

Terms of Reference

Title:	National consultant
Organisational Section/Unit:	UNODC Regional Office for Central Asia, Programme Office in Astana
Duty Station:	home-based
Proposed period:	September 2014 - April 2015
Actual work time:	63 working days

1. Background of the assignment:

With the continued drug trafficking and widespread illicit drug use in West and Central Asia, the proportion of drug related crimes¹ remains substantial among the registered crimes, though greatly varying among the countries (i.e. from 6 per cent in Tajikistan to 46 per cent in Turkmenistan with the indicators for Kazakhstan, Kyrgyzstan and Uzbekistan fluctuating in between) (UNODC, 2010). Consequently, the share of the offenders with the officially established diagnosis of drug dependence among those imprisoned in these five countries is also quite significant and varies from 3 per cent in Kyrgyzstan to 27 per cent in Turkmenistan, with much higher expert estimates of the number of imprisoned drug users (i.e. 35 per cent in Kyrgyzstan) (UNODC, 2010²).

There are no reliable systematized data on the nature of prevailing crimes committed by the arrested and/or convicted drug users. However, anecdotal evidence indicates that frequently they are convicted to imprisonment for petty non-violent offences. Women tend to be particularly affected by punitive drug laws. Many women convicted of drug-related crimes have a history of victimization, violence and abuse behind them. The highest percentage of women in prisons for drug offenses was found in Tajikistan (70 per cent or 420 out of 600), followed by Kyrgyzstan (33.3 per cent). Overall, one in four women in Central Asia is incarcerated for non-violent drug offences (Harm Reduction International, 2012³).

UN and other international and national stakeholders have voiced human rights concerns over the issue of proportionality of punishment, the absence or insufficient use of alternatives to incarceration and lack of access of drug dependent inmates to the required spectrum and quality of health and social support services (i.e. drug dependence treatment, tuberculosis- and HIV-related services). According to UNODC (2010), there is a need to reform administrative and criminal law throughout the region via humanizing

¹ Drug-related crime is law breaking by drug users considered to be related directly to their drug use. It can belong to either of drug-related crime categories such as psychopharmacological crimes (committed under the influence of a psychoactive substance), economic-compulsive crimes (committed to obtain money (or drugs) to support drug use, systemic crimes (committed within the functioning of illicit drug markets, as part of the business of drug supply, distribution and use) and drug law offences (committed in violation of drug laws and other related legislations) (Malloch & McIvor, 2012, March 23, p. 69; EMCDDA, 2007).

² UNODC. (2010). Accessibility of HIV prevention, treatment and care services for people who use drugs and incarcerated people in Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan: Legislative and policy analysis and recommendations for reform.

³ Harm Reduction International. (2012). Cause for alarm: The incarceration of women for drug offences in Europe and Central Asia, and the need for legislative and sentencing reform.

policies related to drug use and non-violent drug related offences, particularly by widening the spectrum of alternatives to imprisonment – i.e. non-custodial sanctions and measures – for those convicted of non-violent drug-related criminal offences.

As a recent study on Afghanistan has shown, drug dependency can often start in prison, where opium and heroin are widely available, and for the first time users they are available at no cost (UNODC, 2005⁴). A number of studies has shown that untreated drug dependency can easily lead to renewed conflict with the law following a release. Also, there are concerns that concentration of drug users in prisons may increase the pressure for greater security measures and, because of the inadequate health and social support available in prisons, would exacerbate multiple adverse health and security consequences for prisoners and the penitentiary system staff (fatal drugs overdose, blood-borne infections such as HIV, HBC, HCV, sex-trade and sexually transmitted infections, tuberculosis including its MDR forms, drug-related corruption and violence).

UNODC – as the guardian of international standards and norms in crime prevention and criminal justice – is mandated to support Member States in putting into practice these standards and norms by assisting States in building fair and effective criminal justice systems. UNODC's mandates are contained in the UN resolutions, such as for instance Resolutions 2006/22⁵ and 2007/24⁶ requesting UNODC to provide to Member States assistance in the area of penal reform and alternatives to imprisonment.

To provide a platform for better coordination and facilitation of counter-narcotics efforts across the region and bring coherence to its activities, UNODC has launched the Regional Programme for Afghanistan and Neighbouring Countries for 2011-2014 (hereafter referred to as the RP). It is a strategic framework for UNODC's engagement in the region aimed at enhancing counter-narcotics capacities across the region and covering 8 countries – Afghanistan, Iran, Pakistan and five Central Asian countries (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan).

One of its Sub-programmes – the Sub-programme 3 (SP3) on Prevention and Treatment of Addiction among Vulnerable Groups – is designed to support ongoing drug demand reduction and HIV initiatives in the region as well as the development of regional networks and linkages to strengthen drug use and HIV prevention, treatment and rehabilitation services. The activities under the SP3 build on UNODC's various ongoing global/ regional/ country projects on drug demand reduction.

Within the frames of SP3, UNODC will implement a project/set of activities aimed at improving capacity of criminal justice system of every country covered by the RP to uphold international human rights standards by developing the efficient and appropriately enforced system of alternatives to incarceration to be applied in cases of non-violent crimes committed by drug users. In particular, a study will be conducted on the spectrum of drug related crimes committed by drug users, the character of punishments (i.e., administrative and criminal charges), existing system of alternatives to incarceration and its actual application in all countries (stage 1). Following the study, a road map for the legislative reform guarantying full application of the principles of international human rights laws and standards and creation of the law enforcement mechanisms providing for the development/strengthening of an effective system of alternatives to incarceration in RP countries, will be developed (stage 2).

⁴ UNODC. (2005). Afghanistan Drug Use Survey (as cited in UNODC, 2008, May, "Afghanistan: Implementing Alternatives to Imprisonment, in line with International Standards and National Legislation", p. 59).

⁵ Resolution 2006/22 invites UNODC to develop further tools and training manuals, based on international standards and best practices, in the area of penal reform and alternatives to imprisonment, in particular in the areas of prison management, legal advice and assistance and the special needs in prison of women and children, as well as persons with mental illness and the physically challenged; to continue to provide advisory services and technical assistance to Member States, upon request, in the area of penal reform, including restorative justice, alternatives to imprisonment, HIV/AIDS in prisons and the special needs of women and girls in prisons.

⁶ Resolution 2007/24 requests UNODC to provide advisory service and technical assistance to Member States, upon request, in the area of penal reform, including restorative justice, alternatives to imprisonment, etc.

2. Purpose of the assignment:

The purpose of the consultancy is to conduct a country-level assessment on the spectrum of crimes committed by drug users, the character of punishments/judicial practices applied to these crimes (with a focus on petty, non-violent crimes), existing system of alternatives to incarceration and its actual application in Iran.

National consultant will be a member of a team lead by the international consultant. S/he will be responsible for conducting the aforementioned country-level assessment and drafting the assessment report and recommendations for improving the country's system of alternatives to incarceration.

3. Specific tasks to be performed by the consultant:

Under the supervision of international consultant, national consultant will fulfill the following scope of works:

- 1) Participate in the regional training for national experts/consultants on the usage of the assessment tool to study the spectrum of crimes committed by drug users, judicial practices applied to these crimes and evaluate the effectiveness of the country's system of alternatives to incarceration.

The assessment tool will be developed by the international consultant, who will lead the regional training.

- 2) Under the technical guidance of the international consultant, conduct the country-level study and draft the assessment report and recommendations for improving the country's system of alternatives to incarceration.

4. Expected tangible and measurable output(s):

A country report on the spectrum of crimes committed by drug users, judicial practices applied to these crimes and the effectiveness of the country's system of alternatives to incarceration.

All deliverables are to be written/translated into English and proof-read.

For quality assurance, all deliverables will be approved by the SP3 Coordinator and Programme Officer. Pending this approval, payments will be made accordingly.

5. Dates and details as to how the work must be delivered:

In total, the consultancy will last for **63 working days** within the period of 213 days (see Annex 2. Work plan).

- The consultant will have to participate in the regional training on the usage of the assessment tool developed by the international consultant (**3 working days**).
- After the training, the assessment study will commence simultaneously in all eight countries. The consultant will conduct the assessment under the technical guidance of the international consultant (**40 working days** within 180 days).
- The consultant will liaise with the international consultant and Programme Officer and provide short progress reports by email on a no less than biweekly basis. The consultant will have to draft the country assessment report (**20 working days** within 30 days).

6. Indicators to evaluate the consultant's performance:

- Regular progress reports to the international consultant and Programme Officer on a no less than biweekly basis;
- Deliverables, as listed above and meeting the satisfaction of the above UNODC staff submitted in accordance with the indicated timeline.

7. Competencies and qualifications sought:

Competencies:

- **Professionalism:** understanding of theories, concepts and approaches to the human rights in the administration of justice. Excellent research and analytical skills. Experience in the use of various research methodologies and sources.
- **Teamwork:** proven interpersonal skills and ability to establish and maintain effective partnerships and working relations in a multi-cultural, multi-ethnic environment with sensitivity and respect for diversity, including gender balance.
- **Communication:** very good communication skills. Speaks and writes clearly and effectively; listens to others; demonstrates openness in sharing information and keeping people informed.

Qualifications:

- **Education:** advanced university degree (Master's degree or equivalent) in Criminal Law, Human Rights, Criminology or relevant social/political areas. A first-level university degree in combination with qualifying experience may be accepted in lieu of the advanced university degree.
- **Experience:** no less than five to seven years experience in crime prevention and criminal justice matters. Previous experience in conducting assessments and studies. Good knowledge of international human rights standards and approaches in relation to the criminal justice system, of judicial and social aspects relating to justice, penal and criminal justice reform. Very good knowledge of the national criminal justice systems and national legislation relating to the system alternatives to incarceration.
- **Languages:**
 - For CA countries:** native Russian speaker with excellent drafting and communication skills. Knowledge of English is highly desirable and is considered an advantage.
 - For WA countries:** fluency in English with excellent drafting and communication skills.

1. Payment

The consultant will be issued an individual consultancy contract and paid in accordance with United Nations rules and procedures.

Three day mission trip is envisaged for the national consultant to participate in the training on the usage of the assessment tool.

UNODC will cover the travel and visa related costs and provide him/her with the DSA that does not exceed the respective UN rates.

The payment will be done in two installments:

- The first payment (20 per cent of the consultancy fee) will be made upon signing of the contract and prior the mission trip to participate in the training on the usage of the assessment tool;
- The second payment (80 per cent of the consultancy fee) will be made upon finalizing the assessment and submitting the draft country assessment report, its approval by the International Consultant/Team Leader, and clearance by the SP3 Coordinator and Programme Officer.

Interested applicants are hereby invited to send their cover letter together with their filled P11 form or their CV to Ms. Ninette Haghverdian at ninette.haghverdian@unodc.org.

Annex 1

Country assessments:

Study of the spectrum of drug related crimes committed by drug users, the character of punishments, existing alternatives to incarceration and its actual application in Afghanistan, Iran, Pakistan and five Central Asian countries

Template of the country assessment tool⁷:

The aim of the assessment is to study the following:

- the spectrum of drug related crimes committed by drug users;
- the character of punishments;
- the existing system of alternatives to incarceration (their legal basis, management, effectiveness, and opportunities for improvement), and
- the actual/practical application of the system of alternatives to incarceration.

Data will be obtained through the desk reviews and focus group discussions. All data and information should be segregated by gender and age whenever possible, in both its factual representation and its analysis. In addition to nationwide data, information and descriptions, an analysis of data on the structure of alternatives to incarceration in each country should also be presented if possible.

Specifically, the report should cover the following issues:

- 1. General description of each country's penitentiary system and prison population characteristics with focus on drug using offenders and offenders committed drug-related non-violent crimes**, including dynamics over the last ten years and the latest available data on:
 - The number and types of penitentiary facilities, including temporary detention centres;
 - Annual sizes of prison populations, with people in temporary/pre-trial detention facilities shown separately and their prevalence per 100,000 general population;
 - Women incarcerated for drug-related crimes: number of women in prisons; number of women in prisons for drug offences; the percentage of female prisoners serving sentences for drugs;
 - Demographics of inmates committed non-violent drug related crimes. Details including age distribution, gender, ethnicity, types of drug related crimes committed; length of sentences, the rural/urban dwellers and inhabitants of certain geographical locations, and other related data should all be presented in annexes.
- 2. Crime statistics**, including data available from the last ten years and the latest available, segregated by age, gender, ethnicity and geographical location when possible, including:
 - Total crime: the number of registered cases annually, and the percentage of detained people and convicted offenders per 100,000 general population;
 - Drug-related crime (including non-violent crimes): the number of registered cases annually, and the percentage of detained people, convicted offenders and imprisoned offenders per 100,000 general population;
 - Types of drug-related crimes: data related to smuggling, possession of controlled drugs without intent to sell, etc. and the percentage of those detained, convicted and imprisoned among drug users who committed crimes (registered and/or estimated number of drug users) or as the prevalence per 100,000 general population;
 - Other types of offences committed by drug users, and the percentage of those detained, convicted and imprisoned among all drug users who committed crimes or as the prevalence per 100,000 general population.

⁷ The country assessment tool is subject to further elaboration and adjustment to each country's specificities and context.

3. The character of punishments/sentencing practices/criminal and administrative charges

- Types of the criminal or administrative charges/sentences applied to illicit drug use in the Penal Code/Criminal Code/Criminal Procedure Code;
- Types of criminal or administrative charges/sentences applied to non-violent drug-related offences/drug trafficking;
- Types of alternatives to criminal prosecution provided in national legislation for the use of illicit drugs;
- Types of alternatives to criminal prosecution provided in national legislation for non-violent drug related crimes/drug trafficking;
- Structure/functions of existing alternatives to incarceration and its actual application in every country;
- Steps being taken by the government to introduce or increase the options of alternative measures and sanctions available for drug dependent offenders, with appropriate treatment for their addiction.

The found information should be systematized and analyzed in order to make it clear **why** this or that situation has taken place and **why** it has or has not been changing.

The desk review should be completed with **Conclusions** pointing out gaps, and **Recommendations** for the country's key criminal justice actors – the police, prosecutors, judges and probation officers.

Annex 2

Country assessments:

Study of the spectrum of drug related crimes committed by drug users, the character of punishments, existing alternatives to incarceration and its actual application in Afghanistan, Iran, Pakistan and Central Asian countries

Work plan 2014-2015

Activity	Number of working days	Responsibility	Comments
Training of the national consultants' team			
Participating in the regional training for national experts-consultants	3	International Consultant, National Consultants	The venue and location of the training is to be defined.
Country assessments			
Conducting the assessment	40 (within 180 days)	International Consultant (lead/guidance) and National Consultants	The assessment will be conducted simultaneously in all eight countries. The international consultant will lead the assessment and provide technical guidance to the national consultants during the course of the assessment from the home country via the Internet/email.
Drafting the assessment reports	20 (within 30 days)	National Consultants	

Total: 63 working days (within 213 days)