

Features of ensuring the rights of drug addicts for rehabilitation in Ukraine and the European Union: comparative legal aspect

Professor **Oleksandr SHEVCHUK**¹

Professor **Viktor SHEVCHUK**²

Associate professor **Ihor KOMPANIETS**³

Associate professor **Serhii LUKASHEVYCH**⁴

Associate professor **Olena TKACHOVA**⁵

Abstract

This article explores the problems of legal regulation of the implementation of the "right of drug addicts for rehabilitation" in Ukraine, and the foreign experience of individual EU countries in this area. The methodology of this scientific work is based on the system of methods of general scientific and special-legal methods of cognition. This paper reveals the features of the implementation of the "right of drug addicts to rehabilitation", establishes the concept of "rehabilitation of drug addicts", as well as the term "right of drug addicts to rehabilitation", the legal status of individual subjects is studied. Who are involved in the implementation of rehabilitation services for drug addicts. It is proposed to divide legal acts that cover the implementation of the "right of drug addicts to rehabilitation" into two groups: (1) general and (2) special. It is emphasized that the legal framework that would cover an effective state system for the rehabilitation of drug addicts in Ukraine has not yet been created, and as a result, a large number of drug addicts do not have access to rehabilitation services, or do not receive them at all. Directions for optimizing the legislation of Ukraine on the rehabilitation of drug addicts are given, with an emphasis on the implementation in practice of effective programs for the rehabilitation of adolescents who are dependent on psychoactive substances, taking into account their age groups. It is proposed to adopt a special Law of Ukraine on the rehabilitation of drug addicts. It is concluded that the effective implementation of advanced methods for the rehabilitation of drug addicts in Ukraine, taking into account international standards, should be a priority part of state policy, and it is important to use the principle of a holistic approach to the legal regulation of such rehabilitation assistance.

Keywords: *legal regulation, right of drug addicts to rehabilitation, rehabilitation of drug addicts, protection of the rights and legitimate interests of drug addicts, foreign experience.*

JEL Classification: K14, K24

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¹ Oleksandr Shevchuk - Department of Administrative Law and Administratively Activities, Yaroslav Mudryi National Law University, Kharkiv, Ukraine, oleksandr-shevchuk@ukr.net.

² Viktor Shevchuk - Department of Criminalistics, Yaroslav Mudryi National Law University, Kharkiv, Ukraine, viktor.shevchuk@ukr.net.

³ Ihor Kompaniets - Department of Administrative Law and Administratively Activities, Yaroslav Mudryi National Law University, Kharkiv, Ukraine, ihorkompaniets@ukr.net.

⁴ Serhii Lukashevych - Department of Criminology and Criminal Executive Law, Yaroslav Mudryi National Law University, Kharkiv, Ukraine, serhii.lukashevych@ukr.net.

⁵ Olena Tkachova - Department of Criminology and Criminal Executive Law, Yaroslav Mudryi National Law University, Kharkiv, Ukraine.

1. Introduction

The legislation of Ukraine on drug trafficking needs to be adapted to the legal system of the EU, including the legislative acts of this organization, adopted within the framework of the European Community, and aimed at a common foreign and security policy, cooperation in the field of justice and internal affairs, including the legal regulation of the sale of drug addicts for rehabilitation. Ukraine is undergoing another stage of medical reform, which is based on the obligations of Ukraine based on the provisions of the Association Agreement between Ukraine and the European Union, the European Atomic Energy Community and their Member States, some of which are aimed at improving the level of health protection, strengthening the system healthcare of Ukraine⁶, to improve the quality of medical services for the population⁷, optimization of drug supply for drug addicts with involvement of international specialized organizations⁸, strengthening control over the import of medicinal drugs to Ukraine, some of them are used for the treatment of drug addicts⁹, as well as the development of legal ways to combat counterfeit drugs¹⁰ and etc.

In Ukraine, drug addiction is increasing by 8% per year, which is one of the highest trends in the world. At the same time, it should be remembered that 70% of drug addicts are young people under 25 years old. The 2010 UN World Drug Report highlights that Ukraine ranks 3rd in opiate use in Europe (World Drug Report, 2010)¹¹. According to official data, in 2018 alone, almost 700,000 people in Ukraine applied to medical institutions regarding mental and behavioral problems due to the use of psychoactive substances¹². It also remains an acute problem that the use of psychoactive substances without medical supervision is associated with significant risks to human health. The 2019 World Drug Report estimates that about 271 million people, or 5.5% of people aged 15 to 64 worldwide, used at least one illicit drug in

⁶ Shevchuk, O., *Legal Support of the Patient's Right to Innovation in Health*, in O. Shevchuk, O. Lysodyed, I. Borysenko, O. Bululukov, O. Babaieva. European journal of sustainable development. 2020. Vol. 9 Issue: 4. pp. 337-350.

⁷ Shevchuk, O., *Aspects of legal regulation of the provision of medical services*, in O. Shevchuk, V. Maryniv, Y. Mekh, O. Shovkopliias, O. Saichuk, Amazonia investiga. 2020. Vol. 9 Issue: 27. pp. 357-366.

⁸ Shevchuk, O., *Legal regulation of procurement of narcotic drugs in Ukraine with involvement of international specialized organizations*, in O. Shevchuk, V. Shevchuk, V. Zuy, O. Chub. Georgian medical news. 2018. № 11 Issue: 284. pp. 143-149.

⁹ Shevchuk, V., *Testing of drugs in the implementation of customs control in Ukraine: legal aspects*, in V. Shevchuk, O. Shevchuk, N. Matyukhina, D. Zatenatskyi, O. Chub. Georgian medical news. 2020. Issue: 1(298). pp. 165-169.

¹⁰ Shevchuk V. M., Parfyo I. V., Sokolenko M. O. *Falsification of medicines and distribution of falsified medicines in ukraine: criminalistic means of detection and counteraction*. Wiadomosci lekarskie. 2021. Vol. 74, Iss. 11, cz. 2. pp. 2946-2953.

¹¹ World Drug Report 2010. Available at: <http://www.un.org/ru/development/surveys/docs/drug2010.pdf> [Accessed 05 January 2022].

¹² Osypian A. *Monitoring rehabilitation centers and interviewing people undergoing drug addiction rehabilitation*. State Institution "Center for Mental Health and Monitoring of Drugs and Alcohol of the Ministry of Health of Ukraine". 2019. Kyiv. P 6.

2017, according to the state as of 2018, 269 million people aged 15 to 64 worldwide have used illicit drugs at least once. This corresponds to 5.4% of the world's population, which is almost 1 in every 19 people (World Drug Report 2020). Approximately 35 million people who use drugs (0.7% of the adult population) have a drug use disorder in 2020 (WHO and UNODC, 2020)¹³. In fact, in 2020 in the world, the number of people who used illicit drugs at least once in the world increased by 2 million people compared to 2019.

Drug addicts, more often than other patients, need access to medical services, but in practice they face a number of problems, namely: (1) partial provision and lack of quality free medical care; (2) rehabilitation programs for many of these patients are not available; (3) they often receive a refusal to provide them with medical services, which causes them severe physical and moral suffering, etc.¹⁴, the existence of the above factors limits their right to health care. Note that drug addiction is a recognized disease and therefore the right to health applies to drug addiction just as it does to any other health condition. To the human rights framework regarding patient care, the basic principles of respect for human rights in the provision of health services should also apply to drug dependent patients¹⁵. In addition, the existing regulatory framework in Ukraine that would cover an effective state system for the rehabilitation of drug addicts and meet international standards has not yet been created.

2. Literature review

Features of the legal regulation of the provision of rehabilitation assistance to drug addicts, discussed in this article, are currently quite relevant. Separate scientific works of foreign researchers were devoted to the peculiarities of the treatment of drug addicts. Так, Devlin A. M. & Wight D. (2021) studied the features of the "drug recovery community" in Italy, which is considered one of the most successful in the world. The authors studied mechanisms at two basic levels, both individual and organizational. In the first case, the mechanisms include: (1) desire for change, (2) removal from the previous social environment, (3) living together, (4) having a peer mentor with life experience, and (5) meaningful work. They operate in the context of a free long-term (3-4 years) residential community. Organizational level mechanisms include: (1) visionary leadership, (2) staff dedication, (3) social

¹³ *International standards for the treatment of drug use disorders: revised edition incorporating results of field-testing* WHO. UNODC 2020. Available at: https://www.unodc.org/documents/drug-prevention-and-treatment/RU_UNODC-WHO_International_Standards_Treatment_Drug_Use_Disorders_2020.pdf [Accessed 11 January 2022].

¹⁴ Shevchuk, O., *Implementation of drug addicts right to health protection (separate aspects)*, in O. M. Shevchuk, O. Rzhevska, O. Korop, L. Pyliuha. Georgian medical news. 2018. Issue: 276. p. 165.

¹⁵ Klingemann J., *The rights of drug treatment patients: Experience of addiction treatment in Poland from a human rights perspective*. International journal of drug policy. 2017; 43:67-73. doi: 10.1016/j.drugpo.2017.01.015.

entrepreneurship, and (4) adaptable learning¹⁶. Israelsson M, Nordlöf K, & Gerdner A. (2015) studied the features of forced detention for “drug treatment” through the prism of international legal acts. The authors emphasized that about half a million people around the world are detained for the purpose of "treatment" for drug addiction, many of them are held for months or years without criminal charges or without the opportunity to challenge the lawfulness of their detention, which is a key problem at the intersection of human rights, drug policy and medical ethics. The authors also studied the features of "arbitrary detention" and compulsory imprisonment on medical grounds within the framework of international human rights law, and also revealed the historical and legal evolution of legislation on drug addiction "treatment" from the positions of international law regarding drug control, within which this is understood term¹⁷.

Böllinger L. (2002) points out in his study that the German criminal law uses various methods in the treatment of drug addicts: (1) referral to closed forensic hospitals, (2) combination of probation or parole with a treatment order, (3) treatment in penitentiary institutions and deferral of charge or (4) punishment in favor of treatment. Although each of these methods constitutes involuntary treatment, the methods are varied and can be non-pharmacological or supportive, as well as inpatient or outpatient.¹⁸ López-Pelayo, H., Aubin, H.J., Drummond, C. et al. (2020) suggests highlighting updated drug addiction treatment systems should be based on: (1) telemedicine and digital solutions, (2) home hospitalization, (3) psychiatric and substance abuse counseling services, (4) harm reduction facilities, (5) staff - as central care, (6) promotion of paid work to improve the quality of life of people with substance use disorders, and (7) comprehensive drug addiction care; (8) reduced availability, and a ban on drug advertising. It is also necessary to introduce new strategies to systematically combat (a) false news about legal and illegal drugs and (b) conflicting scientific information¹⁹. Israelsson M, & Gerdner A. (2012) studied the international features of legislation on the involuntary detention of persons abusing psychoactive substances and identified two subspecies of their civil law in criminal law.²⁰ and others. We also note that, in the modern conditions of the development of legislation on rehabilitation, certain aspects of the legal problems of realizing the right of a drug addicted person to rehabilitation using the positive experience of the EU in this area have not been fully studied, which emphasizes the relevance and practical significance of this work.

¹⁶ Devlin A. M. & Wight D., *Mechanisms and context in the San Patrignano drug recovery community, Italy: a qualitative study to inform transfer to Scotland*. Drugs: Education, Prevention and Policy, 2021. 28:1, 85-96, DOI: 10.1080/09687637.2020.1747397.

¹⁷ Rick Lines, Julie Hannah, Giada Girelli, ‘Treatment in Liberty’ *Human Rights and Compulsory Detention for Drug Use*. Human Rights Law Review, 2022. Vol. 22, Issue 1, <https://doi.org/10.1093/hrlr/ngab022>.

¹⁸ Böllinger L. *Therapy instead of punishment for drug users - Germany as a model?* Eur Addict Res. 2002 Apr;8(2):54-60. doi: 10.1159/000052055.

¹⁹ López-Pelayo, H., Aubin, H.J., Drummond, C. et al. “The post-COVID era”: challenges in the treatment of substance use disorder (SUD) after the pandemic. BMC Med 18, 241 (2020). <https://doi.org/10.1186/s12916-020-01693-9>

²⁰ Israelsson M, Gerdner A. *Compulsory commitment to care of substance misusers: international trends during 25 Years*. Eur Addict Res. 2012; 18(6): 302-21. doi: 10.1159/000341716.

3. Material and methods

The methodology of this article is based on the use of general scientific and special legal methods of cognition. Methods of analysis and synthesis were used to clarify the concept of "rehabilitation of drug addicts", the content of their rehabilitation assistance programs. The application of the abstraction method made it possible to identify the characteristic forms of rehabilitation of drug addicts and the special principles of the right to sell drug addicts for rehabilitation. The inductive method made it possible to highlight the systemic shortcomings of legal regulation in the implementation of the right of drug addicts to rehabilitation. The use of the synthesis method made it possible to determine the directions for improving the legal framework for the implementation of rehabilitation services for drug addicts. Also, when writing the work, the method of legal hermeneutics was used to study the legal acts, both international and national, that regulate the human right to rehabilitation under study.

4. The concept of "rehabilitation of drug addicts" and the legal basis for the realization of the right of drug addicts to access to rehabilitation services

The basis for legal support for the realization of the right of drug addicts to rehabilitation is the Constitution of Ukraine, Laws of Ukraine, resolutions of the Cabinet of Ministers of Ukraine, orders of the Ministry of Health of Ukraine, Ministry of Social Policy of Ukraine and Precursors", "On Measures to Counter Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors and Their Abuse", "On Social Services", "On the Fundamentals of Youth Policy", "On Charity and Charitable Organizations" Convention on Narcotic Substances (1961), Convention on Psychotropic Substances (1971); UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), Declaration on Guiding Principles for Drug Demand Reduction (1998), Strategy of State Policy on Drugs for the Period up to 2020 of Ukraine and others. All national legal acts that cover the realization of the right of drug addicts to rehabilitation can be divided into two groups (1) general and (2) special. In a general sense, one can single out international and national legislation regulating this area.

The goal of drug treatment is to improve the health and quality of life of people with drug use disorders, and the ultimate goal is to help patients achieve the highest possible degree of remission. The specific goals of treatment are: (1) to stop or reduce drug use; (2) improve the health, well-being and social functioning of the patient suffering from the disorder; (3) prevent future harm by reducing the risk of complications and relapses. In relation to the term "standards", a set of requirements that must be met for any treatment or intervention to be considered safe and effective, regardless of the treatment philosophy used or the setting in which it is used. The generally accepted standards for the provision of medical care to drug addicts should be consistent with the provisions of the UN Universal Declaration of Human Rights

and the existing provisions of the UN Conventions; promote personal independence; promote personal and public safety²¹.

It should be noted that WHO has developed general principles (standards) that should be used by specialists who work with the problem of people with addiction. The WHO principles focus primarily on: (1) respecting the human rights of the addict; (2) on the professionalism of the services; (3) on the combination of medical care with other types (psychological and social interventions, relapse prevention. Rehabilitation of such patients should always be voluntary, in making decisions on the choice of rehabilitation process²². These principles can be applied in the implementation of the drug addict's right to rehabilitation. The main principles of the implementation of the right of drug addicts to rehabilitation can also include: (1) legality - this is the activities of organizations in the field of rehabilitation and resocialization of drug addicts must comply with the Constitution of Ukraine, the Law of Ukraine "On measures to combat illicit trafficking in narcotic drugs, psychotropic substances and precursors and abuse them", Strategies of State Drug Policy for the Period up to 2020 of Ukraine, Declaration on Guiding Principles for Drug Demand Reduction (1998); (2) voluntariness - voluntary participation of drug addicts in rehabilitation programs and also implies the existence of a written informed consent (or contract) signed by them upon admission to a rehabilitation center; (2) publicity - openness of information about the conditions for participation in rehabilitation programs, the activities of rehabilitation centers; (3) the principles of accessibility, safety and efficiency - obtaining medical services by a drug addict, including the stages of motivation, post-rehabilitation control, use of methods with proven clinical effectiveness, (4) targeting and a comprehensive individual approach - the rehabilitation program should be adapted to the characteristics (age, state of health, psychology, life situation) of each participant in such rehabilitation; (5) humanity is respect for the human dignity of participants in the rehabilitation program, to take measures to protect and protect their rights and freedoms; (6) confidentiality - the preservation of personal information of a participant in a rehabilitation program by employees of rehabilitation centers; (7) complexity - the unity of spiritual, psychological, pedagogical and social methods of work of a multidisciplinary team (psychologist, teacher, social work specialist, doctor, instructor, etc.); (9) refusal to take drugs - the participant of the program intends to achieve a normal spiritual and mental state without taking drugs in the process of rehabilitation, and others. It is desirable to provide for the above principles in the Law of Ukraine "On Measures to Counter Illegal Traffic in Narcotic Drugs, Psychotropic Substances and Precursors and Their Abuse".

²¹ *International standards for the treatment of drug use disorders: revised edition incorporating results of field-testing*. Available at: www.unodc.org/documents/drug-prevention-and-treatment/RU_UNODC-WHO_International_Standards_Treatment_Drug_Use_Disorders_2020.pdf [Accessed 11 January 2022].

²² *World report WHO on disability*. Available at: http://www.who.int/disabilities/world_report/2011/chapter4.pdf [Accessed 11 January 2022].

WHO defines the term "rehabilitation" as "a set of activities aimed at optimizing the functioning and reducing the level of disability in people with health problems when interacting with the environment"²³. As early as 1980, WHO experts proposed the term "medical rehabilitation" as an active process, the purpose of which is to achieve a complete restoration of impaired functions due to illness or injury or, if this is not possible, the optimal implementation of physical, mental and social development (WHO, 1980)²⁴. Also, the Law of Ukraine "Fundamentals of Ukrainian Legislation on Health Care" proposes the concept of "rehabilitation assistance" as an activity of rehabilitation specialists in the field of healthcare, provides for the implementation of a set of measures aimed at optimizing the functioning of persons who are or may be subject to restrictions on daily functioning in their environment (Article 1)²⁵. Thus, the concept of "rehabilitation" in the national legislative act corresponds to the concept proposed by WHO. In fact, the category "rehabilitation" is a system of measures aimed at restoring human health, functional state and ability to work, impaired by diseases, injuries or other factors. The purpose of rehabilitation is to restore the working capacity of the human body, and also to adapt it to the full performance of all necessary functions. The right of a drug addicted person to rehabilitation is provided for by special legal documents. Thus, international legal acts also indicate the need to influence drug users in order to correct and treat them, as well as to develop legal mechanisms for the return of such people to society. Thus, the Single Convention on Narcotic Substances (1961) also indicates the important role regarding the implementation of legal aspects of the return to society of drug abusers. It is noted that it is necessary to create all conditions and ensure the implementation of measures aimed at protecting and strengthening the health of people who use drugs. In particular, Art. 38 of the Convention states that states are obliged to take all measures to ensure the treatment, education, rehabilitation and return to society of drug abusers²⁶. The Convention on Psychotropic Substances (1971) also points to the need to regulate methods of re-entry into society of drug abusers²⁷. The UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) in Article 3 proclaims that each state that has ratified this document uses a flexible approach in relation to the punishment of drug users. State national legislation may use measures such as "treatment, re-education, supervision, rehabilitation or social reintegration", or as an addition to conviction or

²³ *Rehabilitation*. WHO. Available at: <https://www.who.int/ru/news-room/fact-sheets/detail/rehabilitation> [Accessed 11 January 2022].

²⁴ *On measures to counter the illicit trafficking of narcotic drugs, psychotropic substances and precursors*: Law of Ukraine dated 15.02. 1995, №. 62/95 - VR. Information of the Verkhovna Rada of Ukraine. 1995. №.10. Art. 62.

²⁵ *Fundamentals of Ukrainian legislation on health care*: Law of Ukraine №. 2801-XII of 19 November, 1992. Information of the Verkhovna Rada of Ukraine. 1993. № 4. Art. 19.

²⁶ *Single Convention on Narcotic Drugs, as amended by the 1972 Protocol amending the 1961 Single Convention on Narcotic Drugs*. International document dated March 30, 1961 No. 995_177. URL: https://zakon.rada.gov.ua/laws/show/995_177#Text/ [Accessed 11 January 2022].

²⁷ *Convention on Psychotropic Substances, 1971*. International document dated 02.21.1971 № 995_176. URL: https://zakon.rada.gov.ua/laws/show/995_176#Text/ [Accessed 11 January 2022].

punishment, as an alternative to conviction or punishment, and emphasizes the need for these measures²⁸. 1998 Declaration on the Guiding Principles of Drug Demand Reduction, which states the need not only to prevent drug use, but also to reduce the harmful effects of drug use²⁹. So, we can conclude that international documents proclaim the legal basis for ensuring the rights of people with drug addiction, the possibility of their rehabilitation, reintegration and resocialization, despite the fact that these documents spell out the legal conditions for influencing drug users in order to correct them.

Regarding the classification of a person as a drug addict, as well as the procedure for recognizing a person as sick. According to the Law of Ukraine "On Measures to Combat Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors and Their Abuse", the criteria for classifying a person as a drug addict, as well as the procedure for recognizing a person as a patient, are formulated. Such a diagnosis is established by a medical advisory committee. In addition to people who use narcotic drugs, there is a category of people who use them, but do not abuse such drugs. Therefore, this legislative act also defines the terms: illegal use of narcotic drugs or psychotropic substances - the use of narcotic drugs or psychotropic substances without a doctor's prescription; abuse of narcotic drugs or psychotropic substances - intentional systematic illegal use of narcotic drugs or psychotropic substances³⁰. Thus, "a person suffering from drug addiction" is a person suffering from a mental disorder, which is characterized by mental and (or) physical dependence on a narcotic drug or psychotropic substance, and who, based on the results of a medical examination conducted in accordance with this Law, was diagnosed with "drug addiction" (Article 1). If a person is recognized as sick, then he is offered to undergo voluntary free treatment at the expense of the state, and in case of avoidance of treatment and dangerous behavior, treatment is carried out forcibly, by a court decision. Depending on the age and state of health, such persons are sent to various institutions of treatment: (1) minors under the age of 16 years of age are sent to specialized medical and educational institutions for up to one year, and other persons (2) are sent to specialized institutions healthcare. Those persons who voluntarily applied to health care institutions for the purpose of treatment and follow the doctor's recommendations are not taken into account. (Law of Ukraine of 15.02. 1995, № 62/95 – VR). Note that it is more correct to use the term "behavioral disorders associated with the use of psychoactive substances" which is provided for

²⁸ *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*: International Document No. 995_096 dated 20.12.1988. URL: https://zakon.rada.gov.ua/laws/show/995_096#Text/ [Accessed 11 January 2022].

²⁹ *Declaration on the Guiding Principles for Drug Demand Reduction*: Adopted by General Assembly resolution S-20/3 of 10 June 1998. International document dated 10. 06. 1998 №. 995_347. URL: https://zakon.rada.gov.ua/laws/show/995_347#Text/ [Accessed 11 January 2022].

³⁰ Law of Ukraine *on measures to counter the illicit trafficking of narcotic drugs, psychotropic substances and precursors* dated 15.02. 1995, №. 62/95 - VR. Information of the Verkhovna Rada of Ukraine. 1995. №. 10. Art. 62

in the international statistical classification of diseases (ICD-10)³¹, than the term “a person with drug addiction” specified in the Law of Ukraine “On measures to counter the illicit trafficking in narcotic drugs, psychotropic substances and precursors and their abuse”.

In the special legislation of Ukraine, the term "rehabilitation of drug addicts" is not defined at the legislative level. The Strategy of State Policy on Drugs for the Period until 2020 in Ukraine states that the treatment and rehabilitation of drug addicts requires new approaches, namely: a comprehensive, integrated application of all components of the treatment system, their interaction based on evidence-based methodology, ensuring the availability of medical care, expanding the possibilities of treatment, alternative punishment³². The action plan for 2019-2020 for the implementation of this Strategy states that the Ministry of Health of Ukraine, the Ministry of Education and Science of Ukraine, the Ministry of Social Policy of Ukraine, local authorities should: (1) ensure the process of bringing substance abusers back into public life; (2) ensure the provision of social services of social rehabilitation; (3) legal services and employment services for persons undergoing rehabilitation. Also, among the tasks that the Strategy of the state policy on drugs in Ukraine is designed to solve, the following should be highlighted: (1) psychosocial rehabilitation of drug addicts; (2) creating conditions for the resocialization of persons serving sentences for drug offenses; (3) introducing the practice of implementing treatment measures as an alternative to criminal punishment of drug addicts who have committed minor offenses; (4) creation of conditions for cooperation between the state and civil society institutions in the formation and implementation of drug policy³³. The above regulatory documents do not include the concept of “rehabilitation of drug addicts”. WHO defines drug rehabilitation as a process by which a person who uses narcotic drugs and psychotropic substances achieves an optimal state of health, psychological function and social well-being. Rehab follows the initial phase of treatment (which may include detoxification, medication, and psychiatric treatment) (Lexicon of alcohol and drug terms published by the World Health Organization)³⁴. Rehabilitation, the relapse prevention phase of treatment, is geared towards the needs of people who have completed formal detoxification or who remain addicted but do not have formal withdrawal symptoms requiring reversion to a previous phase of treatment. Relapse prevention or rehabilitation programs are designed to change the behavior of the patient to enable

³¹ Shevchuk, O. *Implementation of drug addicts right to health protection (separate aspects)*, in O. M. Shevchuk, O. Rzhavska, O. Korop, L. Pyluha. Georgian medical news. 2018. Issue: 276. pp. 166 - 172.

³² *On approval of the Strategy of State Policy on Drugs for the Period until 2020*: Order of the Cabinet of Ministers of Ukraine dated 28.08.2013, №. 735-r. Official Gazette of Ukraine. 2013. №. 76. Art. 2829.

³³ *On the approval of the action plan for 2019-2020 for the implementation of the Strategy of State Policy on Drugs for the Period until 2020*: Order of the Cabinet of Ministers of Ukraine dated February 6, 2019 №. 56-r. URL: <https://zakon.rada.gov.ua/laws/show/56-2019-%D1%80>.

³⁴ *Lexicon of alcohol and drug terms published by the World Health Organization*. (WHO). URL: https://www.who.int/substance_abuse/terminology/who_lexicon/en/ [Accessed 11 January 2022].

him to control the need for substance use. At this stage of treatment, psychosocial and pharmacological measures are applied³⁵.

Note that there is no single point of view of scientists in the legal literature on the understanding of the term "rehabilitation of drug addicts". There are opinions of some researchers that the term "rehabilitation of drug addicts" should be understood as a complex concept that refers to a number of processes of medical and psychotherapeutic treatment of addiction to psychoactive substances. The overall goal in this rehabilitation is to help the patient stop using narcotic and psychotropic substances in order to prevent the psychological, legal, financial, social and physical consequences that substance abuse entails.³⁶ Other researchers consider the definition of "rehabilitation of drug addicts" in the structure of their resocialization. So the structural components of the resocialization of drug addicts are such interdependent and interdependent processes as (1) rehabilitation (physical, psychological, social rehabilitation as processes of personality restoration at different levels), (2) social adaptation, which will allow the drug addict to adapt to the conditions of the social environment, is constantly changing, and (3) integration, which will ensure a combination with the social environment. These processes in their totality allow the individual to achieve self-realization in harmony with the social environment.³⁷ From our point of view, the term "rehabilitation of drug addicts" should be understood as a system of measures of a legal, medical, social and psychological, as well as other nature, aimed at restoring health, eliminating dependence on narcotic drugs or psychotropic substances, preventing complications and relapses, updating professional skills and social status of the drug addict. The types of rehabilitation of drug addicts in the scientific literature include types of medical, psychological and pedagogical, socio-psychological, medical and social rehabilitation and others. The goal of the rehabilitation of drug addicts is to stop the use of narcotic or psychotropic substances and help such a patient to prevent the psychological, legal, social and physical consequences of drug addiction. The result of this rehabilitation is the achievement of the optimal state of health of drug addicts, psychological functions and their social well-being. The term "rehabilitation of drug addicts" should be included in Article 1 of the Law of Ukraine "On measures to counter the illicit trafficking in narcotic drugs, psychotropic substances and precursors and their abuse." The right of drug addicts to rehabilitation is a set of rights of drug addicts that include the right to the highest attainable standard of

³⁵ *Drug Abuse Treatment and Rehabilitation: A Practical Planning and Implementation Guide*. 2003. English United Nations Office on Drugs and Crime. https://www.unodc.org/documents/drug-prevention-and-treatment/UNODC_Drug_Abuse_Treatment_and_Rehabilitation_2003.pdf [Accessed 11 January 2022].

³⁶ Vovkogon O. Yu, *Social rehabilitation as tertiary prophylaxis of drug addiction and concomitant diseases*. Bulletin of the National Technical University of Ukraine "Kyiv Polytechnic Institute". Politology. Sociology. Right: collection of scientific works 2010. 3 (7). 70.

³⁷ Chernetskaya Yu. I. *Theory and practice of social work on the resocialization of drug addicts in the conditions of rehabilitation centers*: Thesis of Doctor of Pedagogy. State Institution "Lugansk National University named after Taras Shevchenko". Starobelsk, 2016. 522 p. Available at: http://luguniv.edu.ua/wp-content/uploads/2016/06/chernetska_d.-pdf. [Accessed 11 January 2022].

health, the right to privacy and security, the right to non-discrimination, the right to affordable rehabilitation services, the right to receive quality rehabilitation services based on proven clinical efficiency, the right to accessibility of rehabilitation services in relation to the coverage of the maximum possible number of drug users, as well as the right to receive qualified rehabilitation assistance, including the right to freely choose a rehabilitation specialist, the right to choose methods and methods of rehabilitation, the right to choose a rehabilitation center.

5. The legal status of individual entities that take part in the realization of the right of drug addicts to receive rehabilitation services, shortcomings in their legal regulation, forms of rehabilitation programs

The Law of Ukraine "On Social Services" defines the basic organizational and legal framework for the provision of social services aimed at preventing difficult life circumstances, overcoming or minimizing their negative consequences, to individuals/families who are in difficult life circumstances. Factors that can cause difficult life circumstances also include: mental and behavioral disorders, including those due to the use of psychoactive substances (Article 1)³⁸. The Law of Ukraine "On Social Services" defines the definition of "social services" as actions aimed at preventing difficult life circumstances, overcoming such circumstances or minimizing their negative consequences for individuals/families in them. This legislation also identifies factors that can cause difficult life circumstances, which include mental and behavioral disorders, in particular due to the use of psychoactive substances. In accordance with the Law of Ukraine "On Social Services", institutions of the state and municipal sector can be providers of rehabilitation social services.

By the Decree of the Cabinet of Ministers of Ukraine dated October 4, 2017 No. 741, the "Typical Regulations on the Center for Social and Psychological Rehabilitation" were approved. This center may temporarily undergo rehabilitation on a voluntary basis, those who have undergone treatment for addiction to narcotic drugs or psychotropic substances in health care institutions and need to receive social services tailored to their needs, taking into account the use of the principle of ensuring equal rights and opportunities for men and women. The main task of the center is to provide social and psychological rehabilitation and psychological support for people in need of social services. Rehabilitation is carried out taking into account the needs of such persons in accordance with the state standard for the social service of socio-psychological rehabilitation. Persons under the age of 18 are accepted on the basis of a written application from their parents or persons replacing them. The Center for Social and Psychological Rehabilitation may be formed by the local state administration, local self-government body, charitable organization and public associations in the presence of the necessary material and technical base and is not

³⁸ Law of Ukraine *on social services*: 17.01.2019 №. 2671-VIII. Information of the Verkhovna Rada of Ukraine. 2019. №. 18. Article 73.

intended to make a profit.³⁹ Thus, in fact, the process of socio-psychological rehabilitation of drug addicts who need such a service is possible only on a voluntary basis. It should also be noted that the vast majority of centers for the rehabilitation of drug addicts are designed for patients over 18 years of age. If a person in need of rehabilitation is 17 years of age, and she independently applies to the Center for Social and Psychological Rehabilitation, then the director of the center has reason not to satisfy this application, guided by paragraph 14 of the Resolution of the Cabinet of Ministers of Ukraine dated October 4, 2017 No. 741 (lack of parents' application).

In some centers for the rehabilitation of drug addicts, there are also restrictions on the maximum age of the patient - up to 35, less often - up to 50 years, since work with such patients is considered ineffective. In addition, the Regulation under study regulates the activities of only state and municipal rehabilitation centers, while specialized rehabilitation centers for drug addicts of other forms of ownership are regulated by the Law of Ukraine on Social Services. Regarding voluntary associations of citizens, their activities are regulated by the provisions of the Laws of Ukraine on Public Associations dated March 22, 2012 No. 4572-VI and on the Fundamentals of Youth Policy dated April 27, 2021 No. 1414-IX. Rehabilitation services for drug addicts are also provided by charitable organizations. One of the areas of charitable activities specified in the Law of Ukraine on Charity and Charitable Organizations No. 531 adopted on September 16, 1997 is health protection (Article 3). The activities of charitable organizations are regulated by an internal charter, which may also provide for the provision of social services. Thus, a non-state rehabilitation center operates within the framework of the economic activity "providing social assistance to people with drug addiction", or within the framework of other social services and other types of medical activities.⁴⁰ Thus, the legal framework does not create obstacles for drug addicts to undergo rehabilitation programs, but at the same time it does not have clear mechanisms for regulating the activities of centers, most of which operate according to their internal charter.

Among the main legal problems in the regulation of rehabilitation centers in Ukraine, the following can be identified, namely the lack of: (1) full-fledged legislative regulation of this type of activity; (2) the standards under which services can be provided; (3) qualified mental health professionals, violations of the rights of rehabilitators (trafficking, forced detention and labor slavery), as well as the lack of: (4) a well-functioning system of cooperation between such institutions with criminal justice institutions, police, courts and medical institutions.⁴¹ The problems of implementing rehabilitation programs in drug rehabilitation centers include (1)

³⁹ *Model regulation on the center of social and psychological rehabilitation*: Resolution of the Cabinet of Ministers of Ukraine dated October 4, 2017, № 741. Available at: <https://zakon.rada.gov.ua/laws/show/741-2017-%D0%BF> [Accessed 11 January 2022].

⁴⁰ Law of Ukraine *about charitable activities and charitable organizations* dated 05.07.2012, № 5073-VI. Information of the Verkhovna Rada of Ukraine. 2013. No. 25. Art. 252.

⁴¹ Osypian A., *Monitoring rehabilitation centers and interviewing people undergoing drug addiction rehabilitation*. State Institution "Center for Mental Health and Monitoring of Drugs and Alcohol of the Ministry of Health of Ukraine", 2019. Kyiv. 24 p., p. 6.

vagueness of authority and unclear instructions between employees (in practice, clients who have completed rehabilitation programs are recruited to work in the same rehabilitation center, they do part of the work for full-time employees); (2) there is no common standard of activity, (3) there is no professional association for the protection of rights in the field of rehabilitation of drug addicts, (4) services in rehabilitation centers for drug addicts are available only to a limited circle of them.

In Ukraine, for about 20 years, the system of rehabilitation of drug addicts has been actively developing, but their effective system has not yet been created. For 2019, the actual number of rehabilitation centers for drug addicted patients in Ukraine cannot be determined, the number of such institutions may be in the range of 300-500 (according to some experts, 1,500 or more). According to the results of the 2020 survey of the Center for Mental Health and Drug and Alcohol Monitoring of the Ministry of Health of Ukraine, in which 50 heads of rehabilitation institutions were interviewed, approximately 30% of such institutions are public organizations, 30% are charitable organizations, 30% are limited liability companies. Up to 40% of such organizations are able to serve 20-30 people. Only 36% of these institutions have the possibility of free visits, 68% have outpatient visits or remission support groups, 78% have inpatient services and less than 5% work within the help groups for families of drug addicts. According to the survey, approximately 90% of them use the 12-step (Minnesota model of rehabilitation). 30% of these institutions use other proprietary/non-proven methods along with the 12-step model, only 12% of organizations noted cognitive-behavioral therapy among their methods⁴². In their activities, depending on the approaches, drug rehabilitation centers in Ukraine are divided into centers: (1) Christian-oriented; (2) occupational therapy; (3) therapeutic communities; (4) comprehensive care.⁴³ In Ukraine, the following forms of assistance to drug addicts are used: (1) detoxification (in all narcological institutions), (2) drug consultation (in all narcological institutions), (3) substitution maintenance therapy, (4) outpatient rehabilitation programs, (5) inpatient rehabilitation programs, (6) therapeutic communities, (7) residential programs for spiritual psychotherapy and religious rehabilitation⁴⁴.

Rehabilitation centers in Ukraine use different rehabilitation programs. Methods for the rehabilitation of drug addicts with an evidence base are: (1) the theory of motivational enhancement; (2) cognitive behavioral therapy (3) 12 steps (Minnesota model). You can divide these methods into (a) short-term and (b) long-term. Moreover, such a distribution implies another difference - short-term ones are carried out by state medicine, and long-term ones are implemented by public and

⁴² Ibid, p. 6.

⁴³ Chernetskaya Yu. I., *Theory and practice of social work on the resocialization of drug addicts in the conditions of rehabilitation centers*: Thesis of Doctor of Pedagogy. State Institution "Lugansk National University named after Taras Shevchenko". Starobelsk, 2016. 522 p. Available at: <http://luguniv.edu.ua/wp-content/uploads/2016/06/chernetska.pdf>. [Accessed 11 January 2022], p. 184.

⁴⁴ Vievsky A. M. Dvoryak S.V. Sidiyak S.V. *Drug addiction treatment in Ukraine and assessment of its effectiveness: research report*. 2008. Available at: https://www.irf.ua/files/ukr/programs_health_news_1477_ua_PR.pdf [Accessed 11 January 2022].

charitable organizations and churches of different faiths⁴⁵. Thus, the rehabilitation course of drug addicts can take place in two stages. At the first stage, there is a process of physical release from narcotic substances, which leads to a decrease in attraction to them. If the first stage was successful, then proceed to the second - psychological rehabilitation. It is based on the formation of a drug addict's motivation to refuse the use of narcotic drugs⁴⁶. They also use rehabilitation programs for drug addicts using inpatient care. It is based on the principle of the therapeutic community. The program consists of combined therapy with an environment that conducts various psychological activities (therapy, education), followed by employment and re-socialization. The program includes types of psychotherapy: (1) individual, (2) group and (3) family. The program is aimed at the formation of a conscious motivation to stop using drugs, individual correction, the formation of communication skills, return to the family, resocialization. However, we note that a large number of drug addicts in Ukraine do not have access to rehabilitation services or do not receive them at all. Most of these individuals continue to be socially unsettled and prone to return to dependence.

6. Foreign experience of legal support for the realization of the right of drug addicts to receive rehabilitation services

Most EU countries, for example, Austria, Germany, Greece, Spain, Italy, Poland, Portugal, France, Sweden, Slovenia, etc., even before 2003 adopted legislation containing special provisions on drug addiction treatment. Thus, the Slovenian Law on the Prevention of the Use of Illicit Drugs and Persons Who Use Illicit Drugs (1999) defines, among other things, measures aimed at the treatment of drug addiction and drug dependence. The law establishes that the treatment of illicit drug users must be provided through inpatient and outpatient treatment programs⁴⁷. In addition, in Slovenia in the mid-1990, a network of prevention centers was created to implement appropriate rehabilitation programs. The main objectives of the activity are: the provision of free medical care to drug addicts, the development of basic principles for the treatment of drug addiction for medical staff, the development and implementation of information and educational, proactive programs⁴⁸. For example, in France, the practice of treating drug addicts in the family

⁴⁵ Anichin E.M., Dykan Z.V., Sedykh S.M. Help for drug addicts in Ukraine: a directory of rehabilitation centers. Kyiv "International HIV/AIDS Alliance in Ukraine", 2014, 68 p., p. 7.

⁴⁶ Luzhetskaya N.A., *Mechanisms for implementing the state policy of counteraction and prevention of drug addiction*. Thesis PhD. Odessa Regional Institute of Public Administration of the National Academy of Public Administration under the President of Ukraine, Odessa, 2018. 239 p.

⁴⁷ *Drug Abuse Treatment and Rehabilitation: A Practical Planning and Implementation Guide*. 2003. United Nations Office on Drugs and Crime, https://www.unodc.org/documents/drug-prevention-and-treatment/UNODC_Drug_Abuse_Treatment_and_Rehabilitation_2003.pdf [Accessed 01 February 2022].

⁴⁸ *Drug Abuse and HIV/AIDS: Lessons Learned. Collection of case studies Central and Eastern Europe and the states of Central Asia*. United Nations Office on Drugs and Crime United Nations, 2001. https://data.unaids.org/publications/irc-pub02/jc673-drugabuse_en.pdf [Accessed 01 February 2022].

as an element of rehabilitation was introduced to alternative forms of drug addiction treatment. This feature was approved in 1977 by the Decree of the President of France, in 1987, in the decree of the Minister of Social Work of France, the procedure for using such a treatment method was detailed, we note that families who use the "practice of treating drug addicts in the family" receive money from certain funds for this. In this situation, the patient enters into an agreement with the "host" family, on the one hand, to increase responsibility for the result, which primarily depends on the person, on the other hand, in the personality in relation to the patient from the side of the "medical group"⁴⁹. In fact, a wide range of treatment and support services are available to people with drug dependence in most EU countries: detoxification programmes, drug-free outpatient treatment, methadone maintenance therapy, long-term inpatient treatment programs and harm reduction services. Therapeutic communities for addictions, also referred to as drug-free or concept therapeutic communities, which aims to reintegrate former addicts into society and was one of the first specialized treatment initiatives for people with addiction problems that developed from outside - and often in response to traditional mental health care⁵⁰.

The process of rehabilitation of drug addicts in individual EU countries consists of three main stages: (1) medical rehabilitation; (2) medical-psychological and (3) psychological rehabilitation. They form a single complex, but are carried out in institutions that differ in structure and departmental affiliation. For example, in Sweden, Italy, Germany, and Poland, the implementation of rehabilitation assistance to people who abuse psychoactive substances, along with public ones, can be provided by private medical institutions, as well as hospitals under various foundations and social services that work on the principle of therapeutic communities. The most common specialized facilities for the rehabilitation of drug addicts are: (1) detoxification centers (providing urgent medical services), (2) inpatient rehabilitation programs (where clients are hospitalized for long periods of time), (3) therapeutic communities (providing for long stays of clients and their high level of commitment to the community, which contributes to the implementation of the so-called "environment therapy"), (4) local self-help groups, substitution therapy programs, outpatient and referral facilities, and (5) employment assistance programs⁵¹. In Germany, Poland, Spain, psychotherapy is mainly carried out along with drug treatment of drug addicts, the rehabilitation system is two or three-stage, the choice of specific methods and treatment plan, the involvement of other specialists depends on the doctor who conducts rehabilitation. The costs of treating

⁴⁹ Muscat, R, Meulenberg, L., Grashnov E at.all. *Treatment systems overview*. Council of Europe Publishing, 2010. 348 p. Retrieved from <https://rm.coe.int/1680746114> [Accessed 01 February 2022].

⁵⁰ Wouter Vanderplasschen, Kathy Colpaert, Mieke Autrique, Richard Charles Rapp, Steve Pearce, Eric Broekaert, Stijn Vandeveld, "Therapeutic Communities for Addictions: A Review of Their Effectiveness from a Recovery-Oriented Perspective". *The Scientific World Journal*, vol. 2013, Article ID 427817, 22 pages, 2013. <https://doi.org/10.1155/2013/427817>.

⁵¹ Lewis, J.A., Dana, R.Q. & Blevins, G.A. *Substance abuse counseling*. 3rd ed. Pacific Grove, CA: Brooks/Cole, 2002. P.19.

patients are partially covered in these states through the social insurance system⁵². The most famous among them are ACFR - "Casa Famiglia Rosetta" (Italy), as well as MONAR (Poland). MONAR (Poland) has been providing medical and social assistance to drug addicts for 25 years in the field of consultations, individual and group therapy, as well as detoxification, outpatient care, as well as inpatient therapy and rehabilitation for drug addicts. Programs are adapted to the age of those in need (there are centers for children and youth up to 19 years old, centers for older youth 19-25 years old and for adults)⁵³. In Germany, there are institutions that specialize in certain age groups for teenagers. A psychiatrist, social workers, teachers are involved in the treatment, who carry out intermediary functions, provide informational and psychological assistance. In Spain, the health services also deal with the problems of this category of patients, focusing primarily on primary prevention, and, if necessary, referring drug addicts to mental health services and medical institutions.⁵⁴ The experience of rehabilitation of drug addicts in Germany is reduced to the following scheme: contacting a counseling center (Drogenberatung) removal of physical dependence in specialized departments of hospitals (from 10 to 21 days); overcoming psychological dependence within the framework of psychotherapeutic programs of varying degrees of intensity (from 3 to 10 months). In Germany, the social component of rehabilitation is the responsibility of the social departments, although supportive care is implemented by the medical services and financed by the national health insurance system. However, the number of such programs in the country is very limited. Professional non-governmental associations play a leading role in the rehabilitation of drug addicts and in supporting their family members, as well as in shaping the standards of care⁵⁵. Thus, in most EU countries, the problems of rehabilitation of drug addicts are primarily dealt with by the healthcare sector. However, the range of its services is also diverse and depends on the views on the problem of rehabilitation of drug addicts, in most cases they are associated with programs of medical and social rehabilitation and psychotherapy, functioning according to the principles of the therapeutic community. In Germany, Sweden, Poland, Spain, Italy, the rehabilitation of drug addicted adults and minors is carried out separately, specialists from a multidisciplinary team are involved in the rehabilitation process of patients. In Ukraine, taking into account foreign experience, it is desirable to attribute the maximum volume of the rehabilitation process of drug addicts to the healthcare sector. The costs of rehabilitation of such patients should be covered by the state through the social insurance system, mandatory voluntary consent to participate in the rehabilitation process.

⁵² *Drug law and young people. European Monitoring Centre for Drugs and Drug Addiction*, 2004. URL: <http://www.emcdda.europa.eu>

⁵³ *Stowarzyszenie MONAR*. URL: <http://www.monar.pl> [Accessed 01 February 2022].

⁵⁴ *Review of resocialization programs for drug users among young people and adolescents*. (2010). Kyiv. PC "Foliant", P. 20.

⁵⁵ Schmid, M., Goldbeck, L., Nuetzel, J., Fegert J M., *Prevalence of mental disorders among adolescents in German youth welfare institutions*, Child Adolesc Psychiatry Ment Health, 2008. 2:2 // doi: 10.1186/1753-2000-2-2.

7. Conclusions

The effective implementation of advanced methods for the rehabilitation of drug addicts in Ukraine should be a priority part of the state policy. At the same time, in modern conditions, the principle of a holistic approach to the legal regulation of rehabilitation assistance to drug addicts becomes relevant. An analysis of the international legal framework for ensuring the right of drug addicts to rehabilitation showed that in most EU countries (Austria, Germany, Greece, Spain, Italy, Poland, France, Sweden) there are special provisions on the treatment of drug addiction, methods of rehabilitation, reintegration and resocialization have been introduced. The basis for their implementation should be the norms found in the UN Conventions, and the recommendations of the United Nations Office on Drugs and Crime, and the European Monitoring Center for Drugs and Drug Addiction. The use of foreign experience in the legal regulation of the rehabilitation of drug addicts is useful for Ukraine, because it makes it possible to improve the legal model of a comprehensive system for the rehabilitation of drug addicts.

Optimization of the legislation of Ukraine on the issues of rehabilitation of drug addicts, taking into account foreign experience, can be the following directions: (1) adoption of a single standard for the provision of rehabilitation services for drug addicts; (2) adoption of state rehabilitation programs for drug addicts for different age categories; (3) increasing the number of targeted regional centers for the rehabilitation of drug addicts, especially for children; (4) bringing the legislation of Ukraine in line with international recommendations in the field of rehabilitation of drug addicts. In addition, Ukraine does not have a systematic program and a special legislative act that allows rehabilitating and returning people who are drug addicts to society. Therefore, it is necessary to provide for the creation of a separate Law of Ukraine "On the rehabilitation of drug addicts", which would clearly spell out the standards for the rehabilitation of such persons, their legal status, and also indicate the distribution of competence of state and non-state bodies in this area, provide for the right to freely choose a rehabilitation specialist, methods and forms of rehabilitation, the right to choose a rehabilitation institution, the possibility of paying for rehabilitation at the expense of the state. Also, there is a need for active implementation in practice in Ukraine of effective programs for the rehabilitation of adolescents who are dependent on psychoactive substances and to provide for separate specialized institutions for rehabilitation, depending on a certain age group of adolescents.

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