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Subject: The draft EU Agenda and Action Plan on Drugs 2021-2025: Concerns regarding process and substance (OPEN LETTER)

Dear Dr Riehl,

We are writing regarding the proposed EU Agenda and Action Plan on Drugs 2021-2025, published by the European Commission on 24 July 2020 (the “2021-25 EU Drugs Agenda”, or the “Agenda”). We have serious concerns regarding both the process for its development as well as with the substance of the document and urge the German Presidency to propose to the EU Horizontal Working Party on Drugs (HDG) that this draft cannot be accepted, and to outline an appropriate and inclusive strategic development process for the next EU drugs strategy.

The formulation of the 2021-25 EU Drugs Agenda through a unilateral Communication of the European Commission without consultation with EU Member States and other relevant EU actors, including civil society is deeply problematic. If the HDG accepts this document as it stands, a worrying procedural precedent will be set. To date, the ‘EU’s drugs strategies and action plans are developed through a rigorous process that allows Member States to work together on the development of strategic approaches. This involves a series of negotiations, evaluations and compromises so that consensus can be reached in the form of a new strategy document.’¹ The 2021-25 EU Drugs Agenda appears to be the result of a hasty, opaque and non-participatory policy-making process, and represents a drastic departure from agreed EU policies. The lack of appropriate consultation and engagement inevitably means that the different experiences and views of EU Member States and other relevant EU actors have less weight in the new document. It fails to adopt a balanced, integrated, and multidisciplinary approach to drug matters; it is not rooted on human rights, public health, and the key international drug policy documents; and it envisages a diminished role for civil society and affected communities.

The European Union has been a global leader in advancing a balanced, integrated, and multidisciplinary approach to drug policies. The 2005 and 2013 EU Drugs Strategies established a consolidated framework that has become a ‘central guiding model’² for national-level drug strategies across the EU. However, the 2021-25 EU Drugs Agenda proposes -in its own words- a

¹ EMCDDA (2019), *The EU drugs strategy: a model for common action*,

https://www.emcdda.europa.eu/system/files/publications/2735/EU%20drugs%20strategy_updated2019.pdf

² European Commission (2020), *Evaluation of the EU Drugs Strategy 2013-2020 and EU Action Plan on Drugs 2017-2020*, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20200724_swd-2020-150-commission-staff-working-document_en.pdf, p. 39

‘paradigm-shift’.³ It disproportionately focuses EU policy on law enforcement and supply control, to the detriment of the priority previously given to public health, human rights, international cooperation, and scientific research and evaluation. If implemented, it will signal a diminished support for evidence-based drug treatment and harm reduction services, and it will weaken the voice of the EU in international drugs fora, where it has been a key global actor in defending the balanced, rights-based approach adopted by the 2016 UNGASS Outcome Document.⁴

In spite of the EU’s commitment to seek the ‘active and meaningful participation and involvement of civil society’ in the ‘development and implementation of drug policies’,⁵ the participation of civil society in the preparation of the 2021-25 Drugs Agenda has been deeply flawed. European NGOs were only allowed to provide input to the Agenda with the publication of the Road Map,⁶ on 10 June 2020, with no other opportunity to feed in the process, besides a call between the Commission and certain CSFD members in April. It should be borne in mind that the Road Map is a document of just over two pages that does not allow for a genuine understanding of, or feedback on, the Agenda. No draft of the Agenda was ever shared.

Furthermore, the European Commission disregarded the overwhelming majority of the 27 submissions sent by European NGOs, which urged the EU to retain the balanced and multidisciplinary approach that characterized the 2005 and 2013 EU Drugs Strategies. The fact that the deadline for submitting feedback was 15 July 2020, a mere nine days before the publication of the Communication, suggests that the consultation was not undertaken in the spirit of genuine inquiry, and that the Agenda was at least near completion when the Road Map was published.

Crucially, although the external evaluation of the 2013 EU Drugs Strategy was finalised in April 2020, the evaluation was not published or otherwise shared with civil society until three months later, on 24 July 2020, thus depriving stakeholders of crucial information when providing feedback to the Road Map. This is important, as there would appear to be a significant disconnect between the Agenda and the external evaluation. For instance, the evaluation consistently found that the 2013 Strategy had ‘sparked a considerable amount of progress’⁷ in the cross-cutting areas of coordination, international cooperation, and monitoring, research and evaluation, which are precisely the areas now removed from the Agenda.

In addition to the grave concerns regarding the process and procedure, we felt it is important to bring your attention the key flaws in the draft Agenda:

- **Losing the balanced approach.** Although the Agenda explicitly claims to seek an ‘integrated, balanced, and multidisciplinary approach’ to drug policies,⁸ the draft is not balanced, as over half of its eight priority areas concern security and supply control interventions, with the rest distributed between prisons, prevention, treatment, and harm reduction. Public health measures aimed at reducing the harms that can be associated to drug

³ European Commission (2020), *EU Agenda and Action Plan on Drugs 2021-2025*, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20200724_com-2020-606-commission-communication_en.pdf, p. 2.

⁴ See amongst others: *EU Common Position on UNGASS 2016*, https://www.unodc.org/documents/ungass2016/Contributions/IO/EU_COMMON_POSITION_ON_UNGASS.pdf & *EU Statement on the occasion of the Intersessional Meeting 7-9 November 2018, Commission on Narcotic Drugs*, https://www.unodc.org/documents/commissions/CND/2019/Contributions/November/MS_Statements/8_November/INTERVENTION_EU_statement_on_implementation_of_commitments_081118.pdf

⁵ Council of the European Union (2012), *EU Drugs Strategy (2013-2020)*, [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52012XG1229\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52012XG1229(01)&from=EN) para. 24.5.

⁶ The Road Map is available at: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12442-EU-Drugs-Agenda-and-Action-Plan>

⁷ European Commission (2020), *Evaluation of the EU Drugs Strategy 2013-2020 and EU Action Plan on Drugs 2017-2020*, p. 39

⁸ European Commission (2020), *EU Agenda and Action Plan on Drugs 2021-2025*, p. 3.

use have been relegated from the first priority of the 2013 Drugs Strategy to the end of the new Agenda. The cross-cutting themes of coordination, international cooperation, and information and research, which have been successfully developed since 2013 to materialise the multidisciplinary and integrated approach, have been dropped. The many references to the balanced approach across the operative parts of the 2013 Strategy, for instance as the basis for increased coordination across all actors,⁹ interventions at the CND,¹⁰ and international cooperation,¹¹ have also disappeared.

- **Deprioritising human rights and public health.** Human rights have practically disappeared from the draft Agenda, which contains no reference to the relevant international or regional human rights instruments, including the Universal Declaration of Human Rights. Furthermore, there is no mention of the International Guidelines on Human Rights and Drug Policy, a critical document developed with the leading support of Germany that lays down, for the first time, a set of clear and comprehensive international standards for articulating rights-based responses to illegal drug economies. In contrast, the 2013 EU Drugs Strategy explicitly referred to the Universal Declaration of Human Rights and the European Convention of Human Rights, amongst others, and human rights were mentioned several times in the section on international cooperation. Public health has been relegated from the first policy field in the 2013 Strategy to the last priority areas of the Agenda, and has been replaced by ‘drug-related security’ as the first goal of the document.
- **Dropping support for key international documents.** Equally surprising is the little attention paid to the 2016 UNGASS Outcome Document - only a footnote in the preambular part of the Agenda, and a mention in the Action Plan, outside its priority areas -, even though it has been consistently described by the EU as ‘the most comprehensive policy agreement of the international community and a milestone in the discussions on international drug policy’.¹² It is also inexplicable that the Agenda would completely fail to reference the 2018 UN System Common Position on Drugs, a watershed document championed by the EU and EU Member States,¹³ as it establishes for the first time a coherent position across all UN entities on key topics like decriminalisation and harm reduction.
- **Reducing the space for civil society and people who use drugs.** Whereas the 2013 EU Drugs Strategy contained a commitment to promote and encourage ‘the active and meaningful participation and involvement of civil society’,¹⁴ the EU Drugs Agenda only mentions ‘engagement’ with the CSFD.¹⁵ Involvement with civil society beyond the CSFD has been omitted, and there is no reference to engaging with people who use drugs and clients of drug services, which the 2013 Strategy did.
- **Weakening the external dimensions of drug policy.** The 2021-25 Drugs Agenda risks weakening the external action of the EU in bilateral and multilateral drugs fora, as it does not set clear guidelines for EU coordinated intervention, and it does not provide strong support for the key international documents that the EU has been forcefully defending and promoting in the last years. For instance, the Agenda does not provide any concrete principle or guideline for intervening at the CND, even though it is arguably the centre of the international drug control system, and the role of the EU there is more important than ever.

⁹ Council of the European Union (2012), *EU Drugs Strategy (2013-2020)*, p. 19.

¹⁰ Ibid, p. 21.

¹¹ Ibid, p. 23-24.

¹² Council of the European Union (2019), EU statement on the occasion of the 62nd sesión of the Comisión on Narcotic Drugs, https://www.parlament.gv.at/PAKT/EU/XXVI/EU/06/28/EU_62878/imfname_10897890.pdf

¹³ Council of the European Union (2020), EU statement on the occasion of the 63rd sesión of the Comisión on Narcotic Drugs,

https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_63/Statements63_02.03.2020/EU_statement_general_debate_240220-final.pdf

¹⁴ Council of the European Union (2012), *EU Drugs Strategy (2013-2020)*, p. 21.

¹⁵ European Commission (2020), *EU Agenda and Action Plan on Drugs 2021-2025*, p. 15.

This contrasts greatly with the 2013 Drugs Strategy, which committed the EU to a ‘strong voice’ in the Commission on Narcotic Drugs, with the aim of promoting the balanced approach.¹⁶ Another case in point is the only reference to alternative development in the whole Agenda, which can be found under the heading ‘dismantling drug production’, and is not deemed to warrant even one of the 24 priority areas set in the document. This is especially surprising considering that the 2018 Council Conclusions adopted exclusively on this topic committed the EU to a ‘leading role (...) in the funding and implementation of alternative development’, and stated clearly that the success of alternative development goes ‘beyond an exclusive focus on illicit drug crop monitoring’.¹⁷

- **Deprioritising scientific evidence.** In spite of the EU’s leading role in fostering scientific knowledge and research on drug markets and drug use through the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), the 2021-25 EU Drugs Agenda has dropped the cross-cutting theme on monitoring, research and evaluation, and science-based drug policies are scarcely mentioned in the operative parts of the document. Again, this makes a striking contrast with the 2013 Drugs Strategy, which featured a whole theme on research and evaluation for ‘a better understanding of all aspects of the drug phenomenon’,¹⁸ and provided a role for the EMCDDA in supply reduction, international cooperation, and the overall implementation of the document, among others.
- **A stigmatising document.** Although the 2021-25 Drugs Agenda explicitly seeks to reduce drug-related stigma, the European Commission press release¹⁹ accompanying the publication of the proposed Agenda was deeply stigmatising, as it puts drug policies at the same level as child abuse and firearms trafficking. Furthermore, the Agenda contains some instances of stigmatising language (‘substance abuse’ and ‘substance misuse’) that did not exist in the 2013 Drugs Strategy.

In light of the above and following established practices for the development of previous EU drugs strategies, we urge you, as the Council Presidency, to take political leadership and encourage the HDG to reject the draft proposed by the European Commission. A new process for strategy development should ensure that the new document reflects in a balanced manner the existing EU and the latest international commitments (in particular the 2016 UNGASS Outcome Document), the views of the EU Member States and all the relevant actors within the EU institutions, and engages meaningfully with civil society.

We would also be grateful if you could share this letter with your HDG colleagues before the 9 September meeting.

We remain at your disposal for any further discussion on this matter, and look forward to our continued cooperation on this and other topics during the German Presidency.

Yours Sincerely,



Ann Fordham
Executive Director
International Drug Policy Consortium

¹⁶ Council of the European Union (2012), *EU Drugs Strategy (2013-2020)*, p. 21.

¹⁷ Both quotes in: Council of the European Union (2018), Council Conclusions on Alternative Development, <https://data.consilium.europa.eu/doc/document/ST-14338-2018-INIT/en/pdf>

¹⁸ Council of the European Union (2012), *EU Drugs Strategy (2013-2020)*, p. 29.

¹⁹ European Commission (2020), *Security Union Strategy: initiatives to fight child sexual abuse, drugs and illegal firearms*, https://ec.europa.eu/home-affairs/news/20200724_security-union-strategy-initiatives-fight-child-sexual-abuse-drugs-illegal-firearms_en

On behalf of signatory organisations:

1. International Drug Policy Consortium (Europe-wide)
2. Transnational Institute (Netherlands)
3. Agencia Piaget para o Desenvolvimento (Portugal)
4. Akzept (Germany)
5. Association For Safer Drug Policies (Norway)
6. Association For Safer Drug Policies (Sweden)
7. Association Terra (Croatia)
8. Citywide Drugs Crisis Campaign Ireland (Ireland)
9. Correlation - European Harm Reduction Network (Europe-wide)
10. Diogenis Drug Policy Dialogue (Greece)
11. Drug Policy Network South East Europe (Serbia)
12. Eumans (Europe-wide)
13. Eurasian Harm Reduction Association (Lithuania)
14. European Network of People who Use Drugs (Europe-wide)
15. Forum Droghe (Italy)
16. International Network of People who Use Drugs (Europe-wide)
17. Healthy Options Project Skopje (Macedonia)
18. Luca Coscioni Association (Italy)
19. Mainline Foundation (Netherlands)
20. Medecins du Monde (France)
21. Metzineres, Environments of Shelter for Women who Use Drugs Surviving Violence (Spain)
22. Polish Drug Policy Network (Poland)
23. Prekursor Foundation for Social Policy (Poland)
24. Science for Democracy (Italy)
25. La Societa della Ragione (Italy)
26. Stockholm Drug Users Union (Sweden)
27. The Street Lawyers (Denmark)
28. Trimbos Institute (Netherlands)
29. Youth RISE (Europe-Wide)