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Drug-using offenders in the European Union 2000–2004

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Contribution to the evaluation of the EU action plan on drugs (2000–2004)

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1. Introduction

The use of drugs (i.e. the use of those substances controlled under international and or national laws) is directly or indirectly prohibited in all EU countries, except for medical or scientific reasons. Punishment for such an offence varies from administrative to penal.

In addition to the punishment or its substitution, all countries can provide to addict offenders a series of measures aimed at their treatment and rehabilitation. These measures, usually performed by the judicial authority, involve suspending investigatory or judicial proceedings against an individual who has committed an offence (usually drugs-related), allowing him or her to receive treatment for their dependence, which is viewed as the root cause of the offence.

The EU action plan 2000–2004 asks Member States ‘to set up concrete mechanisms to provide alternatives to prison, especially for young drug offenders’ (3.4.2), and to intensify efforts to provide prevention, treatment and ‘where appropriate, measures to reduce health-related damages’ in prisons and on release from prison (3.4.3).

This paper aims to analyse current trends and evolution in the EU on the responses in Member States drug-using offenders.

2. International approach to drug-using offenders

Countries of the United Nations, by signing and ratifying the UN Single Convention in 1961, have endorsed the principle of providing measures of treatment, education, aftercare, rehabilitation and social reintegration, as an alternative or in addition to conviction or punishment (art.36 (b)).

In the forty years since, this principle has been reaffirmed and strengthened several times: in 1987 by the UN Comprehensive multidisciplinary outline, in 1988 by the UN Convention against drug trafficking, in 1998 by the UNGASS political declaration, and in 1999 by the UNGASS action plan¹.

During these years, two elements have been added to the principle that drug-using offenders must receive treatment and reintegration measures:

- a) the provision that such measures should be provided also in prison, and
- b) the necessity for close cooperation between criminal justice and health and social systems².

The EU drugs strategy (2000–2004) endorses these elements stressing the importance of ‘close partnership’ between ‘social and health sectors as well as educators and law enforcement agencies’ (page 7), and that ‘alternative measures to imprisonment and facilities for addicted prisoners should be further implemented’ (page 9). The EU action plan on drugs (2000–2004) while reiterating this request asks the

1 In detail: target no. 34 Care for drug-addicted offenders within the criminal justice and prison system in the ‘Comprehensive multidisciplinary outline of future activities in drug abuse control (1987); Article 3.4 (b, c, d) of the 1988 UN Convention; Art. 14 of the Political declaration on the guiding principles of drug demand reduction and measures to enhance international cooperation to counter the world drug problem (1998); Objective no.10 of the Action plan for the implementation of the declaration on the guiding principles of drug demand reduction.

2 Among others see Target no. 34 Comprehensive multidisciplinary outline of future activities in drug abuse control (1987); Art. 14 of the Political declaration on the guiding principles of drug demand reduction and measures to enhance international cooperation to counter the world drug problem (1998); Objective no.10 of the Action plan for the implementation of the declaration on the guiding principles of drug demand reduction.

Commission and Member States 'to share best practice in the area of handling of drug addicts in the justice system', also on the basis of the work done in this area by the EMCDDA (3.4.4).

With regard to these aspects, the mid-term evaluation of the EU action plan informs that 'treatment for drug addicts in prison is taken seriously', and that 'drug-free sections in prison are becoming more common'. It is also reported that Member States have been active in setting up mechanisms for providing alternative to prison for drug addicts³.

Finally, the EU Council Recommendation of June 2003 on the prevention and reduction of health-related harm associated with drug dependence invites Member States to 'make available to drug abusers in prison access to services similar to those provided to drug abusers not in prison', (...)⁴.

In summary, the existing requirements on the international scene are: alternative measures (prevention, education, treatment, rehabilitation) for drug-using offenders must be available as an alternative or in addition to conviction or punishment, must be organised within full partnership between health and justice systems and must be provided also in prisons.

3. Therapy instead of punishment?

For a long time and coherent with commitment at international level, national legislations⁵ have included measures to divert offenders into treatment and rehabilitation, as an alternative or in addition to conviction or punishment.

Today these measures exist in the law of every European Union Member State⁶, although with great variety among them. In some, the law 'obliges' prosecutors to stop proceedings if the drugs offender wishes to undergo treatment; in others authorities can impose treatment as part of sanction (compulsory). In a few, alternative measures can be initiated by police forces, and in others just by the judiciary. The most reported practice is, however, the so-called 'quasi compulsory treatment' where the drug addict is 'invited' by the prosecutor or judge to follow therapeutic treatment or to face criminal prosecution or administrative sanctions⁷. The scientific evidence is not conclusive about the effectiveness of such measures, US research being generally more in favour, whereas the attitude in Europe has been more sceptical, despite some positive evaluation research lately⁸. The EU Commission (Fifth Framework Research Programme) has funded a research project "Quasi-Compulsory and Compulsory Treatment in Europe" (QCT Europe). The project aims to create a European evidence-base on quasi-compulsory and compulsory approaches to drug treatment for drug dependent offenders (QCT). Final results are expected by 2005⁹.

3 European Commission, Communication from the Commission to the Council and the European Parliament on the mid-term evaluation of the EU action plan on drugs (2000–2004) COM(2002) 599 final Brussels, 04.11.2002 (page 11).

4 Council Recommendation of 18 June 2003 on the prevention and reduction of health-related harm associated with drug dependence (2003/488/EC), OJ L 165/31.

5 France 1970, Germany 1971, Belgium 1975, Italy 1975, Ireland 1977, Austria 1980, Greece 1987.

6 See Main trend in drug law: Alternative measures to prosecution, Situation in the EU Member States at http://eldd.emcdda.eu.int/trends/trends_alternatives_EU.shtml; and Annual report 2003: the state of the drugs problem in the European Union and Norway, Chapter 2: Responses to drug use, [Responses targeting drug users in criminal justice settings](#).

7 See for further information on 'quasi compulsory treatment' Alex Steevens. Report on QCT system, QCT Europe project: http://www.kent.ac.uk/eiss/projects/qct_europe/index.htm.

8 EMCDDA, Annual report 2003: the state of the drugs problem in the European Union and Norway, Chapter 2: [Responses to drug use](#).

9 The project "Quasi-Compulsory and Compulsory Treatment in Europe" (QCT Europe) has been awarded funding by the European Commission (Fifth Framework Research Programme) and will work for three years from October 2002. It is coordinated by the

A reading of official 'drugs texts' (laws, guidelines, strategies, plans) suggests a shift in the perception of the drugs problem from a moral and public order context to a public health approach. In many cases, the principle underlying the public intervention towards drug users is that therapy should be used instead of punishment.

However, data and research in the field are scarce and do not assist in confirming or refuting whether 'therapy instead of punishment' is actually implemented. We know that 'reports'¹¹ for drug-law offences increased fourfold in the EU as a whole since the mid-1980s¹² (suggesting increased law enforcement activity) and that referral to treatment (TDI¹³) from law-enforcement authorities (when cannabis is the main drug) has doubled in the period 2000–2004¹⁴. These data are not conclusive, since the total number of individuals being charged and prosecuted for drug-law and related offences in the EU is not known. Research in this area should be promoted.

4. In the context of prison

As presented by the EMCDDA (Annual report 2002), prisoners reporting more regular and/or harmful use such as intravenous drug use, regular use or dependence represent anywhere between 6 to 69% of the prison population in each Member State, and all countries in Europe experience major problems due to drugs and drug-related infectious diseases in prisons¹⁵.

This alarming situation has been addressed by the EU action plan and by some countries that explicitly attribute a role to criminal justice systems in relation to drug-using offenders in prison, for instance: the prison service drug strategy in England and Wales, projects in north Länder and Westphalia, Germany, and the Portuguese, Spanish and UK strategies.

Since 1995, an expansion of services for drug users in prisons has been noted and measures to prevent the transmission of infectious diseases introduced. The possibility of initiating substitution treatment while in prison exists in Belgium, Denmark, Luxembourg and Norway (Table 1). In France, a study shows a moderate increase by 2.1 % between 1999 and 2001 in prescription for prisoners¹⁶. Prescription for progressive reduction to abstinence is applied in most German Länder. In the UK and the Netherlands maintenance programmes are considered appropriate mainly for prisoners on remand or serving short periods of custody

Table 1 Overview of health-related services in prisons

European Institute of Social Services at the University of Kent. It will work in six countries (UK, Netherlands, Austria, Switzerland, Italy, and Germany). For further information see: Alex Steevens, Report on Quasi Compulsory Treatment system, QCT Europe project: <http://www.kent.ac.uk/eiss/projects/qct%20europe/index.htm>

10 The project 'Quasi-compulsory and compulsory treatment in Europe' (QCT Europe) has been awarded funding by the European Commission (Fifth Framework Research Programme), commenced in October 2002 and will run for three years. It is coordinated by the European Institute of Social Services at the University of Kent. It will work in six countries (UK, Netherlands, Austria, Switzerland, Italy, and Germany). For further information see: Alex Steevens, 'Report on quasi-compulsory treatment system, QCT Europe project: http://www.kent.ac.uk/eiss/projects/qct_europe/index.htm

11 The term 'reports' for drug law offences covers different concepts, varying between countries (police reports of suspected drug law offenders, charges for drug law offences, etc.). For an exact definition for each country refer to Box 11 OL: Definitions of 'reports for drug law offences' in the EU countries and Norway. (The term 'arrests' was used in previous annual reports.)

12 Ibid. 7 Chapter 1, Drug-related crime, Drug law offences.

13 Demand for treatment special issue on cannabis TDI 2004.

14 Frequency on available data in six countries: in 2000 6.623 individuals – in 2002 13.527.

15 EMCDDA Annual report on the state of the drugs problem in the European Union and Norway, Chapter 3: Selected issues, Drug use in prison, 2002.

16 Tortay, I. and Morfini, H., Enquête sur les traitements de substitution en milieu pénitentiaire, DGS / DHOS, Paris. 1999.

Country	Substitution treatment	Syringe exchange	Vaccination	Provision of disinfectants	Provision of condoms
Austria	√		√	√	√
Belgium	√			√	√
Denmark	√		√	√	√
Finland,	√		√	√	
France	√		√	√	√
Germany	√	√	√	√	
Greece			√		
Ireland	√		√		
Italy	√		√		
Luxemburg	√				
The Netherlands	√		√		
Portugal	√		√	√	√
Spain	√	√	√	√	√
Sweden	√		√		√
England and Wales	√		√		√

Source: EMCDDA, Annual report 2004: the state of the drugs problem in the European Union and Norway,

Compared to the community outside prisons, however, there is a considerable time lag in provision of services. The current offer of addiction care services does not match the potential need of the estimated drug users among the prison population¹⁷.

The EDDRA analysis of demand-reduction programmes implemented in criminal justice settings shows how police and prison officers as well prosecutors and judges could have a major role in developing early interventions at the beginning of drug users careers by taking action simultaneously on criminal behaviour and addiction¹⁸. With regard to this aspect, the EU action plan asks Member States to develop strategies to reach drug users who are not integrated into or reached by existing services and programmes and who are at high risk of severe health damage, drug-related infectious diseases and even fatal accidents (3.1.2.6).

An interesting tendency is noted in the transfer of responsibility (and budgeting) for prison health services from the penitentiary administration (justice) to the national health system (health). In France, responsibility for measures in prison establishments was transferred to the Ministry of Health as early as 1994. In England and Wales, health care in prisons is under the responsibility of the Department of Health. By 2006, health care in all non-private prisons in England will become part of the National Health Service. In Italy, local health services have provided care and treatment of inmates since 2000. In Spain, the law 'Ley de cohesión del sistema nacional de salud' gives the responsibility to the National Health Service. In the Netherlands diversion programs can be applied as an alternative for imprisonment. Treatment in drug counselling units in remand houses and prisons is specifically focused on preparing prisoners on follow-up care within the framework of the public health system.

17 Ambrosini, F. (2001): 'Europäisches Netzwerk zur Drogen- und AIDS-Hilfe im Strafvollzug', Jacob, J., Keppler, K. and Stöver, H. (eds), *LebHaft: Gesundheitsförderung für Drogen Gebrauchende im Strafvollzug*, Deutsche AIDS-Hilfe, Berlin, pp. 106–113.

18 Petra Paula Merino. 'Analysis of police station, courts and prison based programmes contained in the EMCDDA drug demand reduction information system, EDDRA'. EDDRA – EMCDDA is the information system providing a global systemic view of demand reduction interventions in EU countries: applying models, content, evaluation methods and evaluation results

5. Collaboration health and justice

Health and justice administrations are both called upon to be part of a balanced, multidisciplinary approach in the implementation of national drug policies (UNGASS, 1998). However, these administrations might have different objectives when dealing with drug-using offenders who might be considered as both criminals (having committed a crime) and sick persons (being addicted to psychoactive substances). The EU action plan and several national drugs strategies stress the need for practical measures of collaboration.

Among a few interesting examples of this collaboration are: the French 'Departmental agreements on aims' (CdO¹⁹) set up to facilitate partnerships between the justice, health, social welfare and education; the Belgian 'case managers justice' appointed in each court to develop relations between the justice and health systems; the 'Operational Drug Addiction Teams' (NOTs) in Italy, composed of sociologists and social workers and present in all Italian Prefectures to take initial contacts and conduct interviews with drug-using offenders; also in Italy, the programme 'the cure is worth the effort' in the central court of Milan, to join local health services and magistrates in close collaboration; the 'Commission of dissuasion of drug use' in Portugal, composed of lawyers, sociologists and social workers who replace the work of prosecutors, divert persons charged with illegal drug use/possession into treatment or possible social support; the 'arrest-referral schemes' and the 'drug treatment and testing order schemes' (DTTOs) in the United Kingdom, which have been found useful to increase the number of drug-using offenders in treatment and which are run in partnership between health and justice; the drugs courts in Scotland and in Ireland, aimed at the full rehabilitation of non-violent drug-using offenders; and a project for juvenile offenders, similar to drug courts, called 'Way out' in the German Land of Baden-Wurttemberg (Baudis, 2004)²⁰.

All these initiatives clearly recognise the need for formal agreement between justice and health administrations.

6. Evaluation of alternative measures

Overall, countries' legal systems seem to be well equipped to deal with drug-using offenders. Probations, alternative measures, arrest referrals, special schemes, are available for offenders who wish to undergo treatment. Reports on alternative measures²¹, however, underline how their actual implementation may be underused in some jurisdictions for several reasons, ranging from long treatment waiting lists to lack of awareness on the part of local magistrates, from lack of funding to lack of coordination²². Again, there are no data to confirm or refute this phenomenon on a larger scale.

In the few instances where evaluations of alternative measures and schemes have been carried out, usually at local level, they have shown that treatment measures for drug-using offenders might reduce crime rates, might also reduce drug use and the money spent to buy drugs.

In Denmark, an evaluation of 'alternative imprisonment' made in January 2001 showed, among others, that more than 70% of drug addicts completed the programme. The evaluation also revealed that criminal

19 Convention Départemental d'Objectifs.

20 Baudis, R., 2004 'A drug court type project for juvenile drug-related offenders in Germany'. Conference proceedings: Substance abuse, drug courts and mental health treatment services. Servizi Area Penale Carceri. Milan, 5-7 February 2004.

21 Reitox reports and literature.

22 Ibid. 7.

recidivism was relatively low for long-term addicts compared to the average of the addict's criminal record. Another trial scheme, operating from 1995–2002, and which included a suspended sentence on condition of uptake of treatment was evaluated. In spite of the fact that the initial evaluations resulting from the experiment were reported as 'positive', the results of a study on completion and criminal recidivism found limited success and it has now been decided to stop the trial²³.

In the UK, the evaluation of the DTTOs shows divergent results in on hand it was found that there were reductions in illegal drug spending and the number of crimes committed by offenders subject to the order²⁴. In the other side it was also found that completion rates were rather low. Out of the 161 offenders for whom outcome information is available, 30% finished their order successfully and 67% had their order revoked. For those who had completed the order the reconviction rate was of 53%²⁵.

In the Netherlands,²⁷ evaluation of the learn and work programme 'Triple-Ex', targeted at addicts that had committed crimes found that after leaving the programme almost half of the clients had a job, and 87% did not have problems with regard to work (Vermeulen et al. 2000).

However, there are also studies that report less satisfactory results, such as the evaluation of the 'injections therapeutic' in France (²⁸). Results of alternative measures to imprisonment are in fact often contested. As we have seen briefly, such schemes usually show a reduction not an elimination of crime rates and drug abuse and addiction. This may not be acceptable to some stakeholders who see them as bringing too little success in relation to the effort and investment involved in them.

7. Conclusion

The dual problem presented by drug addicts, illness and criminality, has brought with it a paradoxical mode of intervention in public policies regarding drugs. Two public administrations: social and health, and public order and justice are requested to work on the same person – the drug-using offender.

Research warns²⁹ that this may lead to conflict between the different visions, objectives, culture and language of the bodies involved. We have seen that collaboration has been widely promoted and the creation of formal structures or programmes in charge of promoting, organising and delivering services to drug offenders, and ultimately ensuring partnership between public administration bodies, seems to be the direct response chosen by some countries.

23 EMCDDA, Annual report 2003: the state of the drugs problem in the European Union and Norway, Chapter 2: Responses to drug use, Responses targeting drug users in criminal justice settings, Danish National report; Netherlands findings of the GAVO scheme.

24 Turnbull, P., McSweeney, T. and Hough, M. (2000): 'Drug Treatment and Testing Orders – the 18-Month Evaluation', Research Findings 128, Home Office Research, Development and Statistics Directorate, London; and Edmunds, M., May, T., Hearnden, I., Hough, M., Arrest referral: Emerging lessons from research, Home Office 1998.

25 Findings 184. Home Office. 2003

26 Turnbull, P., McSweeney, T. and Hough, M. (2000): 'Drug Treatment and Testing Orders – the 18-Month Evaluation', Research Findings 128, Home Office Research, Development and Statistics Directorate, London; and Edmunds, M., May, T., Hearnden, I., Hough, M., Arrest referral: Emerging lessons from research, Home Office 1998.

27 Vermeulen, K. T., Hendriks, V. M. and Zomerveld, R. (1999): Dranbehandeling in Den Haag: Evaluatieonderzoek naar de effectiviteit van het behandelprogramma Triple-Ex voor justitiële verslaafden, Den Haag, Parnassia Addiction Research Centre (PARC) (1).

28 Setbon, M. and De Calan, J. (2000): L'injonction thérapeutique: évaluation du dispositif légal de prise en charge des usagers de drogues interpellé, CNRS-GAPP/OFDT, Paris (1).

29 Malone, T.W. and Crowston, K., The Interdisciplinary study of coordination, November 1993.

In the last four years, such structures have been created in France (CdO), Belgium (case managers), the UK (DTTO's), Ireland, Scotland (drug courts), and Portugal (commissions of dissuasion of use) and in the Netherlands, where links between the criminal justice system and the health care system (concerning the treatment of criminal drug users and addicts) have been adopted at national level, after several years of application at local level (Gavo). Nevertheless, while there is evidence of formal structures and commitments, there is not enough information to report on real practice in Member States with regard to measures for drug-using offenders. Data on prosecution and convictions are scattered and not uniform and evaluation of alternative measures to imprisonment and of prisoners are scarce.

The European Union, and in particular the current drugs strategy (2000–2004) requested Member States to implement alternative measures to imprisonment and to provide facilities for addicted prisoners, especially through collaboration between health and justice. The new strategy while continuing to influence this approach, for example by promoting formal collaboration between the involved and potentially conflicting public administrations in all EU countries, should support the need for evidence and evaluation.

Research should be undertaken on the conviction and prosecution of drug-using offenders and on the effectiveness (or not) of 'alternative measures', compared to their declared objectives, both in the community and in prisons. Results and examples of best practices should be made available throughout Europe.

30 In the German Land Baden-Wurtemberg a project for juvenile offenders ("Way out") is similar to drug courts *ibid.* 19.

Bibliography

- Ambrosini, F. (2001): 'Europäisches Netzwerk zur Drogen- und AIDS-Hilfe im Strafvollzug', Jacob, J., Keppler, K. and Stöver, H. (eds), *LebHaft: Gesundheitsförderung für Drogen Gebrauchende im Strafvollzug*, Deutsche AIDS-Hilfe, Berlin, pp. 106–113
- Alex Steevens. Report on QCT system, QCT Europe project:
<http://www.kent.ac.uk/eiss/projects/qct%20europe/index.htm>
- Council Recommendation of 18 June 2003 on the prevention and reduction of health-related harm associated with drug dependence (2003/488/EC), OJ L 165/31
- Drugnet Ireland, Drug Court to be extended, 7 February 2003
- Edmunds, M., Hough, M., Turnbull, P., May, T., *Doing Justice to treatment: referring offenders to drug services*, Home Office 1999
- Edmunds, M., May, T., Hearnden, I., Hough, M., *Arrest referral: Emerging lessons from research*, Home Office 1998
- EMCDDA, 2001, "Alternatives to prison targeting drug users offenders" Deusto University 1999
- EMCDDA, *Narcotic drug use and legislative approaches in Europe working document* (to be published)
- EMCDDA, *Annual reports the state of the drugs problem in the European Union and Norway 2004, 2003, 2002*
- EMCDDA, *ELDD, Trends in drugs law, Alternatives to Prison in the EU*
- European Union Drugs Strategy (2000-2004) 12555/3/99 REV 3 LIMITE CORDROGUE 64
- EU-Action Plan on Drugs 2000-2004 9283/00 LIMITE CORDROGUE 32 (1.2.4)
- Gavo: *Integral approach to addiction and criminal nuisance*, Centrum Maliebaan, Utrecht, Netherlands
- House of Commons, *The Drug Treatment and Testing Order: early lessons*, march 2004
- Long, Allwright and Begley, *Prisoners' views of injecting drug use and harm reduction in Irish prisons*. *International Journal of Drug Policy*, in press. 2004
- Márquez, Merino, Póo, *Atención a las drogodependencias en los centros penitenciarios. La atención a la salud mental en la población reclusa*. Asociación Española de Neuropsiquiatría. Oviedo, 2003
- Merino Petra Paula, *Lessons learned on global and local scales when implementing alternatives to prison for drug addicts – meeting of experts – EMCDDA*, December 2002 Michael Farrell, Farrell Grant Sparks Consulting, Courts Service final evaluation of the pilot drug court, October 2002
- Reitox national reports 2002
- Report of a working group for piloting a drug court in Glasgow, May 2001
- Setbon, M. and De Calan, J. (2000): *L'injonction thérapeutique: évaluation du dispositif légal de prise en charge des usagers de drogues interpellé*, CNRS-GAPP/OFDT, Paris (1)
- Stöver, Nelles. *Ten years of experience with needle and syringe exchange programmes in European prisons*. *The international journal of drug policy* 14, 437-444. 2003
- Tortay, I. and Morfini, H., *Enquête sur les traitements de substitution en milieu pénitentiaire*, DGS / DHOS, Paris. 1999
- Turnbull, P., McSweeney, T. and Hough, M. (2000): *'Drug Treatment and Testing Orders – the 18-Month Evaluation'*, Research Findings 128, Home Office Research, Development and Statistics Directorate, London
- Thomas W. Malone and Kevin Crowston, *The Interdisciplinary Study of Coordination*, November 1993
- United Nations, *Declaration of the International Conference on Drug Abuse and Illicit Trafficking and Comprehensive Multi-disciplinary Outline of Future Activities in Drug Abuse Control*, New York 1988
- United Nations General Assembly's Special Session 8-10 June 1988 – *Political Declaration Guiding Principles of Drug Demand Reduction and Measures to Enhance International Cooperation to Counter the World Drug Problem*
- Vermeulen, K. T., Hendriks, V. M. et Zomerveld, R. (1999): *Dranbehandeling in Den Haag: Evaluatieonderzoek naar de effectiviteit van het behandelprogramma Triple-Ex voor justitiabele verslaafden*, Den Haag, Parnassia Addiction Research Centre (PARC) (1)