

Submission for WGAD study arbitrary detention relation to drug policies

(In reference to HRC resolution 42/22 requesting a study on arbitrary detention relating to drug policies)

- 1. Please provide information concerning the number of people held in pre-trial detention as well as the number of those who are imprisoned pursuant to a conviction for drug-related offences. Please indicate what percentage of the total pre-trial detention population are being held for drug-related offences. For those convicted of drug-related offences, what percentage of this group have been imprisoned for acquisition, use or possession of drugs for personal use? How many people convicted of drug use belong to disadvantaged groups?**

A: No information available

- 2. Does your state consider the acquisition, use or possession of drugs for personal use a minor offense within the meaning of this term as set out in the United Nations Convention against illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988? If so, what percentage of people arrested for the acquisition, use or possession for personal use of drugs are diverted out of the criminal justice system and what alternative measures, if any, are such people subjected to?**

A: With regards to the number of people arrested for the acquisition, use or possession of drugs for instance, in 2018, 1075 persons were arrested and 318 of them were referred to treatment thus reaching a 30 percent referral rate among all people arrested for acquisition, use or possession of drugs.

The alternatives to sentencing at the trial stage include the implementation of the Law of the accused drug users or drug dependent persons of 2016. The law provides for accused drug-related offenders that can apply for the issuance of a treatment decree instead of receiving a prison sentence. For this to happen however, they must go through a committee which will evaluate the accused and make a recommendation to the court; the ministerial council has authorized the Ministry of Health to appoint members of the said evaluation committee. The Consultative Committee established under this legislation consists of a

Representative of the Attorney General (including a second nominated substitute), a member from the Ministry of Health (including a second nominated substitute) and a Member from NAAC (including a second nominated substitute). This advisory committee works closely with the MHS and the Nursing services for the evaluation of the applicant as regards the substance use disorder and their mental health, as well as the professionals from treatment services which applicants can be referred on to, according to the legislation. The Committee is responsible for submitting an overall assessment of the accused / convicted to the Court which decides to issue a decree for their referral to treatment. Treatment may last from 3 months to a maximum of 24 months. People convicted / accused of a felony or drug trafficking are excluded from the legislation. When the legislation was initially enforced, the target group were both individuals who were accused of committing a drug-related offense, and individuals who were already serving a prison sentence, a category which was later eliminated and no longer applies. In addition, offense criteria were written in such a way that most drug-related offenses were excluded by the law. The 2017 amendment indicated that offenders which received sentences prior the effect of the law were excluded from requesting the issuance of a treatment decree. The amendment also indicated that all drug-related accused persons can apply for a treatment alternative under the provisions of this law, as long as the offense committed is not “possession with the intent to supply a control substance, the importation of a controlled substance and the marketing of a controlled substance”, or offenses that carry a prison sentence lasting over 10-years.

- 3. Has your state decriminalized the acquisition, use or possession of illegal drugs for personal use? If so what drugs does this apply and what are the amounts considered to be for personal use? What is the legislative or judicial basis for**

such decriminalization? If decriminalization has not taken place, what penalties apply to the acquisition, use or possession of illegal drugs for personal use?

A: No information available

4. What types of circumstances have led to unlawful and arbitrary arrest of people in your State for drug related offenses? What structures/institutions are in place so that people who are arrested for drug-related offence can make a complaint about unlawful and arbitrary arrest and detention, or the threat thereof?

A: No information available

5. Does your State differentiate in its criminal procedures for persons alleged to have committed drug-related offenses compared to those who have been arrested for other types of criminal offenses? For example, are persons arrested for drug-related offenses held in custody longer than persons arrested for other offenses before being charged or before being brought before a judge to determine the legality of their arrest? Are persons charged with drug-related offences automatically held in pre-trial detention until trial? Is legal aid available for persons charged with drug-related offenses in similar circumstances to which it would be available for other criminal offences? Does your State allow persons convicted of drug-related offences to be considered for suspended sentence, sentence reduction, parole, release on compassionate grounds, pardon or amnesty that are available to those who are convicted custody longer than persons arrested for other crimes? Are legal presumptions used so that persons found with amounts of drugs above specified thresholds, or in possession of keys to a building or vehicle where drugs are found, are presumed to have committed an offense?

A: No information available

6. Have there been cases of torture or other cruel, inhuman or degrading treatment or punishment for persons arrested and detained on drug-related offenses, with the objective, for example, to elicit a confession or to learn information about other alleged criminal actors or networks? Have there been cases where opioid substitution therapy has been withheld from drug dependent detainees in order to elicit a confession or obtain information concerning other alleged criminal or networks? What procedures exist to prevent torture and other forms of ill treatment of people detained for drug-related offences and to bring to justice those responsible when it does occur?



What monitoring measures are in place to ensure that torture or other cruel, inhuman or degrading treatment or punishment does not take place? What avenues do detainees have for making a formal complaint to an independent authority if such practices occur?

A: No information available

- 7. Does your State operate compulsory drug treatment centres? If so, what is the legislative basis for such deprivation of liberty? What procedures exist to ensure procedural guarantees are respected prior to confinement in such centres, including whether the detainee has the right to be represented by legal counsel and the right to appeal the decision on compulsory treatment. Is there a medical evaluation of the person's drug dependency prior to confinement? Is treatment in such centres individualized, evidenced based and in conformity with generally accepted medical practices for drug treatment as articulated by WHO. Is a person detained in such a facility for a specific amount of time, or indefinitely until treatment has been determined to be successful? Can a person, or by way of his or her legal representative, or a family member, file a petition either with an administrative or criminal court for a hearing on his or her release while detained?**

A: No information available

- 8. Do private drug treatment centres exist in your state? What steps does your state take to ensure that treatment in such facilities is voluntary and not result of coercion? How is the informed consent for treatment obtained? How regularly do implemented inspections of private drug treatment facilities take place to ensure that practices that constitute torture or other cruel, inhuman or degrading treatment or punishment do not occur? Do inspections of such facilities include a determination whether treatment is individualized?**

A: There are governmental, private and non-governmental drug treatment programs operating in Cyprus. The Cyprus National Addictions Authority (NAAC) is the supreme body in the area of addiction, with legal competency to approve, operate and provide financial support to Treatment Programmes, both private and governmental services. The NAAC has developed a quality assurance system, in pursuance of which the Treatment Programmes are approved and licensed. Therefore, NAAC is also responsible for drawing up of philosophical and methodological approaches, guidelines, and operation specifications of treatment programmes. For this purpose, treatment guidelines have been



developed providing a nationwide system assuring drug treatment quality standards, which are based on human rights and voluntary treatment. In summary, all the private centres, which operate in Cyprus, apply for license by the NAAC. Therefore, they are evaluated and monitored by NAAC according to the minimum quality standards, which includes Informed consent, confidentiality, individualized treatment, code of ethics, obligations and rights of the clients. Additionally, NAAC applies, as many independent inspections as needed (normally one or two per year) and reassures that treatment is voluntary and all the minimum quality standards are applied. No penalties for failure to complete the treatment are applied in any service and anyone who needs to make a complaint is free to make the complaint through a specific procedure.

- 9. Do drug courts which seek to use treatment as an alternative to imprisonment exist in your State? Please describe their operations, including applicable procedural guarantees for the accused. Does the accused have to plead guilty to the drug-related offense prior to being diverted into treatment? Are only accused persons who are drug dependent on opioids diverted to treatment, or are people who use other drugs that do not cause drug dependence diverted? Can treatment exist for a period that is longer than the period of imprisonment provided for in the offence for which the accused has been charged? Does the accused still have to serve a period of imprisonment if the treatment is not successful? What constitutes successful treatment and does the person in treatment have the right to a hearing before an independent authority and to be represented by legal counsel and present expert medical testimony on the evolution of his or her treatment?**

A: Drug courts do not exist in Cyprus. The only alternative to imprisonment implemented is regulated under the Law of the accused drug users or drug dependent persons of 2016 at the trial stage as described above (see answer 2).

- 10. Does your state have specialized criminal courts for people accused of drug-related offences that do not have as their focus diversion for drug treatment, but rather operate as specialized criminal courts and normally sentence those charged to prison after conviction? What differences exist between specialized criminal drug courts and regular criminal courts? What is the legislative justification for having specialized criminal courts for drug-related offences?**

Please describe how such specialized courts conform to the procedural guarantees for detention and fair trial under international norms.

A: No information available

- 11. Does your state use military courts to try people for drug-related offenses? Please describe how such military courts conform to the procedural guarantees for detention and fair trial under international norms. Are military personnel involved in law enforcement operations against individuals or groups suspected of drug-related crimes? If so, are these regular military forces or the military police? Have they received training in human rights standards for law enforcement and the use of force? How is coordination undertaken with civilian law enforcement?**

A: No information available

- 12. Does your state have legislation that provides for administrative detention for people who use drugs who are considered a danger to themselves or others? If so, can you please describe the legislative basis for such detention, applicable procedural safeguards, including the right to be represented by legal counsel and to present expert medical testimony, and a right of appeal? Can other legislation such as that aimed at individuals with psycho-social disabilities be used in relation to those who use drugs and are considered a danger to themselves or others? If so, can you describe the legislative basis for such detention, applicable procedural safeguards, including the right to be represented by legal counsel and to present expert medical testimony and a right of appeal?**

A: No information available

- 13. Does your state provide for the involuntary detention of pregnant women who use drugs in circumstances where such drug use has been deemed to constitute a danger to the fetus and where voluntary attempts by health professionals to work with the pregnant woman have failed? Please describe the legislative basis and applicable procedural guarantees in case of such an involuntary detention.**

A: No information available

- 14. Does your state provide drug treatment to people in custodial or pre-trial detention, or who have been imprisoned following a conviction? Do these drug treatment services include harm reduction services? Please describe what types of drug treatment and harm reduction services are available to detainees**



and imprisoned people. Please also indicate if such services are available to those in administrative detention such as undocumented migrants or those subject to a deportation order. If no such services are available, does this result in forced confessions or people not being also to participate in their defense?

A: No information available

15. Are juveniles (those under the age 18) subject to arrest, detention and imprisonment for drug-related crimes? For crimes related to the acquisition, use or possession for personal use of drugs? If so, are they detained or imprisoned in facilities for children in conflict with the law who are under 18, or are they detained or imprisoned in facilities for adults? Can such juveniles be subjected to compulsory drug treatment with the consent of their families/legal guardians?

A: At the trial stage juveniles have the right to instead of being sentenced to any sentence to request the issuance of a drug treatment decree as described above (see answer 2). They can be detained in jail for a short period of time or they can be imprisoned in the adult prison but in a separate wing. At the moment, there are no facilities available for the arrested or sentenced juveniles alone. Treatment is voluntary for juveniles or adults.

There are two procedures which define the way juveniles are treated for drug related crimes, for crimes related to acquisition, use position for personal use:

- (a) The Protocol of Cooperation for the Referral of Young Offenders to the Treatment Centres between The Cyprus Police (Drug Law Enforcement Unit – D.L.E.U. the Ministry of Health and the non-governmental treatment centres coordinated by the National Addictions Authority. According to the protocol youths and young adults aged 14 up to 24, who have been arrested for the first time in connection with drugs cases and the seized quantity of drugs is such, as to be intended for personal use will attend and complete a treatment program in one of the governmental and non-Governmental Treatment Centers. Provided that the person will attend and complete a treatment program and that he/she will have received a relevant certification within two years, the case shall be filed as “Otherwise disposed of”, with the proviso of the consent of the respective Attorney General.
- (b) The Law for Treatment of Accused Users or Drug Depended Persons (41(i)/2016). For the cases of juveniles (under the age of 18) , who do not fulfil the above criteria and who are arrested for any crime, except crimes

such use position for supply, importation and trafficking and any offence for which the maximum prison sentence is not exceeding 10 years, may apply at the law court for optional drug treatment, with consent of their families or legal guardians.

16. What provision is in place for those drug users and their dependants who are detained in the context of migration in your country?

A: The National Addictions Authority of Cyprus is funding a programme for the second year running, offering prevention, harm reduction and treatment interventions to adult migrants and children in a governmental detention centre. The programme offers a counselling service where people receive services including primary care services, counselling support, medication where needed, sexual health advice and condoms, leisure activities for children, Greek language lessons etc.

17. Are there any good practices being developed or implemented in your state in relation to drug-related detention and drug policies? If so, please provide examples.

The relatively new law, the Law of the accused drug users or drug dependent persons of 2016 described above is considered a good practice since it allows persons with substance abuse issues to enter treatment instead of being imprisoned, a practice that according to evidence limits recidivism and delinquency.

18. Are there any new or emerging trends in drug-related detention and drug policies that could be addressed by this study?

A: It should be noted that in 2019 the Ministry of Justice in cooperation with the Children's rights Ombudsman developed a proposal of a new law that provides regulations and describes the process and procedures of handling juveniles and young adults in the criminal justice system. It includes articles on the referral of adolescent and young adults' to specialized drug treatment. The proposed law is currently being discussed in the House of Representatives. It should also be noted that the National Addiction Authority of Cyprus in cooperation with the Ministry of Justice is preparing a proposal that will provide for the development of specialized criminal courts or drug courts.