DIOGENIS

Drug Policy Dialogue in South East Europe

Drug Policy and Drug Legislation in South East Europe

Bulgaria

NOMIKI BIBLIOTHIKI

Country Report Bulgaria

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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 Diogenis 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 Europe[1] 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 Europe[2] and the researchers affiliated with research institutes and universities in the countries in South East Europe[3].

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 Iustinianus 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 suspensed 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 possesion 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 counties. 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-intergation 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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Drug Policy Dialogue in South East Europe

Country Report Bulgaria

by Atanas Rusev[1]
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I. The current national drug strategy and drug legislation in Bulgaria

1. National Strategy on Drugs

The recent Bulgarian drug strategy was adopted in 2009 and was accompanied by a National Drug Action Plan. Both of these cover the period 2009-2013.

The overall responsibility for the coordination and the implementation of the national drug policies is carried out by the **National Drug Council (NDC)**, which is an interdepartmental body established under the Act on Control of Narcotic Substances and Precursors. The council is chaired by the Minister of Health and his deputies are the General Secretary of the Ministry of Interior, the Deputy Chairman of the State Agency 'National Security' and the deputy Minister of Justice. The other members of NDC are representatives of the Presidency of the Republic of Bulgaria; the Supreme Cassation Court; the Supreme Administrative Court; the Supreme Cassation Prosecution Office; the National Investigation Service, as well as all other concerned Ministries and institutions. NDC has established 27 Regional Drug councils, which are responsible for the coordination and implementation of the drug policy at a regional level.

The **National Drug Addictions Centre** is a body responsible for coordinating and providing methodical guidance on prevention, treatment, reduction of medical harm and rehabilitation of drug users and addicts. The Centre acts as a body exercising specialized control of treatment and as a drug addictions expert body. It is also designated as a **National Focal Point on Drugs and Drugs Addictions**, which reports to the European Monitoring Centre for Drugs and Drug Addictions.

The national competent body for control over all drug-related activities for medical and other purposes and in compliance with regulatory regimes listed in Appen-

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dices 1, 2 and 3 of the Law for Control of Drugs and Precursors and the relevant international conventions is the **Directorate of Narcotic Substances within the Ministry of Health.**

The control of chemical substances (precursors of narcotic substances) used for illegal production of drugs is exercised by an **Interdepartmental Committee for Precursor Control attached to the Ministry of Economy, Activities and Tourism.** The Committee is the national body responsible for control over all precursor-related activities in compliance with Art. 12 the 1988 UN Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

The **Ministry of Interior** is one of the law enforcement bodies responsible for fighting illegal drug trafficking and drug distribution in Bulgaria. The specific tasks of the Ministry of Interior are assigned for implementation of the following General Directorates:

- General Directorate Countering Organized Crime - performs operational and investigative services, as well as information and organizational activities for counteracting organized crime activities related to illegal trafficking, production and dealing in drugs and substances used for the production of drugs;
- General Directorate Criminal Police - conducts operational and investigation activities related to reduction, detection, counteraction and prevention of drug related crimes;
- General Directorate Border Police - responsible for guarding the national borders, as well as for preventing, detecting and participating in investigation of crimes related to illegal trafficking of generally dangerous materials in the border zone, border check points, international airports and ports.

The Bulgarian Customs Agency, in compliance with its powers, also organises and carries out activities for the prevention and detection of illegal trafficking of drugs and precursors.

The State Agency National Security is responsible for surveillance, investigation, countering and prevention of activities against national security (including Ministry of Defense and the Bulgarian Army) related to illegal production, storage, and distribution of generally dangerous equipment, products or dual-use technologies, narcotic drugs and precursors, when these pose a threat for the normal functioning of the state authorities or cause risks for national security.

Bulgaria has ratified the 1961 Single Convention on Narcotic Drugs as well as the Protocol of 1972 amending it, the 1971 UN Convention on Psychotropic Substances, the 1988 UN Convention Against the Illicit Traffic in Narcotic Drugs and Psy-

chotropic Substances as well as to the Council of Europe Convention on Money Laundering, Search, Seizure and Confiscation of the Proceeds of Crime.

Moving on to development and provision of social aid services to drug users and involvement of NGOs in this area, there is an objective under the National Drug Strategy, which specifically indicates these as a priority:

Strategy objective 6: Development of programs and services for social rehabilitation and reintegration in community.

The Drug action plan accompanying the National Drug Strategy provides that the NGOs will be involved in establishing shelters for drug addicts, who are undergoing treatment or resocialisation. Drug addicts are also identified as a target group of the Human Resources Development Operational Programme, which is co-financed by the European Social Fund and managed by the Ministry of Labour and Social Policy. The Program provides opportunities for NGOs to apply for financing of social services for drug addicts. Despite the existing policy framework, no such services have been supported by the Operational Programme in the last years.

The Bulgarian National Drug Strategy and National Drug Action Plan follow the objectives set in the EU Drug Strategy 2005-2012, so there aren't major important issues missing in them. Their major shortcoming stems from the lack of effective institutional commitment and sustainable mechanisms for financing the implementation of the set objectives and activities.

2. National Substantive Criminal Law

Bulgarian criminal law does not make a distinction between misdemeanors and felonies. There are, however, two other distinctions between crimes in Bulgaria.

- Some offences are regarded as 'serious offences'. According to the Penal Code (Art. 93), a 'serious offence' is a criminal offence for which the law envisages a penalty of imprisonment for more than five years, life imprisonment or life imprisonment without parole. Some provisions apply only to serious offences (e.g. use of special intelligence means) while some concepts are not applicable for such offences (e.g. plea bargaining).
- Also, there are several minor offences (e.g. defamation or insult) for which the criminal prosecution is not initiated and performed by the public prosecutor but by the victim. For crimes prosecuted by the victim there is no pre-trial investigation.

Bulgarian Penal Code envisages eleven types of criminal sanctions. For each criminal offence the law provides for both the type and the amount (or length) of the applicable sanction. The penalties are as follows:

- imprisonment;
- life imprisonment;
- life imprisonment without parole;
- probation;
- confiscation of property;
- fine;
- deprivation of right to occupy a certain state or public position;
- deprivation of right to exercise certain professions or activiies;
- disqualification from the received orders, honorary titles and distinctions;
- deprivation of military rank;
- public reprimand.

Custodial sentences are served in prisons according to the rules and procedures specified in the Law on Execution of Penal Sanctions and Detention in Custody.

Probation is a separate penalty and can be imposed by the court if it is among the sanctions provided for the specific offence. For some offences probation and imprisonment are provided for in the law as alternatives and it is up to the court to decide which one to impose. In exceptional cases, where there are multiple mitigating circumstances, the court can **substitute imprisonment with probation** even if probation is not provided for the committed offence. This can be done only for offences for which the law does not specify the minimum length of imprisonment. Once imposed through an enforceable sentence, the penalty can no longer be changed.

When imposing the penalty of imprisonment the court can issue the so-called **'suspended sentence'**. Suspended sentence means that the offender is sentenced to imprisonment but does not go to prison directly. Instead, the court suspends the sentence for a certain period of time (called 'probation period') during which the offender is obliged to study, work or undergo medical treatment (depending on the case). If the offender does not commit another crime punishable by imprisonment during the probation period he or she does not go to prison. If the offender commits another offence during that time he or she has to serve both sentences. Suspended sentences apply only if: (1) the offender is sentenced to imprisonment of up to three years; (2) the offender has not been sentenced to imprisonment before; and (3) if the court believes that to achieve the objectives of the penalty in general and the re-education of the offender in particular the latter does not need to serve the sentence. Suspended sentences, however, are entered in the criminal record of the convicted person in the same way as effective custodial sentences.

An offender serving a prison sentence could be released from prison earlier. This is called **'conditional release'** and is possible only if the offender has already served at least half of the penalty and has demonstrated his or her correction through exemplary conduct and honest attitude to work. Conditional release applies to recidivists as well provided that they have served at least two-thirds of their sentences and the remaining time is not more than three years. Conditional release can be applied only once. Offenders granted conditional release are given a probation period (equal to the remaining time of their sentence but not shorter than six months) during which they have to perform certain obligations and refrain from committing another crime. If they fail to do this they have to go to prison for the period they have been conditionally released for.

In certain cases the offender can be sanctioned by an **administrative penalty (fine) instead of a criminal sanction**. This option applies if: (1) the penalty envisaged for the crime is imprisonment of up to three years or a less severe penalty (for intentional offences) or imprisonment of up to five years or a less severe penalty (for negligent offences); (2) the offender has not been sentenced for an offence prosecuted ex officio and has not been released from criminal responsibility through this procedure before; and (3) pecuniary damages caused by the crime have been fully compensated.

3. National Drug Laws and Institutions

Cultivation, production and trade of drugs, if committed without the necessary permission, are considered **criminal offences**. Permits are issued according to the terms and procedures described in the Law on Control of Narcotic Substances and Precursors. Drugs are divided into three groups: (1) plants and substances with a high degree of risk to public health from the harmful effects of abuse, banned from use in human and veterinary medicine; (2) substances with a high degree of risk that can be used in human and veterinary medicine; and (3) risk substances. The cultivation, production and trade of drugs from the first group are forbidden and are always criminal offences. The cultivation, production and trade of drugs from the second and third group are legal if conducted based on a permit (license) issued by the Minister of Health or, if these substances are to be used in veterinary medicine, by the Minister of Agriculture and Food. The lack of permit (license) makes each of these activities a criminal offence.

Drug use as such is not penalized. However, the possession of drugs, irrespective of the quantity (i.e. even a single dose for personal use) is considered a criminal offence and is subject to criminal prosecution.

The Penal Code does 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. Case law in this regard, however, is incoherent, with some sentences considering drug addiction as a mitigating circumstance while others regarding it as irrelevant to the sentence.

Bulgarian Penal Code does not provide for different penalties depending on whether the offender is a drug addict or not. Offences associated with 'cravings for use' are prosecuted in the same manner as ordinary offences that are not related to drugs. It is up to the court to decide whether and how to consider the offender's addiction when determining the penalty.

At the same time, existing case law on this issue is not coherent. There are sentences that regard the offender's addiction as a mitigating circumstance, but there are also sentences, which explicitly exclude the offender's addiction from the scope of mitigating circumstances.

There is a difference between 'high-risk' and 'risk' narcotic substances. The penalties for the risk narcotic substances are less severe.

There is no legal definition of what is a high-risk or a risk narcotic substance. The classification is done through special lists enumerating the different substances. Until 2011 these lists were annexes to the Law on Control of Narcotic Substances and Precursors meaning that the classification was done by parliament. Since 10 November 2011 the lists are annexed to the Ordinance for the Procedure for Classification of Plants and Substances as Narcotic, adopted by the Council of Ministers. There are three different lists annexed to the ordinance: the first one enumerates the absolutely forbidden high-risk drugs, the second one lists the high-risk substances that can be used in medicine upon permission and the third one lists the risk drugs.

The Penal Code incriminates several groups of drug related offences.

- **Distribution of drugs:** This group includes the unauthorized production, processing, acquisition or holding of narcotic drugs or analogues thereof for the purpose of distribution, as well as the actual distribution of such drugs. For high-risk narcotic drugs or analogues thereof, the penalty is imprisonment for a term of two to eight years and a fine ranging from BGN 5,000 to BGN 20,000; for risk narcotic drugs or analogues thereof, the sanction is imprisonment for a term of one to six years and a fine ranging from BGN 2,000 to BGN 10,000; and for precursors and facilities or mate-

rials for the production of narcotic drugs or analogues thereof, the sanction is imprisonment for a term of three to twelve years and a fine ranging from BGN 20,000 to BGN 100,000 (Article 354a (1) of the Penal Code). Where the narcotic drugs or the analogues thereof are in large quantities, the penal sanction is imprisonment for a term of three to twelve years and a fine ranging from BGN 10,000 to BGN 50,000, and when they are in particularly large quantities, the sanction is imprisonment for a term of five to fifteen years and a fine ranging from BGN 20,000 to BGN 100,000 (Article 354a (2) of the Penal Code). If the offence is committed in a public place, or by a person hired by, or implementing a decision of, an organized criminal group, by a physician or a pharmacist, by a cover supervisor, teacher or headmaster of an educational establishment, or by an official in the course of or in connection with the discharge of his or her official duties, as well as by a person acting under conditions of dangerous recidivism the penalty is imprisonment for a term of five to fifteen years and a fine ranging from BGN 20,000 to BGN 100,000.

- **Unauthorized acquisition or holding of narcotic drugs and analogues thereof:** These are the cases of possession of drugs for personal use and not for the purpose of distribution. The penalty is imprisonment for a term of one to six years and a fine ranging from BGN 2,000 to BGN 10,000 for high-risk narcotic drugs or analogues thereof; imprisonment for a maximum term of one year and a fine ranging from BGN 1,000 to BGN 5,000 for risk narcotic drugs or analogues thereof (Article 354a (3) of the Penal Code); and a maximum fine of BGN 1,000 if the offence constitutes a minor case (Article 354a (5) of the Penal Code).
- **Breach of rules established for the handling of narcotic drugs:** This group covers the breach of rules established for the producing, acquiring, safekeeping, accounting for, dispensing, transporting or carrying of narcotic drugs. The penalty is imprisonment for up to five years, a maximum fine of BGN 5,000 and, at the discretion of the court, disqualification of the offender from holding a particular government or public office, from practicing a particular profession or from carrying out a particular activity (Article 354a (4) of the Penal Code). If the offence constitutes a minor case, the sanction is a fine of up to BGN 1,000 (Article 354a (5) of the Penal Code). A physician who, in breach of the established procedure, knowingly prescribes any narcotic drugs or analogues thereof or any medicines, which contain such substances, is guilty of an offence, which, too, can be subsumed under this heading. This offence is punishable by imprisonment for a maximum term of five years and a fine of up to BGN 3,000 or, for a

repeat offence, imprisonment for a term of one to six years and a fine of up to BGN 5,000. The court may or, in case of a repeat offence, must, furthermore disqualify the offender from holding a particular government or public office, from practicing a particular profession or from carrying out a particular activity (Article 354b (5) and (6) of the Penal Code).

- **Encouragement of others to use drugs:** Inducing or aiding another person to use narcotic drugs or analogues thereof falls under this group and is punishable by imprisonment for a term of one to eight years and a fine ranging from BGN 5,000 to BGN 10,000. A heavier sanction (imprisonment for a term of three to ten years and a fine ranging from BGN 20,000 to BGN 50,000) is provided for the cases where the act was committed against an infant, a minor or a mentally retarded person; against more than two persons; by a physician, pharmacist, cover supervisor, teacher or headmaster of an educational establishment, or an official at a penitentiary facility in the course of or in connection with the discharge of his or her official duties (in such case, the sanction is complemented by disqualification from holding a particular government or public office, from practicing a particular profession or from carrying out a particular activity); in a public place; through the mass communication media; under conditions of dangerous recidivism (Article 354b (2) of the Penal Code). Inducing or forcing another to use narcotic drugs or analogues thereof for the purpose of prostitution, copulation, molestation, or engaging in sexual intercourse or acts of sexual gratification with a person of the same sex, is also an offence and is punishable by imprisonment for a term of five to fifteen years and a fine ranging from BGN 10,000 to BGN 50,000; or by imprisonment for a term of ten to twenty years and a fine ranging from BGN 100,000 to BGN 300,000) if the act was committed: by a person hired by, or implementing a decision of, an organized criminal group; against a person who has not attained the age of 18 years, or a mentally retarded person; against two or more persons; as a repeat offence; or under conditions of dangerous recidivism.
- **Giving a lethal dose of a narcotic drug:** The offence is defined as giving another person a narcotic drug or an analogue thereof "in quantities likely to cause death and death ensues". The penalty is imprisonment for a term of fifteen to twenty years and a fine ranging from BGN 100,000 to BGN 300,000 (Article 354b (3) of the Penal Code).
- **Creation of conditions for use of narcotic drugs:** This group comprises two acts: systematically providing a premise to various persons for the use of narcotic drugs, and organizing the use of such drugs. The applicable

penalty is imprisonment for a term of one to ten years and a fine ranging from BGN 5,000 to BGN 20,000 (Article 354b (4) of the Penal Code).

- **Cultivation of plants for the purpose of production of narcotic drugs:** This includes the planting or growing of opium poppy and coca bush plants or plants of the genus Cannabis in breach of the rules established in the Law on Control of Narcotic Substances and Precursors. The applicable penalty is imprisonment for a term of two to five years and a fine ranging from BGN 5,000 to BGN 10,000 (Article 354c (1) of the Penal Code) or, if the offence constitutes a minor case, imprisonment for a maximum term of one year and a fine of up to BGN 1,000 (Article 354c (5) of the Penal Code). Any person who organizes, leads or finances an organized criminal group for the cultivation of such plants or for the manufacture, production or processing of narcotic drugs is criminally liable as well, and the penal sanction is imprisonment for a term of ten to twenty years and a fine ranging from BGN 50,000 to BGN 200,000 (Article 354c (2) of the Penal Code). Participation in such a group is punishable by imprisonment for a term of three to ten years and a fine ranging from BGN 5,000 to BGN 10,000, and the law exempts from prosecution any member of the group who has voluntarily disclosed to the authorities all facts and circumstances about the activity of the organized criminal group which are known thereto (Article 354c (3) and (4) of the Penal Code).
- **Trafficking in narcotic drugs:** The principal elements of these offences are carrying narcotic drugs across the border of Bulgaria without due authorization. Penalties vary according to the object involved in the offence: for high-risk narcotic drugs and/or analogues thereof, it is imprisonment for a term of ten to fifteen years and a fine ranging from BGN 100,000 and BGN 200,000; for risk narcotic drugs and/or analogues thereof, the sanction is imprisonment for a term of three to fifteen years and a fine ranging from BGN 10,000 to BGN 100,000; and for precursors or facilities and materials for the production of narcotic drugs, the sanction is imprisonment for a term of two to ten years and a fine ranging from BGN 50,000 to BGN 100,000 (Article 242 (2) and (3) of the Penal Code). When the narcotic drugs trafficked are in particularly large quantities and the offence constitutes a particularly grave case, the penal sanction is imprisonment for a term of fifteen to twenty years and a fine ranging from BGN 200,000 to BGN 300,000 (Article 242 (4) of the Penal Code), and if the offence constitutes a minor case, a maximum fine of BGN 1,000 is imposed according to an administrative procedure (Article 242 (6) of the Penal Code). The law gives the court an option to impose confiscation of all or part of the of-

fender's property in lieu of a fine (Article 242 (5) of the Penal Code). Preparation for trafficking in narcotic drugs is also punishable, by imprisonment for a maximum term of five years (Article 242 (9) of the Penal Code).

In most cases discussed above, the object of the offence and the instruments of crime are subject to forfeiture (Article 354a (6) of the Penal Code).

The penalties provided for drug related offences are relatively severe combining long terms of imprisonment and substantial fines. For example, aggravated cases of drug distribution are punishable by imprisonment for a term of five to fifteen years and a fine ranging from BGN 20,000 to BGN 100,000, which is close to the penalty for murder (imprisonment for a term of ten to twenty years). In the same time, Bulgaria's penal policy on drug related crime is exclusively focused on imprisonment and financial penalties and entirely ignores probation as a non-custodial measure. Probation is not provided for as a penalty for any of the drug-related offences, including minor offences, such as the holding of narcotic drugs without the purpose of distribution (for personal use). This situation clearly indicates that the Bulgarian legislator perceives imprisonment as the most effective method for the correction and re-education of the perpetrators of any drug-related offences, regardless of the specifics of each particular case.[3]

Compared to the general sentencing level in Bulgaria treatment of offenders for drug related crime is less strict. There is a substantial discrepancy between the sanctions provided for in the law and the actual sanctions imposed by the courts. Despite the severe sanctions provided for *de jure*, Bulgarian courts frequently pass suspended sentences or give penalties below the statutory minimum. Over the last years, in the cases instituted in connection with drug-related offences, suspended sentences have outnumbered effective custodial sentences, with nearly half of such cases being concluded without an effective custodial sentence. In addition to the large number of suspended sentences, in cases instituted in connection with drug-related offences the court very often imposes a penal sanction below the statutory minimum or replaces imprisonment with probation, even though probation is not among the penal sanctions provided for the respective type of offence. This is done on the grounds of the possibilities provided for in the law to impose a penal sanction below the lower limit or to replace the penal sanction provided for by a penal sanction of a lighter type.

3. Penitentiary Policy and System in the Republic of Bulgaria, Center for the Study of Democracy, Sofia, 2011, 70-74. Online at: http://www.csd.bg/artShow.php?id=15567, accessed 29 May 2012.

Despite the comparatively severe penal sanctions provided for in the Penal Code, the courts have imposed imprisonment for a term exceeding five years on relatively rare occasions. Imprisonment is most often decreed for terms up to three years.[4]

For some drug related offences the Penal Code provides for heavier penalties if the drugs are 'in large quantities' or 'in particularly large quantities'. These offences are the unauthorized production, processing, acquisition or holding of narcotic drugs or analogues thereof for the purpose of distribution and the actual distribution of such drugs (aggravated cases for both large and particularly large quantities) as well as drug trafficking (aggravated cases only for particularly large quantities). The terms 'large quantities' and 'particularly large quantities' are not defined in the law but are clarified by a decision of the Supreme Court of Cassation. According to Interpretative Decision No 1 of 1998 of the Supreme Court of Cassation the subject of the crime is in large quantities or in particularly large quantities when its monetary equivalent exceeds 70 times or 140 times respectively the minimum salary specified by the government. Since 1 January 2013 the minimum salary has been fixed to BGN 310 (approximately EUR 155).

In principle, drug related offences fall within the jurisdiction of the general courts. The **district courts** (second level in the court system) hear the cases for the majority of drug related offences. The **regional courts** (first and lowest level in the court system) hear the cases for the less serious offences (unauthorized acquisition or holding of narcotic drugs and analogues thereof without the purpose of distribution and breach of rules established for the handling of narcotic drugs). Finally, the cases for giving a lethal dose of a narcotic drug and for the creation of conditions for use of narcotic drugs, the aggravated cases of encouragement of others to use drugs, the cases for organizing, leading, financing or participating in an organized criminal group for the cultivation of opium poppy and coca bush plants or plants of the genus Cannabis or for the manufacture, production or processing of narcotic drugs fall within the jurisdiction of the newly established **Specialized Criminal Court**, which is also authorized to hear all cases for drug related offences committed upon assignment by or in execution of a decision of an organized criminal group. The Specialized Criminal Court is one for the entire territory of the country and is equal in rank to a district court.

The principle of universal jurisdiction is not applied to any drug related crimes. Bulgarian courts can hear a case for a drug related crime only if the offence has been committed on the territory of Bulgaria or by a Bulgarian citizen abroad. Bul-

4. Penitentiary Policy and System in the Republic of Bulgaria, Center for the Study of Democracy, Sofia, 2011, 70-74. Online at: http://www.csd.bg/artShow.php?id=15567, accessed 29 May 2012.

garian courts may also hear a case for a crime committed by a foreigner abroad but only if the offence has affected the interests of Bulgaria or of a Bulgarian citizen.

The prior conviction for the same offence in another country has no specific consequences. If the offender has been convicted in another country for a similar offence the court will evaluate this circumstance together with all other facts relevant to the case. The draft of the new Penal Code, currently discussed at the Ministry of Justice, includes a provision on the relevance of prior convictions in other EU Member States, but the draft has not yet been submitted to the parliament.

4. Drug Law Enforcement in Practice

Police practice towards heroin users includes regular stop-and-search, arrests and harassment, which is often motivated by the fact that heroin users are involved in petty crimes in order to support their daily use. Policing practice towards cannabis users varies, as most often the police harasses occasional users, who consume in public. Regular cannabis users have different patterns and habits of use - they usually avoid consumption in public and therefore are rarely stop-and-searched by the police.

The main illicitly cultivated plants in Bulgaria are of Cannabis genus. The major growing region is the south-west part of the country in the Ograzhden and Belasitsa Mountains. The local producers are regularly targeted by the police in the season when the plants are harvested. Despite the big seizures reported every year the effectiveness is questionable, because there are no estimations of areas under cannabis cultivation and therefore volume of annual illicit production.

Besides the big-scale outdoor cultivation a relatively new trend is the boom of clandestine indoor cultivation. The profile of the in-door producers is diverse - from small scale home-growers to large-scale criminal entrepreneurs. There are 6 'growth' shops in Sofia and 11 in the country. The bulk of their customers are growing cannabis plants in order to support their own use and provide for a small circle of friends. There are few complaints for harassment from the police or specific targeting of law enforcement efforts to this group of small-scale producers. The big-scale producers are more often targeted by the police within police investigations and operations against organized crime groups.

Pre-trial detention does not depend on the drug addiction of the offender. It is implemented upon decision of the court when a justified assumption can be made that the accused individual has committed a crime punishable by imprisonment or a heavier penalty and when the evidence shows that there is an actual risk of the accused individual hiding or committing another crime. Pre-trial detention can be replaced only by one of the other measures provided for in the law, i.e. by recognition not to leave, bail or house arrest. Mandatory treatment cannot

be imposed by the court at the pre-trial stage, while voluntary treatment can in principle be taken into account by the public prosecutor when filing the request for the imposition of a measure of remand by the court when making a decision on the request.

The Penal Code does not explicitly proclaim drug addiction as a mitigating or an aggravating circumstance. Pre-trial detention also does not depend on the drug addiction of the offender. This is why there is no legal obligation to establish substance dependence during interrogation and no such evaluations are carried out.

In Bulgaria, there are neither general provisions dealing with the issue of police entrapment nor specific rules for the offence of drug trafficking.

Separate statistical data are available for all drug related crime without trafficking. The available data for trafficking are aggregated, i.e. they cover both drug trafficking and smuggling in goods.

Table 1
Number of convictions and convicted persons of drug related crime for the period 2004 - 2010

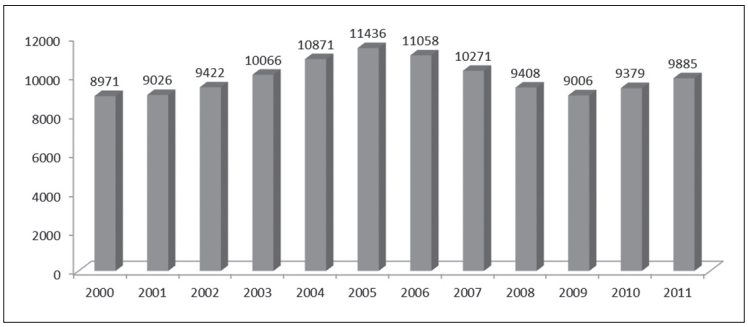
Year	Completed cases	Convictions	Suspended convictions	Acquittals	Terminated proceedings	Release from criminal responsibility
2004	787	235	463	65	3	21
2005	1010	282	573	134	1	20
2006	1826	499	961	346	13	7
2007	1211	569	434	199	5	4
2008	1055	558	375	68	11	43
2009	1372	722	607	33	9	1
2010	1565	809	713	40	3	-

***Source**: National Statistical Institute*

5. Sentencing Levels and the Prison Situation

According to Chief Directorate Execution of Penalties (CDEP) data in 2011 there are 9,885 detained persons in prisons (134.2 prisoners per 100.000 of total population)

Figure 1
Number of detained persons in Bulgarian prisons

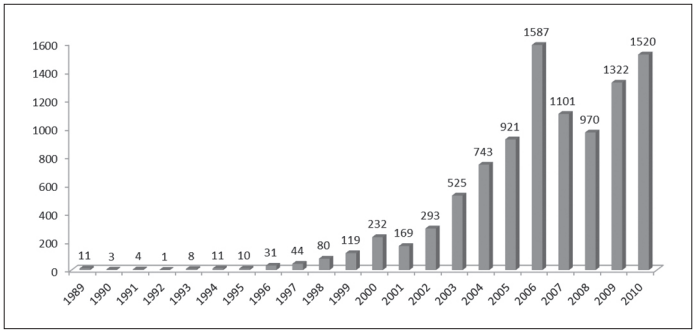


***Source**: Chief Directorate Execution of Penalties*[5]

There are 11 prisons for male offenders, 1 prison for female offenders, 1 reformatory for male juvenile offenders and 1 reformatory for female juvenile offenders.

The persons convicted for drug related offences in Bulgaria have been steadily growing in the last 20 years:

Figure 2
Persons convicted of drug-related offences 1989-2009



***Source**: National Statistics Institute*

5. Cited in: Human Rights in Bulgaria in 2011, Bulgarian Helsinki Committee, Sofia, 2011. Online at: http://humanrightsbulgaria.wordpress.com/, accessed 01st of May 2012.

Table 2

Number of persons sentenced to imprisonment in Bulgaria 2004-2010

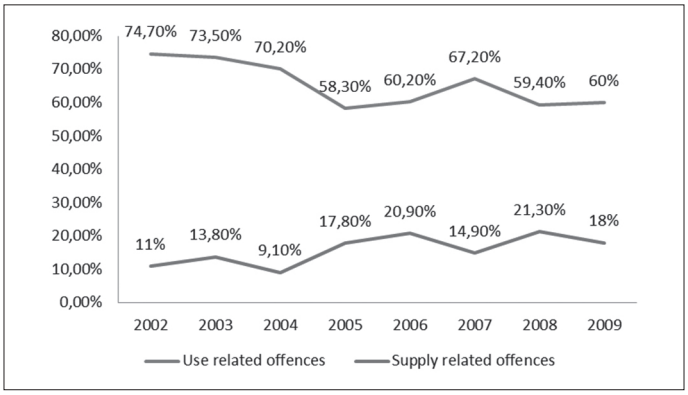
Number of persons sentenced to imprisonment	2004	2005	2006	2007	2008	2009	2010
Imprisoned for drug-related offences	723	893	1481	823	688	977	1155
Imprisoned overall	18219	18452	18847	16814	18464	20823	22411
Share of drug-related imprisonments	3,97%	4,84%	7,86%	4,89%	3,73%	4,69%	5,15%

***Source**: National Statistics Institute*

The EMCDDA statistics for the period 2002-2009[6] indicate, that the majority of drug-related offences in Bulgaria are related to drug use or possession for use. On average 65% of all offences are related to drug use or possession for use while supply related offences account for 16%. There is also a considerable share of offences - which are related both to use and supply (19% of all offences).

Figure 3

Offence types in reports for drug law offences, Bulgaria (2002-2009)



***Source**: Statistical bulletin 2011, EMCDDA*

6. Statistical bulletin 2011, EMCDDA. Available online at: http://www.emcdda.europa.eu/stats11

Overcrowding in Bulgarian prisons is an old issue documented in a number of human rights reports - e.g. the issue is regularly addressed in the annual reports on the human rights situation in Bulgaria of the Bulgarian Helsinki Commitee[7]. The recently adopted Law on Execution of Penal Sanctions and Detention in Custody (LEPSDC), effective as from 1 June 2009 introduced minimum requirements regarding material conditions. These requirements provide that a minimum living floor space of 4 sq. m. should be available for each imprisoned person. Before the passage of the LEPSDC, at the end of 2008 the Council of Ministers adopted a Strategy for Development of the Places of Deprivation of Liberty (2009 - 2015) and an Investment Program for Construction, in accordance with which overhauls and redevelopments are performed.

The economic downturn and the following budget cuts deprived the strategy of appropriate financing and as a result very little progress in the improvement of the conditions has been observed. In the beginning of 2010 the overall occupancy level in Bulgarian prisons was 113.2 persons held per 100 places available[8]:

Table 3
Capacity of penitentiary facilities at 1 January 2010

Penitentiary facility	Number of places available, based on surface area of 4 sq m per prisoner	Number of sentenced persons, defendants and accused held	Occupancy level (number of persons held per 100 places available)
Burgas Prison	442	990	223.0
Varna Prison	700	923	131.9
Vratsa Prison	607	560	92.3
Lovech Prison	964	985	102.2
Pazardzhik Prison	731	620	84.8
Plovdiv Prison	578	1,087	188.1
Sliven Prison	542	263	48.5
Sofia Prison	1,418	1,787	126.0
Stara Zagora Prison	891	948	106.4
Bobov Dol Prison	526	510	97.0

7. http://www.bghelsinki.org

8. Penitentiary Policy and System in the Republic of Bulgaria. CSD, Sofia, 2011: p. 42.

Penitentiary facility	Number of places available, based on surface area of 4 sq m per prisoner	Number of sentenced persons, defendants and accused held	Occupancy level (number of persons held per 100 places available)
Boychinovtsi Reformatory	358	72	20.1
Pleven Prison	416	567	136.3
Belene Prison	567	584	103.0
Total	**8,740**	**9,896**	**113.2**

The last report[9] of the Bulgarian Helsinki Committee marks again that the problem with overcrowding and the poor living conditions in Bulgarian prisons persists.

According to publicly available data in 2010 the Chief Directorate Execution of Penalties (CDEP) registered as drug addicts 1100 - 1200 offenders serving sentence in the penitentiary system[10]. In 2009 the number of registered drug addicts was 1038 offenders, in 2008 - 1 542, in 2007 - 1 143[11]. According to EMCDDA data in 2009 17 per cent of the imprisoned persons in Bulgaria reported lifetime drug use prior to imprisonment[12], and in 2008 - 4 per cent reported on admission drug use within the last year in prison[13]. The most commonly used drugs in the last year were heroin and amphetamines, followed by cannabis and cocaine.

In addition to that, CDEP has provided information about 133 cases of attempts for smuggling of drugs in prisons (67 cases with heroin; 7 cases with cocaine; 27 cases with amphetamine; 32 cases with cannabis). For 2009 CDEP has reported 34 cases of attempts for smuggling of drugs. Drug use in prisons, including injecting

9. Human Rights in Bulgaria in 2011, Bulgarian Helsinki Committee, Sofia, 2011. Online at: http://humanrightsbulgaria.wordpress.com/, accessed 01st of May 2012.
10. Information on provided by National Focal Point on Drugs and Drug Addictions: http://drugs-news.dir.bg/_wm/library/item.php?did=540123&df=8&dflid=3, accessed 01st of May 2012.
11. Annual report on drugs and drug addictions in Bulgaria. National Focal Point on Drugs and Drug Addictions (2010).
12. 2009 national survey in 17 remand prisons among all convicted, defendant adults and detained persons in prison and remand arrest during the year (n= 5776) cited in EMCDDA Statistical bulletin 2011. Online at: http://www.emcdda.europa.eu/stats11/duptab1, accessed on 2nd of May 2012.
13. 2008 national survey in 17 remand prisons among all convicted, defendant adults and detained persons in prison and remand arrest during the year (n= 9983) cited in EMCDDA Statistical bulletin 2011. Online at: http://www.emcdda.europa.eu/stats11/duptab3, accessed on 2nd of May 2012.

drug use is also reported by social workers from NGOs working with imprisoned persons.

A study presented at the XVIII International AIDS Conference in Vienna reports that every tenth of a prison's population (11.7%) had at least once injected drugs and 16.7% of those, who had ever injected drugs, did so in prison[14]. According to the last national progress report to UNGASS in 2009 1.56% of prisoners in Bulgaria were infected with HIV[15]. In comparison the prevalence was 0% in 2006 and 0.5% in 2007. Data from a recent bio-behavioural study among prison inmates shows that overall rate of antibody positivity for anti-HIV was 74%, anti-HBc 59%, anti-HCV -25% and anti-HDV - 46 9%[16]. The authors attributed the huge number of prisoners with viral hepatitis B and C to intravenous injecting of drugs, unprotected sexual contacts, tattoo and other manipulations with skin and mucosa lesions.

There are no reports on drug market violence in Bulgarian prisons.

The National Drug Strategy 2009-2013 under *Objective 5* provides for improvement of the access to prevention, treatment, rehabilitation and harm reduction programs in detention facilities. Several specific actions are planned for the implementation of this strategic task, and they are described in detail in the Action Plan for Implementation of the National Anti-Drug Strategy 2009 - 2013. The measures intended include increase of the methadone treatment programs in all prisons countrywide, as well as optimizing the detoxification of drug dependents admitted to prison hospitals and medical centres.

In addition to that the Penal Code provides that sentenced persons who are dependent on narcotic drugs are supposed to receive appropriate medical care (Article 40 (2) of the Penal Code). The provision is part of the framework of execution of the penal sanction of imprisonment. The Penal Code also provides that when the perpetrator of the offence suffers from alcoholism or another addiction, the court may, along with the penal sanction, also order the so-called "compulsory treatment" (Article 92 (1) of the Penal Code). This is a coercive measure which the court decrees by the sentence. It does not replace the penal sanction but is applied

14. HIV prevalence and risk behaviour among prisoners in Bulgaria, 2006-2007. T. Varleva, V. Georgieva, E. Naseva, T. Yakimova, Choudhri, H. Taskov. XVIII International AIDS Conference, 2010, Vienna, Austria.

15. Bulgaria Country Progress Report. UNGASS (2012).

16. Prevalence of viral hepatitis among inmates of Bulgarian prisons. Popov G., Plochev K., Ramshev K., Ramsheva Z., 2010, 20th European Congress of Clinical Microbiology and Infectious Diseases.

together with the sanction. The court also usually assigns the duration of the compulsory treatment, as well as the type of medical facility where it should be carried out (e.g. compulsory treatment for a term of eight months at a medical facility specialized in the treatment of alcoholism and addictions). Delivery of compulsory treatment varies with the type of penal sanction imposed. Where a non-custodial measure is imposed, compulsory treatment is implemented at "medical facilities with a special therapeutic and work regime". Where the person has been sentenced to imprisonment, compulsory treatment is delivered during execution of the penal sanction, and the duration of the treatment is deducted from the term of imprisonment (Article 92 (2) and (3) of the Penal Code).

Persons sentenced to imprisonment, for whom the court has ordered compulsory treatment by reason of drug dependence, are transferred to the Lovech Prison and are committed for treatment at the Specialized Hospital for Active Treatment of Persons Deprived of their Liberty, which is located in that prison (Article 31 (1) of the Ordinance on the Terms and Procedure for Medical Services at the Places of Deprivation of Liberty)[17]. This is the only facility within the Chief Directorate Execution of Penalties, which provides for treatment of drug dependence. The principal problem of the delivery of treatment of sentenced persons suffering from drug dependence is that it is delivered at psychiatric establishments which are not specialized in the treatment of dependents. The same applies to the specialized hospital with the Lovech Prison where, moreover, the drug-dependent persons are not accommodated separately from the rest of the prisoners.

One major problem related to medical services to inmates who suffer from drug dependence is the fact that, in practice, a very small part of them submits to specialized treatment during the service of their sentences. According to data of the Chief Directorate Execution of Penalties, in 2009 53 prisoners were treated for drug dependence at the Specialized Hospital for Active Treatment of Persons Deprived of their Liberty within the Lovech Prison and another 30 inmates received methadone therapy (out of a total of 1,038 drug-dependent prisoners according to official statistics). By comparison in 2008, out of 1,542 drug dependant prison inmates - 40 persons received treatment in the specialized psychiatric ward in Lovech prison and 61 received methadone treatment[18]. This ranks Bulgaria among

17. Prisoners suffering from drug dependence, in respect of whom the court has not ordered compulsory treatment, may be transferred for treatment to the specialized hospital with the Lovech Prison at their express request (Article 31 (2) of the OTPMSPDL).

18. 2010 National repot (2009 data) to the EMCDDA, National Focal Point on Drugs and Drug Addictions, Sofia, 2011: p. 86.

the Member States of the European Union with the lowest proportion of the prison population receiving substitution treatment.

The problem with the shortage of specialized medical therapies is also confirmed by sociological surveys among prisoners. In a survey conducted in 2006 - 2007, the Bulgarian Helsinki Committee found that 28.3 per cent of the drug-dependent prisoners surveyed reported that they had not received any specialized therapy in prison, 5.2 per cent had seen a psychologist only once, 3.1 per cent had participated in a therapeutic group, 1.2 per cent had received a medical prescription for other medicines, and just 0.4 per cent had participated in a methadone program. Overall, a mere one-fifth of the respondents were pleased with the measures and therapies in which they had participated[19].

Unsatisfactory medical services to inmates who suffer from drug dependence are due to the lack of a consistent state policy in respect of drug-dependent persons. Specialized treatment, if at all available, is in practice the result of isolated initiatives on the part of the administration of individual prisons or of non-governmental organizations. The lack of a comprehensive policy addressing drug dependence among prisoners is compounded by a shortage of financial and human resources. Specialists adequately trained to work with drug-dependent persons are scarce at prison facilities.

There are only a few harm reduction services, which are available in Bulgarian prisons. Among these are voluntary counselling and testing for HIV, as well as screening and testing for tuberculosis. According to Article 34 of the OTPMSPDL[20] imprisoned persons, who abuse narcotic drugs, are subject to an HIV screening test because they are among the groups facing a higher risk of HIV infection. HIV tests, however, are conducted respecting the principles of voluntary compliance and informed consent, which means that the inmates may be tested only if they have given their advance consent after being informed, in a language which they understand, of the essence, objectives and manner of conduct of the test. Intravenous drug-using prisoners are furthermore subject to a microscopic and culture test of sputum (Article 36 of the OTPMSPDL). VCT services for HIV, hepatitis and tuberculosis at prisons are implemented as a part of the National Program 'Prevention and control of HIV/AIDS' and National Program 'Prevention and control

19. Drugs, Crimes and Punishments, Bulgarian Helsinki Committee, Sofia, 2007: p. 72 (available in Bulgarian only).

20. Ordinance on the Terms and Procedure for Medical Services at the Places of Deprivation of Liberty.

of tuberculosis', which are funded by the Global fund to Fight AIDS, Tuberculosis and Malaria.

Needle exchange programs are not allowed in Bulgarian prisons, as well as provision of bleach and disinfectants, though condom distribution is available. Some non-governmental organisations like *Initiative for Health Foundation* in Sofia, *Mothers against Drugs Foundation* in Plovdiv and *Dose of Love Association* in Burgas in cooperation with the prison administrations organise and implement health education courses. Administration in other detention places has also organised and implemented short term health education trainings and CDEP reports that in 2009, 352 prisoners were involved in such programs[21].

The alternative to imprisonment in Bulgaria is the sentence to probation. Where a drug-dependent person is sentenced to probation, the penal sanction may include, as a probation measure, inclusion of the sentenced person in a special program for drug-dependent persons. The Penal Code expressly provides, as a possible probation measure, the inclusion of the sentenced person in a social intervention program (Item 4 of Article 42a (2) of the PC), and the Law on Execution of Penal Sanctions and Detention in Custody specifies that these programs may be developmental and correctional, and the correctional programs may target overcoming dependencies (Article 217 (1) to (3) of the LEPSDC). Social intervention programs are supposed to be organized and paid for by the regional probation service and the law makes it possible to recruit non-governmental organizations and volunteers upon their elaboration and arrangement, as well as to resort to specialized services of natural and legal persons for work with sentenced persons (Article 218 (1) to (3) of the LEPSDC). When the court has not assigned inclusion in a social intervention program as a probation measure, the sentenced person may request inclusion in such a program on his or her own initiative by submitting a declaration in writing to the probation service (Article 251 (3) of the LEPSDC). Probation services face a serious problem in the execution of the penal sanction of probation in respect of drug-dependent persons due to the lack of sufficient human and financial resources for the elaboration and implementation of programs for drug dependents. In practice, there are no organisations providing community based treatment to drug dependant offenders serving probation sentences. Development of such programs requires not only allocating the needed financial resources, but also building capacity for such services in terms of development and establishment of such programs and the training of specialised personnel.

21. 2010 National report (2009 data) to the EMCDDA, National Focal Point on Drugs and Drug Addictions, Sofia, 2011: p. 88.

Currently, there is no specific strategy for social reintegration of drug dependent offenders. The social reintegration of the offenders is included among the activities for meeting the objectives of the National Strategy for Crime Prevention (2012-2020) and specifically - the activities under *Objective 9, Prevention of individuals and groups in risk of criminalization.*

In 2004 and 2005 the National Employment Agency through its regional Bureaus for Employment implemented Programs for re-socialization of individuals released from the penitentiary system. Similar national projects for re-socialization were carried out by the National Employment Agency in collaboration with the Chief Directorate Execution of Penalties in 2009 and in 2010. There are 2 NGOs - Association for Re-Integration of Sentenced Prisoners, based in Sofia (www.ar-spbg.org) and Crime Prevention Fund IGA, based in Pazardjik, which implement projects for social reintegration and re-socialization of offenders following the execution of their sentence. Yet, both of the organisations were not funded from the national budget, but rather from external donors. There is no data available 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 last major drug law reforms undertaken in Bulgaria in the last 10 years were related to the criminalization of the possession of drugs. In 2000 the penal code was amended and new acts were criminalized such as producing, processing and distributing narcotic drugs, giving another person a narcotic drug or an analogue thereof in quantities likely to cause death and death ensues, organizing, leading, financing and/or participating in a criminal group for cultivation of plants such as opium poppy, cannabis plants, etc. New harsher penalties were also introduced in terms of lengths and amounts of penal sanctions. Yet, along with this, new provisions were introduced, which provided that if a person is dependent on narcotic drugs and the quantity of drug found on him indicates that the said quantity is for personal use he is not to be prosecuted[22]. The last became popular as decriminalization of the 'single dose' and it was intended to decriminalise drug use itself and shift police pressure to producers, traffickers and distributers of narcotic substance.

There were several controversial court cases, where the 'single dose' amendment was used as an argument to release drug dealers apprehended with considerable

22. Penal Code, Paragraph 3 of Art 354a: Punishment shall not be imposed on a person dependent on narcotic drugs or analogues thereof, provided the quantity such person acquires, stores, keeps or carries, is such that reveals intention of personal use., repealed on 4th March 2004.

amounts of narcotic substances upon the claim that the amount was intended for personal use. This led to public discontent and eventually in the beginning of 2004 to re-criminalization of all drug related crimes. The amendment was passed by parliament despite the criticisms of experts and civil society organizations, as it kept the harsh sanctions introduced with the amendments of the Penal Code in 2000 and extended their applicability to the cases with possession of small quantities of narcotic substances. In this way the distinction between penal sanction for distribution of drugs and the sanction for possession of drugs became one and the same - imprisonment for up to ten years. The bill was adopted with the assumption that it will bring down the producers and distributors of drugs, as well as curb the levels of drug use in the country.

The negative results soon followed and the number of imprisonments for drug related offences tripled in just 3 years - from 525 at the end of 2003 up to 1,587 at the end of 2006. An impact evaluation study carried out by Open Society Institute and Initiative for Health Foundation in 2005 indicated even worse effects[23]. Two years after the introduction of the amendment, risky injecting practices and cases of overdosing increased. In addition to that there was no reduction in drug use - the number of new starters remained the same, but access to harm reduction services worsened and use became more concealed. Access for drug treatment services also remained inadequate, as the state did nothing to alleviate admission to methadone programs or any other specialised treatment programs.

The growing concern of experts and civil society against the criminalisation of the 'personal dose' compelled the legislator to amend the Penal Code again and in 2006 the distinction between distribution and personal use was reintroduced. The new amendment provided for a light penalty (maximum fine of BGN 1,000) in minor cases. Yet, this provision did not decriminalise possession of drugs, but rather relaxed the sanctions for it. All other consequences arising from the penal sanction, however, are retained, including the impact of sentencing on the conviction status of the sentenced person. In the light that problem drug users (e.g. heroin addicts) are arrested more than one time for possession of narcotic substances, many of them still end up in prison as the second time the court cannot apply the same exemption for a minor case, but rather treats it as recidivism.

Apart from the long disputed criminalization of the possession of drugs, there were also other important initiatives related to drug policy. The most important among these are the following:

23. Heroin users in Bulgaria, one year after outlawing the dose for 'personal use', Bezlov, T., Sofia 2005, Initiative for Health Foundation & Open Society Institute.

- The development and adoption of the 2 National Drug Strategies, which have set the main policy priorities in the field, as well as the needed organisational and institutional framework for their implementation.
- The development and adoption of the National Programme for the Development of a System of Methadone Maintenance Programmes in the Republic of Bulgaria for the period 2006-2008. As a consequence, in recent years there has been an increase in the number of specialised medical centres providing opioid substitution treatment. While in 2005 there were only 5 OST programs in the country with a capacity for 770 patients, by the end of 2011 31 OST programs had been established with a capacity for 5,196 patients.
- The establishment of the National Focal Point on Drugs and Drug Addictions in 2003. The unit carries out informational, analytical and scientific research, expert-consultative, and publishing activities and is the official partner of the European Monitoring Centre for Drugs and Drug Addictions (EMCDDA) on behalf of the Republic of Bulgaria, as well as a participant in the European Network for Information in the field of drug addictions (REITOX). On the other hand, the expertise of NFP is rarely used by the national institutions for development and shaping of the national policies in the field or for introducing evidence based approaches.
- The amendment of the Narcotic Substances and Precursors Control Act in 2011 as a response to the increased number of new synthetic drugs (so called 'legal highs) appearing on the market at high rate. The amendment provides for more easy and speedy listing of the substances under the list of controlled substances. The amendment contributed to preserving the low prevalence of the use of such substances in the country.
- The amendment of the Narcotic Substances and Precursors Control Act in 2011, which introduced a new legal framework for the establishment and functioning of harm reduction programs and psycho-social services in the country. The amendment was developed as a result of a close collaboration between the National Centre for Addictions and the service providers, though it is still not fully implemented and its effects cannot be evaluated.

III. Standpoints of relevant stakeholders on drug law reform

The National Drug Addictions Centre, which is the body responsible for coordinating and providing methodical guidance on prevention, treatment, reduction of medical harms and rehabilitation of drug users and addicts, officially supports the following drug policy reforms:

1. Assuring adequate and sustainable financing of programs for prevention and treatment of drug addictions through establishment of a National Fund for prevention, treatment, rehabilitation and re-socialization of drug addicts, which should accumulate 1% of collected excise taxes on tobacco and alcohol products as per Article 53 of the Bulgarian Healthcare Act. The initiative for this drug policy reform was started by the largest patient organisation in the country - *Protection of Health Confederation as well as New Beginning Community Foundation*. The reform was also officially supported by the *Deputy Healthcare minister and the Parliamentary Healthcare Committee. The Blue Coalition parliamentary group*[24] also developed and submitted in 2011 a bill for establishment of such a fund, which was supposed to accumulate all taxes and fees collected under the Narcotic Substances and Precursors Control Act. The bill was rejected by the Bulgarian Parliament.
2. Amendment of the Bulgarian Penal Code and introduction of the enrolment in drug treatment as an alternative measure to imprisonment for offenders with drug addiction. The amendment should be accompanied with measures for development of the organizational and human resources capacity in the country for the implementation of such measures.
3. Expanding of the geographical coverage and further development of the harm reduction programs in the country.
4. Improving the control over the provision and the adherence to the quality standards in prevention, treatment and psycho-social programs.

The Bulgarian Addictions Institute is an independent non-governmental organization carrying out research in the field of drugs and drug addictions. Their standpoints for drug law reform are summarized below:

1. Decriminalization of the possession of drugs for personal use, based on precise legal definitions and provisions, as well as careful monitoring of the procedural and judicial practices.
2. Introduction of enrolment in drug treatment as an alternative measure to imprisonment for offenders with drug addiction. The reform should be accompanied with assurances of adequate financing, strengthening the organizational capacity and the coordination between the institutions involved.

24. Blue coalition is one of the small parliamentary groups in the 41st National Assembly of the Republic of Bulgaria, which is composed of MPs from several small Christian Democrats Parties.

'Promena movement' association is a non-governmental and not-for-profit organization, which advocates for the rights of drug users in Bulgaria. They are advocating for:

1. Decriminalization of the possession of drugs for personal use, provided that the person is adult and the quantity carried is not bigger than a certain amount clearly specified in the law. They propose that the allowed quantities should be defined accounting for the specifics of the patterns for use of the different drug substances.
2. Decriminalization of the growing of Cannabis Sativa plant, provided that the yield from it also indicates that it is intended for personal use.
3. Legalisation of the prescription of marijuana for medicinal purposes.

Initiative for Health Foundation is a non-governmental and not-for-profit organization, which is managing the first harm reduction program in Bulgaria. Recently they have established a civil society platform - Policy Zone - involving 8 non-governmental organizations, experts, journalists and activists, which are advocating for a reform of the drug legislation in Bulgaria. Their official policy reform objectives are in line with the 'Count the Costs' campaign of the International Drug Policy Consortium and are summarized in a public statement available at the Policy Zone's website (http://www.policyzone.info):

1. Reclassification of the psychoactive substances listed in the Act for control of narcotic substances and precursors according to the best European practices and the existing scientific evidence in order to differentiate the levels of risk associated with the different substances
2. Decriminalization of the possession of drugs for personal use, provided that the quantities are not bigger than a certain amount defined in the law and differentiation of the penalties imposed according to the real risk to public safety
3. Introduction of drug treatment and psycho-social rehabilitation as an integral part of the probation measures for drug dependant offenders and turning these measures into practical alternatives to imprisonment
4. Establishment of a sustainable state financing mechanism for support of the programs for prevention, treatment and psycho-social rehabilitation for drug users.
5. Establishment of a quota for civil society organizations in the National Drugs Council, which is the national coordinating body in the field of drug policy.

IV. Proposals and recommendations for further research and advocacy work

One of the issues, which emerged within the conducted interviews with experts, was the need for advocating about the development and establishment of supervised injection sites or the so called 'drug injecting rooms'. The arguments were that there has been a steady trend in the increase of HIV cases among drug users in the last 5 years, which is coupled with the marginalisation of the injecting drug users and low tolerance of t society towards the outdoor injecting sites in the big cities.

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.

ISBN: 978-960-562-142-1