



Drug Policy Dialogue in South East Europe

Drug Policy and Drug Legislation in South East Europe

Greece



NOMIKI BIBLIOTHIKI

Country Report Greece

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.
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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 Greece

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I. The current national strategy on drugs and drug legislation in Greece

1. National Strategy on Drugs

Greece's *National Strategy on Drugs 2006-2012* was first adopted in 2006. Since 2008, it has been supplemented with the *National Action Plan on Drugs 2008-2012*. At present, Greek policy on illicit drugs is documented in the National Action Plan against Dependence 2011-12; it replaced the preceding National Strategy on Drugs 2006-2012 and its associated Action Plan 2008-2012. Two more action plans are envisaged that will deal with alcohol dependence and other addictions respectively³.

The *Ministry of Health and Social Solidarity* is principally competent to plan and implement policies on demand reduction (primary prevention, treatment and rehabilitation) as well as harm reduction, while the *Ministry of Public Order and Citizen Protection* and the *Ministry of Justice, Transparency and Human Rights* are accountable for the country's law-enforcement and supply-reduction policies.

The major organizations involved in drug policy implementation are:

The Greek Organisation against Drugs (hereafter referred to as OKANA), established under Law 2161/1993 (Government Gazette A' 119) and operational since 1995, has been assigned with the coordination, monitoring and evaluation of the overall policy implementation on demand reduction. OKANA is a self-administered private legal entity that runs under the supervision of the Ministry of Health and Social Solidarity. According to its Founding Charter, the Organ-

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 3. According to Greece's overview in EMCDA, <http://www.emcdda.europa.eu/publications/country-overviews/el>

ization's main objectives are: a. to plan, promote, coordinate and implement a national policy on prevention, treatment and rehabilitation of drug addicts, b. to address the drug problem at a national level, provide valid and documented information, and raise public awareness, and c. to establish and effectively manage prevention centres, treatment units and social and professional reintegration centres.

On one hand, OKANA collaborates with other Greek (ministries, treatment programs, local government authorities, universities, etc.), European and international organisations (the European Monitoring Centre for Drugs and Drug Addiction - EMCDDA, the Pompidou Group of the Council of Europe, the World Health Organisation, the United Nations, etc.) to formulate and coordinate national drug policies; to look into the drug issue in Greece, OKANA works closely with the National Documentation and Information Centre on Drugs and Drug Addiction (EKTEPN). When it comes to prevention, on the other hand, OKANA has liaised with local government authorities in order to create an extended network of Prevention Centres all over Greece alongside several treatment and social reintegration programmes meeting the different needs of addicted individuals.

The Therapy Centre for Depended Individuals hereafter referred to as KETHEA) is the largest rehabilitation and social reintegration network in Greece. It has been established under Law 1729/1987 (Government Gazette A' 144) as a self-administered private legal entity supervised by the Ministry of Health and Social Solidarity. KETHEA has been providing its services to drug addicts and their families since "Ithaki" -the first Greek therapeutic community- was founded in 1983. Its services are offered free of charge on the street and in prisons and rehabilitation units around Greece. KETHEA also assists people suffering from other forms of addiction, including alcohol, gambling and the Internet. KETHEA programmes are drug-free and offer a comprehensive range of services which seek to help individuals recover and build new lives for themselves, in which they participate in society productively and on equal terms. It also provides counseling and drug treatment, family support, health care, education and training, legal support and assistance for social reintegration and vocational re-entrance. KETHEA's aims are full and sustained abstinence from substances for the individual and his/her equitable reintegration into society. KETHEA also runs schools and community-based prevention and early intervention programmes, and it is active in training and research in the field of addiction. Its therapeutic programmes and activities seek to raise awareness of the phenomenon, to promote scientific knowledge, and to continually improve the services offered to addicts and their families.

In 1998, the Greek Documentation and Monitoring Centre for Drugs (hereafter referred to as EKTEPN) was declared a national monitoring centre in charge of official and representative data collection in the field of drugs for Greece, and acts as the Greek REITOX Focal Point (Ministerial Decree of 24/11/93) of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). Its mission is to collect and process official representative data on every aspect of the drugs phenomenon in Greece. EKTEPN monitors the drugs problem in Greece with the use of European indicators and provides Greek and European policy-makers, professionals and the public with detailed information on every aspect of the drugs problem in Greece over time. The data are collected by a nationwide network consisting of over 800 agencies and individuals. Every year, EKTEPN publishes the Annual Report on the State of Drugs and Alcohol in Greece and the Greek Bibliography on Drugs and Alcohol. It also reports the Greek data to the EMCDDA by means of the National Reports it submits.

The Central Anti-drug Coordination Unit (SODN) was established under Presidential Degree No 139/1989 (Government Gazette A' 66); under Presidential Degree No 126/1990 (Government Gazette A' 51), SODN has been sanctioned to function as a National Intelligence Unit (EMP) for Drugs within the European Union. The Central Anti-drug Coordination Unit - National Intelligence Unit (hereinafter referred to as SODN-EMP) operates within the Ministry of Public Order & Citizen Protection. Its members and associate members hail from the four competent prosecuting authorities of the country, namely: the Greek Police, the Customs authority, the Coast Guard, and the Special Control Service of the Ministry of Finance. It aims to the rigid cooperation between law enforcement authorities and to the accurate and timely flow and exchange of information flow so as to effectively tackle the drug issue. SODN-EMP is responsible for: a. collecting, utilizing and exchanging information and intelligence between agencies on specific drug-relevant cases, both nationally and internationally; b. developing a spirit of cooperation between the competent agencies to better address the drug problem; c. coordinating the activities of departments bestowed with multi-faceted authorities or handling cases incorporating international breadth, the solution of which requires extraordinary handling and immediate cooperation of those Agencies; d. resolving any possible disputes relevant to its operation and of possible concern to the interrelated agencies; e. providing direct assistance during research and investigation and every possible means designed mean to facilitate the investigation of drug cases; f. the exchange of information between competent agencies or on operational tactics of drug-dealers, to facilitate the effective prevention and suppression of drug-related offences.

The inter-ministerial Committee for the Coordination of the Fight against Substance Dependence (DESKE) was established in 2010, with the participation of representatives from 10 Ministries; namely, the Ministries of Health, Education, Justice, Citizen Protection (now Public Order), National Defence, Labour, Home Affairs, Finance, Culture, and Foreign Affairs. Its main mission is to draw up a mid-term two-year (2011-12) Action Plan on Drugs under the coordination of OKANA, and also assist OKANA in monitoring the implementation of the national action plan.

This stratagem against drug trafficking has been linked to the contemporary international trend on drug policy. Greece has signed and ratified the following International Drug Conventions: 1. The UN Single Convention on Narcotic Drug of 1961 (ratification: Legislative Degree 1105/1972, Government Gazette A' 36/10-3-1972) - 2. The UN Convention on Psychotropic Substances of 1971 (ratification: Law 348/1976, Government Gazette A' 146/15-6-1976), - 3. The 1972 Protocol amending the Single Convention on Narcotic Drugs (ratification: Law 1549/1985, Government Gazette A' 93/21-5-1985), - 4. The UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (ratification: Law 1990/1991, Government Gazette A' 193/16-12-1991).

Apart from these international Drug Conventions, at a European level Greece has signed the Schengen Convention that was ratified via Law 2514/1997 (Government Gazette A' 140), which envisages cooperation of the participating countries on the fight against drug trafficking within the Schengen zone. Being an EU Member-State, Greece has also built its drug policy around several relevant EU legislative documents, the most important being the Council Framework Decision 2004/757/JHA of October 25 2004, which dictates minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, as well as the EU Drugs Strategy 2005 - 2012 (of 2004) and the Green Paper on the role of Civil Society in Drugs Policy in the European Union(2007/2212(INI).

Additionally, on an international level, Greece has ratified several International Conventions on other important issues of criminal justice, such as organized crime and terrorism, that incorporate provisions concerning the international cooperation on the repression of drug trafficking.

According to the previous *National Action Plan* of 2008, civil society is already playing a key role in prevention against addictive substances and provision of care for addicted individuals. For example, with respect to the fight against drugs, parents' associations already formulate an integral part of a network on care and social solidarity in Greece. Towards this direction, the Ministry of Health and Social Soli-

curity had recommended the creation of an agency called “Society of Volunteers” that would aim at strengthening the work of NGOs active in the field of health care and social solidarity. However, such an agency has not yet been founded. As the Action Plan recognized *expressis verbis* “*in most countries in the developed world, the state shall, in cooperation with civil society, create the necessary prerequisite for the coordinated and well planned development of corporate social responsibility*”. However, the role of civil society on drug policy in Greece is actually rather limited: drug prevention and treatment are only provided through the recognized institutional agencies of OKANA, KETHEA and selected psychiatric hospitals, while the existing NGOs play a rather limited, advisory part.

The current national drug strategy is considered to be comprehensive and balanced, focuses on illicit drugs and alcohol, and encompasses the same pillars as the EU drug strategy; namely: coordination, demand reduction, supply reduction, international cooperation, training, research and evaluation. The 2011 Action Plan includes two foremost priorities: (a) the construction of additional treatment sites for opiate substitution treatment programmes in order to eliminate waiting lists, and (b) the enhancement of coordination of drug policy via transformations at an institutional level⁴.

Nonetheless, it must be noted that drug strategy as part of the general drug policy of the country is affected in its actual implementation by several variables (Lambropoulou, 2003), such as the geographical location and the economic and political instability of the crisis times.

2. National Substantive Criminal Law⁵

The Greek Penal Code (hereafter referred to as GPC) classifies crimes in three categories: felonies, misdemeanors, and infractions/petty offenses. Each crime is thus labeled according to its prescribed penalty, notwithstanding any applicable mitigating circumstances. Accordingly, Article 18 GPC provides that a felony is any unlawful act punishable by incarceration of five to twenty years (long-term imprisonment) or life imprisonment; a misdemeanor is any unlawful act punishable by imprisonment of ten days up to five years (short-term imprisonment), pecuniary

4. According to Greece's overview in EMCDA, <http://www.emcdda.europa.eu/publications/country-overviews/el>

5. For a further analysis of the basic elements of Greek Criminal law, see, *M. Kaiafa-Gbandi/N. Chatzinikolaou/A. Giannakoula/Th. Papakyriakou*, The framework decision on combating trafficking in human beings - Evaluating its fundamental attributes as well as its transposition in Greek criminal law, in *A. Weyembergh/V. Santamaria* (Ed.), The evaluation of European Criminal law, Editions de l' Université de Bruxelles, 2009, pp. 131, 132-138.

fine of 150 € to 15,000 €, or juvenile detention; an infraction/petty offense is any unlawful act punishable by a detention of one day to one month or a pecuniary fine of 29 € to 590 €. Hence, any crime committed by a juvenile is classified as misdemeanor.

This classification is effective in the application of substantive criminal law in terms of:

- *Requisite mens rea*: Felonies are only punishable when committed by intent. The same rule applies to misdemeanors, unless the law specifically introduces a specific exception. On the other hand, infractions/petty offenses are punishable when committed either by intent or negligently, unless the law expressly restricts their *mens rea* to intent (Article 26 GPC).

- *Statutory limitations*: The period of statutory limitation varies according to the type of offence: 20 years for felonies punishable with life imprisonment, 15 years for other felonies, 5 years for misdemeanors, 2 years for infractions/petty offenses. The statute of limitations is temporally extended upon referral of the case to court; such extensions may generally not last for more than 5, 3, or 1 years depending on the nature of the offence as a felony, misdemeanor or infraction/petty offense respectively (Articles 111 and 113 GPC). An exception was recently introduced in Article 118 § 6 GPC (added by Law 3625/2007), related with a number of offences against minors.

- *Prosecution*: In the event of a felony or an infraction/petty offense, charges are normally pressed by the State Prosecutor *proprio motu*. While this is also the standard procedure for misdemeanors, the law requires the injured party to press charges in a number of cases.

The above distinction between the three categories of crimes is also vital for determining the scope of application of criminal laws *ratione loci*, circumscribing *recidivism*, granting *probation*, etc. In the field of *criminal procedure*, different crimes are treated in a different way in practically every stage of the prosecution (pressing of charges, issuance of restraining orders, indictment, referral of the case to court, appeal, etc.).

The majority of cases heard before courts involve misdemeanors. According to data from the National Statistical Service, 73.161 individuals were convicted in 2003, of which 69.622 received a short-term imprisonment sentence (63.107) or a pecuniary fine (6.515), whereas only 360 received a long-term (348) or life incarceration (12). While short-term imprisonment may also be imposed for felonies if mitigating circumstances apply, that does not reduce the statistical dominance of misdemeanors; indeed, the same set of data indicates that 43.808 of the individu-

als sentenced to short-term imprisonment had no more than 3 months to serve, which in turn suggests that the respective cases involved nothing more than a misdemeanor.

Other classifications of crimes are either suggested or envisaged in the general part of the Greek Penal Code: thus, the GPC discriminates between offenses by act or by omission (Article 15), crimes committed with intent or as a result of negligence (Articles 26 *et seq.*), crimes resulting in a more serious harm than intended (Article 29), etc.

Despite its idiosyncrasy, the Greek sanctioning system can be regarded as “dualistic” or “two-track”, its respective two “tracks” being *penalties* and *security and reform measures*. Still, much of the drive favoring reform over retribution -underlying not only particular norms but the very “dualistic” system as a whole- has waned in practice. An focal issue are the provisions on recidivism (Articles 88 *et seq.* GPC), which remain consistently ignored by criminal courts, not to mention that the overall application of “security and reform measures” has not lived up to the original expectations that led to their adoption.

Despite criticism of this sort, the distinction between penalties and measures of reform and security is not uncalled for: for instance, it is imperative to note that the principle of non-retroactivity of sanctions does not apply to the latter (Article 4 GPC).

The *death penalty* was prescribed for certain grave felonies until the early '90s, though it had last been enforced in 1972. As a result of multiple statutory amendments, it was finally abolished for non-military crimes; in fact, Article 7 § 3 of the Greek Constitution (as amended in 2001) currently proclaims that the death penalty may only be prescribed for crimes committed in times of war and in relation thereto. Subsequently, Greece ratified Protocol No. 13 to the ECHR concerning the abolition of the death penalty in all circumstances, which supersedes the pertinent provisions of the Greek Military Code (ratification: Law 3289/2004). As a result, the death penalty has been abolished for all crimes, including those committed in times of war.

Custodial sanctions under Greek law are: long-term incarceration, short-term imprisonment, juvenile detention, psychiatric detention, and detention (Article 51 GPC):

- *Long-term incarceration* is the most austere sentence prescribed and can only be imposed for felonies: long-term incarceration may be imposed for either a fixed term (5-20 years) or life (Article 52 GPC). The GPC also provides for indefinite incarceration (Articles 90 *et seq.* GPC), which is in fact rarely imposed.

- *Short-term imprisonment* is imposed for a fixed term of 10 days to 5 years (Article 53 GPC). As noted above, short-term imprisonment constitutes the hub of crime policy in Greece, at least in terms of its frequency of imposition. It is noteworthy that the actual confinement of a person convicted for a misdemeanor poses the exception rather than the rule: this is due to the ever-increasing alternatives to imprisonment, such as probation, day-fines, or community service, owing their existence to prison overpopulation.

- *Juvenile detention* can only be imposed for crimes committed by individuals aged 15 to 18. In 2003, the provisions of the GPC on juveniles were amended to the effect that the judge now has to specify a fixed period of detention for each convicted juvenile (Article 127 § 2). This period (ranging from 6 months to 20 years) will depend on the penalty prescribed for the same offence when committed by an adult (Article 54 GPC).

- *Psychiatric detention*, applicable to “dangerous” offenders of diminished mental capacity (Article 38 GPC), is rarely imposed in actuality; the same goes as regards *detention* for infractions/petty offences (Article 55 GPC).

The abovementioned custodial penalties are alleviated in the occurrence of certain conditions, such as attempt (Article 42 GPC), *indirect aiding* or abetting (Article 47 GPC), and, notably, mitigating circumstances (Article 84 GPC). Thus, the penalty for a felony can be reduced to a minimum of 2 years (or even 1 year under an alternative proposed reading of the law), as opposed to 5 years which is the minimum period of incarceration prescribed for felonies. On the other hand, the GPC provides for aggregation of penalties in the event of confluent offences (Articles 94 *et seq.* GPC): for instance, the penalty imposed on a person convicted of multiple misdemeanors can extend to imprisonment of up to 10 years, as opposed to 5 years which is the maximum period of imprisonment for each misdemeanor. It then follows that, despite the delineation of custodial penalties, there is a “middle ground” ranging from 2 to 10 years that could potentially correspond to either felonies or misdemeanors. Even in these cases, labeling a crime as felony or misdemeanor does retain its significance in matters such as statutory limitations. Finally, the nature of the imposed sentence (long-term incarceration or short-term imprisonment) is vital in matters such as statutory limitations for the penalty itself, conditional release from prison/*parole* (which may be granted after the convict serves a minimum of 3/5 of the imposed long-term incarceration or of 2/5 of the imposed short-term imprisonment under Article 105 GPC), etc.

The imposition of *pecuniary fines* is becoming more and more prevalent: as regards misdemeanors, a fine can range from 150 € to 15,000 € (subject to adjustment in the special part of the GPC or other criminal laws, particularly affecting the maxi-

imum imposable amount); as regards infractions/petty offenses, fines constitute the most common form of punishment, ranging from 29 € to 590 € (Article 57 GPC). The fines imposed are increased by about 92% in the form of surcharges *pro bono*. Failure to disburse these surcharges amounts to non-compliance with the sentence itself. It is thus evident that the actual fines imposed are almost doubled compared to the net amount provided for each crime.

The most important *collateral sanctions/supplementary penalties* are: deprivation of civil rights (Articles 59 *et seq.* GPC) and forfeiture (Article 76 GPC), the latter occasionally imposed as a measure of security. Both these sanctions are applicable to felonies and misdemeanors alike. Other collateral sanctions such as the prohibition on the exercise a given profession (Article 67 GPC) or the conviction's publication (Article 68 GPC) are of lesser practical significance.

The GPC provides for such *measures of reform and security* as: confinement of persons suffering from mental illness (Article 69), placement of drug addicts and alcoholics into recovery and treatment centers (Article 71), corrective labor (Article 72), prohibition of residence in a given place or territory (Article 73), and judicial expulsion of aliens (Article 74). As previously noted, forfeiture can be imposed either as a collateral sanction/supplementary penalty or as a security measure.

The idiosyncrasy of the Greek sanction system, of which word was made earlier, consists in that the above measures either complement or substitute penalties. In any case, their application usually pivots on the custodial sentence prescribed for each crime.

Quite a few criminal law experts have reservations regarding the distinction between penalties and other measures⁶; they suggest that, in reality, the so-called “measures of reform and security” are penalties under a different tag. Some of these reservations have occasionally found their way into case-law.

Of the measures cited above, the ones that are actually being enforced are: confinement of the mentally ill, forfeiture, and judicial expulsion. The latter's occurrence has lately been on the rise, leading to a number of issues related to aliens' detention prior to expulsion⁷; in fact, certain rules governing probation and parole tend to facilitate the imposition of this measure. The other measures were practically never applied, either due to lack of resources or as a result of constitutional constraints (as in the case of corrective labor). Besides, the placement of

6. See I. Manoledakis, General Theory, v. C, 225, N. Paraskevopoulos, Memory of Chorafas/Gafou/Gardika, II, pp. 227.

7. See N. Chatzinikolaou, The deportation of a foreign national as a sanction of criminal law, 2006.

drug addicts and alcoholics in treatment centers has been fully supplanted by the meticulous provisions of the Code of Statutes on Narcotic Substances⁸.

The eighth chapter of the GPC's General Part concerning the *treatment of juveniles* was amended by Law 3189/2003 and Law 3860/2010 (Official Gazette A' 111). Juveniles aged between 15 and 18 may be subjected to detention to a Young Offender Institution, provided that the offense committed would have been a felony had it been perpetrated by an adult and contains elements of violence against life or physical integrity or it has been committed professionally or habitually; the detention may be imposed if the court finds that penal correction is required and the diversionary measures provided by Article 122 GPC are not sufficient for the specific case. Besides juvenile detention, which is the gravest sanction impossible only to minors aged 15 to 18 years old, the juvenile judge may choose to order a number of educative and therapeutic measures imposed to either children (minors between 8-12 who are not held criminally responsible for any offence, even if liable for prosecution) or juveniles (minors between 13-18 who the court may try either as criminally responsible or not for any offence).

The Greek correctional system has been facing acute overpopulation setbacks for the last 20 years⁹. Combined with the extensive criminalization of common infractions (such as tax and social insurance contribution evasion), these problems have brought about the introduction of various alternatives to custody, such as *probation* (Articles 99 *et seq.* GPC) and conversion to day-fines or community service (Article 82 GPC). These alternatives can be applied *in lieu* of short-term imprisonment not exceeding 3 years. Although supervised probation was recently introduced for terms of imprisonment between 3 and 5 years (Article 100 GPC), the pertinent provisions have yet to be implemented in practice due to lack of resources.

Probation may be mandatory or discretionary, depending on the term of the imprisonment imposed. The basic prerequisite to grant probation is the absence of previous conviction of the offender to imprisonment exceeding one year. The judgment granting probation will also specify a probation period of no less than 1 and no more than 3 years; any conviction for a felony or misdemeanor during that period will amount to a breach of the probation. Conversion of the sentence to a day-fine is normally opted for by criminal courts in the absence of the necessary prerequisite to probation (absence of previous conviction); on the other hand, community service has rarely been applied in actual practice. Of unique

8. See below, paragraph 3.

9. See below, paragraph 5.

-albeit problematic- nature were the previous provisions regarding probation on condition of judicial expulsion, applicable to alien offenders (Article 99 §§ 2-5 GPC, recently abolished by virtue of Law 4055/2012).

Other alternatives, introduced by different legislative acts, have rendered the actual detention of persons convicted to short-term imprisonment a rarity.

The expansion of conditional release/*parole* (Articles 105 et seq. GPC) is likewise significant. The minimum time served with respect to eligibility for parole varies according to the penalty imposed (2/5 for short-term imprisonment, 3/5 for long-term imprisonment, 20 years for life imprisonment); the sole factor to be evaluated by the judge when granting parole is the convict's conduct throughout the time served (Article 106 GPC). Accordingly, the gravity of the offence and the convict's criminal record are inconsequential. Combined with the provisions on voluntary prison labor (which reduces the minimum time served prior to achieving parole), a convict can be released on parole after serving 1/3 of the sentence. In the case of life imprisonment, the minimum time served before applying for parole can be reduced to 16 years. In contrast, exceptions to parole do apply, the most important one being introduced quite recently for persons convicted to long-term imprisonment for drug trafficking¹⁰.

With regard to the above general adjustments, the Greek legal order contains special provisions regarding crimes related to the trafficking of narcotic substances.

The first and oldest (Article. 82 par. 10 GPC) forbids the commutation of custodial sentences into pecuniary fines in the case of offenders convicted for the drug trafficking¹¹ felony. The term "trafficking" has generated serious interpretative conflicts in the past. As a result, case-law frequently incorporates therein certain behaviors (eg. possession) which do not relate to any direct financial benefit from the perpetration¹². The related problems are alleviated, yet certainly not eradicated, by the amendments to Article 82 GPC and the limiting of the debated provision on convictions for felonies, instead of the previous wording, which expressly cited the conviction for a drug trafficking "perpetration".

10. See below, paragraph 2.

11. As stated previously, this possibility (i.e. the imposition of imprisonment for a felon) is conceivable in the case of the court accepting general grounds for a reduction in sentence (attempt, mitigating circumstances, etc.) resulting in reduction of the fundamental temporal limits of imprisonment (5-10 years to 1-6 years).

12. See e.g. AP 1578/2004 CrimLaw 2004, 564.

A stride towards a stricter approach came with the introduction of a divergence from the general provisions for conditional release, via Article 40 of the previous Code of Laws on Drugs (Law 3459/2006, hereafter CLD). According to it, and its recent amendment by Law 4139/2013, if the offender has been convicted to life imprisonment for some of the aggravated forms of trafficking according to Articles 23 and 23A CLD, the minimum term of incarceration, with a view to being examined for possible conditional release, is increased to 25 years (instead of 20 years, i.e. the general provision for life sentence for any other offense), of which 20 must be actively served (instead of the 16 years of active serving provided for life imprisonment), that is, despite any beneficial calculation of time served as a privilege for the convict's work, participation in educational programs, etc.

The amendment of Article 23 CLD on special recidivism followed the same rationale of austerity. It holds that the right is reserved to incarcerate a recidivist offender of whatever felony for life, as stated in the provisions of Article 20-22 CLD.

The introduction of these divergences from the "classical" provisions of the GPC has provoked frequent criticism on behalf of theorists¹³, particularly articulated through the following argument: within the context of serving a sentence, any weighing of benefits and risks should specifically and exclusively relate to special prevention and not to the type of offense implicated. This criticism was partially adopted with the new relevant provisions of Law 4139/2013.

The second group of special provisions in the area of sentence-serving with particular reference to drugs concerns the favorable treatment of drug dependent individuals, with the escalation, under certain conditions, of the possibility for a suspended sentence, the acknowledgement of "special" mitigating circumstances etc. This concerns provisions which relate to the general treatment of dependent users and is examined below¹⁴.

3. National Drug Legislation and Institutions

Greek criminal legislation concerning the use and smuggling of narcotic substances is driven by the trend towards a wide and strict "combatting" of the phenomenon.

The relevant legal framework is structured upon the "use-supply" dualism, utilized by the legislator not only in an attempt to distinguish between users and suppliers

13. See e.g. *L. Margariti*, *CrimLaw* 2001, 855, *Pavlou*, *Drugs*, 241.

14. See below, paragraph 3.

and their respective criminal handling, but also to deal with intermediary acts of supplying, which nevertheless serves the need for the fulfillment of drug addiction.

The foundation of this legal policy structure is reduced to additional counterbalancing with respect to the wrongful nature of the relevant behaviors, as well as the criminal liability of the persons involved. In this fashion, acts of “trafficking” receive an evidently harsher handling than acts of drug use, as any distribution of drugs or their possession with the intention of further distribution endangers the lives and health of an indefinite number of people. Within the same context, the legislator attempts to assess the influence of drug addiction on the perpetrator’s culpability: if the distribution of drugs occurs for reasons of specifically serving the offender’s addiction (e.g. one’s involvement in trafficking to assure one’s dose), this indicates a limited potential for choice, and a subsequently diminished culpability receptive of more lenient treatment.

Until recently, the basic acts of felony trafficking were punishable by incarceration for 10-20 years and a concurrent pecuniary fine of € 2,900 - € 290,000, according to Article 20 of the earlier CLD, According to Article 20 of the new Law 4139/2013 on Addictive Substances (Government Gazette A’ 74/20-3-2013) that amended the earlier CLD, the sanctioning framework for basic felonies of drug trafficking now ranges from eight to twenty years and pecuniary fines rise up to 300,000€. Additionally, according to the innovative Article 21 of the new Law, imprisonment of no more than three years is provided for trafficking of small drug quantities by drug-dependent perpetrators in order to cover their individual needs, or for giving out to familiars for their individual needs in the absence of profit.

Another key element of the previous CLD was the exhaustive enumeration of a plethora of behaviors (among others: importing or exporting, possessing, buying, selling, disposing, storing, intervening, depositing, cultivating, harvesting and transporting drugs). This approach was partially amended by the respective provisions of the new Law 4139/2013.

Until recently, in cases of relevant felonies the law did not explicitly require the perpetrator’s intent to distribute the drugs in possession. However, the differentiated and drastically more lenient typification of drug use¹⁵, implies that the application of Article 20 or any other provision specifically relating to trafficking entails such an purpose for the perpetrator possessing the drugs. If the defendant is proven to possess the drugs for own consumption, then his conduct does not fall into Article 20 and is consequently handled exclusively within the context of the provisions applicable to drug users. This standpoint is now explicitly adopted in the

15. See below, paragraph 3.

new Law No 4139/2013. On the other hand, the affirmation of criminal liability does not require the ascertainment of intention to obtain direct financial benefit for the offender.

The acts of doctors and pharmacists who participate in the distribution of narcotic substances via issuing illegal (i.e. medically uncalled for) prescriptions to drug users are autonomously typified, though considered equivalent in severity to the basic forms of trafficking (Article 22 CLD, now Article 22 of the new Law on Addictive Substances). Besides, the law envisages a multitude of distinct crimes, the affirmation of which entails even harsher criminal sentencing, according to Articles 22 and 23 of the new Law on Addictive Substances (e.g. as the commission of acts under Article 20 by civil servants or recidivists or trafficking in school premises or prisons)¹⁶. Within the most distinct forms for which even life imprisonment may be imposed, the following aggravating circumstances are included: distributing to minors, drug trafficking professionally with an expected financial benefit of more than € 75,000, or with the use of guns or in a manner that could trigger dangerous physical harm or death (Article 23 of the new Law on Addictive Substances). Therefore, the new aggravated forms of drug trafficking are founded mainly on the grounds of a more grave harm/danger against the relevant legal interests (human health/life). Finally, behaviors related to the promotion of drugs (Article 24 of the new Law on Addictive Substances) and driving of vehicles under the influence of such substances (Article 25 of the new Law on Addictive Substances) are standardized as misdemeanors.

Greek criminal law theorists have repetitively highlighted the problems of penalizing drug use, in that such penalties seem unfit with the claims that punishment awaits only those who harm or endanger legal interests of third parties and are not applicable in cases of self-harm¹⁷.

In spite of this, the penalization of drug use as a misdemeanor remains a classic and enduring choice of the Greek legislator, even after the recent effort to change it with the new law.

Article 16 of Law No 3772/2009 introduced a refutable “presumption” concerning the quantity in possession¹⁸. Unless the courts judge otherwise, the pos-

16. See analysis of sentencing below, paragraph 3.

17. See the informative summary on the debate of *N. Paraskevopoulos*, Repression, 121, for further documentation. For a differentiated approach, see recently *Chr. Mylonopoulos*, Poiniki Dikaioissini, 2013, p. 159.

18. 1.5 gr. of heroin or cocaine, 50 gr. of unprocessed cannabis (marijuana) and 5gr of processed cannabis (hashish).

session of any drug quantity below the respective threshold is deemed to cover personal needs, and therefore not considered a felony according to Article 20. However, the new Law on Addictive Substances abolished this provision, leaving it to the court's discretion to resolve this issue in line with the relevant criteria set by the law. The court can opt to abstain from sentencing the defendant if it rules that the punishable offence was completely coincidental and unlikely to be repeated. These are special grounds for judicial remission from punishment for novice, "first time" users.

This provision, combined with other regulations concerning the treatment of dependent users, as well as the general provisions for the suspension/conversion of custodial sentences, significantly reduces the likelihood of actual confinement for one accused exclusively for committing the misdemeanor of drug use.

The "harsh" treatment of drug trafficking acts, combined with the frequent participation therein of drug users for reasons of fulfilling their own needs, has led the Greek legislator to decide that proven addiction bears a mandatorily drastic influence upon the severity of threatened sanctions or even upon culpability of individual acts, proportional to their gravity.

This is a case of an ex lege justification, which provides acknowledged grounds for reduction or remission of culpability¹⁹, based on the evaluation of whether the dependence of the perpetrator limits his willpower as to his/her involvement with any acts of use and/or distribution.

The reduction of threatened punishment is escalated proportionally to the severity of each case of criminal distribution. Specifically:

- The penalty of minimum one year imprisonment (instead of eight to twenty years incarceration) without a pecuniary fine is provided for some of the basic crimes of trafficking in Article 20, chargeable to the drug-dependent defen-

19. See all the debate, referred to in *Parakevopoulos*, pp. 172, *Pavlou*, pp. 269, with further documentation of the different views. According to the Article 30 par.6 of the previous CLD, as added with Article 25 par. 2 N 3811/2009, "the legal character of the acts committed by the perpetrator to whom the conditions of paragraph 1 assist, is judged based on the threat of punishment referred to in paragraph 4 item B and C". This provision confirms that the reduction in punishment, precisely because it is established upon the perpetrator's reduced guilt, influences the nature of the crime, and is not to be identified with other grounds for reduction for punishment (eg. mitigating circumstances), thus solving at birth the acute disagreements of the past between theory and practice. The same provision is located in article 30 par. 5 of the new Law Nr 4139/2013.

dant²⁰. For the crimes of Article 21, the envisaged penalty is maximum one year of imprisonment.

- The dependent perpetrator who has committed aggravating forms of trafficking faces a reduced penalty of up to ten years (instead of 10 - 20 years). The above differentiation evidently pertains to the evaluation that some trafficking behaviors involve an increased level of wrongdoing (e.g. bringing drugs into a military camp, disciplinary facility, etc.) compared to other forms (e.g. possession with the intent of distribution). Finally, in the case of drug use, if the user's dependency is confirmed, he/she remains unpunished and may enroll to a therapeutic facility, (provided that he/she so wishes) according to the provisions of Article 32 CLD.

Clearly, the above provisions express the interests of the legislator towards a more lenient treatment of individuals who get involved in trafficking in order to meet the needs of their addiction. Nevertheless, the powerful incentive for confirming dependence coupled with the fact that the relevant healthcare infrastructure as well as the procedural rigidities had not contributed to the formation of a reliable model to achieve it²¹ until today, combined with the occasional justifiable fear of courts to acknowledge dependence for systematic traffickers, renders the effectiveness of these provisions dubious in practice. It is at times possible for offenders whose trafficking activities were not due to addiction to receive a more lenient treatment, while other defendants a more wary one, especially owing to the generally deficient expert reports. Dependence on drugs can initially be assessed within the context of the general directives of GPC regarding culpability, and hence lead to partial or full abrogation of the defendant's culpability according to Articles 34 and 36 GPC, which in any case specifically refer to drug addiction as grounds for abrogation or diminution of imputability.

However, special provisions are contained in Articles 31 and 32 of both the previous and the new CLD, the scope of which is not limited to crimes related to

20. This concerns the acts of: 1) selling, buying, offering, distribution, provision to third parties, transportation or delivery, storing or depositing of drugs or mediation in these acts, 2) cultivation or harvesting of cannabis or any other plant from which narcotic substances are produced, 3) possession or transportation of drugs, 4) transportation or knowledgeable delivery of parcels etc which contain drugs or orders to complete transactions for such transportation or delivery and 5) the completion of any form of distribution of drugs.

21. See below, paragraph 4.

drugs, but also extend to other punishable offences, provided the assumption that they were perpetrated to facilitate the drug use²².

Encouraging the dependent perpetrator to willfully attend an approved therapeutic detoxification program is the core aim of these provisions, and their implementation is attempted through the subsequent mandatory impact of such a development not only in the course of the penal process but also in its judicial outcome.

In the same context, also:

- If it is confirmed that the perpetrator is successfully attending a therapeutic detoxification program, the public prosecutor may temporarily abstain from prosecution, while completion of such a program may lead to a definite termination of criminal proceedings²³
- Mandatory suspension of military service is granted during the period of therapeutic treatment, while a relevant presumption is introduced for the mandatory suspension of the criminal trial, if the latter is pending.
- Any temporal period in the therapeutic program is considered time served of the sentence impossible in the future.
- By deviation from the general provisions of the GPC, the public prosecutor of the court of first instance, with the consent of the public prosecutor of the court of appeals, may order the suspension of possible sentences imposed on the drug user prior to him/her attending the therapeutic program.
- Successful completion of the program entails the further extension of suspension for any future sentencing impossible, and is also considered a mandatory mitigating circumstance that reduces the penalty.

22. Exclusions are introduced for a series of crimes (culpable homicide, rape, robbery et al), for which the procedural adjustments displayed below are not applicable. It is, however, still possible to assess dependence based on the general stipulations.

23. Article 31 § 1: Suspension of penal prosecution for a specific period, if the offender is attending voluntarily a drug treatment and maintenance program, following a resolution of the Public Prosecutor of Misdemeanours and according to his/her discretion, with the approval of the Public Prosecutor of Appeals. If the perpetrator successfully completes the program, the Public Prosecutor has the discretionary competence to permanently abstain from penal prosecution. This benefit can only be used once for each drug user.

- Relevant favorable provisions also exist for the suspension of any arrest warrants, the granting of conditional release by deviation from the general norms, etc.²⁴

The abovementioned provisions are detailed and attempt to cover the whole spectrum of criminal proceedings. However, the divergence from the relevant provisions for offenses usually perpetrated by drug users²⁵ combined particularly with the ascertained cautiousness of the courts to fully enforce them, as well as the widespread ambiguity concerning therapeutic programs that meet the requirements of the law, have hindered the full reception of these provisions in the contemporary judicial practice²⁶.

In the current provisions of the law on drugs, there is no clear discrimination of liability for the trafficker and/or user, proportionate to the type of drug trafficked or used.

However, an indirect relevant reference can be detected, especially in the following cases:

- In Article 29 § 1a CLD, “drug use” (with a threatened penalty of up to five months imprisonment), includes not only the use, supply or possession of whatsoever drug, but also the cultivation of “cannabis plants to the number or extent which is justified only for his/her [the user’s] individual use”.
- In Article 29 § 1c CLD, according to which “the degree of harm for each drug and particularly the category it belongs to is taken into account regarding the determination of sentence”.

It must be noted that the problem of distinguishing between “soft” and “hard” drugs finds an inverted -problematic- expression in the field of confirming de-

24. Article 32: Conditional release from prison, if the offender has successfully completed a counseling/support program in the detention facilities and an officially certified program by the Ministry of Health and Social Solidarity for the maintenance of treatment and rehabilitation of drug users certifies that the essential requirements for him/her to participate are met. This conditional release is ordered by the Court of the place of detention, even before the completion of the required time as set in Articles 105 et seq. of the GPC for the conditional release of prisoners, provided that the released prisoner has served at least one fifth (1/5) of his/her sentence and that he/she shall attend the maintenance and rehabilitation program. The program’s authorized personnel have the responsibility to inform the competent authorities and to continuously monitor the progress, stability and successful completion of the program on behalf of the released prisoner. In case of undue interruption, the judgment on conditional release is revoked and the released prisoner has to return to prison.

25. E.g. part of the grand larceny and robbery.

26. See rel. *Paraskevopoulos*, Repression, pp. 199 et seq. for further documentation.

pendence. While the legislator demands that this diagnosis -and the consequent activation of the relevant favorable legal stipulations - be based upon the combination of diverse laboratorial and clinical evidence in an attempt to combine the addiction's biological and psychological extent, the competent medical coroners very rarely consent to an affirmative verdict regarding the dependence of a cannabis user.

The threatened sanctions for all drug trafficking offenses are among the harshest in the Greek legal order. To begin with, the basic offenses are punishable by incarceration of at least eight years (i.e. between eight and twenty years), reaching to the harshest custodial punishment in Greek criminal justice, i.e. life imprisonment. If one includes the soaring pecuniary fines (e.g. fines up to € 300.000 for the basic crimes or between € 50,000 and € 600.000 for the specific forms of Article 23), then one can safely refer to “draconian” measures, hardly ever to be encountered in Greek legislation²⁷. It should be noted that Law 4139/2013 has limited the aggravating circumstances punishable by life imprisonment, while the new set of provided penalties grants more opportunities for a more reasonable adjustment of the penalty to the actual responsibility of the perpetrator.

On the contrary, the handling of drug use is considerably more lenient. As mentioned above, the provisions on the misdemeanor of drug use aim to eliminate the likelihood of imprisonment for the offender, whenever he/she is charged with possession etc. of drugs intended exclusively for his personal use.

Finally, it should be mentioned that the Greek legislator has adopted the principle of global justice for acts of drug dealing, as evident in Article 8 i CLD, where Greek criminal law is made applicable on both nationals and aliens for cases of “illegal trading of narcotic drugs”, regardless of the standing laws in the locus delicti and even if the relevant acts were perpetrated outside Greece.

The term “trading” has caused serious interpretative problems as to its exact definition, with case law adopting, as a rule, an excessively broad approach. It integrates not only trafficking behaviors for profit, but also any act of trafficking or contribution thereof from one person to another²⁸.

27. The harshest penal sanctions would be encountered only in N. 3386/2005 on illegal emigration, in its knotty Article 88 § 1 d, by which the legislator threatens life imprisonment and a pecuniary fine of at least € 700,000 (See related *Chatzinikolaou*, *The criminal Repression of illegal emigration*, 2009, page 243).

28. See *Paraskevopoulos*, o.c., 57.

Nevertheless, it should be noted that general concerns are expressed within Greek criminal theory, apart from the classic debate on the limits of the extent of criminal competence with particular reference to the contextual theories (Spielraumtheorie) and those of non-intervention and abuse of rights²⁹. This distress relates to the gradual expansion of the principle of global justice, especially over the last few years, in the area of incorporating the relevant international regulations into Greek law, so far as this expansion entails the possibility of multiple prosecutions for the same criminal act, but also the “selection” of the stricter legal system to prosecute the offender³⁰.

4. Drug Law Enforcement in Practice

In Greece, four (4) law enforcement/prosecuting authorities are in charge of policing drug-law related offences: the Greek Police, the Customs authority, the Coast Guard authority and the Special Control Service. Since 2005, all four authorities have elaborated 2 four-year Action Plans (2005-2008, 2009-2012) to implement a coherent policing of drug crimes. According to the European standards, at an operational level, the main objectives of the Greek law enforcement authorities on drug policing are currently the following: reduction of access to drugs for adolescent youth; escalating efficiency of the law-enforcement authorities at the operational level; increase in seizures of drug quantities; increase in the number of dismantled trafficking teams and criminal organizations; increase in the number of arrests for offences related to drug dealing; increase in amounts of confiscated assets from drug trafficking and money laundering; strengthening international cooperation and controls to create an environment of insecurity and high risk for drug traffickers; comprehensive and in-depth financial investigation on serious drug trafficking cases.

Drug policing routines includes stop-and-search tactics and arrests of both drug-users and dealers, but there is lack of available differentiated data on the arrest ratios for these categories. *Table 1* presents the total number of individuals arrested by the Greek law-enforcement authorities for drug-related offences between 2004-2010.

29. See *Milonopoulos*, International Criminal Law, pp. 99.

30. See *Kaiafa-Gbandi/Chatzinikolaou/Giannakoula/Papairiakou*, in Weyembergh/Santarmaria (Ed.), The evaluation of European criminal law, pp. 131, particularly 159 ep., *Chatzinikolaou*, Illegal emigration, pp. 86.

Table 1
Number of individuals arrested in Greece
for drug-related offences between 2004-2010

Year	Number of arrested individuals for drug-related offences (n)
2004	12.823
2005	14.893
2006	13.960
2007	13.423
2008	16.096
2009	16.464
2010	13.588

Source: SODN-EMP, <http://www.astynomia.gr>

Table 2 lists the total number of cannabis plants that have been detected, uprooted and confiscated by law-enforcement authorities (mainly by the Police), following drug cultivation policing operations between the years 2004-2010.

Table 2
Number of cannabis plants detected,
uprooted and confiscated between 2004-2010

Year	Number of cannabis plants (n)
2004	39.820
2005	34.993
2006	32.495
2007	17.611
2008	23.916
2009	15.515
2010	21.607

Source: SODN-EMP, <http://www.astynomia.gr>

In general, pre-trial detention is ordered for drug-addicted felony offenders according to the provisions of Article 282 § 3 of the Greek Criminal Procedure Code (hereafter referred to as GCPC). Hence, as far as this issue is concerned, they do not receive any extraordinary treatment compared to all other defendants. However, Article 31 of the Law on Addictive Substances states that if, during the interroga-

tion, the perpetrator is found to have acquired the habit of drug use and cannot surpass it on his/her own (i.e. he/she has become a drug addict), the Investigator, with the consent of the Prosecutor, may order his/her induction in a special therapeutic institution as a restrictive measure or as an alternative of pre-trial detention. During pre-trial detention, the perpetrator may attend a therapeutic program in the prison, if he/she so wishes. The temporal period in the therapeutic program is considered time served in pre-trial detention or - in case of a conviction to a custodial sentence - as time served of the sentence. However, there exists no feedback data for the application of the above measure and one can say that it is practically only rarely implemented.

According to Article 30 § 3 of previous CLD, if a defendant claims that he/she is a drug addict, the person authorized to conduct the preliminary inquiry or interrogation must immediately order for an expert examination within twenty four (24) hours from the arrest or during the initial testimony. In case the perpetrator has just been arrested, the individual authorized to conduct the preliminary inquiry must make all due arrangements to immediately receive samples of bodily fluids (urine and blood) and any other relevant biological material of the perpetrator, and send them to the Directorate of Laboratories of Criminological Investigation of the Greek Police or to the Forensic Service or to public hospitals or laboratories of Greek Universities, for the verification of traces of toxic substances or drugs. These samples are gathered by authorized medical personnel of the public hospital in the region of the preliminary inquiry/interrogation, according to detailed procedures envisaged by the Law. Following any such order, expert doctors must immediately examine the defendant and, in any case, not later than forty-eight (48) hours. Then, they must prepare and submit their report as soon as possible, taking into account the results of toxicological analysis of bodily fluids and any other relevant biological material. If the expert MDs conclude that the offender is a drug addict, they must also determine the type of (physical or mental) addiction and, if possible, make an estimation on the addict's daily drug dosage, propose an appropriate treatment and, if asked, pronounce the addiction's impact on the perpetrator's culpability. However, apart from any difficulties that may arise in practice regarding the immediate actions that must come to pass according to the law, the above provision for direct sampling of bodily fluids (urine and blood) and other biological material for reasons of toxicological analyses and laboratory testing outline a method appropriate only for detection of very recent use and not for chronic dependence of the defendant. In general, as noted above, the rigid provisions of the Law on the minimum required medical expertise, combined with the powerful motive of

accused traffickers to be identified as drug addicts, has rendered the current system of diagnosis and judicial recognition of dependence unreliable³¹.

In consequence, according to Article 30 § 2 of the new Law on Addictive Substances, a new system of diagnosis is introduced. In order to diagnose an individual's dependency on drugs, one or more of the following factors are accounted for by the court: documentation issued by a certified drug treatment program, proof of participation in an opioid substitution program, proof of medical attendance for diseases associated with substance use, psychological and social data of the defendant, findings of laboratory tests that reveal drug use for lengthy periods. If necessary, a medical examination may also be ordered at any stage of the criminal proceedings, either *ex officio* or at the request of the defendant, in order to determine dependence, as well as its type and magnitude.

According to Article 28 of the Law on Addictive Substances, officers of the Police, Customs authorities, Special Control Service and the Coast Guard are allowed to appear - after an order issued by their director - as dealers, buyers or carriers, or otherwise as individuals interested in handling, storage or disposal of drugs, in order to discover or arrest anyone who commits any crime referred to in Articles 20, 22 and 23; also, citizens may act correspondingly, on request of the competent drug prosecuting authorities, provided that the procedure abides by the provisions of Article 253A § 3 of GCPC. According to the latter, as regards offences of 187 § 2 and 187A of the GPC concerning organized crime, the investigation may include acts of undercover investigation (police entrapment) with respect to the guarantees and methodology provided by the Law, only if such acts of police entrapment (undercover investigation) are absolutely crucial to ascertain the perpetration of a criminal offence that had been planned by a criminal organization.

Despite the increasing adoption of the relevant provisions by the Greek criminal justice system, it should, however, be noted that theory has expressed strong reservations about their efficiency and-especially-their compatibility with the rule of law³².

The Hellenic Statistical Authority (ELSTAT), authorized with collecting and processing judicial data, yearly updates EKTEPN (Greek Documentation and Monitoring Centre for Drugs) reports on sentences imposed and number of individuals convicted for drug-related offences. According to the last published

31. See above, paragraph 3.

32. See indicatively, *M. Kaifa-Gbandi*, The challenge of drug trafficking within penal repression, *Memory Daskalopoulos/Stamatis/Mpaka*, Vol. A', pp. 103.

Annual Report of EKTEPN (2011), the most recent available data refer to 2008. In keeping with these figures, from a total number of 46,128 sentenced individuals during 2008, 1,831 (4%) have been convicted for drug-related offences. The vast majority of them (95.8%, n = 1.755) were men, while 79% were between 22 and 44 years old.

Of those convicted for drug-related offences, 1,212 (66.2%) were sentenced for drug use, possession or cultivation of small quantity for personal use; 539 (29.4%) were sentenced for drug use, dealing and trafficking; 55 (3.0 %) for drug dealing and trafficking and 25 (1.4%) for drug cultivation/ manufacturing.

The maximum length of sentences imposed for drug use, possession or cultivation of small quantity for personal use is up to one year imprisonment, which is then suspended or converted 98.6% of the time. Of the sentences imposed for drug dealing/trafficking, 98.2% were sentences of long-term incarceration (5-20 years) or life imprisonment; similar data apply to those convicted for drug cultivation/ manufacturing. In their vast majority, these penalties imposed for dealing/trafficking cannot be suspended or converted in pecuniary fines.

5. Sentencing and Correctional System

The following table presents the prison population of Greece during the last decade:

Table 3
Prison population in Greece between 2003-2012

Year	Total prison population (n) (including both convicted and in remand)
2003	8.418
2004	8.726
2005	8.722
2006	9.964
2007	10.370
2008	11.645
2009	11.736
2010	11.305
2011	12.349
2012	12.479

Source: Ministry of Justice, Transparency and Human Rights, <http://www.ministryofjustice.gr>

The Greek Correctional System incorporates 34 institutions of various types, dispersed all over the country and all run by the Ministry of Justice, Transparency and Human Rights. According to Article 19 of the Greek Correctional Code (Law 2776/1999, Government Gazette A' 291), the Correctional System includes general detention institutions, special institutions and therapeutic institutions. According to Articles 11 and 19 of the Correctional Code,, general institutions are distinguished as type A (pre-trial detainees, detainees for debts and short-term prisoners), type C (offenders who have received penalties of life imprisonment or incarceration of more than 10 years and are considered dangerous for cohabitation in the type A and B correctional institutions) and type B (cases not fulfilling the criteria of type A or C). Women are only detained in prisons for females (Article 13 of Correctional Code); they serve their sentence in a separate section of an otherwise male correctional institution (in Thessaloniki) and two immiscibly female prisons elsewhere. Special institutions include juvenile correctional establishments (Article 12 of Correctional Code) and semi-open prisons (Article 19 of Correctional Code). In practice, though, the Ministry of Justice, Transparency and Human Rights discerns between five categories of correctional institutions: agricultural prisons, correctional institutions for minors, closed prisons, special therapeutic institutions and judicial prisons.

The following table presents the number of prisoners imprisoned for drug-related offences during the last decade:

Table 4
Prisoners incarcerated for drug-related offences between 2003-2012

Year	Prisoners for drug-related offences Total number (n)	Prisoners for drug-related offences Percentage of general prison population (%)
2003	3.386	40,2
2004	3.562	40,8
2005	3.465	39,7
2006	4.346	43,6
2007	4.640	44,7
2008	4.912	47,4
2009	4.937	42,1
2010	4.345	38,4
2011	4.303	34,8
2012	4.136	33,1

Source: Ministry of Justice, Transparency and Human Rights, <http://www.ministryofjustice.gr>

As already mentioned, since the maximum length of the sentences imposed for drug use, possession or cultivation of small quantity for personal use is imprisonment up to one year, these penalties are suspended or converted 98.6% of the time, therefore the vast majority of those convicted for these offences do not get imprisoned. Subsequently, even though the majority of those convicted have perpetrated offenses of drug use, possession and cultivation of a small quantity for personal use, the majority those imprisoned have been involved in drug trafficking/dealing.

Since the 1990's and the 2000's, living conditions have become very strenuous in the overcrowded Greek prisons, as the recorded occupancy rates have fluctuated between 140-170%. In 2002, the official capacity of penitentiary institutions was 5,284 beds, with the actual number of prisoners being 8,507. In 2004 and 2005, with a total capacity of 5,584 places, the number of prisoners has risen to 8,738 and 9,589, respectively (CoE, 2007). Even after the implementation of special legal provisions on massive probation or parole of prisoners as extraordinary measures were pressingly adopted in 2005 (Law 3346/2005, Government Gazette A' 140), 2008 (Law 3727/2008, Government Gazette A' 257), 2010 (Law 3904/2010, Government Gazette A' 218) and Law 4043/2012 (Government Gazette A' 25) as part of a prison decongestion policy, the situation has not dramatically changed. *Table 3* presents some relevant data on prison population as recorded on 1.1.2010.

Table 5
Prison population in Greece - 2010

Prison population total (including pre-trial/ remand)	11.364
Prison population rate (per 100,000 of national population)	101 estimated national population: 11,305,000, Jan. 2010 (Eurostat)
Official capacity of penitentiary institutions (1.9.2008)	9.103
Occupancy rate of penitentiary institutions (1.9.2008)	129,6%

Source: Ministry of Justice, Transparency and Human Rights - International Centre for Prison Studies <http://www.prisonstudies.org/info/worldbrief/wpbcountry.php?country=141>

It is generally argued that the drug-addict prison population is bigger than that of drug-law offenders, as several of the latter have only been convicted for crimes against property that are perpetrated to facilitate the purchasing of drugs and not for any drug-related offence (Paraskevopoulos, 2010), therefore the statistical data on correctional institutions fail to portray the actual picture.

There are only few available sets of data embedded in empirical research on the extent, type and definition of drug-use among detainees in Greek prisons. The EMCDDA data (*Table 4*) derives from older studies of only a few penitentiaries and thus may not be considered as sufficiently representative of the Greek correctional system, but rather as a limited guide and accordingly restricted display of reality. As noted by the EMCDDA, lack of recurring surveys with specific methodological criteria obstructs the analysis of trends in most EU countries and impedes analysis and elaboration of outcomes. On the basis of these indicative surveys carried out throughout the country between 1995 and 2000 and also in line with the general trend witnessed of late, one can say that drug users are overrepresented among prison population.

Table 6
Drug use among prisoners in Greece between 1995-2000

References	Year	Definition of Drug Use	Drug used	%	Methodological comments
1	2000	persons reporting lifetime drug use prior to imprisonment	any illicit drug	48	survey in 1 prison amongst on remand and convicted prisoners (N= 136)
1	2000	persons reporting lifetime drug use while in prison	any illicit drug	46	survey in 1 prison amongst on remand and convicted prisoners (N= 136)
2	1999	persons reporting drug use within the last year	cannabis cocaine heroin amphetamines ecstasy	74 14 41 14 4	survey in 1 prison amongst on remand and convicted men (N=80)
3	1998	adolescents reporting lifetime drug use prior to imprisonment	cannabis cocaine heroin amphetamines ecstasy other drugs	46 18 19 4 7 11	survey in 2 prisons for adolescents, both on remand and convicted, enrolled in vocational training (N= 100)
4	1996	persons reporting lifetime injecting drug use		34	survey in 10 prisons (N= 861)

References	Year	Definition of Drug Use	Drug used	%	Methodological comments
4	1996	persons reporting injecting drug use while in prison		20	survey in 10 prisons (N= 861)
5	1995	lifetime drug use prior to imprisonment (based on self-reports and serum tests)	cannabis cocaine heroin	22 6 66	survey in 2 prisons amongst convicted voluntary prisoners (N= 544)
5	1995	injecting drug use prior to imprisonment (based on self-reports and serum tests)		69	survey in 2 prisons amongst convicted voluntary prisoners (N= 544)
5	1995		any illicit drug cannabis cocaine heroin	54 5 0,4 39	survey in 2 prisons amongst convicted voluntary prisoners (N= 544)
5	1995	injecting drug use in prison (based on self-reports and serum tests)		28	survey in 2 prisons amongst convicted voluntary prisoners (N= 544)
6	1995	injecting drug users		31	survey in prison (N=1183)

References (according to the above number of the first column of the table):

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2. Fotiadou M, Livaditis M, Manou I, Kaniotou E, Samakouri M, Tzavaras N, Xenitidis K. Self-reported substance misuse in Greek male prisoners. *European Addiction Research*. 2004; 10:56-60.
3. Aristoteleio Panepistimio Thessalonikis. Diereunisi anagon kai methodon epaggelmatikis katartisis anilikon paravaton kai anilikon se kindino 'Orestis' - Leonardo Da Vinci, Thessaloniki; 2000.
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5. Malliori M, Sypsa V, Psychogiou M, Touloumi G, Skoutelis A., Tassopoulos N, Hanzakis A, Stefanis C. A survey of bloodborne viruses and associate risk behaviours in Greek prisons. *Addiction*. 1998; 93(2):243-245.

6. Malliori M. European network on HIV/AIDS and hepatitis prevention in prison: Annual report to the EC. Marseille/Bonn: ORS/WIAD.1998: pp. 114-118.

Source: EMCDDA Statistical Bulletin 2011:Table DUP-105. *Prevalence (percentage) of drug use among prisoners in EU Member States and Norway - for full list of studies, see emcdda.europa.eu/stats11/duptab105*

Given the large population of drug users in correctional facilities, treatment, psychosocial support and harm reduction interventions in prisons is not only an expression of the right to health care for addicted detainees, but also an essential step towards an effective drug policy.

In the field of treatment, as of 2002 only one public treatment program for drug dependent detainees has been operational, i.e. the Treatment Centre for Drug Dependent Prisoners (KATK), located in Eleonas, Thebes. It was founded by decree of Law 2721/99 (Government Gazette A' 112/3-6-99) as a special therapeutic institution, aiming at providing detoxification therapy for mentally and physically addicted prisoners. The same Law also established a second center to treat addiction in the Kassandra therapeutic community, a plan still unimplemented.

The KATK in Eleonas has the capacity to accommodate 250 dependent inmates, while that still under construction in the Agricultural Prison of Kassandra will be able to treat and bed 360 prisoners.

The KATK program is a dry, voluntary, multi-phase biennial program that aims to: a) physical and mental rehabilitation, b) abstention from delinquency, c) education and training, d) prevention of relapse and social reintegration of the participants.

In addition to KATK, treatment is also available through the therapeutic communities run by KETHEA's "EN DRASI" initiatives in Koridalos Women's Prison and Koridalos Judicial Prison.

Table 7
Prisoners that attended treatment programs (2008-2010)

Year	2008	2009	2010
Number of prisoners	795	1.535	1.550

Source: EKTEPN - *Reitox Focal Point Annual Report 2011*.

Psychosocial support and counselling has also been provided by the “18 ANO” Dependence Treatment Unit of the Attica Psychiatric Hospital and KETHEA in 19 prisons across the country during 2010. According to data provided by EKTEPN - Reitox Focal Point Annual Report 2011, 1822 inmates have received counselling services in prison in 2010.

Support interventions include individual and group counselling, information and mobilization, self-help groups and relapse-prevention groups.

In 2010, eight programmes offered psychosocial support interventions in correctional institutions: seven of them are KETHEA initiatives, the remaining one being the “18 ANO” program³³.

In-prison harm reduction interventions mostly involve information and health awareness (e.g. prevention of infectious diseases), safer drug use and overdose prevention. According to the last available data, all seven (7) KETHEA programmes and the “18 ANO” one held seminars and group sessions during 2010, including individual sessions where deemed fitting, and handed out informative material to raise the participants’ awareness on harm reduction in all nineteen (19) penitentiaries where they operate.

33. List of operational programs and correctional facilities:

KETHEA:

- “STROFI” Open therapeutic programme for adolescents (Attica): Special Juvenile Correctional Establishment in Avlona.
- “PILOTOS” Day-care therapeutic programme for adolescents and young adults (Thessaly): Juvenile Reformatory Facility in Volos, Penitentiary Establishment for Minors in Kassavetia, Special Juvenile Correctional Establishment in Volos, Larissa Judicial Prison, Trikala Closed Prison.
- “OXYGONO” Day-care therapeutic programme for adolescents and young adults (Achaia): Closed Prison in Aghios Stefanos.
- “EN DRASI” In-prison therapeutic programme (Attica): Koridalos Judicial Prison, Koridalos Women’s Prison, Koridalos Prison Psychiatric Division.
- Counselling Unit for Prisoners in Thessaloniki: Thessaloniki Military Prison, Komotini Judicial Prison, Cassandra Rural Prison, Grevena Closed Prison.
- “ARIADNE” Open therapeutic programme for adults (Crete): Neapoli Judicial Prison, Alikarnassos Closed Prison, Hania Judicial Prison, Aghia Rural Prison.
- “MOSAIC” Intercultural transitional day-care programme (Attica): Detention Centre for Alien
- “18 ANO” Dependence Treatment Unit (Attica Psychiatric Hospital):**
- “18 ANO” Prison programme: Koridalos Judicial Prison, Koridalos Women’s Prison, Koridalos Prison Psychiatric Division. Psychosocial support interventions were implemented in 2009 in nineteen (19) prisons and in the Detention Centre for Aliens. Compared to the previous years, such interventions are constantly expanding. Suffice it to mention that in 2005 support interventions were implemented in twelve prisons, in 2006 in fifteen and in 2008 in sixteen prisons.

Table 8
 Prisoners that have participated in harm reduction
 interventions (2008-2010)

Year	2008	2009	2010
Number of prisoners	795	1.535	1.550

Source: EKTEPN - Reitox Focal Point Annual Report 2011.

According to EKTEPN, though, the total number of drug offenders in prison has been consistently increasing for the past twelve years, rendering the foundation of more therapeutic and counselling programs in Greek prisons of vital importance.

As mentioned above, Articles 31 and 32 CLD provide a favourable opportunity for drug-using detainees to avert from serving time in prison to participating into community-based treatment. For drug addicted perpetrators who have committed any of the offences included in Article 20 § 1 CLD or any other offence in order to facilitate the use of drugs (with the exception of crimes such as homicide and robbery³⁴), these mechanisms relate to the voluntary attendance or completion of a drug treatment and maintenance program and are available at all levels of the criminal procedure: pre-trial (pending penal prosecution - Article 31 § 1: suspension of penal prosecution), hearing (sentencing stage - Article 31 §§ 5 & 6: suspension of sentence execution/probation) correctional (in prison - Article 32: conditional release).

Apart from the above provisions, drug-addicted individuals who have been convicted and sentenced for any criminal offence besides drug-related ones may utilize aversion mechanisms at the correctional stage (in prison - Article 32 par. 2: conditional release). According to Article 32 § 2 CLD, and quite similarly to the first paragraph of the Article, any drug-addicted detainee convicted to imprisonment for any criminal offence (not just drug-related) and undergoing a treatment program in a therapeutic institution or in a special penitentiary department (following a Court's mandate according to Article 32 § 1 CLD) may be conditionally released before the completion of due time after successfully attending the treatment program, subsequent to a resolution issued by the competent Judges Council for Misdemeanors of the region of detention and in accordance with Articles 105 et seq. GPC (conditional release of prisoners). The Council decides after having consulted the scientific council of the therapeutic program or the head of

34. The crimes included in Articles 299, 306, 309, 310, 311, 312, 322, 323, 324, 336, 374 seq. a and b and 380 of GPC and Article 2 of Law No 2331/1995 (Government Gazette A 173).

the penitentiary's special department, and may require the additional commitment for the detainee applicant to regularly turn up to a specific drug treatment institution and be subjected to biochemical, toxicological or other tests. If these tests indicate resumption of drug use by the released prisoner or if he/she refuses or neglects to undergo examination according to the Council's decision, the drug treatment institution authorized to monitor the released detainee's follow-up is required to notify the public prosecutor, resulting to the revocation of the decision on conditional release.

Though the above detention-aversive mechanisms envisaged in the Law on Drugs are adequately endorsed in legislation, there is ample potential for implementation in practice, since they are presently only seldom activated. For the years 2008, 2009 and 2010, only 27, 61 and 26 drug addicted detainees respectively were granted conditional release or had their sentence suspended in order to follow out-of-prison dependence treatment programmes following the successful completion of the in-prison support programmes implemented by the three KETHEA agencies ("EN DRASI", Counselling Unit for Prisoners in Thessaloniki, "STROFI") and the "18 ANO" Dependence Treatment Unit (Attica Psychiatric Hospital).

Establishing more therapeutic and consulting programs both in and out of prison would aid towards further implementation of the above aversion mechanisms of community-based treatment for the numerous drug addicted convicts in Greece.

Only in recent years has the Greek correctional policy moved towards organizing a coordinated body commissioned to grant substantial assistance to prisoners and former detainees. The fundamental provisions on this institution are contained in Article 81 § 1 of the Correctional Code, envisaging the founding of an institution - in the legal form of a non-profit Private Law Entity - named "EPANODOS", that will operate under the supervision of the Ministry of Justice, Transparency and Human Rights. The overall goal of this organization is "*the vocational training and rehabilitation, the economic support and gradual reintegration of the released*". Within the first years of its operation, "EPANODOS" has considered the following activities as immediate priorities for the improved implementation of its purpose: undertaking the necessary initiatives to raise awareness and ensure social support for its mission; attempting to guarantee a small financial allowance for released prisoners as a bona fide prerequisite to help them stand on their feet; organizing close cooperation with local authorities and NGOs for the prevention of recidivism for released detainees (especially the drug-addicted, who represent one of the more numerous inmate groups in Greek prisons); contributing to the functional modernization of rehabilitation institutes (i.e.

Societies for the Protection of the Released, Committees on Social Support, and Juvenile Protection Societies); collaborating with the Probation Service towards the protective supervision of released detainees and prompting the formation of volunteer groups to support released prisoners (Courakis, 2010).

Especially with respect to drug-addicted individuals that are released from prison, both KETHEA's "EN DRASI" program and the "18 ANO" Prison Program of the Attica Psychiatric Hospital implement support interventions for released drug-using prisoners. "EN DRASI" provides a) private sessions including motivational interview, individual need-assessment and orientation about the programme, and b) group sessions including counselling and psychological support, medical and psychiatric screening, preparation for entering a therapeutic community and relapse prevention seminars. "18 ANO" organises awareness-raising groups and provides individual counselling to released prisoners who may then seek treatment in its available programmes. In 2008, 2009 and 2010, 167, 172 and 175 released drug users respectively participated in psychosocial support interventions.

All drug-dependence treatment programmes admit released detainees for treatment (dependence treatment and social reintegration), while most also offer legal aid. Moreover, as a complement to in-prison programmes, there are three specialised reintegration structures for released prisoners:

- Admission and Reintegration Centre for Released Drug Users in Thessaloniki (KETHEA).
- "EN DRASI" Admission and Reintegration Centre (KETHEA)
- KATK Social Reintegration Centre.

A total of 46 released prisoners participated in these programmes in the reporting year, a number almost equal to that for 2008 (45 released prisoners). In 2010, the total number of released prisoners that attended a treatment program more than doubled, as 106 individuals attended the programs.

Nevertheless, no available data exists on recidivism of offenders who have already served custodial sentences for drug-related crimes.

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

As to the general institutional legal framework in Greece, the most important legislative initiatives of the last 10 years are the following:

Law 3459/2006 a.k.a. Code of Laws on Drugs - CLD (Government Gazette A' 103): Introduced the codification of all drug-related legislation since the enactment of Law 1729/1987 and up to 2006. This Code, consisting of seven (7) chapters and amassing a total of 61 Articles, attempted a more systematic legislative approach to the problem.

Law 3727/2008 (Government Gazette A' 257): Its 2nd Chapter seeks to harmonize national legislation with the Council Framework Decision 2004/757/JHA of 25 October 2004, which lays the general principles and guidelines on minimum provisions on the constituent elements of criminal offences and penalties. Specifically, this law: a) completes the list of drug-related perpetrations, by adding the offences of dispatching and delivery of drugs in any way, and extraction of drugs (Art. 9 Law 3727/2008); b) envisages that the penalties for the aggravated circumstances of Article 23 § 1 Law 3459/2006 are also imposed for offences regarding large quantities of drugs or for grave harm on public health, while a minimum sentence of 10 years and a concurrent fine of € 2,900 to € 290,000 is impossible for the offences of Article 20, when they are committed by a criminal organization (Art. 10); c) establishes administrative liability of legal persons/entities for criminal offences on drugs (Art. 12); d) deals with matters of jurisdiction of Greek courts for drug-related offences (Art. 13); e) provides that the defendant who claims drug addiction must undergo examination within 24 hours of his/her arrest, and also determines the examination procedures for bodily fluids or other biological material (Art. 14); f) delimits quantities of heroin, cocaine, processed and raw cannabis that are assumed to confirm strictly personal use (unless the court decides otherwise) (Art. 15); g) provides that a more austere policy on conditional release and prison leaves is only applied for those convicted for the aggravated circumstances of Articles 23 and 23A Law 3459/2006 and not for the other offences (Art. 18 and 21).

Law 3772/2009 (Government Gazette A' 112): Amends Article 15 Law 3727/2008 as to the quantity of cannabis assumed to confirm personal use (increases weight from 20 to 50 grams for raw cannabis/marijuana and from 2.5 to 5 grams for processed cannabis/hashish).

Law 3811/2009 (Government Gazette A' 231): Article 25 states that an offence committed by a drug-addict deemed a misdemeanor or felony upon criterion of penalty imposed. Also, the procedure for conditional release for those convicted for the aggravated circumstances of Art. 23 and 23A Law 3459/2009 is amended, emphasizing that the defendant's addiction need be accounted for when imposing pre-trial detention.

The bill on the new Code of Laws on Drugs, passed as “Law on Addictive Substances” - Law 4139/2013 (Government Gazette A’ 74): In September 2011, a new bill supposedly replacing the Code of Law on Drugs came into publicity, and a long public debate ensued. The new legislative initiative put the treatment of addicted users in the epicenter, and could be described as a truly ground-breaking stride within the Greek drug policy. After a delay of almost two years, the new bill was passed by the Greek Parliament on March 20th 2013, though not without several modifications as to the original document. The key-points of the initial draft and the new law, as outlined in the explanatory report, are the following: (1) According to the initial draft’s explanatory report, trafficking of drugs is the basic offence, classified as a felony and punishable with life imprisonment or incarceration of 5-20 years and a concurrent pecuniary sentence, while additional penalties -such as forfeiture and prohibition of residence- are preserved with some improvements. The main terminology of the old Code is also retained and the recommendations of the Framework Decision 2004/757 JHA of the EU Council are taken into account. The new law adopted this main trend, but the sanctioning range for the basic offence was changed to incarceration of 8-20 years. (2) The supply and possession of drugs in quantities intended exclusively for personal use were not considered criminal offences according to the initial draft. Only the cultivation of cannabis plants was still prescribed as an offense (punishable by imprisonment up to three (3) months and a fine up to one thousand (1,000) Euros), even in numbers justifying the offender’s personal use. On the other hand, anyone using drugs in public would be punishable by imprisonment of six (6) months and a fine not exceeding two thousand (2,000) Euros. This innovative proposal was considered very ambiguous, and was finally not included in the new law: drug use and cultivation of cannabis for personal use still persist as misdemeanors punishable by imprisonment up to 5 months (more lenient sentencing compared to the previous CLD). (3) The trafficking of small quantities of drugs and the supply of small quantities to familiars for personal use are considered mitigating circumstances of the basic offence of trafficking, according to specific criteria based on the type, quantity and purity of the drug substance, alongside the specific needs of the user. This was an innovative provision finally adopted in Article 22 of the new Law on Addictive Substances. (4) According to the explanatory report of the draft that was also adopted in the new law, more severe penalties are provided for criminal offences committed by certain individuals (e.g. doctors, pharmacists) or in certain locations (military camps, detention facilities, schools, etc.) or against minors. For these aggravating circumstances, incarceration of minimum 10 years (i.e. 10-20 years) and a fine of € 50,000-

500,000 is proscribed. Trafficking by certain professionals, doctors, pharmacists, and recidivists is considered an aggravated circumstance. (5) The most aggravated trafficking offences are punishable by life imprisonment or long-term incarceration (10-20 years) and a fine up to € 600,000. In contrast to the previous Code, judges now have the discretion to avoid life imprisonment in cases when less dangerous offenders are involved. This threatening disposition of the offender must be related (beyond the professional commission of the offence) to the quantity of drugs, which must be determined with respect to the related financial benefit, in order to avoid employing vague concepts such as “very large quantities”, that entails the risk of a very arbitrary interpretation. (6) A multi-evidence basis for the diagnosis of the drug addiction by the judge is provided in the new bill, besides the medical report envisaged in the previous law. Such evidence may include documents proving participation and monitoring in either a counseling and therapeutic program or a substitute-based protocol, other health conditions associated with the use of drugs (e.g. hepatitis, AIDS or pulmonary edema), psychological and social status of the offender (evident from certifications from social services, organizations, etc.), or findings of laboratory tests that reveal drug use over long periods. (7) The statute on organizations, associations and institutions as regards planning, coordinating and implementing drug policy is systematized.

III. Standpoints of relevant stakeholders on drug law reform

Regarding the new law on drugs, the standpoints of relevant stakeholders could be summarized as following³⁵:

For KETHEA, the initial draft for the new law paced towards the right direction concerning possession for personal use and use of drugs, treatment of users and their families, but also the national strategy on drugs. KETHEA is in favor of decriminalizing possession of drugs for personal use, arguing that in such a case users will not be arrested and stigmatized. As the addicted users imprisoned comprise almost half of the total prison population, decriminalizing drug use would be a correct shift, but some reservations are articulated concerning drug use in public places which may increase the extent of the phenomenon. It

35. Initially, the new bill, as presented above, had the support of KETHEA, OKANA and EK-TEPN, and of several political parties of the country (SIRIZA, PASOK, DIMAR). A group of experts on drugs were invited by one of the political parties represented in the Greek Parliament to discuss the issue of the Bill on the new law on drugs on 21 September 2011, in order to express their general stance and individual comments on it (more analytically see <http://psychografimata.com/7009/sizitisi-gia-to-neo-nomoschedio-peri-narkotikon/>).

is important that treatment must be provided as an alternative to punishment and imprisonment and that a set of favorable measures exists for drug users. KETHEA has expressed its apprehension and criticism on mergers of organizations and institutions dealing with drugs and drug policy and for the financial cut-downs for drug prevention and therapy.

“18 ANO” believes that the intentions of the drafters were good, though it retains some reservations were on specific issues. With respect to treatment, it was indicated that substitution of drugs is a kind of suppression to which 18 ANO is opposite. On the other hand, until now there have existed specific principles and regulations according to which treatment programs operate; doubts were expressed on whether the new bill would be able to sustain them. As to addiction and treatment, 18 ANO underlined that addicted users, exactly due to the nature of their dependence, must not counter any kind of coercion, such as mandatory treatment.

EKTEPN advocated for the enactment of the new law, as it offers some responses to chronic problems through the decriminalization of personal use, the vesting of in-prison treatment, coordinating of the framework decisions on drugs and the national strategic agenda. The new bill, at least at its draft form, is not only a socially equitable and humanitarian decree for drug users, but also a law that will assist cost-reduction for the state, as a prisoner’s costs are 7-14 times greater than the costs of a user under treatment. It is of vital importance to grant organizations and institutions on drugs the opportunity to preserve their resources, at least as presently, so that they may respond to the demand for treatment that amplifies in times of economic crisis.

As far as OKANA is concerned, the new bill is reckoned favorable for the penal treatment of dependent individuals. According to the pervious law, the focal point is drug trafficking and not treatment of drug dependence. On the contrary, the new bill foresees that even a drug user detained for trafficking is granted the opportunity to claim addiction and appeal for proper treatment. Also, expert diagnoses on drug addiction shall be suitably safeguarded according to the new law, so that only the actually addicted users will be characterized as such, thus preventing smugglers and traffickers from pretending addiction en route to a more favorable treatment by the criminal justice system. As to the financial support of prevention programs, it is essential for funds to be allocated therein, because such interventions are significantly prioritized according to the national plan on drug policy. Furthermore, the recruitment of proficient staff is imperative for these programs.

Prevention-oriented Programs are concerned that prevention is not a priority in the new bill, since prevention, rehabilitation and reintegration are linked, co-dependent and cooperating axes: a modification in any one directly affects both others. Regarding the funding of prevention programs, it was suggested that part of the revenue from pecuniary penalties and fines must be allocated for to prevention program in order for them to function more independently. According to the “Initiative for the Rights of Prisoners”, the discussion on any new law on drugs should look into those directly involved, i.e. drug users and inmates, and it is also crucial to envisage a pardon or suspension of sentence to mothers of infants and young children who are detained for drug offences.

Proposals and recommendations for further research and advocacy include:

1. In-prison surveys: research inmate addicted users, evaluate in-prison treatment programs and consider alternative penalties for addicted offenders.
2. Assessment of prevention program.
3. Research on the criminological traits of drug-related offenders and risk-factors for delinquency, inquire on the stereotype of addicted individuals as criminals, but also examine the addicted as victims of crimes.

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

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

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