



Drug Policy Dialogue in South East Europe

Drug Policy and Drug Legislation in South East Europe

Albania



NOMIKI BIBLIOTHIKI

Country Report Albania

Preface

The concept of security has changed, but the problem of drugs remains the same while society itself changes. We should, nevertheless, be able to predict the emergence of new threats in order to reduce the harm they eventually cause. As NGOs have gained a deeper insight into drug related problems in our societies, their impact and contribution in designing solutions to future problems should by no means be ignored. That is why this volume of the country reports of the Drug Law Reform Project initiated by Diogenis Association, one of the leading nonprofit organizations that promote drug policy dialogue in South East Europe is the first step towards reducing the harm to society caused by drugs. The aims and the objectives of the project are to exchange views, concepts, and findings among scientists, researchers and practitioners from various countries on a rather broad field of drug legislation in the South East European countries, in particular with a view to bringing to the fore the role of NGOs in policy making related to drug issues. This cooperation will highlight the differences in legislation, new ideas, theories, methods, and findings in a wide range of research and applied areas in connection with the drug situation in the South East European countries.

The empirical part of the study compares the relevant national strategies on drugs, national substantive criminal legislations, national drug laws and institutions, as well as drug law enforcement in practice, sentencing levels, and the prison situations in Albania, Bulgaria, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Greece, Romania, Serbia, Slovenia, and Montenegro. As regards the general picture of the report as a whole, several common traits are obvious. There is a severe gap between acts of legislation and their practical implementation. This task includes examination and development of laws, theories, structure, processes and procedures, causes and consequences of societal responses to drug criminality, delinquency, and other security issues. The next paper focuses on supra-regional comparisons and aims to explain why NGOs play an important role in identifying the factors necessary for effective reforms. Adequate financing of NGOs is especially problematic, for it is a crucial factor in establishing their independence. The most profound example of how financing influences this independence-gaining process is the fact that there is currently no workable system for financing NGOs, as these mainly rely on international funding schemes overly susceptible to political influences.

The new security concept of the European Union is built on the Lisbon Treaty and the Stockholm Programme in which drugs turn out to be integral to all contemporary threats. Prevention and repression of drugs and crime is an aim no one would

dare to question. Drugs have always been present, and it seems they always will be; therefore, we must control and manage them to minimize their risk for society, though we might never succeed in totally eliminating them. The countries along the Balkan route of drugs need to take a more balanced approach to gathering and collating intelligence on drugs, and exchange their experiences gained in law reforms and put these into practice. Implementation of new ideas should be based on accurate threat assessments, not on political or media priorities. NGOs can assist in developing the necessary expertise required for these tasks, for they have a broader insight into drug related problems.

Due to various pressures and interests, there is often a lack of cooperation between governmental and non-governmental institutions. It is often the case that the objectives of various interest groups are more strongly defended than those of democratic society, evermore deepening the gap between the law and its practical implementations. A weak civil sector lacks the eagerness to tackle these problems, as there are no powerful NGOs or other pressure groups that would criticize state politicians for their deficient work. Political apathy and the overall mistrust of the populations are reflected in weak support to new ideas and lawful solutions. The media usually play a limited role in presenting these solutions and usually lack the necessary expertise in drug related topics. It seems that the legislation governing civil sectors does not encourage the development of such NGOs that would criticize the state.

The problem with funding and a lack of interest in communication between politics and NGOs prevails and the non-governmental sector still has great difficulties claiming for itself the status of an equal partner in drug reforms. To remedy this, we should encourage any cooperation between the public sector and NGOs. Greater opportunities for funding these organizations may stem from international cooperation and from EU institutions, such as the one established within the Diogenes project which, through its web page, publications, etc., is becoming an increasingly powerful voice informing and educating the public about adverse drug effects and other drug related issues. It participates in international researches and projects. It provides a good example of how to carry out researches, conferences, and round tables while focusing group discussions on drug related problems existing in the South East European countries. Nevertheless, and in spite of the problems, the future researches and legislation should also focus on controlling the flow of the money. Since the money earned from drugs is invested in legal business, through corruption and money laundering, we should expose legal solutions in order to curb those problems in the future.

Bojan Dobovsek Ph. D.

Introduction

In all the countries of South East Europe¹ there are initiatives to change the drug laws. Several countries are changing their legislation in order to adjust it to the new socio-political conditions and some are changing their legislation in order to meet the requirements of the European Union in view of becoming members of the EU.

The Diogenis Association took the initiative to set up a project on *Drug Law reform in South East Europe*, because this is a crucial period for the development of drug policy in the SEE countries within which civil society involvement can play a positive and decisive role. It is our conviction that non-governmental actors in the field of drugs have to have a say in shaping drug policy and influence drug Legislation. This volume is the result of cooperation between the Diogenis Association, NGOs participating in the Drug Policy Network in South East Europe² and the researchers affiliated with research institutes and universities in the countries in South East Europe³.

1. The countries of South East Europe participating in this project are: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Greece, Montenegro, Romania, Serbia, Slovenia.
2. The following organisations participate in the Drug Policy Network in SEE: Aksion Plus, Albania; NGO Victorija, Banja Luka, Bosnia Herzegovina; Association Margina, Bosnia and Herzegovina; Initiative for Health Foundation (IHF), Bulgaria; Udruga Terra Association, Croatia; Healthy Options Project Skopje (HOPS), Former Yugoslav Republic of Macedonia; Association DIOGENIS, Drug Policy Dialogue in SEE, Greece; Kentro Zois, Greece; Positive Voice, Greece Juventas, Montenegro; Romanian Harm Reduction Network (RHRN), Romania; NGO Veza, Serbia; Association Prevent, Novi Sad, Serbia; The “South Eastern European and Adriatic Addiction Network” (SEEAN), Slovenia; Harm Reduction Association, Slovenia.
3. The researchers that worked on this project are: Ulsi Manja, Lecturer, Department of Criminal Justice, University “Justiniani 1, Tirana, Albania; Atanas Rusev and Dimitar Markov, Centre for the Study of Democracy, Sofia, Bulgaria; Irma Deljkic, Assistant Professor at the University of Sarajevo, Faculty of Criminal Justice Sciences, Bosnia and Herzegovina; Dalida Rittossa, Professor’s assistant at the department of Criminal Law Faculty of the Law University of Rijeka, Croatia; Natasa Boskova, Legal advisor, HOPS Skopje, and Nikola Tupanceski, Prof. at the Justinianus Primus Faculty of Law, St. Cyril and Methodius University, Skopje, Former Yugoslav Republic of Macedonia; Nikos Chatzinikolaou, Lawyer, PhD in Law (Criminal Law), academic partner of the Department of Criminal Law and Criminology of Law School, Aristotle University of Thessaloniki and Athanasia Antonopoulou, Lawyer, PhD in Law (Criminology & Crime Policy), senior researcher in the Department of Criminal Law and Criminology of Law School, Aristotle University of Thessaloniki; Vlado Dedovic, Ph.D. Studies, Teaching

The volume contains separate reports per country which describe the current National Strategy on Drugs, the national substantive criminal law, the national drug laws and institutions, Drug law enforcement in practice, sentencing levels and the prison situation, initiatives for drug law reform undertaken by the government and/or parliament in recent years and proposals and recommendations for further research and advocacy work.

Some findings which are characteristic for the situation of drug policy and drug legislation as presented in the country reports are summed up here.

Discrepancy between strategies and practice

All SEE countries have adopted a *National Strategy* during the last decade. The majority of them have also adopted Action Plans for the implementation of the Strategy. With the exception of some countries *the majority have not evaluated their strategy and action plan*. Most of the countries do not have formal evaluation mechanisms. It has been suggested that the establishment of external evaluation has to be carried out by independent institutions. According to the national strategy of all SEE countries, *NGOs and civil society should play an important and active role in policy making*, mainly in the field of treatment and rehabilitation, but also on harm reduction. In practice there is a gap between strategy and practice. Harm reduction is not enshrined in national legislation and many projects will be in danger when external funding is terminated.

Different legal traditions; common practice of high penalties; no distinction between "soft" and "hard" drugs; penalisation of possession for personal use.

The criminal justice systems in the countries of SEE have different legal traditions. There is great diversity in all the participant countries in the typology of the penalties imposed according to the legislation. The main custodial sanction in all SEE countries is imprisonment. Fines are also included in all the sanction systems that were examined. The duration of imprisonment ranges from a few days to 15, 20, 25 or 30 years. Life imprisonment is imposed in five countries (Greece, Bulgaria, Slovenia, Romania, Former Yugoslav Republic of Macedonia), while in Bosnia-Herzegovina long-term imprisonment ranges between 21-45 years. There is also a vast

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diversity in the ways that custodial sanctions are served and the alternative forms provided during sentencing. Probation/conditional sentencing or a suspended sentence are provided in all sanction systems of the SEE countries.

In the criminal legislation of all countries, there are provisions concerning cultivation, production and trade of drugs (trafficking); With the exception of Greece where use is penalised, in the vast majority of the countries, only the possession of drugs is penalized. In general, in the national legislation, there is no distinction between “soft” and “hard” drugs. For the majority of the countries, there is no legally established difference between small and big dealers. For several of the countries, there is a differentiation for organized criminal groups of dealers.

Cannabis production and use is dominant in all countries of the region

Cannabis cultivation is dominant in all the SEE countries. Large quantities of cannabis plants are detected, uprooted and confiscated by the law-enforcement authorities in Greece, Bulgaria, Slovenia, Romania, Bosnia-Herzegovina, Croatia, Former Yugoslav Republic of Macedonia and Albania.

Increase of the prison population over the last years; poor living conditions and increasing drug use in prisons; inadequate medical care inside prisons.

For the majority of the countries, the living conditions in detention facilities are very difficult because prisons are overcrowded. This fact is a common problem and a general endemic characteristic of the correctional systems of the majority of the countries.

The problem of drug-use in prisons emerges clearly through the national reports. There is diversity in the provision of treatment programmes for drug dependent prisoners. Medical care inside prison is provided for all prisoners by medical staff while only outside the prison can help from other medical institutions and NGOs programs be provided to prisoners. It is possible to divert drug users from prison into community-based treatment for drug addicted perpetrators of drug-related offences, though diversion mechanisms combined with treatment programmes (suspension of penal prosecution, execution of the sentence/probation/ conditional release from prison) are currently implemented in a very limited way.

Social re-intergration programmes almost absent

For the majority of the SEE countries, the strategy for social reintegration can be characterized as either incoherent or only nominal and there seems to be a long way to go for the implementation of such policy. There is no specific strategy for social reintegration in Bulgaria, while two NGOs have been implementing projects for social reintegration and re-socialization of offenders following the execution of their sentence.

With the exception of Croatia, in the vast majority of the participant countries, there is no statistical data available for recidivism of the offenders sentenced for drug-related crimes. According to the data provided by Croatia, the rates of previous convictions are exceptionally high among drug offenders.

Support for alternative measures to incarceration, reservations to decriminalization

The relevant national authorities and the state recognized agencies and service providers are cautious in their reactions concerning proposals for change which are considered to be contrary to the international conventions. Governments and parliaments are making use of the room that exists in the international conventions to introduce new ways of facing the problem, but they are hesitant to speak about reform of the conventions.

NGOs express clearly the wish for reform in several areas, especially the decriminalization of possession for personal use and the wish to enshrine harm reduction services in the national legislation. But also NGOs are on the one hand concerned about the general feeling of the public that is reserved towards decriminalization of drugs and on the other hand they are in favor of restricting access to illicit drugs, to which young people have easy access via internet.

All relevant stakeholders support alternative measures to incarceration of drug offenders. They are convinced that alternative measures will result in a reduction of incarceration and minimization of the negative consequences of criminal prosecution and short-term prison sentences to drug addicted persons.

Unbalanced Spending of Financial resources

Broadly speaking, the available resources for drug supply reduction and drug demand reduction is not balanced. The national strategies present a comprehensive view in which the elements to reduce drug demand and supply of drugs are balanced. However, in practice there are difficulties in implementing this balanced approach. Some say that this is due to lack of budgetary resources. Others point out that it is a question of priorities and policy orientation. Lack of human resources and financial support for treatment programs is a significant issue; it is necessary to allocate increasing amounts of money from the state budget for treatment services provided to drug users.

The *Drug Law reform Project* will undertake further initiatives concerning legislative reforms in South East Europe. The next steps will be an in-depth analysis and research of specific issues relevant for countries in the region. The regional character of our activities is of great importance since we aim to support reforms that also promote coordination and close cooperation between the South East European countries. This approach is particularly important due to the cross-border charac-

ter of criminal offences associated with drug trafficking, as well as common socio-political characteristics of the majority of states in the region. The project aims to promote policies based on respect for human rights, scientific evidence and best practices which would provide a framework for a more balanced approach and will result in a more effective policy and practice. A major concern of our activities is to encourage open debate on drug policy reform and raise public awareness regarding drug policies, their effect and their consequences for individuals and society.

This project and the other activities of the Diogenis Association are an effort to connect developments and initiatives in the SEE region with the European Union's Drug Strategy and Action Plan as well as with global developments on Drug Policy. After several decades of implementation of the current international drug control system, there is worldwide a sense of urgency to adjust the system, correct the aspects that cause adverse consequences and make it more effective. Open dialogue with the relevant authorities responsible for Drug Policy is essential in the search for more humane and effective Drug Policies and practice. The critical voices of civil society organisations such as the NGOs must be seen as a complementary contribution to the Drug Policy debate. Our cooperation with research institutes and universities is growing and there is mutual appreciation of our activities. The combination of the NGOs practical experience in the field and the scientific insights of researchers is a valuable contribution to the drug policy debate. It is up to the policy makers and governments to make use of proposals and recommendations and incorporate suggestions in Strategic choices and Legislation.

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Country Report Albania

by Ulsi Manja¹

I. The current national drug strategy and drug legislation in Albania

1. National strategy on Drugs

Albania approved the first National Drug Strategy 2004 - 2010 on 7th May 2004 with the Order No 292 of the Council of Ministers. Based on the Order No 125 9th June 2010 of the Prime Minister a new working group was established that drafted the 2012 - 2016 National Drugs Strategy. This new document is based on the positive achievements and best practices achieved in the implementation of the previous strategy, its action plan and on the best international standards and practice.

The strategy is approved by act no 403 of the Prime Minister dated 20th June 2012 and the implementation of the National Strategy 2012 - 2016 and its action plan shall be funded by the state budget and other donors.

This strategy contains two action plans that shall be subsequently approved for the time-frames of 2012 - 2013 and 2013 - 2016, containing specific measures and activities for achieving the objectives in order to facilitate the implementation of the Strategy.

The action plans, as part of this strategy, shall enable the connection of this Strategy with the reforms and other important national strategies, such as: the health reform, the national strategy against organized crime and terrorism, the national strategy on the fight against AIDS, potential changes in the Criminal Code and in the Criminal Procedure Code, the anti-corruption strategy, judiciary reform, etc.

Ministries and Departments that are involved in drug policy and their task/role.

Drug policy is an issue that concerns different Ministries, Institutions and Departments. The most important institutions responsible for drug policy in Albania and those assigned by the order of date 20.06.2012 of the Prime Minister to play a specific role for the implementation of the National Drug Strategy are:

1. Ulsi Manja, Lecturer, Department of Criminal Justice, University Justiniani 1, Tirana.

The Albanian Parliament in the framework of its constitutional duties approves and ratifies all the *legislative documents, changes in the laws and other important documents that affect drug policy* in general and specific issues as well.

The Ministry of Interior - This Ministry has established the Section of The Fight against Drugs which is the only responsible body that deals with all police structures in the field of drug offenses. The task of this section is to coordinate, collaborate, do all operational, administrative and investigative work related to drug offenses and those tasks delegated by the prosecution, Penal code and current legislation in the territory of the Republic of Albania. This section coordinates the activities of international police cooperation and other international organizations dealing with drug issues, coordinates the operational activities of all Regional Department Offices in The Fight against Drugs (Regional Offices) and other structures involved in the fight against crime.

The Directory for the Fight against Organized Crime and Protection of Witnesses and Justice Collaborators - This directorate is part of the General Directorate of State Police and it has been established by the Order of Ministry of Interior no 3180 dated 13.09.2004. The Directorate is composed of six Sectors:

1. Sector for the Fight against Drugs;
2. Sector for the fight against trafficking of human beings;
3. Sector for the fight against money laundering and financial crimes;
4. Sector for Special Operations;
5. Sector for Protection of Witnesses and Justice Collaborators;
6. Sector for Analysis of criminal information.

The Section for the fight against Drugs is operating at a central level and at a regional level. There are 12 regional offices for the fight against drugs and this sector is the main responsible structure related to the prevention and the combating of criminal activities in the field of drugs.

The Ministry of Justice - Responsible for the overall management of prosecution offices and all levels of courts in Albania. The general department of the approximation of legislation and the general department of codification are the most important departments in the field of drug policy within the Ministry of Justice.

At the beginning of 2004 the Serious Crime Court and the Serious Crime Prosecutors Office started to function in Albania. These institutions carry out their activities together with the district Courts and Prosecutors' Offices. They are located in Tirana and are responsible for the whole Albanian territory. Their competences are

defined by Law and include those criminal offences that contain organized crime elements such as organized crime groups, structured criminal groups and other criminal offences for which the law foresees severe sanctions.

The Ministry of Finance - General Directorate of Customs in the framework of a memorandum of understanding “On interagency cooperation for the fight against drug trafficking and precursors” that closely cooperates with the Ministry of Interior.

The Ministry of Health - The National Centre of Drug Control is in charge of analysis and administrative supervision in relation to drug control used for legal purposes. The pharmaceutical Department is in charge of the law related to pharmacists’ activity, monitoring and pharmaceutical inspection. It is responsible for the enforcement of the law relating to pharmaceutical activities through the Pharmaceutical Inspection Service.

The Public Health Institute is in charge of monitoring the practices related to the descriptions of prescriptions and prepares guidelines for prescribing medicines containing narcotics. This institute is in charge of MMT therapy under the funding of GFTAM and it is also the reporting unit for all issues concerning drug use in Albania.

The Ministry of Education and Science - It cooperates with the Ministry of Interior in the framework of the bilateral agreement “To fight against use, abuse and drug distribution in school premises”.

The Ministry of Agriculture - It cooperates with the Ministry of Interior in the framework of the bilateral agreement “On the fight against poppy cultivation”

The National Committee for Coordination of the Fight against Drugs - Inter-ministerial committee - The National Committee for Coordination of the Fight against Drugs was established on 26th March 2001 by the Law no 8750 “For the prevention and Combating against illicit trafficking of narcotic drugs and psychotropic Substances”. This committee met on several occasions to assess the drug situation in Albania

Albania adhered to the three UN Conventions in the drug field.

- Law no.8722, date 26 December 2000 “On the adherence of the Republic of Albania to the “United Nations Convention Against illicit traffic in narcotic drugs and psychotropic substances,1988”;
- Law no. 8723 dated 26 December 2000 “On the adherence of the Republic of Albania to the Single Convention on narcotic drugs of 1961, and that Convention as amended by the 1972 Protocol”;

- Law no.8965 dated 07 November 2002 “On the adherence of the Republic of Albania to the Convention on drugs and psychotropic substances, 1971”.

Domestic legislation is based on these laws:

Law No 7975, dated 21 July 1995 “On narcotic and psychotropic substances” and amended by Laws: No 9271 dated 9 September 2004 and Law No 9559 dated 8 July 2006.

This law contains the list of psychotropic drugs and defines the rules of production, manufacturing, import and export of psychotropic substances.

Law No 7895, dated 27 January 1995 “Criminal Code of the Republic of Albania” amended by Laws: No 8279 date 15 January 1998; No 8733, date 24 January 2001; No 9275, date 16 September 2004. Important improvements have been made to the Albanian Criminal Code since 2004, such as changes regarding criminal organizations (Article 333) and structured criminal groups (Article 333/a).

Law No 7905, dated 21 March 1995 “Penal Procedural Code of the Republic of Albania”.

Important changes were also made to laws: No 8813, dated 13 June 2002; No 9187 dated 12 February 2004 with regard to the use of special investigative means, such as surveillance and interceptions (Articles 221, 222, 223, 224), simulation actions and infiltration (Article 294/a, 294/b).

Law on the Prevention of Money Laundering and Terrorism Financing (Law no. 9917 dated May 19, 2008).

Law No 8750, dated 26 March 2001 “On the prevention and combating of illicit trafficking of narcotic drugs and psychotropic substances” that defines the standards for the prevention and combating of illicit trafficking of drugs and their precursors. The creation and functioning of the National Committee for Coordination of the Fight against Drugs is foreseen in this law.

Law No 8874, dated 29 March 2002 “On the control of substances that can be used for illicit manufacturing of narcotic and psychotropic substances” that defines the rules for the control of substances that are often used for the illicit manufacturing of narcotic and psychotropic drugs, with the aim of preventing the supply or deviation from the legal destination of such substances.

The role of NGOs is included more specifically in the field of rehabilitation and treatment. One of the specific objectives of the National Drug Strategy concerns the rehabilitation system and involvement of NGOs in this area:

Treatment for drugs is aimed at providing services and treatment for drug addicts so as to make them free of drug dependency. Cures can be provided in a variety of rehabilitation institutions, and for different treatment durations. The integral addictive treatment is realized in several services, venues and institutions specialized in such intervention, which make use of a variety of behavioural and pharmacological approaches. Instead, treatment is a long-term process, including multi-fold interventions and regular monitoring.

The most acceptable contemporary categorization of the training programmes includes: the outreach services; day care centers; detoxification and meditational management of the withdrawal syndrome, long-term residential treatment, short-term residential treatment; non-hospital training programmes; individual counselling; group therapy, addictive treatment in the penitentiary system.

The most important activities regarding social aid services foreseen in this strategy are (8.5.3):

The establishment and empowering of community services for drug users

- Preparation of standards and guidelines for the residential and community centers (cooperation with the Ministry of Health, Ministry of Labor, local government, NGOs, etc.);
- The establishment of two long-term community residential centers for the rehabilitation of drug users and abusers (in Tirana and in Vlora) through public funding or other types of support.
- Implementation of integrated community services (centers with a low outreach threshold, mobile units, constant follow-up and prevention).
- Extension of the health care insurance scheme to involve the community services provided by the NGOs.
- The establishment of state subsidized opportunities for both private and/or public services for addicts and for NGO-provided community-based services.
- The establishment of suitable services for vulnerable groups
- The development of specialized training programmes for the creation of specific multi-disciplinary teams for training in the addictive processes of teenagers with disorders caused by drug abuse.
- The establishment of a specific rehabilitation residence center (therapeutical community)

for women suffering from drug use/addiction problems.

- A multi-professional approach, including parental care for pregnant women having problems with drug addiction.

- Fulfilment of pharmaceutical-therapy standards for pregnant women having issues with opiate addiction.

- Promotion of access to and establishment of necessary capacities in the addictive training system to face the complex treatment of drug dependents suffering from other diseases.

- The establishment of addictive services in the penitentiary system.*

- The establishment of multi-disciplinary structures for addiction treatment in penitentiary institutions, including both pre-detention centers and prisons;

- The application of alternative sentences for drug addicted convicts, so as to enable adequate treatment for them;

- The implementation of retention therapy programmes in prisons (with agonists, semi- agonists, and antagonists);

- The development of educational programs on drugs in the penitentiary system;

- The development of risk reduction programmes;

- The development of psycho-social programmes;

- The establishment of support groups;

- The offering of addiction services outside prison and involvement of their staff in treating convicts having issues with drug abuse and drug addiction

- Social re-integration

- The encouragement of private entities and of businesses to raise social service funds for improving such services and supporting this category of people.

- The coordination and cooperation through public and non-public bodies offering social services through periodical meetings, working meetings, etc.

- The encouragement of local government structures and of municipalities, in particular, to provide financial support for this category of beneficiaries, depending on their resources.

Civil organizations in Albania play an important role in offering social services in the field of drugs. These services include awareness, prevention, harm reduction

and treatment. The main NGOs currently operating in Albania focused on drug abuse are Aksion Plus, Stop AIDS and Emanuel Center.

The methadone maintenance treatment (MMT) was implemented in 2005 by Aksion Plus, funded by the Soros Foundation. The overall (cumulative) number of clients entering the methadone free-of-charge program at this outpatient treatment unit from June 2005 (starting point in time) till August 2012 is 620 PDUs. The continuity (2008 onwards) of such a free-of-charge program of "Aksion Plus" NGO is ensured by the financial support from the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM). The local government is providing in kind contribution and human resources such as counsellors from HIV Voluntary Testing and Counselling (VCT) centres. As of 2012, there were 5 centers run by Aksion Plus established in other cities outside Tirana. Aksion Plus dispenses methadone to about 200 patients daily in Tirana, and has opened 5 local centers in other cities, (www.aksionplus.net.)

Emanuel Center, (<http://www.komunitetiemanuel.org>) a not-for-profit, residential rehabilitation facility is located a short distance outside Tirana. It consists of a shelter for drug users, and a daily centre, which offers counselling, psychosocial support, and information on drug use. The work in the centre is based on the psycho-physical rehabilitation of drug users, and is supported by the Italian Catholic Church. In addition there are other supportive state services such as the HIV and other blood borne diseases testing centre in the Institute of Public Health etc - which try to facilitate the services for drug dependence in Albania. In 2010, 77 persons received residential service in Emanuel Centre. Admissions for drug-dependent individuals are intended to be for 3-6 months.

Stop Aids implements a needle and syringe program (NSP) which currently has 150 regular clients picking up needles and syringes in Tirana. The NSP includes outreach workers distributing near heroin dealing hot spots, (<http://www.stopaids-al.com>). Other activities of this organization are HIV/Hep B & C testing, condom distribution, medical and social counselling services, training seminars with medical and paramedical staff, educational staff, collaboration with the Police and Army force for positive attitudes toward Harm Reduction strategies, creation of Peer Educator groups, creating a Voluntary and Counseling Testing Center, national and local studies, conferences and symposia, producing training manuals, books, booklets, leaflets etc.

Albania has approved laws and regulations to control issues related to citizens access to drug use, production, trafficking and to access to alcohol. Services regarding drug and alcohol treatment and problems are still at the initial development stage. It is necessary to increase and improve these kinds of services and base them on the real needs of the country.

The social problems and poor economic conditions that Albania has been facing in the last years has meant the Albanian Government has been able to offer few resources on drug treatment and preventive education. Although the National Strategy is very specific and detailed regarding the areas and plan of action there are still concerns regarding its implementation.

The strategy and its plan of action are very ambitious programs to be implemented in a period of budget cuts due to the financial crisis. It represents a statement of intention with many activities foreseen but it is very difficult to be implemented given the resources required for this implementation.

Training of staff is very important to ensure a proper implementation of this strategy. Lack of human resources will make the strategy not easy to be implemented and its results will not be easily achieved.

The strategy bases its implementation on hospitalization to respond to the critical needs of heroin users, the majority of Problem Drug Users (PDU's) consists of heroin users, which is not the most effective treatment. The methadone treatment is one of the most important pillars on which the strategy and treatment of drugs in Albania is based.

2. National Substantive Criminal Law

Domestic law in Albania foresees changes between misdemeanors and felonies. This is based on the typology of the crime. The first distinction is the danger of the crime committed. The danger of a misdemeanor is lower compared to that of a felony. The second difference is the age of the persons committing crime, for a misdemeanor the minimum age is 16 years old, while for a felony the minimum age when a person is arrested, pre-trialed and convicted is 14 years old.

The penalty for a misdemeanor is from 5 days to two years, and the penalty for a felony is from 2 years to 25 five years. There are also some crimes which, although the penalty foreseen is less than two years, are still considered a felony and this is based on the danger of the crime committed. This is decided by the judge.

The Criminal Code of Albania foresees two typologies of sanctions: main sanction and supplementary sanction. The main sanction can be a fine or imprisonment. Imprisonment can be from 5 days to 25 years or life imprisonment based on the typology of the penal act that is committed. These two sanctions cannot be given for the same act.

The Criminal Code foresees also the alternatives to imprisonment which are: Fragmentation of imprisonment - For punishments up to one year of imprisonment, if the court notices grave family, medical, professional, or social circumstances, it

may decide that the sentence be executed fragmentarily but for not less than two days per week.

Suspending the execution of a sentence - If the person and the circumstances under which the criminal act was committed are of little danger the court, while sentencing up to five years of imprisonment, may rule that the convicted person be put on probation, thus suspending the execution of the sentence, provided that during probation he will not commit any other criminal act equally serious or more serious than the previous one.

Suspension of imprisonment and compulsory labor in favor of public interest - The court may suspend the imprisonment sentence if the latter is less than one year, and replace it with the compulsory labor in favor of the public interest, if the person and the circumstances under which the criminal act was committed are of little danger.

Early release on parole - The prisoner could be released earlier and on bail only for specific reasons, if his behavior and work show that during the time of punishment, the purpose of his education is fulfilled, and when he has spent:- not less than half of the punishment time given for penal transgression;

- not less than 2/3 of the punishment given for committing the crimes punishable by imprisonment up to 5 years;

- not less than $\frac{3}{4}$ of the punishment for crimes that have the punishment of imprisonment from 5 to 25 years.

Custodial sentences are foreseen in the Criminal Code and in the amendments made to the law no. 8331, dated 27.11.2008, "On Execution of Penal Sentences". Criminal Code:

Article 59 - Suspending the execution of a sentence. If the person and the circumstances under which the criminal act was committed are of little danger the court, while sentencing up to five years of imprisonment, may rule that the convicted person be put on probation, thus suspending the execution of the sentence, provided that during the probation he will not commit any other criminal act equally serious or more serious than the previous one. Probation extends from eighteen months to five years.

Article 60 - Sanctions against the convicted person under probation

The court may compel the convicted person under probation to meet one or some of the following sanctions:

1. To exercise a professional activity or to gain professional education or training.

2. To pay family pensions in due time.
3. To compensate for torts.
4. To be banned from driving certain vehicles.
5. To be forbidden to exercise a professional activity if the criminal act relates to such activity.
6. To be forbidden from certain places.
7. To be forbidden from shops serving alcoholic beverages.
8. To stay in his residence during certain hours.
9. To avoid the company of determined persons, mainly convicts or collaborators of the criminal act.
10. Not to carry weapons.
11. To be subjected to medical treatment against alcohol and narcotics.

Article 61 - obligations of the convicted persons under probation

During probation the convicted person is obliged:

1. To respond to calls and demands of the legal bodies supervising probation.
2. To inform the supervising bodies of probation of work-related changes.
3. To obtain permission from the supervising bodies of probation for any changes of residence or job, or visits abroad.

Article 62 - Revoking the sentence on suspension

If, during the term of probation, the convicted person commits a criminal act of the same degree or an even more serious act than the previous one, the court shall revoke the suspending decision.

Revoking is made even when the convicted person, without having reasonable cause, has not met the measures and sanctions mentioned in Articles 60 and 61 of this Code, which were imposed upon him. When the suspending decision is not revoked, the [first] sentence given is considered void. An important aspect of the justice system reform in Albania is Law no. 10024, date 27.11.2008 on Some Amendments and Additions to Law no. 8331, dated 21.4.1998 “On the Execution of Criminal Judgments”. The Albanian Parliament approved the normative legal framework for the establishment and functions of the institution of the Probation Service as a specialized institutional body concerning the supervision of alternative sentences to imprisonment.

Special provisions are not foreseen for drug-related offences, the penalty for severe drug-related offences is that of the maximum of the imprisonment period foreseen to change this imprisonment into a custodial sanction. In the cases when the offender is also a drug user he is obliged to take treatment within the prison facilities.

When the offender is sentenced with a custodial sanction, article 60 of Criminal Code states that the court may compel the convicted person under probation to meet one or some of the following sanctions:

6. To be forbidden from certain places.
7. To be forbidden from shops serving alcoholic beverages
9. To avoid the company of determined persons, mainly convicts or collaborators of the criminal act
11. To be subjected to medical treatment against alcohol and narcotics.

3. National drug laws and institutions

The Criminal Code foresees severe penal sanctions against the trafficking, manufacture, preparation, distribution, transportation, maintenance and sale of drugs and psychotropic substances (without distinction)

- 5-10 years of imprisonment for production, selling, distribution and possession and
- 7-15 years for trafficking “import-export” of drugs.

Penal sanctions are also foreseen for illicit cultivation of narcotic plants (3-7 years of imprisonment) and trafficking or derivation of precursors (3-7 years of imprisonment).

Article 283 Manufacturing and selling narcotics (Paragraph I amended, paragraph II added by Law No. 8733, date 24 January 2001, article 63)

Selling, offering to sell, providing or receiving in any form, distributing, commercialization, transporting, sending, delivering, as well as carrying, except in case of personal use and in small portions, narcotic and psychotropic substances as well as seeds of narcotic plants, in violation of law or in excess of its content, is punished by five to ten years of imprisonment.

The same offense, if committed in collusion with others, or repeatedly, is punished by seven to fifteen years of imprisonment.

Organizing, managing or financing this activity is punishable by ten to twenty years of imprisonment.

Article 283/a about Traffic of narcotics says:

Import, export, transit, and trade of narcotic and psychotropic substances and of seeds of narcotic plants, in violation of law, is punished by seven to fifteen years of imprisonment. The same offense, if committed in collaboration with others, or repeatedly, is punished by ten to twenty years of imprisonment. Organizing, leading, or financing of this activity is punished by not less than fifteen years of imprisonment.

Article 284

Cultivating narcotic plants (Paragraphs I and III amended, paragraph II added by Law No.8733, date 24 January 2001, article 66): Cultivating plants which serve or are known to serve in the production and extraction of narcotic and psychotropic substances, without permit and authorization according to the law is punished by three to seven years of imprisonment. The same offense, if committed in collaboration with others, or repeatedly is punished by five to ten years of imprisonment. Organizing, managing or financing this activity is punishable by seven to fifteen years of imprisonment.

Article 284/c about Production and fabrication of narcotic and psychotropic substances (Added by Law No. 8733, date 24 January 2001, article 67) says: Production, fabrication, extraction, refinement, or preparation without a license or in excess of its content of narcotic and psychotropic substances, is punished by five to ten years of imprisonment. The same offense, if committed in collaboration with others or repeatedly is punished by seven to fifteen years of imprisonment. Organizing, leading, and financing this activity is punished by ten to twenty years of imprisonment.

Drug use Possession of drugs in small quantities for personal use is not punished, but the amount is not specified, misleading the interpretation of the law either by the police forces or the court. According to the unified decision of the High Court No 1, dated 27.3.2008: 'Penal and legal notion that is expressed by the legislator with the phrase "in small doses", even though there may be a numerical determination of the quantity of prohibited materials that will be indicative of the amount of weight to be considered a small dose, must be interpreted in the sense that, in quantitative terms, narcotics and psychotropic substances etc., should be to the extent considered really small for personal use by individuals, and not in general. It should not exceed the physical and biological capabilities of the individual user and within the limits of tolerance that his body represents for that type of drug, at the time and within the conditions of use in order for the person to avoid going beyond the scale of effects that will damage the health". Taking into account this analysis the United College concluded that: "a small dose, in its legal sense, is not the consideration of the physical separation of the amount into some parts, but the

amount of narcotic and psychotropic substances that it contains as a whole and according to experts is considered a small dose”.

Such a definition of the term “in small doses” is used for the purpose of implementing the provisions of Article 283 of the Criminal Code, in addition to the preventive role that it plays in preserving the health of users and persons dependent on drugs. It also plays a role in general prevention in the fight against the phenomenon of illegal use of these materials. In circumstances where it is not yet determined by a special law or by-laws, the case of the use of a dose of narcotic and psychotropic substances “in accordance with the law” (a requirement that United Colleges consider is dictated by the way it is formulated in the above mentioned provision), the above definition serves to narrow to a reasonable extent the parameters of use by perpetrators which might otherwise unfairly affect the criminal responsibility of users of narcotics and psychotropic substances who are on the edges of these cases.

The Criminal Code does not consider drug addiction as a mitigating or an aggravating circumstance. However, being obliged to consider all relevant facts and circumstances related to the case, the court has to take into account the personal characteristics of the offender, including drug use and drug addiction. Case law in some sentences considers drug addiction as a mitigating circumstance, while in other sentences it considers it as an irrelevant circumstance. Procedural Criminal Code foresees the mitigating and aggravating circumstances to be taken into consideration in a penal court, but Article 49 of the Procedural Criminal Code leaves it at the discretion of the judge that besides the circumstances foreseen in this Code he may take into account other circumstances such as those in Article 48 (deep repentance).

Other circumstances that are considered relevant are the need to attend obligatory education and further education, familiar and social situations, unemployment, familiars that the offender has under his custody and their need for economic and social care.

Albanian Criminal Code does not provide different penalties based on the fact that the offender is a drug addict or not. Offences associated with ‘cravings for use’ are prosecuted in the same manner as ordinary offences that are not related to drugs. It is up to the court to decide whether and how to consider the offender’s addiction when determining the penalty. Almost all penal cases have been prosecuted without taking into consideration drug addiction as a mitigating circumstance. These persons have been sentenced in the same way as other non-addicted persons who have committed similar offences.

According to the Albanian judicial practice in the cases when a person is arrested for the possession of 5 grams of hashish (soft drug) and if the person is drug ad-

dicted the person can benefit or can be given a more lenient sentence or alternative sentence to prison, unlike in the case when the person is arrested for the possession of 5 grams of heroin or cocaine (hard drug). Article 283 makes no difference between user, seller and trafficker. They are placed in the same category where the same penalty is foreseen regardless of what kind of drug “soft” or “hard” has been used, produced or trafficked.

Policy discussions in the legislative practices have always requested the improvement of Article 283 of Criminal Code regarding categorization of the criminal subjects and typology of substance and the consequences that drug use has on those persons who use it.

The Albanian Criminal Code defines the following sentences for different drug law offences

SECTION III

CRIMINAL ACTS AGAINST PUBLIC ORDER AND SECURITY

Article 283

Manufacturing and selling narcotics (Paragraph I amended, paragraph II added by Law No. 8733, date 24 January 2001, article 63)

Selling, offering to sell, providing or receiving in any form, distributing, commercialization, transporting, sending, delivering, as well as carrying, except in case of personal use and in small portions, narcotic and psychotropic substances as well as seeds of narcotic plants, in violation of law or in excess of its content, is punished by five to ten years of imprisonment.

The same offense, if committed in collusion with others, or repeatedly, is punished by seven to fifteen years of imprisonment. Organizing, managing or financing this activity is punishable by ten to twenty years of imprisonment.

Article 283/a

Traffic of narcotics (Added by Law No. 8279, date 15 January 1998, article 2

Amended by Law No. 8733, date 24 January 2001, article 64)

Import, export, transit, and trade of narcotic and psychotropic substances and of seeds of narcotic plants, in violation of law, is punished by seven to fifteen years of imprisonment. The same offense, if committed in collusion with others, or repeatedly, is punished by ten to twenty years of imprisonment. Organizing, leading, or financing of this activity is punished by not less than fifteen years of imprisonment.

Article 283/b

Creation of facilities for delivering and use of drugs (Added by Law No. 8733, date 24 January 2001, article 65).Illegal facilitation of narcotic or psychotropic substances, by persons, who, because of their duty administer such substances, as opposed to the respective legal dispositions, is punished by imprisonment from three to seven years.

Article 284

Cultivating narcotic plants (Paragraphs I and III amended, paragraph II added by Law No. 8733, date 24 January 2001,article 66)

Cultivating plants which serve or are known to serve in the production and extraction of narcotic and psychotropic substances, without permit and authorization according to the law, is punished by three to seven years of imprisonment. The same offense, if committed in collusion with others, or repeatedly, is punished by five to ten years of imprisonment. Organizing, managing or financing this activity is punishable by seven to fifteen years of imprisonment.

Article 284/a

Organizing and leading criminal organizations (Added by Law No. 8279, date 15 January1998, article 2)

Organizing, leading and financing criminal organizations with the goal of cultivating, producing, fabricating or illegal trafficking of the narcotics is punishable by imprisonment of 10 up to 20 years. Creation of conditions or facilities for such activities by persons with state functions is punishable by imprisonment from 5 to 15 years.

Article 284/b

Supporting the disclosure of crimes (Added by Law No. 8279, date 15 January1998, article 2) The arrested or sentenced person for one of the criminal offences related to trafficking in narcotics, weapons, clandestine activities, prostitution or criminal offences committed by criminal organizations, that cooperates and assists the criminal proceeding bodies in the struggle against them, or as the case might be, in the disclosure of other persons that commit such crimes, cannot be sentenced to more than half of the contemplated punishment for the offense committed by him. In specific cases, when the facilitating circumstances contest in his favor too, this person can be excluded from the punishment.

Article 284/c

Production and fabrication of narcotic and psychotropic substances (Added by Law No. 8733, date 24 January 2001, article 67).Production, fabrication, extrac-

tion, refinement, or preparation without license or in excess of its content of narcotic and psychotropic substance, is punished by five to ten years of imprisonment. The same offense, if committed in collusion with others or repeatedly, is punished by seven to fifteen years of imprisonment. Organizing, leading, and financing this activity is punished by ten to twenty years of imprisonment.

Article 284/ç

Production, commercialization, and illegal use of precursors (Added by Law No. 8733, date 24 January 2001, article 67) Production, import, export, transit, commercialization, and carrying of precursors provided by law in relevant tables in violation of relevant legal provisions, is punished up to five years of imprisonment. The same offense, if committed in collusion with others, or repeatedly, is punished by three to seven years of imprisonment. Organization, leading, and financing this activity is punished by five to fifteen years of imprisonment.

Article 285

Possession, production, and transport of chemical substances (Amended by Law No. 8733, 24 January 2001, article 68). Production, possession, transport or delivery of basic chemical substances, or of different kinds of substances, equipment, or materials, if known that these are used or will be used for the production or illegal trafficking of narcotic or psychotropic substances, is punished by three to ten years of imprisonment.

Article 285/a Adaptation of places for use of a drug (Added by Law No. 8733, date 24 January 2001, article 69). Adaptation or permission to adapt a place, dwelling, vehicle, and any other public or private means to gather persons, with the purpose of consuming narcotic or psychotropic substances, is punished by up to five years of imprisonment.

Article 285/b Disposal or abandonment of syringes (Added by Law No. 8733, date 24 January 2001, article 69). Disposal or abandonment in public places or places open to the public, as well as in private environments of common use, of syringes or dangerous instruments, used to inject narcotic or psychotropic substances, constitutes criminal contravention and is punished by fine or up to one year imprisonment.”

Article 286

Inducing the use of drugs (Amended by Law No. 8733, date 24 January 2001, article 70) Inducing others to use narcotic or psychotropic substances, or providing or injecting others without their knowledge or consent, is punished by five to ten years of imprisonment. When the inducing or forced injection is conducted upon

children or in penitentiary, educational, sport or any other institutions providing social activity, it is punishable by not less than fifteen years of imprisonment.

Article 286/a

Illegal use of high technology. Production and running of systems, equipment, and means of high technology, in cases of criminal acts included in the articles 283 until 286/a of this Code, or when this technology is used to facilitate or enable the consumption of narcotic or psychotropic substances, or broadcasting advertisements to promote their use, is punished by imprisonment up to five years.

These sentences are harsh compared to petty crimes, but are not considered similar to first degree murder. The maximum penalty imposed for drug trafficking, article 283/a and 284/a is 10 - 20 years while first degree murder is sentenced with life imprisonment or up to 25 years of imprisonment for women.

There is no difference in the treatment of drug-offenders compared to other offenders. Although it is stated in the media articles and reports about the level of corruption in the justice system (Transparency International Reports, EU Progress Reports) it might be said that drug-dealers are treated according to the law, (imposing a wide range of minimum till the maximum of the penalties foreseen in the Criminal Code).

The Albanian Criminal Code and Procedural Criminal Code, articles 283 until 286 and 286/a of Criminal Code, foresees severe penal sanctions against the trafficking, manufacture, preparation, distribution, transportation, maintenance, sale of drugs and psychotropic substances. (See 3.6 above)

Severe penal sanctions are foreseen for illicit cultivation of narcotic plants and trafficking or derivation of precursors. Article 283 makes no difference between user, seller and trafficker. They are placed in the same category where the same penalty is foreseen regardless of the kind of drug, “soft” or “hard” which has been used, produced or trafficked and the quantity of substance.

The legislator has foreseen no difference between small and big dealers and this absence of difference has affected the initiation of several discussions about the changes needed in the drug policy in Albania. Referring to this case Article 283 of Criminal Code does not distinguish any difference between small and big dealers, the only difference is that of personal use. See decision of High Court about the judicial practice in this case. (See 3.2 above)

According to Criminal Procedural Code there are three stages of judgment:

- a) The district criminal Court b) Appeal Court c) High Court

All criminal offences are trialled in the first instance by the district court, by the courts of serious crimes, the military court and the Supreme Court.

The Districts Criminal Court judges the offenses for which the punishment ranges from a fine up to 7 years of imprisonment, these trials are judged by one judge. The other offenses are judged by panels composed of three judges.

In 2004 in Albania the changes in the procedural criminal code established the Court of Serious Crimes. According to Article 75/a- under the competences of the Court of Serious Crimes are the following drug offenses: Article 283/a - Traffic of narcotics and 284/a Organizing and leading criminal organizations.

Regarding the principle of universality Albanian criminal law is applicable for all Albanian nationals and foreigners who commit an offense within or outside the territory of the Republic of Albania. The Criminal Code foresees the principle of universality in Article 6 and Article 7.

Article 6

For criminal acts committed by Albanian citizens within the territory of the Republic of Albania, the criminal law of the Republic of Albania shall apply.

The criminal law of the Republic of Albania shall also be applicable to the Albanian citizen who commits an offence within the territory of another country, when that offence is concurrently punishable, unless a foreign court has given a final sentence.

In the sense of this article, Albanian citizens shall also be considered those persons who apart from Albanian citizenship hold another one too.

Article 7

The foreign citizen who commits a criminal act within the territory of the Republic of Albania is held responsible on the basis of the criminal law of the Republic of Albania. The criminal law of the Republic of Albania is also applicable to a foreign citizen who, outside of the Republic of Albania, commits one of the following offences against the interest of the Albanian State or an Albanian citizen:

- a) Crimes against humanity
- b) Crimes against Albanian independence and its constitutional order;
- c) Terrorism;
- d) Organization of prostitution, illegal manufacturing and trafficking of drugs, other narcotic substances, of weapons, nuclear substances, as well as pornographic materials;

- e) Hijacking airplanes or ships;
- f) Falsifying the Albanian state seal, Albanian currency, or Albanian bonds or stocks; for a punishment by imprisonment of five years or any other heavier punishment
- h) Laundering of the proceeds of crimes;
- i) The crimes of active and passive corruption committed by persons exercising public duties/functions, as well as in the private sectors.

4. Drug law enforcement in practice

In June 1995 -after the fall of communism in Albania- the new Albanian Criminal Code was approved and a very important section of this Code of 1995 was the introduction of articles that address the problems of cultivation, production and trade of narcotics.

The legislative framework continued to be improved with the changes in 1998, Article 283/a about the trafficking of narcotics adding the offences of import, export and trade of narcotic substances or psychotropic and narcotic plant seeds.

Changes in 2001 of the criminal Code added in Article 283/a if the same offense is committed in collusion with others, or repeatedly, is punished by ten to twenty years of imprisonment and organizing, leading, or financing of this activity is punished by not less than fifteen years of imprisonment. In the meantime these changes aimed to introduce stricter measures against narcotic trafficking.

Also Article 283/b added the offence of “creation of facilities for delivering and use of drugs” and 284/c talks about production and fabrication of narcotic and psychotropic substances. These articles control the number of licensed persons that work with narcotic and psychotropic substances and article 284/c presents the sanctions for the production, trade and illegal use of precursors. Through these changes the aim is to reinforce the fight against narcotics. After 2001 a lot of changes to the Criminal Code and respective laws have been made, but there are no changes in the drug policy.

The criminal procedural code defines the ways persons and houses are observed and controlled, articles of 198 -199 about the examination of persons and places and articles 202-206 about the control of a house.

The Procedural Code also describes the procedures of confiscation- article 208; interception - article 221-226; arrest in flagrante and detention- articles 251- 259;

The arrests in flagrante can be organized by the special methods of investigation by the central and regional offices on the fight against drugs. Police practice towards

heroin users includes regular stop-and-search, arrests and harassment. Moreover heroin users are often involved in petty crimes in order to support their daily use. Policing practice towards cannabis users varies, as most often police harass occasional users, who smoke in public. Regular cannabis users have different patterns and habits of use - they usually avoid smoking in public and therefore are rarely stop-and-searched by the police.

Also according to the law no 8750 date 26.03.2001 "For the prevention and fight against trafficking in narcotic drugs or psychotropic substances" the police officer and Judicial Police or a person authorized by them may be charged to make a "purchase" of the narcotic substances while hiding their identity. They can use false documents when they are infiltrated. The "purchase" can be made only by the authorization of the General Prosecutor, by the authorization of the Prosecutor who has initiated the investigation and by the authorization of the Prosecutor who has under his jurisdiction the territory where this action is going to be organized with the aim of collecting evidence, identifying and arresting persons involved in drug trafficking.

Policing of illicit cultivation

Albania still remains a country of origin for cannabis and its derivatives (marijuana /hashish/hashish oil). Cannabis is the only narcotic plant cultivated in Albania. The southern "drug- hotspot" is called Lazarat, an area near Gjirokaster, which is not under permanent control of the Albanian State authorities.

With the exception of cannabis, Albania is not a significant producer of illicit drugs. The Anti-Narcotics Unit of Ministry of Interior reports that cannabis is currently the only drug grown and produced in Albania, usually for regional distribution. Cultivation of marijuana during the last years decreased noticeably with increased enforcement action against both traffickers and cultivators. There is no poppy cultivation, no evidence of labs for the manufacture of synthetic drugs, and the trade in synthetic drugs remains virtually non-existent.

Awareness campaigns against drug cultivation are organized all over the country. Focus of these campaigns has been in the communities in general and among school children specifically. Meetings of police officers and pupils are organized within school settings to discuss the danger of drugs and also how pupils can discuss with parents in cases of illegal drug cultivation. The Police has organized campaigns in the well-known hot-spots in the country, cutting and destroying the plants.

Law No. 9559, dated 8.6.2006 for an amendment of law no 7975, dated 26.7.1995 "On Narcotic Drugs and Psychotropic Substances" added Article 10/1 about the re-

sponsibility of mayors and other officials of local government units. Order Police and Criminal Police in the area should work together and organize the work for the prevention of plant cultivation, narcotic detection of cultivated areas and to identify those responsible. They are required to report immediately to the relevant authority on the fight against drugs of the county police department. When the above persons act in violation of paragraph 2 of this Article, as the case may be, they are subject to criminal offenses under Articles 248, 300 and 301 of the Criminal Code. “

The **pre-trial detention** is implemented in Albania and it is one of the most used security measures imposed by the court. Although there was a big discussion when the law about the establishment of the Probation Service was prepared on including the alternative measures in the detention and pre-trial phase, alternative sanctions cannot replace the security measure of imprisonment. Exceptions can be made only when according to article 239 the person to be arrested is mentally ill, and for this reason this person instead of being held in detention be ordered to be hospitalized in a psychiatric institution. This is mandatory treatment.

However judicial practice has recognized that security measures can be mitigated due to health status or family circumstances of the offenders, where it is judged that this person has few possibilities to escape or to commit other offenses. But health conditions cannot affect the security measures, as it is also stated in the decision no 367, dated 11.2001 of High Court that “health treatment of the offenders is under the responsibility of Prison Hospital, which is an institution under the General Directory of Prisons charged by law to treat persons in the pre-trial facilities and prisons.

Drug-users can be placed in mandatory treatment in the phase of pre-trial only when this treatment is absolutely necessary and the penalty foreseen in the Criminal Code for the offence they have committed is less than 10 years. No such case has been reported in the last years.

According to the Article 248 of Criminal Procedure Code **interrogation** of a person takes place no later than 3 days after the application of the measure, the court interrogates the person placed in jail or under house arrest. The prosecutor and the lawyer are present at the interrogation session.

In cases of arrest, the interrogation is made by judicial police officers (article 255 (law no 8813, date 06.13.2002) and the prosecutor (article 256) in the presence of the lawyer. For those who are drug users interrogation is made after the person's health has stabilized. In the case of drug offenders, for all the crimes the first thing that they undertake is conducting a urine test to prove whether they are drug users or not but also to prove whether at the time of the crime the person was under the influence of any narcotic substance or not.

There is a legal framework in Albania for **police entrapment** and it is regulated by Law no 8750, date 36.3.2001. Articles 6, 7, 8 and 9 of this law are about “Services for the war against drugs”. This service consists of the Central Service and Criminal Police Directorate Regional Offices for the fight against drugs, which are part of the regional police departments. It is under the competence of the Central Service for the Fight against Drugs to deal with prevention and combating of criminal offenses in the field of drugs.

This service, in cooperation with Judicial Police, department of Prosecution Offices can organize police entrapment. According to the law no 8750 date 26.03.2001 “For the prevention and fight against trafficking in narcotic drugs or psychotropic substances” the police officer and Judicial Police or a person authorized by them may be charged to make a “purchase” of the narcotic substances while hiding their identity. They can use false documents when they are infiltrated.

The “purchase” can be made only by the authorization of the General Prosecutor, by the authorization of the Prosecutor who has initiated the investigation and by the authorization of the Prosecutor who has under his jurisdiction the territory where this action is going to be organized that aims to collect evidence, identify and arrest persons involved in drug trafficking. Police officers of the central service on the fight against drugs and Judicial Police officers have the right to make interpretation of the conversations and other communications using scientific and technical means. They can make observations, photos and filming based on the Articles 221 -226 of the Criminal Procedural Code. In the case of filming and photos made in the case of a simulated purchase of narcotic substances they should be accepted by the court if they are made in accordance with Article 151 of the Criminal Procedural Code, where it is stated that when evidence is not based on the law, the court can take it into consideration only when it can verify the facts and when it does not affect the freedom and will of the person.

Available data for imposed sentences, possible special provisions for drug addicted offenders

The latest data about the imposed sentences of courts in Albania that have established the online system are published online. The full final decision imposed can be found online.

The standardized data are produced annually and published in the annual statistical report of Ministry of Justice. Data of 2010 regarding the articles about drug offences are:

Article 283: up to 2 years - 2 cases; 2-5 years - 18 cases; 5-10 years - 3 cases

Selling, offering to sell, providing or receiving in any form, distributing, commercialization, transporting, sending, delivering, as well as carrying, except in case of personal use and in small portions, narcotic and psychotropic substances as well as seeds of narcotic plants, in violation of law or in excess of its content, is punished by five to ten years of imprisonment.

The same offense, if is committed in collusion with others, or repeatedly, is punished by seven to fifteen years of imprisonment.

Organizing, managing or financing this activity is punishable by ten to twenty years of imprisonment. Article 283/1: up to 2 years - 24 cases; 2-5 years - 128 cases; 5-10 years - 22 cases. Article 283/2: up to 2 years - 11 cases; 2-5 years - 10 cases. Article 283/3: up to 2 years - 1 case; 10 -25 years - 1 case.

-Traffic of narcotics

-Amended by Law No. 8733, date 24 January 2001, article 64). Import, export, transit, and trade of narcotic and psychotropic substances and of seeds of narcotic plants, in violation of law, is punished by seven to fifteen years of imprisonment.

-The same offense, if committed in collusion with others, or repeatedly, is punished by ten to twenty years of imprisonment.

-Organizing, leading, or financing of this activity is punished by not less than fifteen years of imprisonment. Article 283/a1: up to 2-5 years - 2 cases; 5-10 years - 1 case. Article 283/a 2: up to 2-5 years - 5 cases; 5-10 years - 50 cases; 10-25 years - 13 cases.

The court provides special provisions in the final decision for drug offenders when they are under probation services such as to attend school, not to be associated with other drug users, to attend a rehabilitation program against drugs.

5. Sentencing levels and the prison situation:

According to the statistical data of August 2012, the number of persons held in the penitentiary institutions in Albania is 2864 persons who are placed in prisons and 1930 persons who are placed in pre-trial and detention centers.

There are 19 penitentiary institutions around the country, prisons and pre-trial centers, 1 Prison Hospital and 1 Institute for Juveniles in Kavaja. Three new prisons are under construction, financed by European Union assistance. 2864 persons are placed in prisons - 530 are for drugs trafficking. 1930 persons are placed in pre-trial and detention centers - 430 persons are for drug trafficking.

Prisons in Albania are operating to full capacity and sometimes some of them are over the recommended level. The opening of the new institutions decreased signif-

icantly overpopulation of prisons in Albania, which was one of the main problems of the penitentiary system. Another important factor for decreasing overpopulation of prisons is the amendments to the Penal Code and of Law “On execution of penal decisions”. The Probation Service was established based on those amendments.

Public Health Institutions and Directorate General of Prisons are very active in the field of prevention activities in the prison setting. They also cooperate with international and national NGOs regarding problems of HIV and Hepatitis.

“Stop Aids” association with the funding of Global Fund for HIV/AIDS in cooperation with National Programme for HIV/AIDS have successfully implemented the first and second phase of the project “Prevention of HIV/AIDS” in the penitentiary system. During the project, capacity building of social and medical staff was organised. Prisoners were contacted, interviewed and participated in meetings about raising awareness of these problems in prisons. There were no data exposed in the project about HIV and Hepatitis transmission.

The arrests made in the last years during visits of familiars who aimed to bring drugs inside the prisons and pre-trial facilities show that there are efforts to bring in drugs and there are drug users inside. Methadone treatment is offered by Aksion Plus in prisons in order to avoid the problems of drug use and treat the abstinence crisis of arrested persons.

The health care personnel in prisons was reorganized during 2009 along with the provision of health care. The structure of a penitentiary institution consists of a doctor, a dentist, a pharmacist and there is a 24 hour service. Convicts and detainees are subject to health check-ups at the moment of arrival in the institution. They are provided with a medical and dentistry file, which specifies the treatment to be followed and specialized medical assistance offered in the Prison Hospital.

A recent development in the health care service is the decision of the Council of Ministers nr.337, dated 06/04/2011 “For the involvement of the detainees and pre-trial detainees in the category of persons economically non-active”. As to this decision, they benefit from all benefits, offered by the health insurance scheme, free of charge.

Special Care Sections for people with mental disorders and dependency on narcotic substances was first applied in April 2010 as a pilot project initiated in Fushë-Krujë, Ali Demi, Lezhë, Peqin, Vlorë and Durrës facilities. The programme includes mainly psycho-social service and intensive therapy, aiming at the rehabilitation of convicts with mental disorders and of those with dependence on narcotic substances.

Women are considered to be one of the most vulnerable categories in prisons. A nursery is established inside the internal regime, for female convicts - mothers of newborns, aiming to provide a harmless environment for children to grow up with their mothers. Children have the assistance of social and health care personnel on a 24-hour service and may stay with their mothers in prison up to the age of three years old.

Methadone treatment is provided inside prisons and harm reduction programs as well. Capacity building of health staff is organized by NGOs specialized in drugs, physical health and mental health problems.

The potential of diversion of drug users from prison to community based treatment is only foreseen in the use of custodial measures. The diversion is difficult in the phase of pre-trial as the precedent of mandatory treatment for drug users who need it may be misused by those who don't need it and use this measure as a way to escape prison. The efforts to develop and expand a mechanism for the diversion of drug users into community treatment have failed, since many diversion cases have failed.

Reform of the Penitentiary System is one of the 12 key priorities that Albania needs to address in order to be considered for European Union membership. The emphasis is put on the continuous improvement of the legislation, improvement of infrastructure and accommodation premises and capacity building of staff. The vision of the Albanian penitentiary service is to create appropriate conditions for the implementation of the existing legal framework and base it on the European Union standards.

Very good work has been done for the continuous improvement of legal acts, whose implementation provides humane treatment of convicts and detainees, emphasizing here the re-education of the convicts in these institutions and expansion of the concept for non discrimination of the convicts and detainees.

The National Prison Administration has established a strategy and plan of action on which the work of this institution should be based.

Although it is accepted that the rate of recidivism is high among drug-related crimes there are no official data about recidivism in general and about drug-related crimes specifically. The law does not allow for early release or bail of a recidivist convicted for deliberately committed crimes. Early and on bail release is revoked by the court, when the convict of a deliberately committed crime, during an on bail period, perpetrates another serious penal act (on purpose), or more serious penal act than the first one; in this case, the dispositions of blending the punishments could be applied.

II. Initiatives for drug law reform undertaken by the government and/or the parliament in the last 10 years

The only changes made to the legislative framework about drug policy in Albania are those mentioned above, (refer point 4.1). After 2001 a lot of changes in the Criminal Code and respective laws have been made, but there are no changes in the drug policy. A detailed description of the legislation is elaborated above, point 1.3.

Regarding the government efforts, these are included in the strategies, action plans and different ministerial decisions. The first National Drug Strategy 2004 - 2010 was approved on 7th May 2004 with the Order No 292 of Council of Ministers. On June 2010 the new working group was established which drafted the 2012 - 2016 National Drugs Strategy and the strategy was approved by act no 403 of Prime Minister dated 20th June 2012. The Strategy is connected with the reforms and other important national strategies, such as: the health reform, the national strategy against organized crime and terrorism, the national strategy on the fight against AIDS, potential changes in the Criminal Code and in the Criminal Procedure Code, the anti-corruption strategy, judiciary reform, etc.

A previous review report (SAIMS, 2011) noted the lack of central coordination of drug policy (P25). Several respondents expressed concern that without clearly identified government or bureaucratic leadership, implementation of the Drug Strategy 2012 will be problematic. However, divisions and competition between services make the government's role more difficult. Albanian government devotes just over 3% of GDP to provision of health services. The remainder of health expenditure, approximately twice the government contribution, comes from private payments for care and medicines. In the Albanian legislation, issues related to the treatment and prevention of health disorders caused by drugs are not covered by any special law. The only reference to this problem is found in the Law no. 10138, date 11.05.2009 "On the public health". According to this law, 'Article 7' listing of public health services, in section 'e', describes the services of prevention and control of substance abuse (tobacco, alcohol, narcotic drugs and psychotropic substances, etc.). Also in 'Article 53' on health protection from abusive use of narcotic and psychotropic substances, note the "treatment, rehabilitation and reintegration into society of abusive users of narcotic and psychotropic substances" as part of the totality of the measures to be taken.

During 2010 - 2012 5 meeting of experts from Ministry of Health, Ministry of Justice, Ministry of Education, Ministry of Labour, Ministry of Interior, Prosecutor Office, Informative Service, National prison Administration, Institute of Public Health and NGOs were organized. The meetings were about drug policy in Al-

bania to discuss the current drug situation, trends and the future. Almost all the participants raised the need for the Albanian government to develop integrated treatment systems, offering drug users access to a wider range of treatment programmes, and managing their re-integration into jobs, housing and community life. These should be designed and implemented through partnerships between health, social, and criminal justice agencies. These meetings were facilitated by the UNODC and the WHO representatives as part of their Joint Programme on drug dependence treatment and care.

On March 2012, a group of representatives of the Albanian Parliamentary Commission on Health and of NGOs discussed amendments in the Criminal Code, article 283 about categorization of “soft and hard drugs”. This initiative failed because it was not accepted by the Health Commission. Albania lacks a specific scheme to cover social assistance for chronic health problems, including disability caused by substance abuse. Welfare coverage for disability caused by the use of drugs is not provided by the social security system in Albania.

III. Standpoints of relevant stakeholders (political parties, scientific community and civil society organizations) on drug law reform

This report summarizes the drug policy that was in place in Albania till September 2012. Main stakeholders that were contacted were members of the Albanian Parliament, Lawyers, Human Rights Activists, Public Health Experts, the Ministry of Justice, the Ministry of Interior, Prosecutors, Judges, and national NGOs active in the field of drugs. Their general opinion is that although Albania has made considerable progress in the field of drug policy the risk of drug offenses remains high. Albania has a history of organized crime with clan-based and hierarchically organized networks that are mainly involved in drug trafficking.

Domestic and international cooperation is good. Albania has established a number of domestic and international cooperation mechanisms that facilitate cooperation between competent authorities and foreign counterparts; however, cooperation mechanisms between supervisory agencies, both domestically and internationally, are underutilized.

The Albanian Drug Strategy envisages allocation of resources to expand drug treatment capacity. It will be critical to ensure that funding for drug treatment is clearly identified, that the broad objectives of funding are agreed, and that services in receipt of funding are accountable. For this to occur, there need to be agreed

treatment priorities, and agreed reporting of activity, outcomes and expenditure. Continued funding of clinical services is subject to meeting these requirements.

Albanian authorities indicate that drugs trafficking, human beings and arms trafficking, and corruption are the main predicate offences that generate proceeds in Albania. Due to its geographical position, Albania continues to be used by drug traffickers as a transit country. Albania is also a producer of cannabis.

Despite eradication programs that have resulted in a reduction of cannabis cultivation, such cultivation persists in various regions of the country. According to the authorities, no laboratories for the production of synthetic drugs have ever been discovered in Albania, and the trade in synthetic drugs remains virtually non-existent.

In 2005, the Albanian Government outlawed the circulation of speedboats and several other varieties of water vessels on all Albanian territorial coastal waters for a period of three years. This has slowed the movement of drugs by smaller water-borne vessels.

While drug demand reduction is a concern, the supply reduction of drugs is one of the most important issues on the agenda of the Albanian government. Drug demand reduction is spontaneous and few resources are available from the state budget. Drug-supply reduction and law enforcement issues are important in the fight against corruption and organized crime, and figure prominently among the Albanian government priorities.

It is exactly this kind of determination from the Albanian government in the fight against drugs, in close collaboration with international law enforcement agencies that has led to positive results over the past years. Today, drug trafficking in Albania has been reduced after tightening the country borders (land, sea, air). Measures that are taken against the cultivation of narcotics have decreased the level of cannabis cultivation in Albania.

IV. Proposals and recommendations for further research and advocacy work

Drug dependent patients are disproportionately from the poorer elements of society, and reliance on privately funded treatment and privately purchased medications reduces access to treatment, and potentially creates serious risks of feeding a black market. The consolidation and expansion of MMT (and of other Addiction services) in Albania will require staff to gain experience and skills across a range of Addictions treatments. In principle, this approach, laid out in the strategic plan of commissioning, a specialist service to provide leadership, guidelines, training,

research and evaluation is a sound one, designed to set treatment of drug addiction on a sustainable, long term basis.

It is better to start with a regulated system and move towards a more liberal one as more experience is gained, than to begin with a liberal program which risks giving Opiate Substitution Treatment a bad reputation (as occurred in the 1990s in Albania). Heroin supply is plentiful in Albania, and the persistent use of heroin during methadone treatment (and relapse after drug free treatment) is common.

International agencies have led in establishing harm reduction services for drug users, for which the Albanian Health system will need to assume responsibility. Investment in treatment of problem drug users is cost-effective, a public health investment which should substantially be met by the state, as without a state budget, no expansion of treatment capacity is going to be sustainable. Methadone is an inexpensive drug. The first necessary condition for sustaining (let alone expanding) access to methadone treatment is funding from Albanian Ministry of Health to purchase methadone supplies. Whether regulatory or legislative change is necessary, this is required to ensure methadone is a reimbursable medication, and that the government will supply medication for treatment programs.

Even today, the existing unbalanced positioning between drug demand and drug supply would be identified as the main gap. While drug demand reduction has remained an issue of inadequate concern, the supply reduction of drugs is high on the agenda of the Albanian government. While drug demand reduction is still spontaneous, fragmented and poorly financed, the drug-supply reduction and law enforcement issues constitute an integral part of the fight against corruption and organized crime, and figure prominently among the Albanian government priorities. It is exactly this kind of determination from the Albanian government in the fight against drugs, in close collaboration with international law enforcement agencies, that has led to positive results over the past years. Thanks to their efforts, they have seen: a reduction of drug trafficking after tightening the country borders (land, sea, air); the uprooting of the phenomenon of cannabis cultivation in Albania; an improvement of the professionalism of state police and a large suppression of criminal organizations/networks. Though the obtained positive results on drug supply reduction have a positive impact on drug demand reduction, this impact is an indirect one. Therefore, posing the drug demand reduction problem as a priority issue of the same importance as the drug supplies one represents a policy of a currently indispensable need.

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The Drug Law reform Project in South East Europe aims to promote policies based on respect for human rights, scientific evidence and best practices which would provide a framework for a more balanced approach and will result in a more effective policy and practice. A major aim of our activities is to encourage open debate on drug policy reform and raise public awareness regarding the current drug policies, their ineffectiveness and their adverse consequences for individuals and society.

Το Πρόγραμμα Μεταρρύθμιση της Νομοθεσίας για τα Ναρκωτικά στη Νοτιοανατολική Ευρώπη στοχεύει στην προώθηση πολιτικών που βασίζονται στο σεβασμό των ανθρωπίνων δικαιωμάτων, την επιστημονική τεκμηρίωση και τις βέλτιστες πρακτικές που θα προσφέρουν ένα πλαίσιο για μια περισσότερο ισορροπημένη προσέγγιση και θα οδηγήσουν σε αποτελεσματικότερες πολιτικές και πρακτικές. Ιδιαίτερα σημαντική επιδίωξή μας είναι να ενθαρρύνουμε την ανοιχτή συζήτηση για μεταρρύθμιση της πολιτικής των ναρκωτικών και να ευαισθητοποιήσουμε την κοινή γνώμη για τις δυσμενείς επιπτώσεις και την αναποτελεσματικότητα της ισχύουσας πολιτικής των ναρκωτικών για τα άτομα και την κοινωνία.

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