



Institute for Development
of Freedom of Information

Analysis of Drug-Related Criminal Statistics – Practice and Declared Goals Do Not Match

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Kingdom of the Netherlands

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Key Findings

- The existing legislation and practice related to drug policy in Georgia is in opposition to both international standards and the declared national strategy. The strategy outlines the goals of reducing supply and demand, education regarding the reduction of harmful effects, and rehabilitation. In contrast, the existing practice is to a large extent oriented towards punishing drug users;
- In the last 4 years, the number of registered drug-related criminal cases declined by 34%; from 7,312 cases in 2014 to 4,762 cases in 2017. In the same period, 92-93% of these cases were closed, which is one of the highest percentages among criminal cases in Georgia;
- In the years 2013-2017, the amount of administrative offences related the acquisition, possession or use of drugs declined threefold; from 12,274 incidents in 2013 to 3,416 incidents in 2017 (initial 10 months);
- If one supposes that each administrative offender was fined 500 GEL prescribed by the law, one gets that in 2013-2017 the amount of these fines equaled a total of 17,816,000 GEL;
- In the years 2014-2017, the number of persons taken for drug testing declined almost five times (from 50,865 to 11,653), while the number of persons showing a positive result in the test declined threefold. This trend should be evaluated positively, although, because this policy of the Government is not predicated on legislation, the trend might change at any time. In order to avoid this, it is vital to stop the criminal prosecution of drug users on the legislative level in the shortest possible time;
- Within the last 4 years, the share of persons showing a positive result on drug use as a result of a drug test increased from a quarter to one half of all tests;
- According to the approximate calculations based on minimal pricing, in the last four year a minimum of 2,448,520 GEL was spent on drug tests. 1,670,940 GEL (68%) was spent on persons that were later discovered to not have any drugs in their system;
- While tens of thousands of people were fined for drug use, according to the statistics provided by the Ministry of Internal Affairs, in 2016 only 10 people were arrested for distributing drugs, and only 36 people – in 2017. Such a vast difference in numbers of people arrested for drug use and drug distribution raises questions regarding the priorities of the drug policy of the country;
- The opinion of the UN regarding the most widespread method of battling drug-related crime in Georgia – namely mandatory drug testing – is the following: testing is not based on proof, it violates the right to privacy, bears the appearance of social control, some tests mistakenly show positive results and are never verified, testing does not allow the differentiation of drug users and drug addicts;

Introduction

The discussion of the liberalization of the existing policy towards drug users in Georgia has been ongoing for several years now. In 2017, this process entered an active phase when a [draft law](#) was introduced to the Parliament of Georgia. The draft law envisions the liberalization of drug policy and the development of rehabilitation programs for drug users.

The principal goals of the national [strategy](#) and [action plan](#) for battling drug abuse are reduction drug use, increase in the availability of education and information resources, reduction of drug supply and illegal distribution. The national strategy does not envisage punishing drug users, although statistical data indicates a different reality – the national legislation and practice harshly punishes drug users.

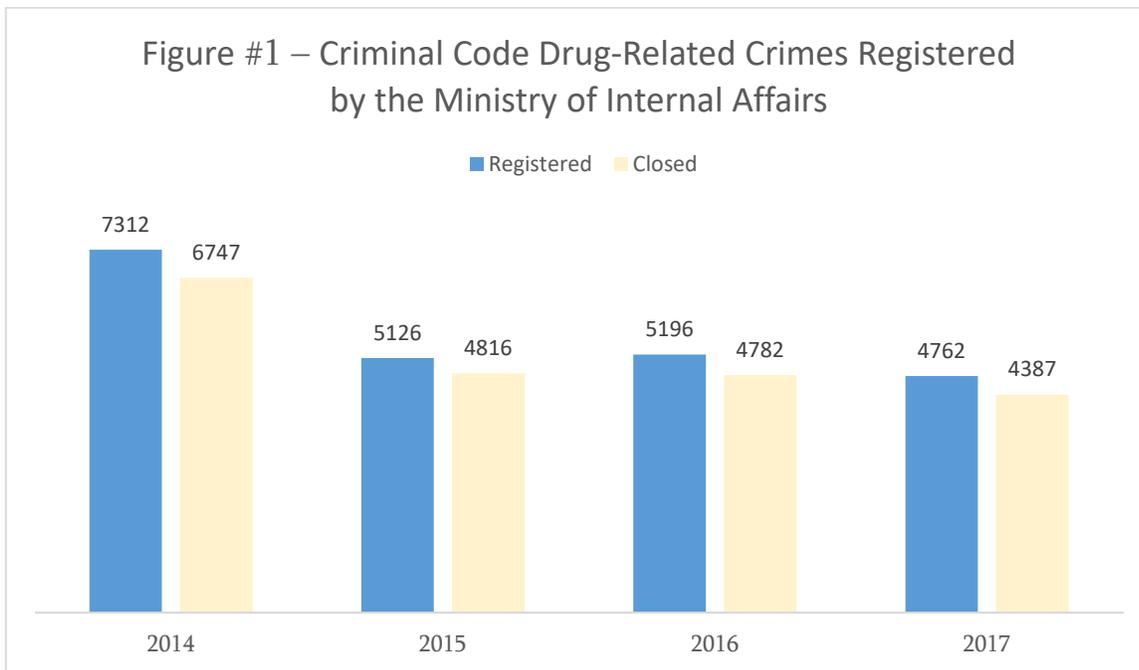
The Institute for Development of Freedom of Information (IDFI) published a statistical [analysis](#) of drug-related crime in 2015 and underlined the necessity of rehabilitation programs for drug users. In the same article, IDFI pointed out the root problem that exists in relation to imposing a just and proportionate punishment for drug-related crimes. Namely, IDFI indicated the absence of a minimal margin for the use of a number of drugs, resulting in criminal prosecution even for the possession of a miniscule amount of drugs with the purpose of future use.

These problems remain unresolved in 2018, which is exactly why it is interesting to discuss statistical data up to 2018 related to criminal or administrative prosecution for the possession, distribution and use of drugs. In particular, IDFI analyzed statistical data from the Ministry of Internal Affairs from 2013 to 2017 (encompassing the period of January to October of 2017).

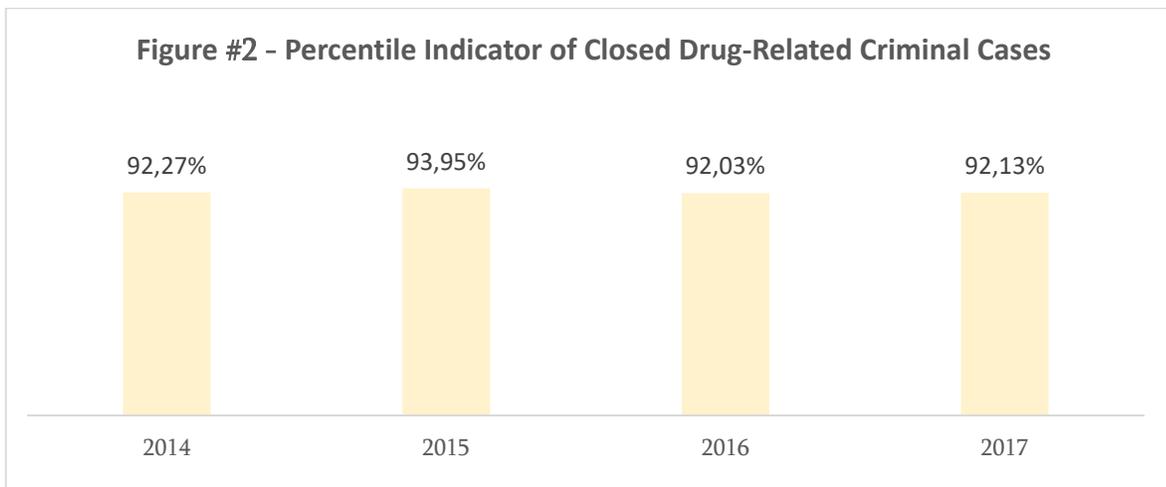
Acquisition, Possession or Drug Use – Analysis of Statistical Data

According to the criminal statistics published by the Ministry of Internal Affairs, the number of registered drug-related crimes is one of the highest among criminal activities.

As for annual statistics, within the last 4 years one can see a declining trend and the number of such instances declined by 34% from 2014 (7,312) to 2017 (4,762) (see Figure #1). The statistics of closing criminal cases contained in the Criminal Code of Georgia from 2014 to 2017 indicated a high share and varied in the 92-93% range (see Figure #2).



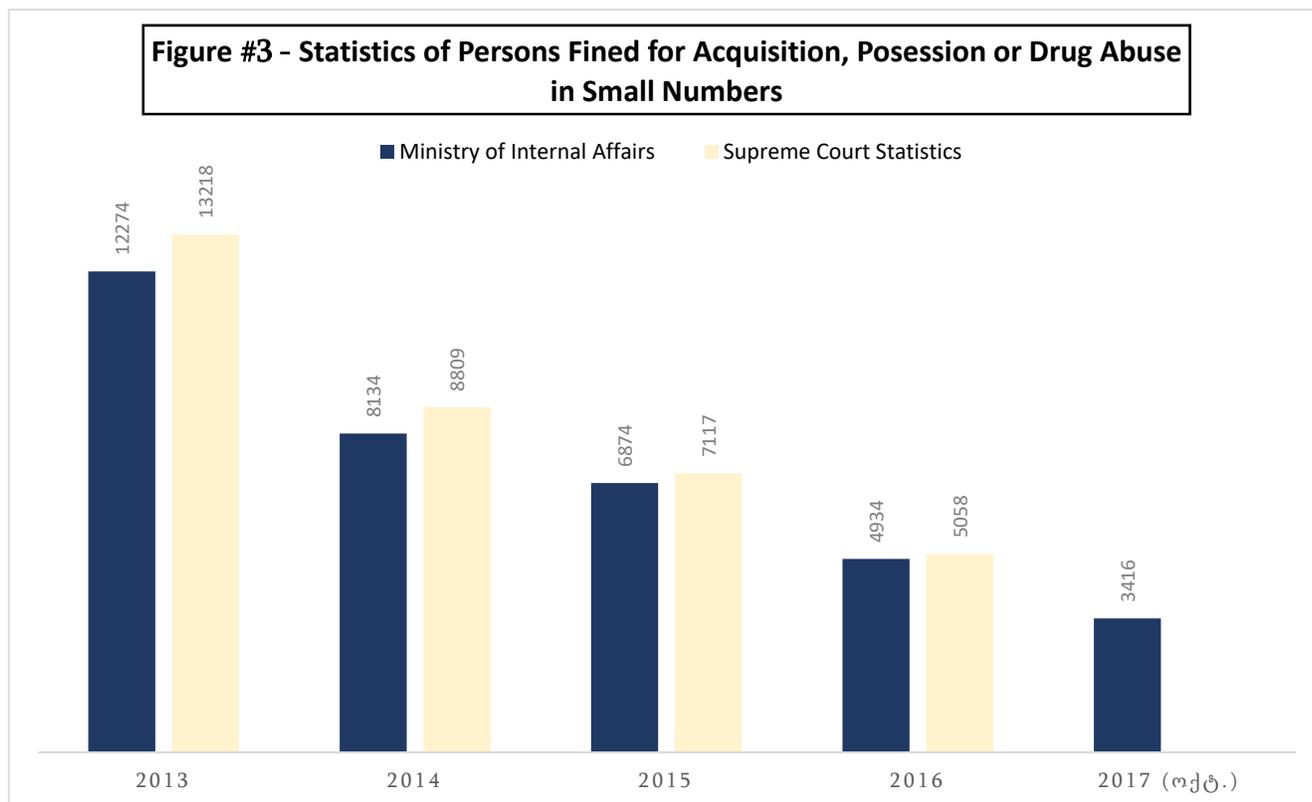
Source: Ministry of Internal Affairs Registered Criminal Statistics: [Years 2014-2015](#); [Years 2016-2017](#)



Source: Ministry of Internal Affairs Registered Criminal Statistics: [Years 2014-2015](#); [Years 2016-2017](#)

According to the Administrative Offences Code of Georgia, acquisition, possession or abuse of a small amount of illegal drugs leads to a fine of 500 GEL or, only in exceptional cases, 15-day administrative imprisonment. According to the data of the Ministry of Internal Affairs, the largest number of administrative offenders were punished in 2013 – 12,274 offenders. As a result, over the next 4 years, the number declined almost four times and by 2017 had declined to 3,416 (see Figure #3). It should be noted that the 2017 data includes statistics only up to and including the month of October and does not include the two-day [police control](#) conducted by the Ministry of Internal Affairs in December, within the framework of which up to [52,000 persons](#) were tested on the national scale.

Supposing that every person was fined, since administrative imprisonment is used only in exceptional cases, then the budget received 6,137,000 GEL as revenue from these fines in 2013, 4,067,000 GEL in 2014 (8,134 persons), while in the 10 months of 2017 the amount comprised 1,708,000 GEL. According to the statistics from the Supreme Court of Georgia, the number of persons who faced administrative prosecution for the same criminal offences by the [Court](#) was slightly higher compared to the numbers from the Ministry of Internal Affairs, although the trend is similar and also faces a decline.

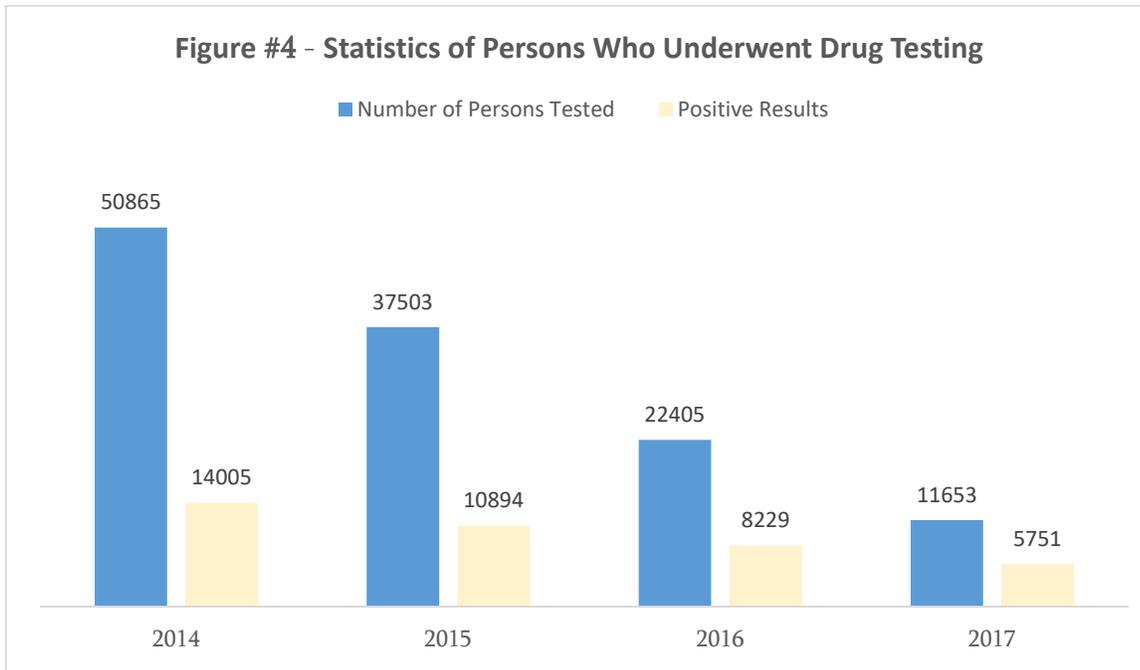


Source: Public information requested from the Ministry of Internal Affairs by IDFI and the statistics of the Supreme Court regarding the number of administrative offenders

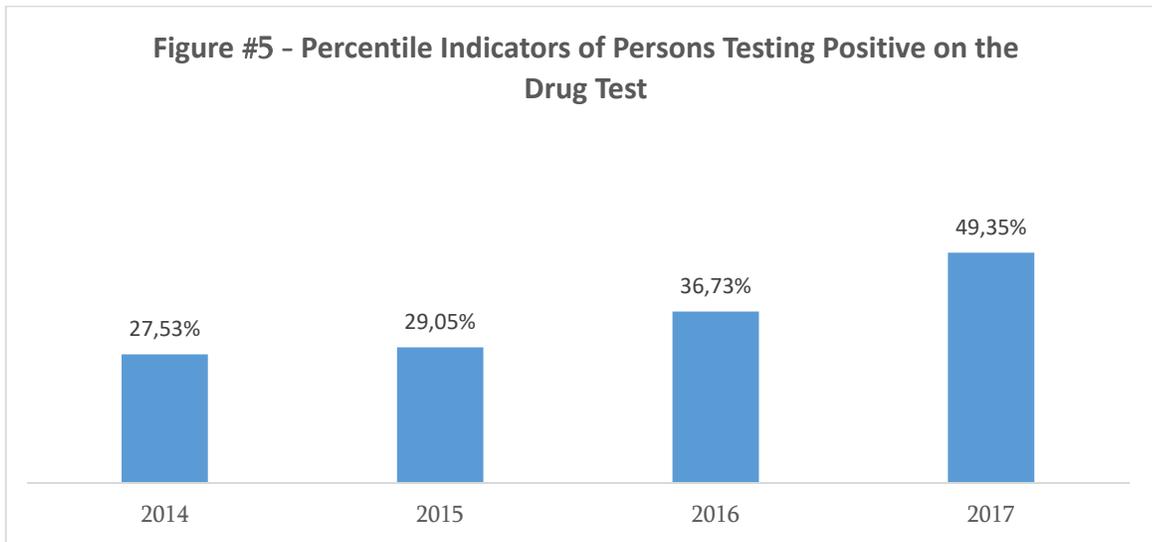
In cases involving the use of administrative fining for small amounts, the Ministry of Internal Affairs does not break the statistics down by drug types. Therefore, it is impossible to conduct a detailed analysis about which drugs were involved in the abovementioned offences.

Up to 2017, the number of persons undergoing drug testing also showed a decline. This trend should be evaluated as a positive, although IDFI considers this number to still be too high. Specifically, in the 10 months of 2017, 11,653 persons underwent drug testing, which indicates that, in this period, the Ministry of Internal Affairs had a daily average of 38 people tested. Among those tested, less than a half were discovered to have been using drugs. **Therefore, the Ministry of Internal Affairs spent financial resources and time on testing a daily average of 20 people out of 38 who were discovered to not be drug users as a result of the test.**

Among the persons taken in for drug testing in the period of 2014-2017, only a small share showed a positive on drug use. Namely, in 2014, 14,005 tested positive, which does not comprise even a quarter of the total number of people who had been tested. In 2016, about a third, while in 2017 about half tested positive (see Figures #4 and #5).



Source: Statistical data requested from the Ministry of Internal Affairs by IDFI



Source: Public information requested from the Ministry of Internal Affairs by IDFI

In 2015, in the third report of the European Commission on the implementation of the visa liberalization action plan, Georgia received a [recommendation](#) regarding random drug testing on the streets. The Commission noted that it was necessary to introduce legislative oversight of this procedure. This recommendation was considered to have been [implemented](#) after the adoption of the 30 September 2015 #725 [Order](#) of the Minister of Internal Affairs. In the order, three principal bases for taking people in for drug testing were outlined:

- 1) Direct observation of the fact;
- 2) Existence of sufficient grounds for the person being under the influence during the identification of a person by the police within the framework of preventative activities, during surface or special testing, during a request to leave special police control area; and

3) A report on a specific person. The decline in the number of persons taken in for drug testing can be partially attributed to this Order of the Minister of Internal Affairs.

The grounds for being taken in for drug testing clearly indicate the fact that the main goal of these tests is to combat drug abuse. If it were the case that the government had effective mechanisms to prevent drug abuse while at the same time the existing punishments for users were more liberal and excluded criminal prosecution, the abovementioned could be justified on the basis of prevention. Within the framework of existing legislative regulations, however, should a person be found to be a drug user, he will have to face administrative or criminal prosecution in the form of a fine or incarceration. Such a person is not subject to rehabilitative efforts, as the country currently has no full-scale rehabilitation programs, and the existing ones are confined mainly to the so-called “Methadone Program”. Therefore, the offender can only face criminal prosecution and will not have access to relevant preventative programs after the establishment of grounds for drug testing and before the appropriate test result is received.

This kind of legal order unequivocally clashes with the declared goals of the national policy. Specifically, the principles of the national [strategy](#) and [action plan](#) are the promotion of the harmonious development of a person, defense of the person and public safety, respect for the dignity of the person and protection of rights, promotion of public awareness, and education. Furthermore, the measures outlined in the action plan in relation to these principles are directed at raising awareness, rehabilitation, and reducing harmful effects. However, the legal order is in disconnect with these goals and principles and mostly serves the idea of administrative or criminal punishment of users.

At the same time, it is true that the justifications established in accordance with the recommendation of the European Commission reduced the possibilities for random drug testing on the street level, and the reduction in the number of persons tested after 2015 can possibly be attributed to this development. However, police control still provided opportunities for random testing. It is indeed true that police control, according to the current law, can only be implemented in preselected territory and at predetermined times, but at the end of 2017 special control was implemented on the territory of all of Georgia for two whole days. Likewise, the third justification for drug testing raises doubts and is problematic, as it provides a framework for testing persons based on reports, however there are virtually no mechanisms for verification of said reports and this might be used as grounds for random/mandatory drug testing at the street level. Precisely this flaw is discussed in a [study](#) by the “Human Rights Education and Monitoring Centre”.

What Is the International Standard for Random Drug Testing?

It is interesting to discuss the international standards for the practice of so-called random drug testing. The United Nations Office on Drugs and Crime (UNODC) has a [study](#) on the positive and negative aspects of random drug testing in the workplace. While the results of the UNODC study are only concerned with random mandatory drug testing of employees by employers in the private sector, they can be applied to the practice of random drug testing by law enforcement. It should be noted that the document has counterarguments for every argument in favor of random drug testing in the workplace. **Specifically, such testing is not based on any kind of proof, it violates the right to privacy, takes the form of social control that disrupts the lifestyle of the employee and does not improve the quality of work, some tests show false positives and are never verified, and the testing does not differentiate drug users from drug abusers.**

The said document concludes that the arguments for the necessity and effectiveness of random drug testing are scarce and the issue requires further research. As well, each case needs to be evaluated on an individual basis and

drug testing should be used as only one facet of the complete work conducted with regards to the problems facing drug abusers.

An overview [document](#) of the international standards for the prevention of drug use by UNODC discusses a school policy, according to which drug testing on a random basis is employed often. The same document directly states that, based on existing proof, **random drug tests have either no impact or a negative impact with regards to prevention.**

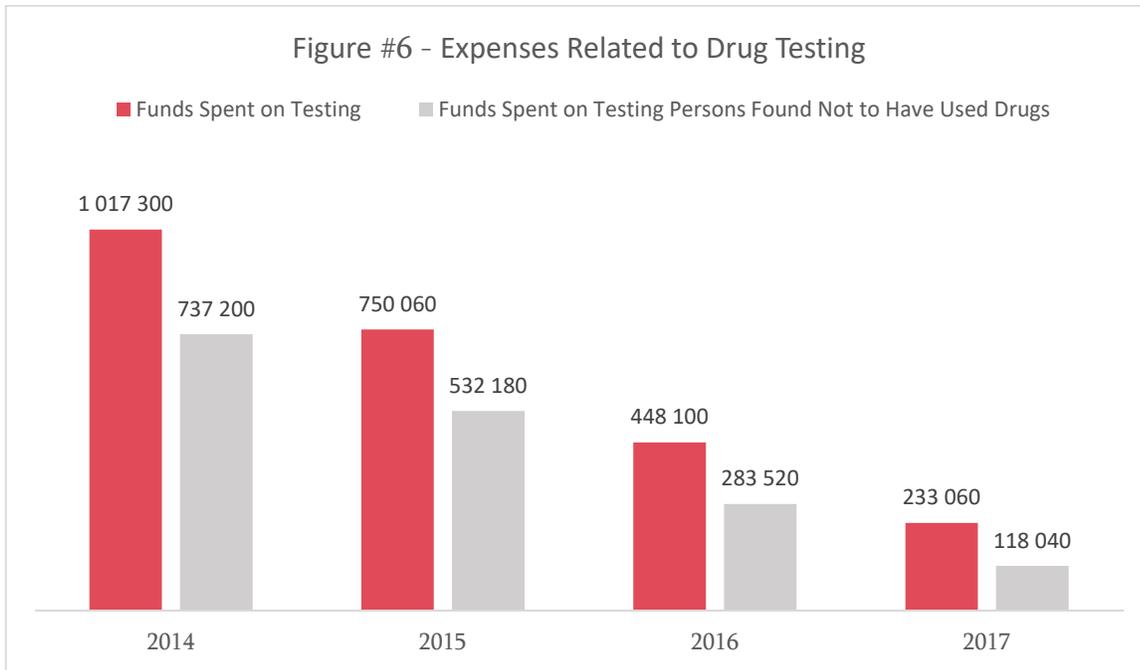
Additionally, IDFI requested statistical information from the Prosecutor's Office of the Kingdom of Netherlands related to the persons taken in from the street for testing, i.e. random drug testing. According to the information received by IDFI, the Prosecutor's Office of Netherlands does not conduct random drug testing and therefore does not possess the relevant statistics.

At the same time, the statistics provided by the United States of America show a relatively high number of people taken in for random drug testing annually. These statistics include persons arrested for drug-related and other kinds of criminal offenses, as well as persons taken in for the express purpose of determining the use of narcotic drugs and psychotropic substances.

What Kind of Resources Are Being Spent on Drug Testing?

According to the rates provided on the official [website](#) of LEPL Levan Samkharauli National Forensics Bureau, the expenses related to the testing for narcotic drugs in a urine sample amount to 20 GEL. Each additional substance adds 5 GEL, and the price of testing for the standard five substances is 40 GEL. The five standard substances include: marijuana, morphine, amphetamines, methadone and buprenorphine.

According to the rates outlined by the Forensics Bureau, the minimum total expenses related to the drug testing conducted by the Ministry of Internal Affairs in 2014 amounts to 1,017,300 GEL (50,865 tested), from which 737,200 GEL would have been spent on testing persons who were subsequently discovered to not have been drug users. From that point on to 2017, as mentioned previously, a declining trend was in evidence, therefore the total expenses related to drug testing similarly declined to 233,060 GEL in 2017, from which 118,040 GEL would have been spent on testing persons who were subsequently discovered to not have been drug users (see Figure #6). In summary, **the total national expenses related to drug testing over the 4-year period amounts to 2,448,520 GEL, from which 1,670,940 GEL was spent on testing persons who were subsequently discovered to not have any substances in their system. Realistic calculations will likely increase these costs even further, since the study assumes the minimum available rates.**



Source: Calculations based on minimum rates

Illegal Drug Trade

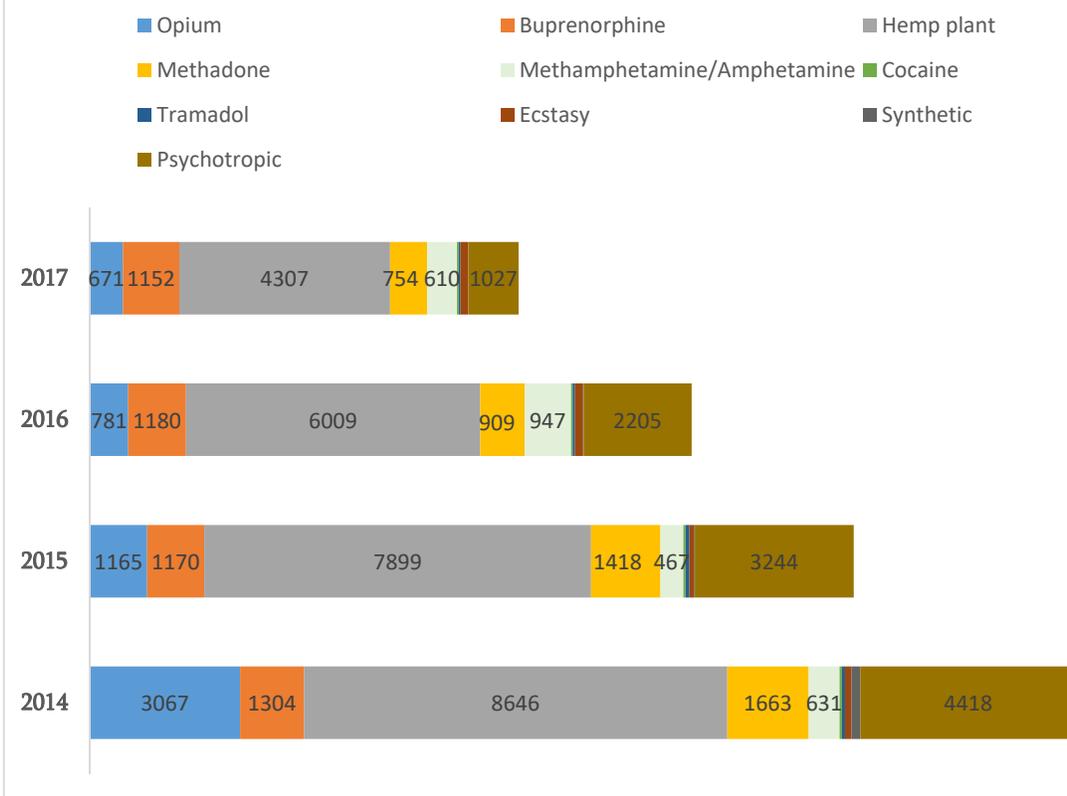
Combating illegal drug trade is one of the universally recognized policy priorities. The UN International Drug Control [Conventions](#) pays special attention to the necessity of criminal prosecution in cases of illegal drug distribution and sale. As well, the Georgian national [strategy](#) for combatting drug abuse cites reducing the supply of illegal drugs as one of its principal goals. At the same time, the first step outlined in the 2016-2016 [action plan](#) for combatting drug abuse is similarly the reduction of illegal drug distribution and sales.

Meanwhile, the actual practical reality of the fight against drug-related crime in Georgia looks as follows: while tens of thousands of people have been prosecuted for drug use, only 10 persons were imprisoned in the temporary detention facility of the Ministry of Internal Affairs for activities related to illegal drug distribution and sale, increasing to 36 persons imprisoned for the same in 2017. **Such a vast difference in numbers of people arrested for drug use and illegal drug distribution raises questions regarding the priorities of the drug-related criminal policy of the country. Specifically, how effectively is the Government in combatting illegal drug distribution and sales and whether the allocation of resources towards the prosecution of drug users and drug abusers is preventing the Government from conducting these activities effectively.**

“Pharmaceutical Drug Abuse”

The backdrop of the existing strict drug-related criminal policy of Georgia also revealed the problem of the so-called “pharmaceutical drug abuse”. This is made clear through the statistics provided by the Ministry of Internal Affairs. According to the data, following the hemp plant, psychotropic substances were found to be the most widespread illegal substance discovered in the persons tested for drug use starting with the year 2014 (see Figure #7).

Figure #7 - Positive Results by Drug Type



Source: Public information requested from the Ministry of Internal Affairs by IDFI

It is noteworthy that in the period between 2014 and 2017, the use of the hemp plant products was revealed to be the most widespread substance among those tested. This is followed by psychotropic substances, in turn followed by opium and buprenorphine (so-called Subotex) as the most widespread.

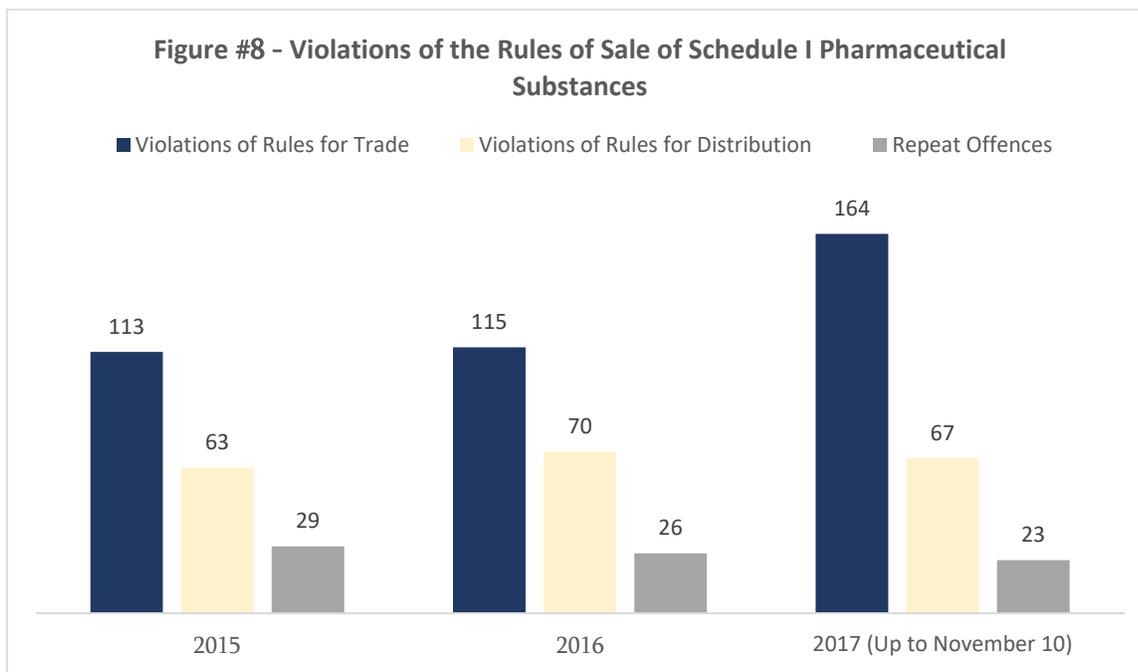
According to Article 37⁴ of the Law of Georgia on “Drug and Pharmaceutical Activity”, the violation of the rules governing the distribution of pharmaceutical substances incurs a fine of 500 GEL, while repeat offences lead to a fine of 1,000 GEL. As well, violations of the rules regulating the distribution and sale of Schedule I drugs incurs a fine of 6,000 GEL, with a fine of 12,000 GEL for repeat offences. Schedule I drugs include pharmaceutical products under special control as well as the corresponding treatment.¹

IDFI received information from the Ministry of Labour, Health and Social Affairs of Georgia related to the cases of the sale of psychotropic substances by pharmacies across the country without a prescription in 2015-2017. According to the statistical data provided by the Ministry, in 2015, 113 protocols of administrative offences related to the violation of the rules governing legal trade of Schedule I pharmaceutical substances had been filed, among these 63 were related to the violation of the rules of sale, with 29 repeat offences. The statistics saw a slight increase in 2016, with only 2 more protocols. While it is true that in 2017 the number of such protocols of administrative offences increased substantially, the number of protocols filed due to the violation of the rules of

¹ All pharmaceutical products under special control are contained in the initial four [lists](#) contained in the Law of Georgia “On Narcotic Drugs, Psychotropic Substances, Precursors and Narcological Assistance”, while the list of the corresponding treatments are contained in the [Order](#) #22/N of the Minister of Labour, Health and Social Affairs of Georgia

drug sales increased only slightly, while the number of protocols due to repeat offences actually decreased (see Figure #8).

The amount of fines related to the violation of the rules of Schedule I pharmaceutical substances proscribed by the protocols of administrative offenses saw a slight decrease between 2015 and 2017. While in 2015 these fines amounted to 204,000 GEL and repeat offences led to a total of 348,000 GEL in fines, as of 10 November 2017, the total amount of these fines is 264,000 GEL and 276,000 GEL for repeat offences. The total amount of revenue transferred to the budget may differ from these numbers, as the decision about whether to impose these fines is made by the court.

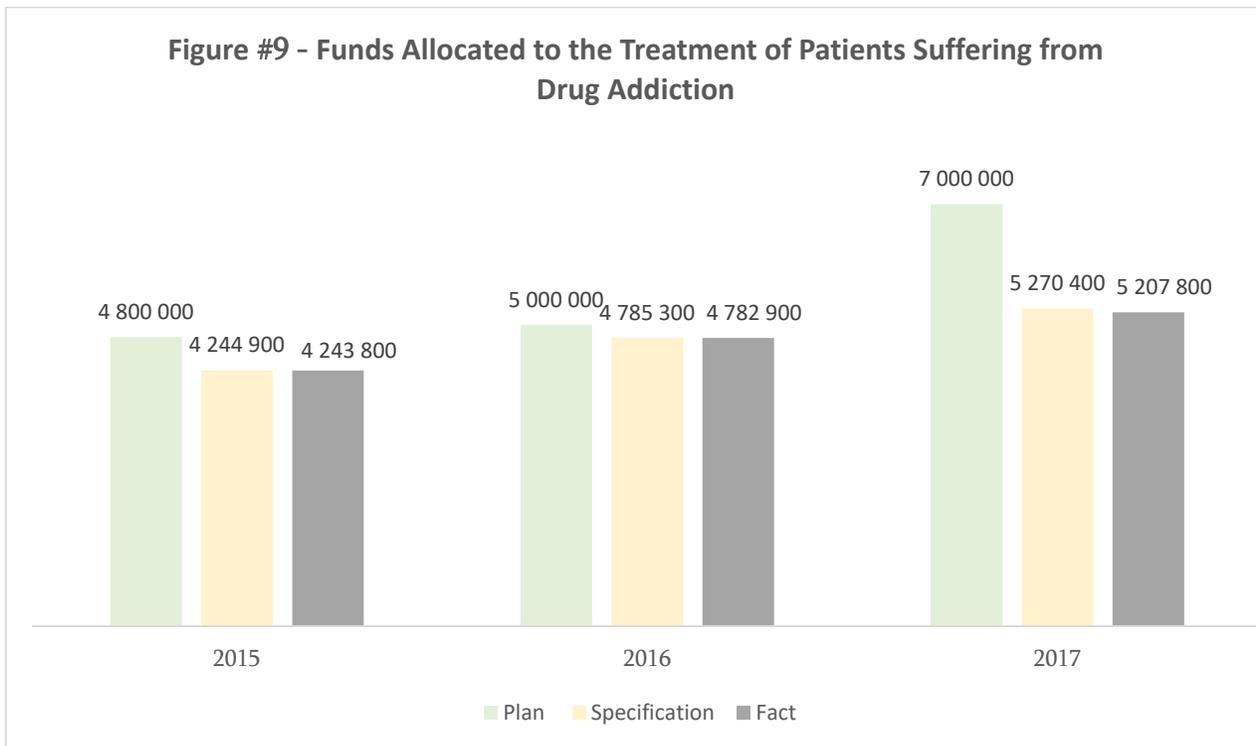


Source: Public information requested from the Ministry of Labour, Health and Social Affairs of Georgia by IDFI

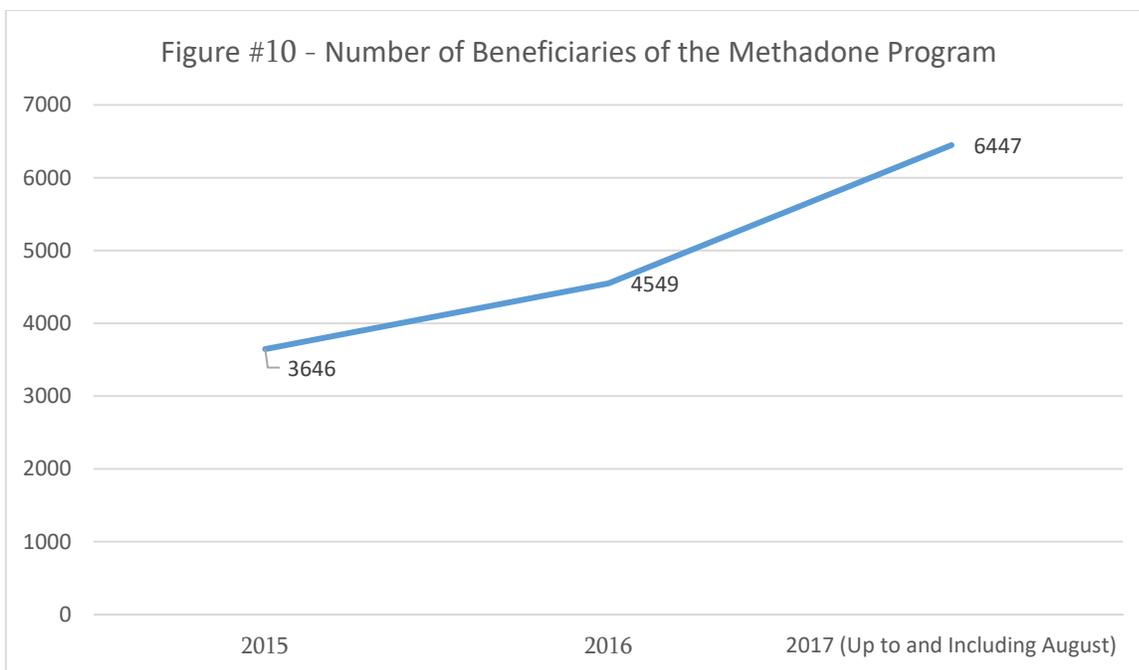
Rehabilitation of Drug Addicts

According to the statistical data provided by the Ministry of Labour, Health and Social Affairs of Georgia, the number of people benefiting from replacement therapy (the so-called “Methadone Program) was increasing from 2015 to 2017. In 2017, the number of such persons increased almost twofold (see Figure #9). At first glance, the [budget](#) allocated to curing patients afflicted by drug addiction was in compliance with this trend. However, the actual expenses from the [reports](#) on the allocation of the funds from the budget reflect only a slight increase. For instance, parallel to the almost twofold increase of patients from 2015 to 2017, the actual expenses reflected in the budget increased only by 900,000 GEL (see Figure #10). Despite the fact that the treatment budget increased in parallel to the number of people benefitting from replacement therapy, the Government did not manage to fully utilize these funds.

The rehabilitation of drug addicts is one of the most important aspects of the national strategy and action plan of Georgia for combatting drug addiction. However, as revealed by the analysis of the statistical data and the budget, practical implementation does not effectively follow these strategic priorities. As well, the national rehabilitation program and corresponding budget [contribute](#) to the implementation of stationary detoxification and replacement therapy.



Source: Budget [Report](#) of the Ministry of Labour, Health and Social Affairs of Georgia



Source: Public information requested from the Ministry of Labour, Health and Social Affairs of Georgia by IDFI

Conclusion

Statistical analysis has revealed the extent to which the prosecution of drug users remains a significant challenge to overcome. Specifically, the issue of the thousands of people who are taken in for drug testing annually. IDFI posits that the practices employed by enforcement agencies in this regard need to be revised in order to bring them into compliance with the practices of European countries and the priorities outlined in the strategic documents related to combatting drug use in Georgia. While it is indeed true that the legislative regulation of drug testing was refined in 2015, this issue still requires further work, especially as it pertains to the exclusion of the practice of random drug testing without a preexisting basis.

Statistical analysis has made it evident that the number of persons taken in for drug testing has decreased significantly, a development that should be evaluated positively. Nevertheless, considering the fact that the political will of the Government in regard to this issue is currently not rooted in tangible legislation, the abovementioned should be considered a fragile victory and requires the exclusion of criminal prosecution of drug users on the legislative level in the shortest possible time. Otherwise, this achievement could be undermined at any moment.

The budget reaps significant revenue annually due to the fines levied on drug users and pharmacies selling psychotropic substances. IDFI posits that these funds should be spent effectively on educational campaigns aiming to prevent the use of illegal substances, as well as rehabilitation of drug addicts. At the same time, the funds allocated by the budget for the rehabilitation of drug addicts need to be used effectively.

IDFI shares the principles contained by the [draft law](#) presented to the Parliament of Georgia and believes that these reforms will contribute positively to the implementation of the commitments adopted as a result of the strategic documents and further refine them in the future on the one hand and, on the other hand, increase public trust in enforcement agencies.