



Drug Policy Dialogue in South East Europe

Drug Policy and Drug Legislation in South East Europe

Bosnia and Herzegovina



NOMIKI BIBLIOTHIKI

Country Report Bosnia and Herzegovina

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 Bosnia and Herzegovina

by Irma Deljković¹

I. Current national drug strategy and the drug legislation in Bosnia and Herzegovina

1. National Strategy on Drugs

The Dayton Peace Agreement that put an end to the 1992-1995 war in Bosnia and Herzegovina, created a country with a complex political structure, comprised of governments at the State, Entity (Federation of Bosnia and Herzegovina and Republic of Srpska) and District (Brčko) levels. Namely, each level has its own constitution, presidency (except District), government, parliamentary assembly and judiciary. The Constitution of Bosnia and Herzegovina limits the competencies of the central government and allocates residual powers to the Entities. The Federation is subdivided into ten Cantons, also with their own constitution, government, parliamentary assembly and judiciary, while the Republic of Srpska has no Cantons, only municipalities. It should also be mentioned that Cantons consist of municipalities. Further, Brčko District presents a self-governing administrative unit in Bosnia and Herzegovina, with its own Statute, government, parliamentary assembly and judiciary.

Due to such complex governmental structure, Bosnia and Herzegovina further has fragmented legislation, that is, each jurisdiction has its own laws, which are applicable only in these jurisdictions, except the state laws which apply to the entire territory of Bosnia and Herzegovina. One of the major problems has been the lack of a Supreme Court at the state level that can harmonise the application of legislation across the country. However, the Constitutional Court of Bosnia and Herzegovina has jurisdiction over disputes between the central institutions of Bosnia and Herzegovina, between the Entities and the central government or between the Federation of Bosnia and Herzegovina and the Republic of Srpska. In addition, at the request of any court in Bosnia and Herzegovina, the Constitutional Court can examine the compatibility of any law (including the Entities' laws) with the Constitution of Bosnia and Herzegovina, the European Convention on Human Rights and international public law.

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Bosnia and Herzegovina adopted its national Strategy for the Prevention and Suppression of Narcotic Drugs Abuse for 2009-2013 and its Action plan for the same period of time.

The Strategy sets out the following general objectives: Increasing awareness through community education to implement healthy lifestyles and mental health; Combating and preventing further spread of drug abuse; Prevention of the development of addiction, death and injury due to abuse of narcotic drugs; Reducing damage to the community caused by abuse of drugs; Reducing the demand for narcotic drugs, especially among young people; Strengthening institutional capacity and responsible involvement of society; Improvement of legislation and its implementation; Reducing the supply of drugs; Formation of an independent multisectoral Office for the Prevention of drug abuse at the state level.

The Action Plan to Combat Drug Abuse in Bosnia and Herzegovina is designed based upon the strategic objectives stemming from the state Strategy for the Prevention and Suppression of Narcotic Drugs Abuse for 2009.-2013, and it consistently monitors its content structure and terminology. For each of the strategic areas, the Action Plan defines the specific objectives, priority measures, activities, deadlines, holders of implementation and indicators of implementation of measures and activities.

According to the Law on the Prevention and Combating of the Abuse of Narcotic Drugs in Bosnia and Herzegovina that was passed in 2006, corresponding and coordinating bodies at the state level, which are responsible for implementing drug policy are the Commission and Office for Suppressing Narcotic Drug Abuse.

The **Commission for Suppressing Narcotic Drug Abuse** is a body that coordinates the activities of ministries, independent administrative organisations and other entities involved in implementing the national Strategy for the Prevention and Suppression of Narcotic Drug Abuse for 2009-2013. The Commission for Suppressing Narcotic Drug Abuse was established by the Council of Ministers, and it is composed of members of: the Ministries of Health (the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District) and the Chief of the Office for Suppressing Narcotic Drug Abuse from the Ministry of Security of Bosnia and Herzegovina. The Commission is chaired by the Minister of Civil Affairs of Bosnia and Herzegovina. While performing the tasks referred to in the Law on the Prevention and Combating of the Abuse of Narcotic Drugs, the Commission for Suppressing Narcotic Drug Abuse:

a) considers issues and makes recommendations and suggestions for the implementation of the international conventions on the control of narcotic drugs and other regulations and mechanisms of action;

- b) develops and oversees the implementation of a comprehensive and systematic vision surveillance strategy in drugs, prevention and control of drug abuse;
- c) promotes preventive action and public information about the harmful use of drugs;
- d) establishes a system to collect data on the nature and extent of the abuse of drugs in Bosnia and Herzegovina, and the system of processing;
- e) coordinates and supports the activities of non-governmental organizations and other organizations in the prevention and treatment of harmful use of narcotic drugs;
- f) proposes laws and regulations, and other mechanisms of action in connection with the issue of abuse and harmful use of narcotic drugs;
- g) performs other duties entrusted to it by the Council of Ministers of Bosnia and Herzegovina.

Office for Suppressing Narcotic Drug Abuse - is a body of the Ministry of Security of Bosnia and Herzegovina which is responsible for the systematic gathering of data and monitoring of the phenomena, collecting and processing data required for preventing and combatting illicit drug trafficking and other criminal offences related to the abuse of narcotic drugs, and coordination of activities conducted by the police, customs and other bodies in the fight against the abuse of narcotic drugs. While performing the tasks referred to in the Law on the Prevention and Combat of the Abuse of Narcotic Drugs, the Office for Suppressing Narcotic Drug Abuse:

- a) receives and analyzes reports of crimes and offenses relating to narcotic drugs, persons convicted of the crimes and offenses related to drugs, executing sentences and other sanctions against the perpetrators, seized quantities of narcotic drugs, psychotropic substances, plants and precursors, funds and other proceeds from the illicit traffic in narcotic drugs, and reports of customs offenses related to narcotic drugs;
- b) collects and analyzes data on the annual needs of drugs that in compliance with the law be produced and put into circulation, follows plant growing, import, export and transit of narcotic drugs and precursors based on the reports of the permit of competent authorities;
- c) cooperates with the authorities at all levels of government, social welfare institutions, educational, cultural, health and other institutions, religious communities, associations, foundations, the media, and legal and individual persons in order to prevent narcotic drug abuse;

d) cooperates with international bodies, institutions, associations and other legal entities and individuals, and cares for the successful implementation of international cooperation in preventing and combating illicit drugs, particularly the illicit traffic in narcotic drugs;

e) performs other tasks in the area of prevention of drug abuse that are established by the Council of Ministers Bosnia and Herzegovina or the Commission for Suppressing Narcotic Drug Abuse.

Police agencies that are responsible for taking actions to prevent and suppress drug-related crime in Bosnia and Herzegovina are: State Agency for Information and Protection, State Border Police, Ministries of internal affairs in entities and cantons and Police of Brčko District. Within these institutions, there are special units that are responsible for all necessary operational measures to fight drug-related crimes, especially those related to organised forms of illegal manufacturing and trafficking of narcotic drugs.

The Ministry of Trade and Economic Relations is responsible for the control of plants containing narcotic and psychotropic substances.

Customs and the Border Police are responsible for controlling the import and export of drugs and precursors.

The Agency for Medicines and Medical Equipment is responsible for the authorisation of narcotic and psychotropic substances for legal (medical) purposes in Bosnia and Herzegovina

Bosnia and Herzegovina as a full member of certain international and regional organizations such as the United Nations and the Council Europe has committed to accepting all agreements and conventions that were made under the auspices of these organizations. Therefore, Bosnia and Herzegovina as one of the republics of the former Yugoslavia, with a notification of succession became a member of the three UN drug Conventions and the Protocol: the 1961 Single Convention on Narcotic Drugs as well as the Protocol of 1972 amending it, the 1971 UN Convention on Psychotropic Substances, and the 1988 UN Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Since illegal drug trafficking is one of the most profitable activities of organized crime, in addition to the above, Bosnia and Herzegovina in 2002 ratified the United Nations Convention against Transnational Organized Crime from 2000. Bosnia and Herzegovina has also ratified the regional acts of the Council of Europe, which are important in the field of countering narcotic drug abuse: the European Convention on the Suppression of Terrorism from 1977. and the Council of Europe

Convention on Money Laundering, Search, Seizure and Confiscation of the Proceeds of Crime from 1990.

Furthermore, regional cooperation on the issue of drugs is also established at the level of countries of South East Europe, through the signing and implementation of bilateral and multilateral agreements. Therefore, Bosnia and Herzegovina signed the following bilateral agreements: Agreement between the Council of Ministers of Bosnia and Herzegovina and the Republic of Croatia on Cooperation in the Fight Against Terrorism, Trafficking, Narcotic Drug Abuse and Organized Crime in 2002;² The Agreement on Cooperation in the Fight Against International Terrorism, Illicit Trafficking, Narcotic Drugs and Psychotropic Substances and Organized Crime between the Council of Ministers of Bosnia and Herzegovina and the Republic of Turkey in 2000; and the Agreement between the Government of the Republic of Bosnia and Herzegovina and Government of the Republic of Hungary on Cooperation in the Struggle Against Terrorism, Drug Trafficking and Organized Crime in 1996.

The Council of Ministers of Bosnia and Herzegovina in August 2012 forwarded to the Parliamentary Assembly of Bosnia and Herzegovina a Draft decision on ratification of the Agreement between the Council of Ministers of Bosnia and Herzegovina and the Republic of Moldova on Cooperation in the Fight Against Organized Crime, Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, Terrorism and Other Forms of Serious Crime; and requested its ratification.

An example of multilateral regional cooperation is the Agreement on Cooperation in Preventing and Combating Cross-Border Crime and the Charter of Organization and Operation of the Regional Centre for Cooperation of Southeast European initiatives - SECI. And finally, documents of the European Union, which have an important role in policy for combating narcotic drug abuse within the international arena are of great importance to Bosnia and Herzegovina.

The national Strategy for the Prevention and Suppression of Narcotic Drug Abuse for 2009-2013, addresses the issue of social aid services through its provisions on welfare programs, drug rehabilitation programs, resocialisation of drug addicts and their social integration. The Strategy also refers to strengthening institutional capacity and responsible involvement of society. To that end, the Strategy provides that the NGOs will be involved in rehabilitation programs of drug addicts, establishing therapeutic communities and drug addiction rehabilitation centers, as well as in the establishment of a network of institutions to support users in their resocialization. It is of further importance to mention that the Strategy places special

2. Expiry date: 17.9.2010.

emphasis on the role of civil society in solving problems related to drugs. Specifically, the Strategy states that due to this complex social issue, it is necessary to ensure the participation of civil society, the private sector and volunteers in all phases of elaboration, adoption and enforcement of legal decisions and policy documents at all levels, as well as the implementation of the planned program activities. Developing forms of institutional and non-institutional communication and connections between these subjects will contribute to strengthening partnerships and harmonization of their activities on the implementation of assistance programs for drug addicts and their families, as well as the development of a competitive mixed system of service delivery.

The Strategy for the Prevention and Suppression of Narcotic Drug Abuse for 2009-2013 and the National Action Plan to Combat Drug Abuse in Bosnia and Herzegovina for 2009-2013, follow the standards set in the EU drug policy, and therefore no major important issues are missing in them. However, one of the drawbacks of the Strategy is that it doesn't prescribe well the actions required to reduce the supply of drugs. In these terms, the Strategy fails to clearly define measures to be taken for this purpose, such as: directing police officers to detect international organized crime involving drugs, increasingly taking operational-tactical measures and actions in order to suppress the street resale of drugs, increasing oversight of the state border to prevent smuggling of narcotics, preventing and combating all forms of (especially organized) production, smuggling and selling of narcotics and trafficking of precursors, money laundering and confiscation of money and other valuables that are the proceeds of illegal drug trafficking, and other measures. What is more, the Action Plan also very superficially elaborates activities to operationalize the objectives of the Strategy. Finally, the major shortcoming stems from the lack of effective institutional commitment and sustainable mechanisms for financing the implementation of these documents.

2. National Substantive Criminal Law

The criminal laws of Bosnia and Herzegovina (State Criminal Code, the Criminal Codes of Federation of Bosnia and Herzegovina, Republic of Srpska and Brčko District) do not make a distinction between misdemeanors and felonies. The criminal laws only prescribe criminal offences which are prosecuted *ex officio*. The basic right and the basic duty of the prosecutor is the detection and prosecution of perpetrators of criminal offences falling within the jurisdiction of the courts.

According to the Criminal Code of Bosnia and Herzegovina, criminal sanctions are:

- penalties,
- suspended sentence,

- security measures and
- educational measures.

According to the Criminal Codes of the Federation of Bosnia and Herzegovina, Republic of Srpska and Brčko District, criminal sanctions are:

- penalties,
- warning sentences (Judicial admonition and Suspended sentence).
- security measures and
- educational measures.

The penalties include: imprisonment and fines. Although it is a criminal system that is reduced to a small number of penalties, it is still quite flexible, because under certain legal requirements, the court may impose a suspended prison sentence for the offender instead of prescribed punishment, and towards entities judicial admonition can also be imposed. Also, the law provides not only the ability to mitigate or alleviate penalties, but exemption from punishment, and the possibility that an already imposed sentence of imprisonment for a term not exceeding six months, with the consent of the accused, can be replaced with community service. This system applies to all criminally responsible and adult perpetrators of criminal acts. Juveniles under certain conditions, may be sentenced to juvenile prison, which is a special kind of prison sentence, and does not enter into the general system of penalties.

Long-term imprisonment and imprisonment may be pronounced only as the principal punishment, while a fine may be pronounced both as a principal and as an accessory punishment. If both punishments are prescribed for a criminal offence, only one of them may be pronounced as a principal punishment. Imprisonment may not be shorter than thirty days or longer than twenty years. For the gravest forms of serious criminal offences perpetrated with intent, imprisonment for a term between twenty-one and forty-five years (in the Republic of Srpska for a term between twenty-five and forty-five years) may be exceptionally prescribed (long-term imprisonment). Long-term imprisonment cannot be prescribed as the only principal punishment for a single criminal offence.

Criminal Codes also prescribe a possibility of the **substitution of imprisonment**, that is, imposed prison sentence of up to one year may (State level, Federation of Bosnia and Herzegovina and Brčko District), at the request of the convict, be replaced with a fine to be paid in one lump sum within 30 days. A sentence of imprisonment shall be replaced by a fine for every day of a prison sentence equated with a daily amount of 100 KM (50 €) or if the fine is determined at a fixed amount. In the Republic of Srpska, a sentence to imprisonment not exceeding six months may be replaced at the request of a convicted person with a fine.

For a **suspended sentence**, the court shall impose a punishment on the perpetrator of the criminal offence, but at the same time it shall order that the sentence shall not be executed if the convicted person does not perpetrate another criminal offence over a period of time established by the court which may not be shorter than one or longer than five years (probation period). A suspended sentence may be pronounced on a perpetrator only for an imprisonment term not exceeding two years or for a fine. While deciding on the suspended sentence, and on the basis of all circumstances relevant to the assessment, the court shall assess whether there are reasonable grounds to believe that the perpetrator will not commit any criminal offence in the future although the sentence will not be executed. If the perpetrator has been sentenced to both imprisonment and a fine, the suspended sentence may be pronounced either for both sentences or only for the sentence of imprisonment.

Judicial admonition - the purpose of judicial admonition is to give to a criminally responsible perpetrator a reprimand, when a punishment does not need to be imposed to achieve the purpose of criminal sanctions nor to ensure criminal justice protection. A judicial admonition may be pronounced for criminal offences for which a punishment of imprisonment for a term not exceeding one year or a fine is prescribed, which have been perpetrated under such extenuating circumstances which render them particularly minor, when, given all the circumstances regarding the perpetrator, his attitude toward the injured party and compensation for the damage caused by the criminal offence in particular, all requirements have been met for achieving the purpose of criminal sanctions without punishment.

Security measures - their purpose is to remove situations or conditions that might influence a perpetrator to perpetrate criminal offences in the future. These measures may only be imposed on the offender who is criminally accountable, and can not be imposed on the perpetrator of a crime as the only legal sanction, only as a complementary. The following security measures may be pronounced on perpetrators of criminal offences:

1. Mandatory psychiatric treatment,
2. Mandatory medical addiction treatment,
3. Ban on carrying out a certain occupation, activity or duty,
4. Forfeiture of items

Educational recommendations, measures and punishment for juveniles may be applied to a juvenile for criminal offences for which a fine or a punishment of imprisonment for a term not exceeding three years is prescribed. The educational recommendations may be applied to a juvenile by a competent prosecutor or judge

for juvenile perpetrators. The conditions for application of educational recommendations are: the juvenile's admission that he has perpetrated the criminal offence, and his expressed willingness to make amends with the injured party. Educational recommendations are:

- a) Personal apology to the injured party;
- b) Compensation of damage to the injured party;
- c) Regular school attendance;
- d) Working for a humanitarian organisation or local community;
- e) Accepting an appropriate job;
- f) Being placed in another family, home or institution;
- g) Treatment in an adequate health institution;
- h) Attending instructive, educational, psychological and other forms of counselling;

Educational recommendations given under items a) to c) and h) shall be applied by the competent prosecutor, while the recommendations given under items d) to g) shall be applied by the juvenile judge.

3. National Drug Laws and Institutions

With the aim of implementing the Single Convention on Narcotic Drugs of 1961, as amended and modified by the Protocol in 1972 amending the Single Convention on Narcotic Drugs of 1961, the Convention on Psychotropic Substances, 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1998, the Parliamentary Assembly of Bosnia and Herzegovina in February 2006 adopted the **Law on the Prevention and Suppression of Drug Abuse in Bosnia and Herzegovina**.

This Law serves as the foundation of all laws and regulations on drugs in Entities and Brčko District on issues of growing plants, manufacturing, possession and trafficking of drugs, other substances used for making drugs, precursors, and the cultivation of plants used for drug manufacturing. Cultivation, production and trade of drugs, if committed without the necessary permits, are considered criminal offences. Permits are issued according to the terms and procedures prescribed in the Law on the Prevention and Suppression of Drug Abuse in Bosnia and Herzegovina.

Bosnia and Herzegovina through its criminal legislation has incriminated misuse of narcotic drugs and their illegal trade. Due to the fragmented legislation, the legal protection in the field of drug issues is regulated differently in Criminal Codes of Bosnia and Herzegovina.

The Criminal Code of Bosnia and Herzegovina criminalizes certain forms of illegal trafficking of narcotic drugs that have an international dimension, while the integrity of legal protection from different forms of drug misuse has been ensured through enactment of criminal offences in Criminal Codes of entities and Districts. Therefore, the Criminal Code of Bosnia and Herzegovina, in chapter seventeen, under the heading *Crimes against Humanity and Values Protected by International Law* in article 195, has prescribed one criminal offence:

Illicit Trafficking in Narcotic Drugs: For this criminal offence to be prosecuted at the state level, it is necessary that all acts (i.e., the international sale, transfer, purchase, transport, delivery, etc.) present unauthorized international circulation of substances or preparations which are by regulation proclaimed narcotic drugs:

- (1) Whoever without authorization performs an international sale or transfer or offers for such sale, or purchases, keeps, transports or transfers for the purpose of such sale, or intercedes in an international sale or purchase, sends, delivers, imports or exports or otherwise puts into unauthorised international circulation substances or preparations which are by regulation proclaimed narcotic drugs, **shall be punished by imprisonment for a term not less than three years.**
- (2) Whoever organizes a group of people with the aim of perpetrating the criminal offence referred to in paragraph 1 of this Article, or whoever becomes a member of such a group of people, **shall be punished by imprisonment for a term not less than five years.**
- (3) Whoever without authorization makes, procures, intermediates or gives for use the equipment, material or substances knowing that they are to be used for the manufacturing of narcotic drugs, when it concerns the international transaction, **shall be punished by imprisonment between one and ten years.**
- (4) The intoxicating drugs and processing equipment shall be forfeited.

Apart from the State Criminal Code, Criminal Codes of Federation of Bosnia and Herzegovina (articles 238. and 239.), Brčko District (articles 232. and 233.) and Republic of Srpska (articles 224. and 225) under the heading *Criminal Offences Against People's Health*, have enacted two drug related criminal offences:

Unauthorized Production and Sale of Narcotic Drugs (Article, 238. Criminal Code of Federation of Bosnia and Herzegovina) - this offence includes the sale, manufacture, purchase (for sale), transfer (for sale) of narcotic drugs, etc., and punishment for these activities **is imprisonment for a term of one year to ten years.**

The punishment of **imprisonment for a term not less than three years** will be imposed on a person who has organized a group of people with the aim of perpetrating this criminal offence, and for the person who becomes a member of such a group.

Furthermore, a person who manufactures, procures, possesses or gives for use the equipment, material or substances for the production of narcotic drug shall be punished by **imprisonment for a term of six months to five years**.

Possessing and Enabling Enjoyment of Narcotic Drugs (Article 238, Criminal Code of Federation of Bosnia and Herzegovina) - second offence, inducing giving another a narcotic drug for his use or the use of a third person, rendering available premises for the enjoyment of narcotic drugs, or otherwise enabling another to illegally use narcotic drugs, may be punished by **imprisonment for a term of three months to five years**.

Imprisonment for a term of one year to ten years will be imposed if this criminal offence is committed against a child, juvenile or against a number of persons, or if particularly grave consequences are caused.

Possession of narcotic drugs without authorization is punishable **by imprisonment for a term not exceeding one year**.

Unauthorised Production and Distribution of Narcotics (Article 232, Criminal Code of Brčko District):

- (1) An unauthorised person who produces, processes, sells or offers for sale, or purchases for resale, who keeps, transports or intermediates in the sale or purchase, or in some other way distributes substances or products which are declared narcotics by regulations, shall be **sentenced to prison from one to ten years**.
- (2) A person who organizes a group of persons in order to commit the offence referred to in Paragraph 1 of this Article or a person who becomes a member of such an organized group shall be **sentenced to prison for not less than three years**.
- (3) An unauthorised person who manufactures, purchases, intermediates or provides for use the equipment, material or substances for which he knows are intended for the production of narcotics, shall be **sentenced to prison from six months to five years**.
- (4) The narcotics and the equipment for their production shall be confiscated

Enabling the Consumption of Narcotics (Article 233, Criminal Code of Brčko District):

- (1) A person who induces another to consume narcotics, or gives another a narcotic for his or some other person's consumption, or renders available premises for the purpose of consuming narcotics or in another way enables another to consume narcotics, shall be **sentenced to prison from three months to five years**.
- (2) If the offence referred to in Paragraph 1 of this Article has been committed against a child, juvenile or against a number of persons, or if the offence resulted in particularly grave consequences, the perpetrator shall be **sentenced to prison from one to ten years**.
- (4) The narcotics shall be confiscated.

Unauthorized Production and Sale of Narcotic Drugs (Article 224, Criminal Code of Republic of Srpska)

- (1) Whoever, without authorization, produces, processes, sells or offers for sale, or purchases for sale, keeps or transports, or acts as intermediary in a sale or purchase, or otherwise puts into circulation substances or preparations which are declared intoxicating drugs, shall be punished by **imprisonment for a term between three and ten years**.
- (2) If the criminal offence referred to in Paragraph 1 of this Article has been committed by several persons or if the perpetrator has organized a network of dealers or if he has used a child or a minor for the commission of the criminal offence, the perpetrator shall be punished by **imprisonment for a term between five and fifteen years**.
- (3) Whoever, without authorization, produces, procures, possesses or lends equipment, material or substances which he knows are intended for the production of intoxicating drugs, shall be punished by **imprisonment for a term between three and five years**.
- (4) The court may pronounce a less severe punishment or release the perpetrator from punishment if the perpetrator reports his supplier of intoxicating drugs.
- (5) The intoxicating drugs and processing equipment shall be forfeited.

Enabling Another to Enjoy Narcotics (Article 225, Criminal Code of Republic of Srpska):

- (1) Whoever induces another to enjoy intoxicating drugs, or gives to another some intoxicating drugs for his or the use of a third person, or renders available premises for the enjoyment of intoxicating drugs, or otherwise enables another to enjoy intoxicating drugs, shall be punished by **imprisonment for a term between two and ten years**.

- (2) If the offence referred to in Paragraph 1 of this Article has been committed against a child, minor, mentally disturbed person or against a number of persons, or if the offence resulted in particularly serious consequences, the perpetrator shall be punished **by imprisonment for a term between three and ten years.**
- (3) The narcotic drugs shall be forfeited.

The punishment for possession of drugs for personal use was introduced in criminal legislation of Federation of Bosnia and Herzegovina and Brčko District in 2003, and it represented a radical move towards repressive criminal policy in the Federation and Brčko District, since the Criminal Code of Republic of Srpska at the time, did not recognise possession of narcotic drugs for personal use as a criminal offence. However in 2010, the Brčko District made changes in its drug policy, and therefore according to the new criminal law provisions, possession of drugs for personal use is no longer considered a criminal offence in this part of Bosnia and Herzegovina.

Possession of narcotic drugs without authorization in the Republic of Srpska and Brčko District as a misdemeanor offence is punishable by the Law on the Prevention and Combating of the Abuse of Narcotic Drugs in Bosnia and Herzegovina, where it is prescribed that a person who possesses a narcotic drug, a plant or part of a plant from which it may obtain a narcotic drug contrary to this Law, **shall be punished with a fine ranging from 2,000 to 5,000 KM (1000 to 2500€).**

The Criminal Codes of entities and Brčko District do not explicitly proclaim 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 or drug addiction. Therefore, it is at the discretion of the court to decide if the drug addiction will be used as a mitigating or an aggravating circumstance while imposing a sentence.

Furthermore, Criminal Codes of Entities and District do not provide different penalties depending on whether the offender is a drug addict or not. It is up to the court to decide whether and how to consider the offender's addiction when determining the penalty. However, the court can impose a security measure of Mandatory medical addiction treatment, since this measure is focused on the elimination of conditions that can induce the perpetration of the offence again.

Criminal legislation in Bosnia and Herzegovina does not make a difference between 'soft' and 'hard' drugs in regards to the offences, since there is no legal definition of these terms. The only classification of narcotic drugs is defined in the *Law on the Prevention and Suppression of Drug Abuse in Bosnia and Herzegovina*, which

states that narcotic drugs, psychotropic substances, the plants from which they can get drugs and precursors and their products in the list are grouped in tables I, II, III. and IV, depending on the control measures that are applicable to them. Substances and plants classified { those regarded as narcotic drugs or psychotropic substances and their preparations are classified into one of the following tables} are:

- Table I: Prohibited substances and plants;
- Table II.: Substances and plants under strict control;
- Table III.: Substances and plants under control.
- Precursors are classified in Table IV.

The substances and plants, which are under international control cannot be classified in the table which is subjected to control measures less stringent than those for a particular substance or plant required in accordance with the international conventions on the control of narcotic drugs.

There is no difference in the law between small and big drug dealers. The only provisions which refer to the 'type' of dealer are between those, who are involved in organizing a network of dealers or becoming a member of such a network, or using a child or a minor for the commission of the criminal offence, and those who are not.

For those involved in these activities a higher penalty is prescribed.

Drug related offences fall within the jurisdiction of the general courts in Bosnia and Herzegovina. There are no specialized courts which would deal with these type of offences. However, due to the division of court jurisdiction in Bosnia and Herzegovina, the drug related criminal offence prescribed in the Criminal Code of Bosnia and Herzegovina is prosecuted at the Court of Bosnia and Herzegovina, while the two other incriminations which are prescribed by the Criminal Codes of Entities and Brčko District are prosecuted within the jurisdiction of courts in Entities and District.

The principle of universal jurisdiction can be applied for criminal offences *related to drugs*. This principle is defined in the Criminal Codes of Bosnia and Herzegovina, Entities and Brčko District, where the meaning of this principle arises out of international solidarity and the need to prevent serious offenses against cosmopolitan values. According to the above mentioned Criminal Codes, the criminal legislation of Bosnia and Herzegovina, its Entities and Brčko District, shall apply to an alien who, outside these territories perpetrates a criminal offence against a foreign state or a foreign national which under this legislation carries a punishment of imprisonment for a term of five years or a more severe punishment. These provisions shall apply only if the perpetrator is found in the territory of Bosnia and Herzegovina and is not extradited to another country.

4. Drug Law Enforcement in Practice

In general, police agencies in Bosnia and Herzegovina are focused on developing capacities in the area of the fight against unauthorized production, sale, use and possession of narcotic drugs. Criminal law is used aggressively against drug users in the Federation of Bosnia and Herzegovina, even in the cases of possession and use of small amounts of cannabis. The result of the more repressive policy in the Federation of Bosnia and Herzegovina is that police officers are focused on arresting persons for consuming and possessing drugs for personal use. Such practice has continued to apply, despite the fact that Bosnia and Herzegovina was a signatory of an Action Plan on Drugs between the European Union and Countries of Western Balkans and Candidate Countries (Bulgaria, Romania and Turkey) in 2003,³ where in the area of sentencing policy, the Plan urges for distinction between those who have committed serious offences and addicts.

Police agencies in Bosnia and Herzegovina are using criminal investigation techniques, evidentiary acts and special investigative actions in order to detect cannabis farms and laboratories for the production of other illicit drugs. Cannabis farms are detected in many parts of the country, although the territory of Herzegovina seems to be favorable for the cultivation of cannabis due to the good climatic conditions. The profile of the producers ranges from small scale home-growers to large-scale criminal entrepreneurs.

Police detention and pre-trial detention are not dependent on drug addiction.

The police may deprive a person of liberty if there are grounds for suspicion that he may have committed a criminal offence and if there are any of the reasons for pre-trial detention, but they must immediately, no later than 24 hours, bring that person before the prosecutor. In apprehending the person concerned, the police authority shall notify the prosecutor of the reasons for and time of the deprivation of liberty.

Custody shall be ordered or extended by a decision of the Court issued on the motion of the prosecutor after the court has heard the suspect or the accused regarding the circumstances surrounding the grounds for proposed detention. If there is a grounded suspicion that a person has committed a criminal offence, custody may be ordered against in the following cases: a) if the person hides or if other circumstances exist that suggest a possibility of absconding; b) if there is a justified fear to believe that person will destroy, conceal, alter or falsify evidence or clues important

3. Action Plan on Drugs between the EU and Countries of Western Balkans and Candidate Countries (Bulgaria, Romania and Turkey). 5062/2/03. CORDROGUE 3 COWEB 76.

to the criminal proceedings or if particular circumstances indicate that the person will hinder the inquiry by influencing witnesses, accessories or accomplices; c) if particular circumstances justify a fear that the person will repeat the criminal offence or complete the criminal offence or commit a threatened criminal offence, and for such criminal offences a prison sentence of three years or more may be pronounced; d) in exceptional circumstances, in the case of a criminal offence carrying a prison sentence of ten years or a more severe punishment, which is of particular gravity taking into account the manner of perpetration or the consequences of the criminal offence, if the person's release poses a realistic threat to disturb public order.

The legislation does not regulate the status of drug addicts during the hearing. The perpetrator's dependency does not affect the imposition of pre-trial detention or other actions of the court and law enforcement agencies in the criminal proceedings.

Regarding the issue of police entrapment in Bosnia and Herzegovina, it is prescribed by the Criminal Procedure Codes that, in executing the special investigation actions, police authorities or other persons shall not undertake activities that constitute incitement to commit a crime. If such activities are undertaken, this circumstance excludes prosecution of the incited person for a criminal offence committed in connection with this action. There are no specific rules for the offence of drug trafficking.

There are no available data for the imposed sentences from the courts for drug related crime, and there are no special provisions for drug addicted offenders followed by the courts. Statistical data are currently available for drug related crime offences (number of police reports) according to the database of Ministry of Security of Bosnia and Herzegovina.

Table 1

According to the document of Ministry of Security of Bosnia and Herzegovina under the name Information about the security situation in Bosnia and Herzegovina

No.	Ministries of Internal Affairs of Entities and Brčko District Police	Drug related criminal offences		
		2010	2009	+/- %
1.	Federation of Bosnia and Herzegovina	953	1087	-12,32
2.	Republic of Srpska	213	197	8,12
3.	Brčko District	54	45	20,00
4.	State Border Police	38	52	-26,92
5.	State Investigation and Protection Agency (SIPA)	42	7	500
Total in Bosnia and Herzegovina		1300	1388	-6,34

Table 2
Data of Ministry of Security of Bosnia and Herzegovina

Ministries of Internal Affairs of Entities and Brčko District Police- Reports for drug related criminal offences (2011)	Number of reported offences
Illicit Trafficking in Narcotic Drugs	59
Unauthorized Production and Sale of Narcotic Drugs	528
Possessing and Enabling Enjoyment of Narcotic Drugs	714
Enabling Enjoyment of Narcotic Drugs	44

5. Sentencing Levels and the Prison Situation

There are fifteen prison establishments in Bosnia and Herzegovina. The European Institute for Crime Prevention and Control and United Nations Office on Drugs and Crime reported that in 2007 Bosnia and Herzegovina was among the countries with a lowest prison population rates in Europe (62 per 100,000).⁴ According to the data provided for the OSCE Report on assessment of the human rights situation in penitentiary institutions in Bosnia and Herzegovina (2011), prisons accommodated 2,580 persons in 2009. Therefore, in line with this data, in a country with a population of about 4 million people, the prison population rate is 64,5 per 100,000 and presents a low prison population by European standards.⁵

Apart from the Detention Unit of the Court of Bosnia and Herzegovina, there are 14 prison facilities in Bosnia and Herzegovina: eight in Federation of Bosnia and Herzegovina and six in the Republic of Srpska, where the capacity is largely different. In the Brčko District of Bosnia and Herzegovina there is no prison facility for execution of criminal sanctions, instead sanctions are executed in the entities prisons. The legal basis for this is a Memorandum of Understanding between the Brčko District and the entities. Brčko District of Bosnia and Herzegovina has a detention unit.

The State prison system in Bosnia and Herzegovina is deeply disturbing. During the past years, there has been a constant tendency to increase the number of pri-

4. European Institute for Crime Prevention and Control and United Nations Office on Drugs and Crime (2010). *International Statistics on Crime and Justice*. Helsinki: Author.

5. OSCE Mission to Bosnia and Herzegovina (2011). *Torture, Ill-treatment and Disciplinary Proceedings in Prisons of Bosnia and Herzegovina- An assessment of the human rights situation in penitentiary institutions in Bosnia and Herzegovina*, pp. 3-4. Available at: http://www.oscebih.org/documents/osce_bih_doc_2012031617283531eng.pdf

soners in prisons in the Federation and in the prisons of Republic of Srpska. By the standards of the Council of Europe, the prison population is already 10% above capacity. However, besides the overcrowding, another problem is the unsuitable physical conditions of the buildings. Many prisons are unsuitable for providing a safe environment for prisoners, since some of the buildings were constructed in the 19th century and do not correspond to the modern prison service. The type of residential care accommodation with dormitories is still prevalent, while the number of facilities for the activities of inmates is limited.

There is no available statistical data about the prisoners that are incarcerated for drug-related offences, considering the fact that in Bosnia and Herzegovina there is no electronic database on the recording of such information.

Between 30% and 70% of inmates are addicted to drugs.⁶ Inter-prisoner violence is often related to drug abuse, especially among drug users, who are willing to engage, at the order of other prisoners, in violence and threats in order to obtain illegal substances. Drug addicts present a vulnerable group prone to abuse, in particular those who are under the influence of narcotics or suffering withdrawal symptoms. They are not only victims of physical violence but have also been identified as instigators of violence.⁷

Prisons do not have any special strategies that deal with security measures for addicts. In some places, the search will be carried out in case of suspicion that the inmate smuggled in or is in possession of a narcotic drug. Otherwise, there are detailed inspections and searches of packages to be delivered or sent. More attention is paid to the benefits to users outside the prison (for example, those on temporary leave from prison), and who are likely to attempt to bring drugs into the prison. In cases where drug abuse is discovered, the Ministry of Internal Affairs is notified and the drug is handed in to the police. Disciplinary and criminal charges are filed against the perpetrators. Furthermore, prisons have no regulated training for all employees on issues related to drugs. Only a small number of prisons organizes training for guards in prisons on recognizing drug abuse, effective action, ways to treat drug addicts in prisons and how to recognize when they are under the influence of drugs, and to discover the most common places where drugs are hidden.

6. Godišnji izvještaj o stanju zloupotrebe opojnih droga u BiH za 2010. (Annual Report for State of Drug Abuse in Bosnia and Herzegovina for 2010) Retrieved from: <http://www.msb.gov.ba/dokumenti/strateski/?id=7437>

7. Organization for Security and Co-operation in Europe, Mission to Bosnia and Herzegovina (2011). *Torture, Ill-treatment and Disciplinary Proceedings in Prisons of Bosnia and Herzegovina: An assessment of the human rights situation in penitentiary institutions in Bosnia and Herzegovina*. Available at: http://www.oscebih.org/documents/osce_bih_doc_2012031617283531eng.pdf

This training was conducted by officers of the Ministry of Internal Affairs, the Department of Narcotics.⁸

According to the results of the empirical research (quantitative and qualitative) that was conducted on a sample of the committed disciplinary offences (1811 prisoners) and criminal offences (74) during the execution of sentence that was registered by prison administration in the period 2005-2008,⁹ upon receipt of a prisoner, there is no use of any specialized tests that determine whether a person is suffering from a mental illness or is addicted to alcohol and drugs. This information is retrieved from prisoners if they are willing to provide certain medical records or their voluntary statement that they are addicted to alcohol or drugs (unless such documentation is not part of the court file which was forwarded to the prison). Research also shows that of the total number of committed disciplinary offences for the period 2005-2008, in prisons in Bosnia and Herzegovina, 11.3% prisoners were addicted to alcohol, and up to 16.1% addicted to narcotic drugs. Regarding the offences committed during the execution of the prison sentence, 4.1% of the total number of committed criminal offences constitutes a criminal offense of illicit production and trafficking of narcotic drugs.

In 2010, NGO Viktorija conducted a survey on HIV and HCV prevalence in prisons through the administration of testing to 143 persons in Tunjice prison. Among those tested, 42 were IDUs, 78 other prisoners and 23 were employees. Approximately 50% of IDUs tested positive for HCV. One percent of other (non-IDU) prisoners and none of the employees tested positive for HCV. No case of HIV infection was detected.

The national Strategy for the Prevention and Suppression of Narcotic Drug Abuse for 2009-2013 advocates for improvement of the access to prevention, treatment, rehabilitation and harm reduction programs in detention facilities. The Strategy states that for the implementation of the treatment of drug addicts in the prison system, inmates need treatment for addiction under the same principles and conditions available to the addicts outside prison. It is also prescribed that the minimum standard of harm reduction programs in prison terms are substitution therapy, sociotherapeutic programs and distribution of condoms. Apart from providing

8. Godišnji izvještaj o stanju zloupotrebe opojnih droga u BiH za 2010. (Annual Report for State of Drug Abuse in Bosnia and Herzegovina for 2010) Retrieved from: <http://www.msb.gov.ba/dokumenti/strateski/?id=7437>

9. Marija, Lučić - Ćatić (2012). *Proactive criminal investigation in penitentiary system of Bosnia and Herzegovina*. Ph.D. Thesis, Faculty of Criminal Justice, Criminology and Security Studies, University of Sarajevo.

health care, while in custody, the detoxification methadone treatment should be applied as well as harm reduction.

The Law on Execution of Criminal Sanctions in the Federation of Bosnia and Herzegovina, prescribes the mandatory treatment of addicts and alcoholics imposed with unconditional imprisonment, to be executed in the correctional institution where conditions for such treatment exist or in special medical institutions established only for that purpose, or in a special department of health facilities. However, in the Federation of Bosnia and Herzegovina there is no such medical or correctional institution, therefore, such a measure is hardly applied in the practice. The Law on the Execution of Criminal Sanctions in Republika Srpska, provides that addiction treatment is regulated in a similar way as in the law of the Federation. However, this Law in the Republic of Srpska in Article 108, provides the legal basis for testing for infectious diseases, alcohol and drug use in the prison environment, although the basis is not precise enough.¹⁰ The Law on Execution of Criminal Sanctions in Brčko District prescribes that the security measure of mandatory treatment of addiction, imposed with the unconditional sentence of imprisonment shall be served in the correctional institution in accordance with regulations issued by the Minister of justice of entities. The security measure of mandatory treatment of addiction, imposed with a sentence of probation or community service, is executed in accordance with the Law on Execution of Criminal Sanctions, detention and other measures of the entity on whose territory the health facility is located.

Treatment of prisoners who are drug addicts is carried out on the basis of the court's decision (imposed security measure - treatment of addiction), determined on the basis of diagnosis. The article 73. of the Law on Execution of Criminal Sanctions of Bosnia and Herzegovina stipulates that the prison authorities are responsible for ensuring the necessary conditions for the realization of the right to health care, and there should be a prison doctor. Accommodation of detainees or prisoners in the ambulatory service in the prison is decided by the physician. If there is no possibility of treatment in the prison or specialized treatment, then the person must be taken to a medical institution, as decided by the prison doctor, after consultation with the director of the prison. In terms of article 71. of the Law on Execution of Criminal Sanctions of Bosnia and Herzegovina, detained or sentenced persons during penalty execution or detention in prison, shall enjoy free health care that includes treatment, repair and tooth extraction or hospitalization. This is especially the case if the treatment of certain diseases or surgical intervention or adequate

10. Godišnji izvještaj o stanju zloupotrebe opojnih droga u BiH za 2010. (Annual Report for State of Drug Abuse in Bosnia and Herzegovina for 2010) Retrieved from: <http://www.msb.gov.ba/dokumenti/strateski/?id=7437>

health care and assistance cannot be provided in the prison. In this case, the time spent on treatment is counted as time spent in prison, where one day spent in an appropriate medical facility is equalized as one day in prison.

Detained or convicted persons of impaired physical or mental health can be accommodated separately in the infirmary, where they are under constant supervision of the medical staff of the prison. In accordance with Article 140 of the Law on Execution of Criminal Sanctions of Bosnia and Herzegovina, a prisoner who was, during the execution of penalties, diagnosed with a mental illness or serious mental disorder, can be placed in a medical institution. Placement of prisoners in a medical institution is decided by a Minister of Justice upon the proposal of the prison director, based on a reasoned opinion of an expert team of doctors. The convicted person remains in health care as long as there are reasons for such accommodation, and can last until the expiration of the sentence imposed by the court. The time spent by the detainee in a medical facility is to be reckoned in the time of execution of the sentence.

Drug abuse treatment in prisons in Bosnia and Herzegovina presents a big problem, due to the lack of a consistent state policy in respect to drug-dependent persons. Addicts are placed collectively together with other prisoners. Very little has been done in relation to the treatment of drug addicts in prisons. Medical procedures performed by doctors do not differ from the treatment of other prisoners. They examine the persons, determine appropriate therapy and, if necessary, there is the possibility of changing the treatment. In case of an abstinence crisis of drug addicts, they are usually directed to external institutions for treatment. There are no specific addiction treatment programs, only intensive individual work that includes more counseling with drug addicts than with other inmates.¹¹

Drug treatment in prisons is still not being implemented, although the current national drug strategy advocates for this activity.

Harm reduction services that are available in prisons include training for prison staff and providing education and information for inmates regarding the prevention of HIV and other blood transmitted infections, and improving the health of prisoners. It should also be mentioned that Bosnia and Herzegovina adopted a *Strategy for Response to HIV and AIDS in Bosnia and Herzegovina for 2011-2016*, which identifies persons in prison as a risk population.

11. Godišnji izvještaj o stanju zloupotrebe opojnih droga u BiH za 2010. (Annual Report for State of Drug Abuse in Bosnia and Herzegovina for 2010) Retrieved from: <http://www.msb.gov.ba/dokumenti/strateski/?id=7437>

NGO »Victorija« conducts outreach programs for injecting drug users and prisoners in five towns in Republika Srpska, namely Banja Luka, Doboj, Prijedor, Foča and Gradiška, that include consulting and information about HIV, distribution of condoms and lubricants, promotional material, referral to free anonymous HIV testing, and so on. The project began in July 2007 and continues to this day.¹²

In 2012, representatives of the Association for Sexual and Reproductive Health XY and six representatives of correctional institutions in the Federation of Bosnia and Herzegovina signed the agreement to continue cooperation in the project »Maximizing coverage of effective HIV prevention and care among populations at greatest risk.« The project is part of a government program called »Coordinated National Response to HIV / AIDS and tuberculosis in the war-torn and highly stigmatized environment« whose signatories are relevant institutions in Bosnia and Herzegovina. One of the target groups covered by the project are all convicts in the penitentiaries of the Federation, as the convicted persons living under very specific conditions are at higher risk of developing a transmitted infection. In 2011, about 600 convicts were educated. Margina is the other non-governmental organization which provides services to reduce harm in prisons of Bosnia and Herzegovina. It was chosen by the UNDP as a beneficiary of the funds from the Global Fund for HIV / AIDS, tuberculosis and malaria with the aim of maintaining the current prevalence of HIV. Methadone treatment is not available in all prisons, and this depends on the health system of the area where the prison is located.

For drug addicts who have committed criminal offences, the court is able to impose compulsory treatment in a psychiatric facility or therapeutic community. Apart from this, there are no other mechanisms for the diversion of drug users from prison into community based treatment. However, the imposed measure is often inadequately implemented or not implemented at all, or does not fulfill its primary role of an appropriate and effective treatment that would give satisfactory results in terms of preventing repetition of the crime after a person's release from prison.

Laws on misdemeanor offences in Federation of Bosnia and Herzegovina, Republic of Srpska and Brčko District prescribe a security measure of Outpatient treatment of addiction. This implies that suspended or reduced sanctions may be imposed on the defendant who has committed an offence under the decisive influence of addiction to alcohol or drugs, on condition that he undergo outpatient treatment for alcohol and drug use within a specified period, or until it is established that there is no need for further treatment of the defendant, based on the opinion

12. Godišnji izvještaj o stanju zloupotrebe opojnih droga u BiH za 2010. (Annual Report for State of Drug Abuse in Bosnia and Herzegovina for 2010) Retrieved from: <http://www.msb.gov.ba/dokumenti/strateski/?id=7437>

of specialists in charge of the treatment, provided that the duration of treatment is not more than one year. The court shall revoke a suspended or reduced sentence if the defendant fails to undergo certain outpatient settings.

Generally, courts in Bosnia and Herzegovina are able to impose a penalty of community work instead of prison, suspended sentence and judicial admonition if the requirements prescribed by the Criminal Codes are met. Also in the Federation of Bosnia and Herzegovina, persons sentenced to imprisonment of up to one year, with their consent, can serve the sentence under house imprisonment with electronic monitoring, where the convicted person is not allowed to leave the room in that house except in cases prescribed by law governing the enforcement of criminal sanctions.

Bosnia and Herzegovina does not have a comprehensive strategy for social reintegration of offenders following the execution of their sentence. However, the Strategy for the Prevention and Suppression of Narcotic Drugs Abuse for 2009-2013, includes resocialisation and social integration of drug addicts as one of its aims. In terms of this, the following priorities are determined in the Strategy:

- providing assistance in completing primary and secondary education or retraining;
- stimulation of employment and self-employment of drug addicts who have completed rehabilitation programs in therapeutic communities, prison units, correctional homes or who are on maintenance therapy.
- reintegrating addicts into society groups who are unable or unwilling to stop using drugs, providing adequate facilities and hospices.
- The establishment of a network of institutions to support drug addicts in resocialization. Connection and cooperation of all relevant entities involved in the process of socialization of addicts (centers for social work, therapeutic communities, medical and educational institutions, employment institutions, associations, etc.).

Furthermore, social reintegration is included in the National Action Plan against drug abuse in Bosnia and Herzegovina for the period 2009- 2013, as part of the strategic area of treatment and social reintegration. It includes a variety of measures aimed at the provision of housing, employment, education and social reintegration after release from prison or treatment. Special attention is given to youth and minors. Recently, the Institute for Employment of Sarajevo Canton started a pilot program for the employment of disadvantaged groups, including drug users.¹³

13. Godišnji izvještaj o stanju zloupotrebe opojnih droga u BiH za 2010. (Annual Report for State of Drug Abuse in Bosnia and Herzegovina for 2010) Retrieved from: <http://www.msb.gov.ba/dokumenti/strateski/?id=7437>

There are no available statistical data for recidivism of the offenders sentenced for drug-related crimes.

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

The adoption of the most important legal acts in the field of drugs on the state level was influenced by a number of reasons: old and fragmented legislation; disparity between the laws of the Entities and District Brčko; uncoordinated activities of the institutions charged with preventing and suppressing drug use; and the pressure of the international community on the Parliament of Bosnia and Herzegovina to urgently adopt drug legislation to address the problem.¹⁴

The Law on Prevention and Suppression of Narcotic Drugs was passed by the Bosnian parliament in 2006, and it serves as the foundation for bringing under its umbrella all laws and regulations in Entities and Brčko District on issues of growing plants, manufacturing, possession and trafficking of drugs, other substances used for making drugs, precursors, and the cultivation of plants used for drug manufacturing. The Law also includes provisions on development of an information system in the field of drugs, drug demand and supply reduction programmes, national and international coordination, and research activities. However, a very important part of this Law are provisions that anticipate the adoption of a National Strategy and Action Plan on Drugs, as well as formation of a Commission on Narcotic Drugs and State Office on Narcotic Drugs.

Although this Law constitutes an important framework of drug policy in Bosnia and Herzegovina, unfortunately, the implementation of the Law on Prevention and Suppression of Narcotic Drugs presents a very slow process. Certainly, one of the main reasons for such a situation seems to be the political will of Bosnian politicians, followed further by the fact that policy implementation in Bosnia and Herzegovina has been significantly shaped by domestic institutional delays and by the diverging political interests within the two Entities. For that reason, the adoption of the National Strategy on Drugs was delayed for three years after passing the Law on Prevention and Suppression of Narcotic Drugs.

With the reform of criminal legislation of Bosnia and Herzegovina in 2003, and in accordance with the delineation of the responsibilities of Bosnia and Herzegovina, its Entities and the District in all areas, legal protection in the field of drugs is regulated differently in the Criminal Code of Bosnia and Herzegovina and

14. International Narcotics Control Board (2005). *Report of the INCB for 2005*.

the Criminal Codes of the Entities and Brčko District. Thus, the Criminal Code of Bosnia and Herzegovina criminalizes certain forms of illicit trafficking in narcotic drugs, which have an international dimension, while the integrity of the criminal protection of the various forms of drug abuse is ensured by prescribing offences in Criminal Codes of Entities and the Criminal Code of Brčko District.

According to the *European Commission Bosnia-Herzegovina 2011 Progress Report*, Bosnia and Herzegovina made little progress in the fight to combat narcotic drugs trafficking and, as such, stands as one of the central routes of international narcotic drugs trafficking in this part of Europe.¹⁵

Furthermore, according to the *Monitoring of the Bosnia and Herzegovina European Integration Processes-Annual report 2011*, problems are evident in implementing the Strategy for the Prevention and Suppression of Narcotic Drugs Abuse for 2009.-2013 and its action plan, due to the the lack of a corresponding, co-ordinating body at the state level, such as the Office for Drugs, whose establishment was planned in this document. As stated in this Report, in order for the Office to be established, it crucial to enforce The Draft Law on Amendments to the Law on Prevention and Combat of Abuse of Narcotic Drugs. However, this seems to be a very complex task because of the different political views in Bosnia and Herzegovina and opposing tendencies towards reinforcing the state government policies and establishing new institutions at the state level.

Another problem regarding the implementation of the Strategy is the database on perpetrators of drug related offences in Bosnia and Herzegovina. The database has been established, but, its functional value is ultimately relative since not all police agencies in the country are using it. The police in Federation and the majority of Cantons in the Federation, make use of the database whereas the police in Republic of Srpska are not connected to the same network and are using a separate drug-user database that involves the existing registries from rehabilitation centres.¹⁶

The Rulebook on Confiscated Narcotics has been adopted by all the relevant bodies at both the state and entity level, as well as by Brčko District. However, due to

15. Foreign Policy Initiative BH (2012). Monitoring of the Bosnia and Herzegovina European Integration Processes-Annual report 2011. Author. Available at: http://www.vpi.ba/eng/content/documents/Monitoring_of_The_BiH_European_Integration_Process_2011_Annual_Report.pdf

16. Foreign Policy Initiative BH (2012). Monitoring of the Bosnia and Herzegovina European Integration Processes-Annual report 2011. Author. Available at: http://www.vpi.ba/eng/content/documents/Monitoring_of_The_BiH_European_Integration_Process_2011_Annual_Report.pdf

the lack of sufficient finance to support the implementation of this document, large amounts of illicit substances, confiscated after the Law on the Prevention and Combat of the Abuse of Narcotic Drugs was adopted are still waiting to be destroyed.¹⁷

The *European Commission Bosnia-Herzegovina 2011 Progress Report*¹⁸ for Bosnia and Herzegovina also states that there is a lack of active co-ordination among existing police agencies, which is followed by a lack of results achieved in suppressing narcotic drugs trafficking.

The Council of Ministers of Bosnia and Herzegovina adopted the Draft Law on Amendments to the Law on the Prevention and Combat of the Abuse of Narcotic Drugs on July 17th 2011, which was drafted in co-operation with European Commission experts. The Draft Law has been submitted for regular Parliamentary procedure. However it is uncertain when it will be adopted.¹⁹

Regarding the implementation of the national Action Plan to Combat Drug Abuse in Bosnia and Herzegovina (2009-2013), the governments of the entities and the Brčko District were supposed

to adopt their own action plans (within 90 days from the publication of the Action Plan in the Official Gazette of Bosnia and Herzegovina), which are in full compliance with the national Action Plan for the fight against illicit drugs in Bosnia and Herzegovina. In accordance with this task, the Federation of Bosnia and Herzegovina adopted its Action Plan in 2012, while the Republic of Srpska is implementing its Action Plan (2010-2012), founded on the **Strategy for Monitoring of Opiate Drugs and Containment of Opiate Drug Abuse in the Republic of Srpska** (2008-2012).

The **Strategy for Monitoring of Opiate Drugs and Containment of Opiate Drug Abuse in the Republic of Srpska** was adopted by the National Assembly of the Republic of Srpska, for a five-year period (2008 -2012), and deals with opiate drugs

17. Foreign Policy Initiative BH (2012). Monitoring of the Bosnia and Herzegovina European Integration Processes-Annual report 2011. Author. Available at: http://www.vpi.ba/eng/content/documents/Monitoring_of_The_BiH_European_Integration_Process_2011_Annual_Report.pdf

18. European Commission (2011). Bosnia-Herzegovina 2011 Progress Report. Brussels:Author. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/ba_rapport_2011_en.pdf

19. Foreign Policy Initiative BH (2012). Monitoring of the Bosnia and Herzegovina European Integration Processes-Annual report 2011. Author. Available at: http://www.vpi.ba/eng/content/documents/Monitoring_of_The_BiH_European_Integration_Process_2011_Annual_Report.pdf

monitoring, opiate drug abuse containment and assistance to opiate drug addicts. The Government of the Republic of Srpska passed the Action Plan (2010-2012) for the implementation of the Strategy, following a proposal by the Commission for Containment of Opiate Drug Abuse in the Republic of Srpska. This Strategy is aligned with the EU drugs strategy, provisions of the Council of Europe, UN conventions, international law and other covenants on different forms of inter-state cooperation in the area of resolving problems caused by opiate drug abuse, as well as with strategies of the neighbouring countries.

In accordance with the national Action Plan, the Federation of Bosnia and Herzegovina at the meeting held on 18th January 2012 adopted an ***Action Plan for the Fight Against Illicit Drugs in the Federation of Bosnia and Herzegovina 2012-2013***, where the Government of the Federation of Bosnia and Herzegovina is responsible for its coordination. The framework for designing a Federal Action Plan were the main strategic objectives outlined in the national Strategy. Some of the indicators of implementing activities that are foreseen by the Action plan should be: Reducing the number of criminal offences through a preventive approach in working cooperation of cantonal ministry's and Federal Administration of Police on the entire territory of Federation of Bosnia and Herzegovina; Periodic reports on the number of submitted official reports for drug offences, the number of registered persons, and the types and quantities of drugs seized; The establishment of the Department for combating abuse of narcotic drugs in the cantonal Ministries of Internal Affairs, in which it still has not been done; Innovative educational programs for training and implementation of courses for uniformed police officers on knowledge about illegal drug markets and ways of abusing drugs for members of all police agencies in the Federation of Bosnia and Herzegovina; Creation of a proposal of the Protocol for insurance of mechanisms for information exchange and coordination between correctional institutions, ministries of justice and police agencies.

At the moment there is no Action Plan for the Fight Against Illicit Drugs in the Brčko District.

III. Standpoints of relevant stakeholders on drug law reform and proposals and recommendations for further research and advocacy work

Ministry of Health (Federation of Bosnia and Herzegovina)

- Strategy presents a comprehensive document in which the elements to reduce drug demand and supply are balanced. However, there are difficulties in implementing the Strategy and Action Plan, due to lack of budgetary resources.

- Currently, the Ministry of Security of Bosnia and Herzegovina is managing the process of setting standards for the therapeutic community, through a document that establishes therapeutic guidelines for the treatment of opiate users.
- Specific programs aimed at reducing the harm of injecting users are being implemented.
- In terms of substitution treatment, every region in the country has the freedom to choose the type of therapy, such as methadone or suboxone.
- Methadone substitution treatment is conducted through the offices for substance addiction, mental health centers and psychiatric clinics in Sarajevo, Zenica, Mostar, Sanski Most and Bugojno, while suboxon therapy is used in Tuzla.
- Hospital detoxification is conducted in Sarajevo, Zenica, Mostar, Banja Luka, Doboj, Prijedor and Bijeljina.
- The problem exists in the treatment of the prison population because there were no organized activities in this field, with the exception of activities related to education. Namely, the education of prisoners was conducted on the prevention of HIV, sexually transmitted diseases, tuberculosis and drug addiction.
- Problems are present regarding the implementation of the therapy in prisons for drug addicts, given the fact that the prison system and staff who work there, is not part of the health sector, but justice.
- In order to implement part of the Strategy which refers to the prison population, methadone substitution treatment must be introduced in prisons.
- The best cooperation when it comes to the implementation of preventive programs exist with the Ministry of Education and Science, because the school system introduces an element of education about healthy lifestyle and addiction problems.
- Harm reduction programs are implemented in cooperation with the NGO sector, which is primarily engaged in programs of exchange of syringes and needles. These programs are at the time mostly funded by Global Fund.
- There is an issue of sustainability of implementing drug related programs due to the decentralized institutional system in the Federation.
- It is necessary to define what is the smallest amount of drug that constitutes a criminal offence.

Illicit Drugs Section (Ministry of Interior- Canton Sarajevo):

- It is necessary to increase the upper limit of punishment for a criminal offence of illicit manufacturing and trafficking in narcotic drugs.

- There should be an influence in the courts to impose punishment for drug related crimes by the upper bound of prescribed criminal sanction.
- Possession of drugs should be a misdemeanor offence instead of criminal.
- The provisions of the Criminal Code should be amended in a way that using a child or a minor for the commission of the criminal offence of production and sale of narcotic drugs, presents an aggravating circumstance for the punishment of a perpetrator.
- There shouldn't be a classification of amounts of drugs, because it is considered that drug dealers can resell even small amounts of drugs.
- Proposal to make changes to the Criminal Procedure Act, that seized drug assets (i.e. vehicles, real estate, firearms and other property) should be entrusted to law enforcement agencies or sold.
- Proposal that 75% of seized drug money should be put into the budget of police agencies.
- It is necessary to introduce a new special investigative action »simulated sale« because current law only recognizes simulated and controlled purchase of certain objects and simulated bribery.
- There is a big problem with the deposit of confiscated drugs. Although the Rule-book on the destruction of narcotic drugs was adopted, the established Commission responsible for the destruction of the narcotic drugs, has not yet started to work.
- State database for drug addicts and persons who committ drug related crimes is not operative. Specifically, the database was established, but it is not functional because it can not deliver data from all the ministries of the interior (especially from RS).
- Addicts have no special treatment during investigations, except that they can be provided with medical treatment.
- It is necessary to improve procedures for examining narcotic drugs, because the current equipment is not adequately expert for precursors. Also better toxicological analysis should be provided.
- Lately, there has been a trend for cannabis production in enclosed spaces.
- It is necessary to improve the equipment for field work, because at the moment there are no conditions for the proper conduct of special investigations.

- It is necessary to improve cooperation with the ministries of education and health, in order to implement prevention programs.
- There should be continual education and training of police officers, and employment of new officers with appropriate educational qualifications.
- It is necessary to form a unit for drugs at the state level, which would have their own departments in the entire country, in order to ensure an effective system of vertical command and better monitoring in the area of drugs.
- Currently, the major problem is the decentralization of the police agencies, which causes a very slow flow of information and coordination of activities.

Non-governmental organization (UG-PROI)²⁰

- NGO have participated in developing the Strategy for the Prevention and Suppression of Narcotic Drug Abuse for 2009.-2013 and the National Action Plan to Combat Drug Abuse in Bosnia and Herzegovina for 2009-2013, and believes that Strategy presents a comprehensive document when it comes to the drugs problem. However, problems are apparent with the implementation of the Strategy.
- The biggest disappointment is present regarding the National Action Plan to Combat Drug Abuse in Bosnia and Herzegovina for 2009-2013 that accompanies the Strategy. Namely, it is considered that the Plan is unenforceable because it is not in line with the real social possibilities of the country, particularly those related to the mechanism of state monitoring and the implementation of this document.
- NGOs state that in their work absolutely nothing has changed with the adoption of the Strategy and Action Plan in the context of improving their working conditions and activities. In other words, progress is not evident regarding the role of NGOs in drug rehabilitation programs and activities of the therapeutic community run by this organization.
- There is still no national system of control and certification of therapeutic communities and individuals who participate in the implementation of therapeutic programs, as required by the Strategy.

20. The mission of PROI Association is to support, develop and advocate for an integrated approach in the field of drugs, HIV, public health and social exclusion by following the principles of humanism, gender equality, tolerance, partnership and respect for human rights and freedoms. On the territory of Bosnia and Herzegovina, PROI provides a wide range of services to the most vulnerable populations in resolving problems related to drug dependence, risky sexual behavior and psychosocial development. PROI Association is actively engaged in implementing harm reduction programs in the field of drugs.

- The big problem is the fact that there is no standardization in terms of the amount of drug that is for personal use, sale and trafficking.
- Given the fact that NGOs are implementing activities of harm reduction programs, which include collection of used injection material via Drop-in-centres and other actions in this field, this aspect of their activity appears to be illegal. Specifically, although the Law and Strategy clearly stipulate the implementation of harm reduction programs, this is extremely difficult, because this type of activity presents criminal conduct in accordance with the provisions of drug related criminal offences prescribed by the Criminal Code. In this case, there is a paradoxical situation that the NGO representatives who collect such materials, may be charged with the possession of narcotic drugs, given that the police are taking as evidence presence of drugs in already-used needles or other material that is used in the process of injecting drugs. Therefore, the implementation of harm reduction programs is in jeopardy because of the Criminal Code provisions. Current activities in this regard are carried out based on the acquiescence and tolerance of police.
- Although NGOs participated in drafting the regulations on minimum conditions for implementing harm reduction programs, the Rulebook has not received approval from the Ministry of Environment and Tourism.
- NGOs support the idea of establishing safe injection rooms, however, it does not even try to put the idea into practice, since it represents a criminal offence of enabling consumption of narcotic drugs according to the current criminal legislation.
- Recently, there has been excellent cooperation with the Ministry of Interior of Canton Sarajevo, with whom they are currently working on the implementation of the Program of respecting human rights of vulnerable and marginalized population, which also applies to drug addicts. Cooperation with other state institutions is insufficient.
- In its work, NGOs do not have any programmatic and financial support from the state.
- NGOs believe that the legalization/decriminalization of certain drugs could improve the condition of society when it comes to the drug abuse problem.
- NGOs believe that the criminal policy towards drug addicts should be different, that is, prison sentence should not be imposed for drug addicts, but a security measure of mandatory treatment.
- NGOs stand for the idea of the establishment of Drug courts.

Non-governmental organization (UG-Viktorija)²¹

- As to the mechanisms related to the prevention of drug abuse in the Republic of Srpska, governmental agencies were established due to the implementation of the Strategy for Monitoring of Opiate Drugs and Containment of Opiate Drug Abuse in the Republic of Srpska (2008 -2012) and its Action Plan (2010-2012).
- Accordingly, in 2009 the Commission for Containment of Opiate Drugs Abuse in the Republic of Srpska was constituted as a government body, which has thirteen (13) members, and a Strategy Implementation Department, which is formed within the Ministry of Internal Affairs of the Republic of Srpska, whose task is to provide administrative, technical and professional assistance to the Commission.
- Representative of civil society is a member of the Commission. All decisions are made by consensus, and as such are being implemented.
- The Commission is authorized for the formulation of policy, drawing conclusions, writing reports and other correspondence concerning the prevention of drug abuse in the Republic of Srpska.
- In this respect, a model of cooperation and implementation of activities related to the prevention and control of drug abuse in the Republic of Srpska, is one of the good examples for the region.

IV. Proposals and recommendations for further research and advocacy work

Findings from analysis of drug related legislation and practices, as well as from conducted interviews, show that Bosnia and Herzegovina is experiencing major problems with the implementation of its drug legislation and strategies. Although there are many problematic issues regarding the implementation of drug policy in Bosnia and Herzegovina, future advocating work should definitely be focused on establishment and functioning of the State Office on Drugs, establishment of Departments for combating drug abuse within all police agencies, changing criminal policy for drug addicts, introducing a larger number of harm reduction programs, providing better health assistance to drug addicts generally and especially for those who are in prisons as well as collection of standardised statistical data.

21. NGO Viktorija in recent years has actively taken part in preventive work in the field of combating drug addiction. This NGO has launched an initiative to establish a coalition of non-governmental organizations of Bosnia and Herzegovina in order to ensure more active and more organized appearance towards drug addicts and the authorities in order to develop an adequate network of help in the country.

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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