alcohol, tobacco and drugs [Electronic resource] / UNESCO, p. 46.

[!\[\]\(68a0ca572836595835c5559d81f60620_img.jpg\)](#) **155** Education sector responses to the use of alcohol, tobacco and drugs [Electronic resource] / UNESCO, p. 51.

teachers¹⁵⁶ can help convey basic information and change the current climate of obscurantism and spreading myths among teachers and employees of social and state institutions.

At the same time, personal trainings for teachers from professionals show better results than training on methodological materials and videos¹⁵⁷.

When training school teachers, it is important to pay attention to specific problems that they may face, such as social stigma, priorities set by the educational institution or the authorities, funding, lack of experts, the structure of the educational program, etc¹⁵⁸.

It seems appropriate to train the following groups:

- teachers, social educators, school psychologists, curators of groups in colleges and universities,
- employees of social services, as well as those who deal with PS in their professional activities,
- judges, prosecutors, prison officers¹⁵⁹, - police officers, and employees of the internal troops,
- civil servants holding senior positions: deputies, mayors, etc.
- employees of state media, primarily journalists and editors,
- medical staff: doctors, paramedics, junior medical staff.

Program planning should comply with such principles as the establishment of clear educational goals, interdisciplinarity, synchronization between national and international organizations, professional ethics, etc¹⁶⁰.

156 Beyond Zero Tolerance: A Reality-based Approach to Drug Education & School Discipline [Electronic resource] / Drug Policy Alliance. – 2013.

157 Education sector responses to the use of alcohol, tobacco and drugs [Electronic resource] / UNESCO, p. 42.

158 Drug Education in Dutch Universities [Electronic resource] / Athena Institute. – 2018.

159 Drug-treatment systems in prisons in Eastern and South-East Europe [Electronic resource] / Council of Europe, p. 68.

160 Portuguese drug strategy [Electronic resource], p. 102.

Risk groups and vulnerable groups

A risk group is a group of people who are most sensitive to certain medical and social circumstances or environmental influences¹⁶¹.

Examples of risk groups:

- people detained on suspicion of crimes related to PS,
- young offenders,
- teenagers who dropped out of school,
- visitors to music festivals and raves,
- marginalized ethnic minorities,
- children without parents,
- children from dysfunctional families, families where parents have a history of problematic use of PS.

A vulnerable group is a group of people with specific characteristics that increase the risk of falling into poverty¹⁶².

Examples of vulnerable groups:

- people released from prison,
- people living with HIV,
- sex workers,
- people who inject PS,
- people on substitution therapy,
- transgender people,

¹⁶¹ Risk group [Electronic resource] / Wikipedia.

¹⁶² Vulnerable groups [Electronic resource] / United Nations Economic and Social Commission for Western Asia.

- men who have sex with men,
- people who have survived violence.

Such at-risk and vulnerable groups may need education on PS to reduce the risk of harm from them.

These groups need to be given an affordable opportunity to voluntarily, free of charge, and anonymously obtain basic knowledge, supplemented with information important to a particular group, if any. For visitors of raves, this may be detailed information about stimulants and euphoretics; for people who use PS by injection it can be harm reduction methods for this way of use, etc.

For a group of people detained on suspicion of minor crimes related to PS, an educational course can even become an alternative to punishment. Such a measure may be more effective, since it reduces the likelihood of recidivism and does not bring stigma and discrimination associated with incarceration¹⁶³. In addition, no direct relationship between the prevalence of the use of PS and the severity of penalties has been identified¹⁶⁴.

Specialists whose activities are related to human behavior

Detailed programs on PS should be in the curriculum of those students of professional educational institutions who will deal with this issue in their work. First of all, these are students of medical and other biological specialties. Second, the students of sociology, social security, law and communication, and education.

The approach should be based on the existing system of professional education, the achievements of world evidence-based medicine, and the general principles described in the introductory part of this section.

Society

The available data show that media campaigns are expensive and are not effective in reducing the level of PS usage, while at the same time they increase the stigma

163 Inter-American Drug Abuse Control Commission. Technical report on alternatives to incarceration for drug-related offenses [Electronic resource], p. 24.

164 Toward a Global View of Alcohol, Tobacco, Cannabis, and Cocaine Use: Findings from the WHO World Mental Health Surveys [Electronic resource] / L. Degenhardt, Wai-Tat Chiu, N. Sampson, R. C. Kessler, J. C. Anthony, et al. // PLOS Medicine. – 2008.

which is high already¹⁶⁵. Therefore, it seems ineffective to conduct such campaigns at the state level; it will be enough not to create obstacles to non-governmental organizations which educate the population. It seems useful to create a website and a hotline for those who want to learn more about PS themselves. Some groundwork for this has already been done: there is an information resource Pomogut.by¹⁶⁶, created under the Ministry of Internal Affairs. It could be developed and expanded with the help of medical specialists. Such an Internet page would be useful for young parents, family members of people with problematic use, young people who need to make a choice and others.

Conclusion

Education on psychoactive substances can effectively achieve its goals if it is redirected from intimidation to the transfer of accurate, balanced knowledge, without imposing a certain choice and misinformation.

Knowledge that can be useful to a wide range of people should be available to everyone through open sources of information. Some groups, such as youth, social workers, risk groups and vulnerable groups, etc. require specialized approaches to education and attention to group-specific features of their interaction with PS.

Education on psychoactive substances should be humanistic in its essence, focus on human rights, pay attention to people's personal choices, and use respectful, inclusive language.

Effective education is impossible without decriminalizing PS use. Fear of persecution hinders numerous risk reduction measures, such as open discussion of use, testing of the composition and purity of substances, willingness to call for help in case of overdose, etc. Criminalization does not solve problems, but creates additional ones¹⁶⁷.

Some high-quality modern projects on PS education, which should be used as a guide when developing specific programs: Drug Education Youth¹¹⁶, Drug Education Resources from Drug Policy Alliance¹¹⁵, Krytyka Polityczna¹¹⁷.

¹⁶⁵ IDPC Drug Policy Guide [Electronic resource] International Drug Policy Consortium, p. 36.

¹⁶⁶ Information resource for people who faced drug addiction [Electronic resource]

¹⁶⁷ Krytyka Polityczna [Electronic resource] Nauczycielu, nauczycielko zażyjcie dawkę wiedzy, p. 137.

Recommendations

Healthcare:

Transfer groups of substances used for therapy and research (cannabinoids, MDMA, psilocybin) from List 1 (especially dangerous narcotic drugs and psychotropic substances not used for medical purposes) to List 2 (permitted for controlled circulation) of the Republican List of Narcotic Drugs, Psychotropic Substances and Their Precursors, Subject to State Control in the Republic of Belarus;

Involve international experts in pharmacology at interdepartmental meetings and round tables, as well as to present at such meetings reviews of international research in use of new substances for medical purposes.

Law:

Recognize that the policy of increasing the punishment for crimes in illicit drug trafficking is inefficient.

Bring legislation into line with international law and human rights standards.

Decriminalize the storage of small amounts of PS for personal usage. The decriminalization policy should be accompanied by the expansion of medical and other social services to eliminate the risks associated with the use of PS.

Delineate criminal liability in illicit trafficking of PS depending on the quantity and type of substances, as well as the harm caused and the profit gained.

- Introduce the concepts of *insignificant*, *significant*, *large*, and *especially large* amounts of substances into the Criminal Code.
- When determining the degree of responsibility, it is necessary to take into account the nature of the crime, as well as the degree of harm caused to other people, the amount of the profit received, and the criminal's place in the system of illicit trafficking of PS.
- Rank the amounts of PS in the legislation, depending on their actual and potential harm to health, *potential for medical and recreational use*, as well as potential for abuse.

Consider the possibility of imposing a non-custodial sentence for small distributors and persons who have committed crimes for the first time. Creation of commissions for offenders to identify the causes of crimes, similar to the Portuguese experience¹⁷¹.

Revise the concept of the sale of narcotic drugs in the legislation. Consider sale as the act of transferring controlled substances in order to extract profit.

Set the age of criminal responsibility under articles related to illicit trafficking of PS to 16 years.

Establish upper limits on the punishment by deprivation of liberty for minors. These terms should not be equated with the terms that adults are sentenced to.

Reduce the upper limits of punishments by half in all parts of Article 328 of the Criminal Code.

¹⁷¹ Portugal National Drug Strategy [Electronic resource] / Council of Ministers. — Portugal, 1999. Ch. 4, p. 30.

Exclude the illegal practice of depriving convicts under Article 328 of the Criminal Code of the right to parole and replacement of punishment with a more lenient one.

Change the established judicial practice of unjustified qualification of actions in illicit drug trafficking as being part of an organized group.

Change the established approach to the legalization of the materials of the OIA as evidence, fixing in the Criminal Procedure Code the right of the defender and the accused to get acquainted with such materials on an equal basis with the court and the prosecutor.

Recognize as discriminatory the policy of creating "unbearable conditions for serving sentences" to persons who have committed crimes under Article 328 of the Criminal Code.

Recognize as discriminatory the provisions of the Amnesty Law of 2022, differentiating the application of amnesty depending on the age of the person who committed the crime under Article 328 of the Criminal Code.

Start a discussion on the introduction of forms of legal trafficking of certain PS in order to reduce illegal markets and the proceeds of organized crime, as well as improve people's health and quality control of PS. Consider legalizing cannabis for industrial, medical, and recreational purposes.

Actively involve non-governmental organizations, members of the community of PS users and OST patients in the development of new legislation and drug policy. Observe the principle "Nothing about us without us".

When developing criminal legislation, use the draft law developed by the Youth Bloc public initiatives and the Mothers' Movement on the reform of Article 328.

Create an office of a Special Commissioner whose functions will include monitoring the observance of human rights in drug policy and among vulnerable groups.

Education:

Education on psychoactive substances should be humanistic in its essence, focus on human rights, pay attention to people's personal choices, and use respectful, inclusive language.

Effective education is impossible without decriminalizing PS use. Fear of persecution hinders numerous risk reduction measures, such as open discussion of use, testing of the composition and purity of substances, willingness to call for help in case of overdose, etc. Criminalization does not solve problems, but creates additional ones.

Economy:

The relevant agencies and the national statistical committee need to openly publish all available statistics on people with drug addiction, crimes associated with PS, as well as the costs of implementing the current drug policy to make a subsequent analysis by independent researchers possible.

The government should familiarize itself with the aspects described in the chapter and consider alternative approaches as potential main ones in order to save funds, as well as increase the welfare of Belarusian citizens.

All interested parties should study in more detail the economic and other aspects of the possible legalization of a number of PS (in particular cannabis) able to make a positive contribution to the growth of gross domestic product, as well as significantly reduce the budget costs of relevant departments.