DIOGENIS

Drug Policy Dialogue in South East Europe

Drug Policy and Drug Legislation in South East Europe

Romania

NOMIKI BIBLIOTHIKI

Country Report Romania

Preface

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

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

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

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

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

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

Bojan Dobovsek Ph. D.

Introduction

In all the countries of South East Europe[1] there are initiatives to change the drug laws. Several countries are changing their legislation in order to adjust it to the new socio-political conditions and some are changing their legislation in order to meet the requirements of the European Union in view of becoming members of the EU.

The Diogenis Association took the initiative to set up a project on *Drug Law reform in South East Europe*, because this is a crucial period for the development of drug policy in the SEE countries within which civil society involvement can play a positive and decisive role. It is our conviction that non-governmental actors in the field of drugs have to have a say in shaping drug policy and influence drug Legislation. This volume is the result of cooperation between the Diogenis Association, NGOs participating in the Drug Policy Network in South East Europe[2] and the researchers affiliated with research institutes and universities in the countries in South East Europe[3].

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

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

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

Discrepancy between strategies and practice

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

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

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

Assistant, Faculty of Law, State University of Montenegro, Montenegro; Andrea Parosanu, researcher, Master of Laws (LL.M.) in Criminology and Criminal Justice, University of Greifswald, Germany and Ecaterina Georgeta Balica, Senior researcher, Associate Lecturer Ph.D. University of Bucharest, Faculty of Sociology and Social Work, Romania; Dragoljub Jovanovic, University of Belgrade, Faculty of Special Education and Rehabilitation, Belgrade, Serbia; Bojan Dobovsek, Prof. Faculty of Criminal Justice and Security University of Maribor, Slovenia and Gašper Hribar, Faculty of Criminal Justice and Security, University of Maribor, Slovenia.

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

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

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

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

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

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

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

Social re-intergation programmes almost absent

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

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

Support for alternative measures to incarceration, reservations to decriminalization

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

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

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

Unbalanced Spending of Financial resources

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

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

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

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

Thanasis Apostolou

Director of Diogenis Association
Drug Policy Dialogue in South East Europe

Country Report Romania

by Ecaterina Balica[1]
Andrea Păroşanu[2]

I. The current national drug strategy and legislation in Romania

1. National Strategy on Drugs

The first National Drug Strategy was implemented in Romania in 2003-2004. After evaluation of the results of its implementation, a second National Anti-drug Strategy was developed for the period 2005-2012.(Currently, the government is working on the new National Strategy on Drugs 2013-2020).

The National Anti-drug Agency in cooperation with both public institutions as well as representatives of the civil society (NGOs, the Romanian Patriarchy and the Roman Catholic Church)[3], played a coordinating role in the framework of the National Anti-drug Policy for the implementation of the Anti-drug Strategy for the period 2010-2012.

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

National Anti-drug Agency (NAA)[4]

NAA is the national coordinator in the fight against illicit drug trafficking and consumption. Under the National Action Plan, the National Anti-Drug Agency is involved in achieving both general and specific objectives. These objectives are listed in the NAA and subsidiary departments within the Agency: Anti-Drug Prevention, Assessment and Counseling Centers (CPECA), National Centre for Training

1. Senior Researcher at the Institute of Sociology, Romanian Academy, Romania.
2. Research Associate of the Institute of Sociology, Romanian Academy, Mediator and PhD Student, Department of Criminology, Faculty of Law and Economics, University of Greifswald, Germany.
3. Action Plan for the implementation of the National Anti-Drug Strategy for the period 2010-2012, approved by Governmental Bill No. 1369 from December 23, 2010 available at http://www.ana.gov.ro/hg1369.php
4. According to the National Action Plan for the implementation of the National Anti-Drug Strategy for the period 2010-2012, approved by Governmental Bill No. 1369 from December 23, 2010 available at http://www.ana.gov.ro/hg1369.php

and Research in Addictions (CNFCA). Thus, NAA carries out, through its subsidiary departments, *prevention activities in schools, prevention within the family and community based prevention*. For this purpose, NAA is involved in initiating training courses for teachers, educators, parents and other groups of people. Also, NAA conducts, in partnership with other institutions, prevention programs at national, regional and local levels.

NAA participates in achieving other objectives too: *medical, psychological and social assistance; the reduction of risks and social reintegration*. For this purpose, it participates in the implementation of programs and policies designed to reduce risks for drug users both within the care system, outside the system and inside the prison system. NAA carries out programs aimed at developing an integrated system for medical, psychological and social assistance as well as social reintegration of drug users.

NAA is involved in supply and demand reduction, international cooperation, informative research and assessment as well as institutionally coordinated activities.

NAA ensures the implementation of the "Romanian Anti-Drug Grand Alliance" (MARA) Program which represents Romania in international drug related activities, coordinates and monitors supply and demand reduction programs, draws up national reports and sends them to specialized institutions and draws up assessment reports on how the National Anti-Drug Strategy is implemented.

Ministry of Administration and Interior - The Ministry of Administration and Interior is involved, through its subsidiary departments (General Inspectorate of the Romanian Police, General Inspectorate of the Romanian Gendarmerie, National Office for Prevention and Control of Money Laundering, Directorate for Combating Organized Crime, General Directorate for Intelligence and Internal Protection, General Directorate of Bucharest Police), in activities to prevent drug use, activities for drug supply reduction, informative research and assessment activities, training programmes for police officers on measures and services for reducing risks associated with drug use, participation in providing individual medical and psychological care, programmes on social intervention and social reintegration, and international cooperation activities.

Public Ministry -The Public Ministry participates in activities for supply reduction and international cooperation.

Ministry of Justice

The Ministry of Justice participates through the National Administration of Penitentiaries and the Probation Directorate in activities stipulated in the National Action Plan for the National Anti-Drug Strategy.

National Administration of Penitentiaries - participates in activities for the initial training of the socio-educational personnel, projects to prevent drug use, risk reduction activities, activities for medical, psychological, social assistance and social reintegration, activities for the individualization of medical, psychological and social assistance.

Probation Directorate - participates in activities for medical, psychological, social assistance and social reintegration, activities for the individualization of medical, psychological and social assistance, and in international cooperation activities.

Ministry of Education, Research, Youth and Sports

This is involved in drug prevention activities: training of teachers, school counselors and other staff, carrying out prevention programs in schools and universities (e.g. the "Health education in schools"), national information campaigns on risk and protective factors for drug use, drug prevention projects in rural areas, drug prevention programs among athletes, studies on drug user profiles, the implementation of quality standards for prevention programs. At the same time, the ministry participates in activities concerning medical, psychological and social assistance as well as the social reintegration of drug users.

The Ministry is also involved, through the National Authority for Sport and Youth, in activities towards developing a database concerning the prevention of drug abuse within the national school curricula.

Ministry of Labour, Family and Social Protection

The Ministry is involved in activities concerning drug prevention: it participates in programs and projects for drug use prevention in schools, families and communities; participates in training programs for specialists from the child protection system and participates in carrying out studies and intervention strategies at work. Also, it is engaged in activities concerning medical psychological and social assistance, and social reintegration (e.g. it ensures the provision of services such as day centers, therapeutic communities, social service shelters, etc.).

Ministry of Health

This participates in programs to prevent drug abuse by carrying out informative/educational projects concerning alcohol and tobacco use at national, regional and local levels. It implements quality standards for prevention programs. It participates in risk reduction projects within the health care system, outside the system, as well as inside detention and prison systems. It is involved in activities regarding medical, psychological and social assistance as well as social reintegration,

concerning the individualization of medical, psychological and social assistance. It ensures the drug user's access to medical assessment services. It provides information and training for physicians on measures and services for risk reduction, it participates in the elaboration of the national curricula as regards risk reduction, it develops studies on risk behaviors associated with drug use (HIV, hepatitis and sexually transmitted diseases).

Ministry of Public Finance - The Ministry of Public Finance is involved in activities concerning drug use prevention, and medical, psychological and social assistance.

Local public administration - The Local public administration is involved in prevention activities conducted at a local level (school, family, community). It participates in national and local informative campaigns regarding the risks associated with drug use. Local authorities should work with other institutions to provide services such as day centers, therapeutic communities and protected housing.

Professional Associations: College of Physicians, College of Psychologists, College of Pharmacists, National College of Social Workers - These participate in activities concerning medical, psychological, social assistance and social reintegration of drug users.

NGOs

Within the Action Plan there are several references to non-governmental organizations. NGOs appear both as partners as well as in authority. There are references to NGO involvement in activities for drug use prevention and risk reduction, activities for medical, psychological, social assistance and social reintegration, without further elaboration concerning the type of NGOs.

NGOs are involved in programs concerning drug abuse prevention in prisons, in rural areas, clubs, and discos. They participate in national campaigns on informing the public and changing the perception of drug users. They participate in carrying out training courses for prison staff.

NGOs carry out activities to reduce risks within the health care system, outside the system and inside detention and prison systems. They provide services for risk reduction inside centers and in society as a whole. They participate in carrying out studies regarding risk behaviors associated with drug abuse (HIV, hepatitis and sexually transmitted diseases).

They provide services for medical, psychological, social assistance and social reintegration inside the Day Centers for social reintegration of drug and alcohol users,

therapeutic communities and shelters within the social services. They participate in the implementation of the individualized medical, psychological and social intervention (case management) at a consumer level.

They participate in the elaboration of the national curricula designed for training in the field of reducing risks associated with drug use.

There are situations where some indications regarding the type of NGOs are made:

a) "NGOs with expertise in the field of phone services type help line" are responsible for the implementation of a national telephone system INFO LINE;

b) "NGOs from the region" that carry out informative/educational projects on alcohol and tobacco use;

c) "Local NGOs" which are involved in prevention projects conducted locally.

Romanian Patriarchy which is involved in carrying out some local/regional projects for drug abuse prevention.

Roman Catholic Church which is involved in carrying out some local/regional projects for drug abuse prevention.

Religious groups and organizations which is involved in carrying out some local/regional projects for drug abuse prevention.

Mass media which is involved in carrying out projects for the prevention of drug abuse at a local and national level.

National Audiovisual Council which participates in the development of national information campaigns to increase public awareness (designed to change attitudes towards drug users) and the realization of audio-video spots with anti-drug messages.

Private Service providers which are involved in the individualization of the medical, psychological and social intervention (case management) and the continuous professional training in the assistance services field.

The Superior Council of Magistracy which participates in outreach activities, research and evaluation.

The Romanian Center for HIV / AIDS which participates in the elaboration of the national curricula regarding reducing drug use risks.

3. International drug conventions ratified by Romania

Romania has ratified the following international conventions:[5]

1. 1961 Single Convention on Narcotic Drugs, as amended by the Protocol of 1972

2. 1971 United Nations Convention on Psychotropic Substances

3. 1988 Convention against Illicit Trafficking of Narcotic Drugs and Psychotropic Substances

4. WHO Framework Convention on Tobacco Control, adopted in Geneva on May 21, 2003

5. Police Cooperation Convention for South Eastern Europe, adopted in Vienna on May 5, 2006

6. Framework Decision 2004/757/JHA establishing minimum provisions regarding the constituent elements of criminal offences and penalties in the field of illicit drug trafficking, adopted on October 25, 2004 by the JHA (Justice and Home Affairs) Council

7. Decision 2005/387/JHA on the information exchange, risk assessment and control of new psychoactive substances, adopted on May 10, 2005 by the JHA Council

8. European Pact to combat international drug trafficking - stopping cocaine and heroin routes, approved June 3, 2010 by the JHA Council

9. European Pact against Synthetic Drugs, adopted by the JHA Council 27-28.10.2011

4. Social aid services included in the Drug Strategy framework

The National Strategy contains specific references related to social services. The National Anti-Drug Strategy has as an overall objective the *II.2 Medical, psychological and social care, harm reduction and social reintegration*. Thus, with this objective in mind, social assistance services were also established to increase accessibility for drug users to integrated medical and psychological care.

5. As indicated on the NAA website (http://www.ana.gov.ro/legislatie_internationala.php accessed on 9.08. 2012) Romania has ratified the international conventions from point 1 to 5 inclusive. The information on the international conventions referred to in paragraphs 6 and 9 were sent to us by NAA on 08.08.2012.

The "Overall objective is[6]

> Increasing accessibility by a qualitative and quantitative development of integrated medical, psychological and social services and measures, individually tailored through evaluation, planning, monitoring and suitable adjustment for each drug user, in order to break off drug use, to free from physical and/or mental addiction and/or reduce drug related risks, with the final aim of reintegrating drug users into society."[7]

We noticed that this strategy also contains directions of action towards achieving the overall objective stability. These directions were put into operation in specific objectives listed in section II.2.B. *Medical, psychological, social assistance and social reintegration.*

> "Overall objective B
>
> Ensuring universal access for drug users and dependant drug users to the integrated programmes of medical, psychological and social assistance, by developing adequate programmes and policies for the general population, drug users and dependant drug users within the medical care system, beyond it and in penitentiaries, with a view to the drug users'social reintegration and reinsertion."[8]

NGOs are mentioned in the National Action Plan regarding the execution of the activities necessary for the objective II.2. A. *Harm reduction* and objective II.2.B. *Medical, psychological, social assistance and social reintegration.*

Overall objective II.2.B. *Medical, psychological, social assistance and social reintegration* has 10 specific objectives and NGOs are mentioned in 7 of these objectives:

> "1. Developing an integrated, three-tier medical care system for drug users and dependant drug users, providing a resource network (following the pattern of the centres of excellence) and guaranteeing access for drug users and universal availability of these services;
>
> 2. Enhancing the availability of medical services (with respect to their diversity, multidisciplinary character and location in the territory) and adjus-

6. For further information see http://www.emcdda.europa.eu/countries/national-drug-strategies/romania
7. Romanian Strategy 2005-2012, p. 7 http://www.emcdda.europa.eu/countries/national-drug-strategies/romania
8. Romanian Strategy 2005 - 2012, p. 8 http://www.emcdda.europa.eu/countries/national-drug-strategies/romania

ting them to the drug users' individual needs and to the type of drug use (single drug use or poly- drug use);

3. Developing necessary resources for active interventions too attract drug users who did not interact with the integrated medical care system nor are prepared for a behaviour change, and providing them with basic medical and social care;
4. Customizing the medical, psychological and social interventions, based on multidimensional evaluation and case management, applied to drug users who interact with the medical care services in a coordinated framework;
6. Ensuring and implementing the legal framework for the development and definition of the specific and specialized roles of 3 tier resources as a constituent and essential part of the public system of medical, psychological and social care for the rehabilitation and social reinsertion of drug users in outpatient units;
9. Developing and implementing the standardization in the medical, psychological and social care system, thus allowing the monitoring and assessment of processes and their outcome."[9]

5. National Substantive Criminal Law

The current Romanian Criminal Code does not differentiate between felonies and misdemeanours as offences. The law defines an offence as "an act provided in the criminal law, representing a social danger and committed in guilt" (Article 17 (1) Criminal Code).

There will still be no distinction in the new Criminal Code which is planned to be enacted in 2013. The draft Criminal Code slightly changes the definition and sets the following determination: "An offence is an act provided in the criminal law, committed in guilt, unjustified and attributable to the person who committed it (Article 15 (1) new Criminal Code).

The current Criminal Code provides for three categories of penalties for natural persons (?) (Article 53 Criminal Code):

- main penalties
- complementary penalties
- accessory penalties

9. Romanian Strategy 2005 - 2012, p. 8, http://www.emcdda.europa.eu/countries/national-drug-strategies/romania

Main penalties include:

- life imprisonment
- imprisonment from 15 days to 30 years
- fines from 100 RON to 50.000 RON.

Complementary penalties are divided into:

- the prohibition of the exercising of certain rights from one to 10 years
- military degradation.

The accessory penalty is the prohibition of certain rights stipulated by the law

(Article 64 Criminal Code). The Criminal Code further provides the main and various other additional penalties for legal entities. The main penalty is a fine from 2.500 RON to 2.000.000 RON (Article 53^1 Criminal Code).Security measures such as admission to a medical facility are also provided by the law.

Regarding minors, special provisions are applicable (Article 99 et seq. Criminal Code). Criminal responsibility starts at the age of 14 years. The age group of 14 and 15 year-olds is criminally responsible if juveniles commit a criminal act with discernment. 16 and 17 year-olds are fully criminally responsible. The Criminal Code sets out educational measures and penalties. Educational measures include reprimand, supervised freedom, admission to a rehabilitation centre or admission to a medical-educational institution. Penalties applicable to minors are imprisonment or a fine. Penalties are reduced by half for juveniles.

According to the new Criminal Code, still in draft form, the classification between main, complementary and accessory penalties will be maintained, without differentiating between natural persons and legal entities. In addition, additional penalties include publication of the judgement. Regarding juveniles, the new Criminal Code will unite the categories of educational measures and penalties under the term 'Educational Measures'. Educational measures are divided into custodial and non-custodial measures. The catalogue of non-custodial measures will be extended.

The Law on the Execution of Criminal Penalties (Law No. 275/2006), further completed and amended, provides the legal framework for custodial sentences. In addition, the Criminal Code sets general regulations for the execution of liberty depriving penalties. The law differentiates between the following treatments for the execution of imprisonment:

- maximum-security treatment
- closed treatment

- partially closed treatment
- open treatment

The execution of the penalty of imprisonment shall be carried out in prisons destined expressly for this purpose.

The Criminal Code provides for the opportunities for conditional release and conditional sentencing.

Conditional release (Art. 59 et seq. Criminal Code) from prison is applicable for persons having executed at least two thirds of the penalty of imprisonment if convicted to a sentence up to ten years. Regarding persons convicted to a penalty of imprisonment exceeding ten years, conditional release is applicable if she/he has executed at least three quarters of the penalty. The persons have to be consistent in their work, well-disciplined and show serious improvement, taking into account any criminal antecedents.

In case one or more acts were committed in negligence, a person sentenced to imprisonment of up to ten years can be released conditionally after having executed at least half of the penalty. When the person was convicted to more than ten years imprisonment, they can be released conditionally after having executed at least two thirds of the penalty. The further conditions mentioned above are also to be met.

Persons convicted to life imprisonment can be released after serving 20 years, if the person is consistent at work, well-disciplined and shows serious improvement, taking into account any criminal antecedents. Male convicts over the age of 60 and female convicts over the age of 55 can be released conditionally after serving 15 years if the other conditions are also met.

Special provisions are applicable regarding offences committed as juveniles and with regard to older offenders. Persons convicted while a minor, when reaching the age of 18, as well as males convicted over the age of 60 years and females convicted over the age of 55 years can be released after serving one third of their sentence, if the penalty was up to ten years. In case the person was sentenced to a penalty of more than ten years imprisonment, conditional release is applicable after having executed at least half of the penalty.

The sentence is deemed executed if during the time interval between conditional release and the expiry of the penalty the offender has not committed a new offence.

The court can impose a conditional sentence to allow the convicted person to serve the sentence in a non-liberty depriving way. The law differentiates between a **conditional sentence** ("suspension of the execution of the penalty") and the **conditional sentence under supervision** - probation ("supervised suspension of the

execution of the sentence"). A conditional sentence (Art. 81 Criminal Code) is applicable if the following conditions are met:

- the sentence is imprisonment of a maximum of three years or a fine
- the offender has not been previously sentenced to a penalty of imprisonment of more than six months, except for cases relating to the provision of Art. 38 Criminal Code (convictions that do not entail recidivism)
- it is deemed that the aim of the penalty will be achieved even without the execution of the penalty

The period for trial consists of the sum of the penalty to which two years are added.

The conditional sentence under supervision - probation (Art. 86^1 Criminal Code) is applicable in the following cases:

- the penalty applied is imprisonment of no more than four years
- the offender has not been previously sentenced to a penalty of imprisonment (except for cases relating to the provision of Art. 38 Criminal Code - convictions that do not entail recidivism)
- it is deemed that, taking into account the convicted person, his/her behaviour after commission of the act, that the pronunciation of the conviction is a warning for him/her and, even without the execution of the penalty the person will no longer commit offences.

The trial period for the conditional sentence is comprised of the sum of the penalty of imprisonment applied, to which two to five years are added, as decided by the court. During the trial period, the offender has to submit to certain supervision measures. The court may also impose obligations.

Regarding minors, the trial period includes the sum of the penalty of imprisonment, to which six months to two years are added. If the applied penalty is a fine, the trial period is 6 months (Art. 110 Criminal Code).

The court can order the execution of the penalty at a work place or at another location (community service), taking into account the seriousness of the act, the circumstances under which the act was committed, the offender's professional and general conduct and the possibilities for him/her to be re-educated, and if it deems that there are sufficient reasons for the purpose of the penalty to be attained without deprivation of liberty (Art. 86^7 Criminal Code). The following conditions must be met:

- the penalty applied is imprisonment of no more than five years
- the offender has not been previously sentenced to imprisonment for more than one year (unless the sentence is one of the cases provided in Art. 38 Criminal Code)

Community service may also be applied to juveniles.

The **new Criminal Code** extends the ability of the courts to refer offenders to re-integration programmes and introduces the **suspension of the application of a penalty**. The court can decide to postpone the sentence (Art. 83 new Criminal Code) if the penalty established is a term of imprisonment not exceeding two years or a fine, the convicted has not been previously sentenced to imprisonment (except for certain cases), he/she has agreed to do community service and the immediate application of the penalty is considered not to be necessary, taking into account the perpetrator, his/her behaviour before committing the act, the efforts to eliminate or mitigate the consequences of the offence and his/her chances for improvement. The probationary period is two years and refers to supervision measures and obligations. Among the directives a court can impose is also community service for a period of between 30 and 60 days. Following the probationary period, the court will not apply the penalty.

The court can order a conditional sentence under supervision if the penalty applied is imprisonment not exceeding three years and the other conditions, see above, are met (Art. 91 new Criminal Code). The period for probation is a term between two and four years. During the probationary period, the offender shall serve community work for a period of between 60 and 120 days. The court orders further supervisory measures and obligations.

The new Criminal Code provides for the conversion of a fine into community service, with the consent of the offender, if he/she is not able to pay the fine partly or in total (Art. 64 Criminal Code).

The provisions for conditional release (Art. 99 et seq. new Criminal Code) in the new Criminal Code are similar to the current legal provisions. In addition to the minimum term served in prison, the law provides that the offender exhibit good behaviour during the period of execution of the penalty, fully meet the obligation established by the court, and the court be convinced the offender improved his/her behaviour and can be reintegrated into society. The new law does not differentiate any more between female and male convicted persons and unites the age group for all at 60 years old in order to be able to apply for earlier release. The new draft law also introduces the opportunity to impose measures of supervision and obligations such as attending a social reintegration course, if the rest of the unexecuted penalty at the time of release is two years or more.

Drug-related offences are regulated by a special law to combat illicit drug use and trafficking. The Criminal Code no longer contains provisions for drug-related offences after the coming into effect of the special law.

6. National Drug Laws and Institutions

In 2000, the Law No. 143 regarding illicit drug use and trafficking[10] came into effect. The law was further modified and amended in following years. Previously, drug use and trafficking was penalized by the Criminal Code (Art. 312[11]). Law No. 143 regulates drug law offences and sentences.

The law was amended in 2004 by Law No. 522, introducing aspects regarding drug user care, harm reduction measures, distinct provisions on drug use prevention, etc. The law differentiates between drug use and drug addicted persons.

Law No. 339/2005 regulates the legal classification of plants, substances and preparations with narcotic and psychotropic content (it abrogated Law No. 73/1969 on the classification of narcotic substances and products). It provides for the judicial regime regarding cultivation, production, manufacture, storage, trade, distribution, transportation, possession, provision, transmitting, mediation, purchase, use and transporting of plants, substances and preparations defined as drugs in the annex of Law No. 143/2000.

Drug possession and trafficking are penalized. Law No. 143 specifies drug-related offences as cultivation, manufacture, experimentation, extraction, preparation, transformation, provision, sale, procurement and purchase, dealing, delivery under any title, transmitting, transportation, possession and other operations related to drug circulation (Art. 2 (1)).

In 2011, Law No. 194 on combating operations with products likely to have psychoactive effects, other than provided by current laws, entered into force. This law establishes the legal framework for preparations, substances, plants, fungi, or combinations thereof, likely to have psychoactive effects. It provides for measures to prevent and combat the use of these products in order to protect public health.

In Romania, drug use is not penalized, but the possession of drugs represents an offence. Although Law No. 143/2000 (Art. 27 (1)) provides that the use of the nationally controlled substances without medical prescription is prohibited in Romania, the law does not stipulate a sentence for drug use. Persons using drugs can be included, upon prior consent, in integrated care programs (Art. 27 (2)).

10. Law No. 143/2000 *on preventing and combating illicit drug trafficking and consumption.*

11. With the enactment of the Law No. 143/2000, Art. 32, the provisions of Art. 312 Criminal Code regarding narcotic products or substances are abrogated.

The law provides for distinct types of drugs as 'risk' or 'high risk' drugs. High risk drugs are listed in schedule III and risk drugs in schedules I and II of the annex of Law No. 143/2000.

Schedule I includes plants, substances and preparations containing forbidden psychotropic and narcotic substances, without any recognized interest for medicine.

Schedule II refers to plants, substances and preparations containing forbidden psychotropic and narcotic substances, with a recognized interest for medicine, subject to strict control.

The list in schedule III names plants, substances and preparations containing forbidden psychotropic and narcotic substances with a recognized interest for medicine, subject to control.

In addition, the annex in the law contained a list of precursors/substances frequently used in drugs manufacturing in schedule VI.

Regarding risk drugs, the Law No. 143 provides for the above mentioned drug law offences (Art. 2 (1)) imprisonment of three to 15 years and the prohibition of certain rights (Art. 2 (1)). For high risk drug related offences the law stipulates imprisonment of 10 to 20 years and the prohibition of certain rights (Art. 2 (2)).

Bringing risk drugs into the country or taking them out, as well as import and export, are punishable by imprisonment of 10 to 20 years and the prohibition of certain rights. In case the actions refer to high risk drugs, the law provides for imprisonment of 15 to 25 years and the prohibition of certain rights (Art. 3).

For cultivation, production, manufacturing, experimentation, extracting, preparing, processing, buying or possession of risk drugs for one's own consumption the sentence is imprisonment between six months and two years, or a fine. Regarding the mentioned actions involving high risk drugs, the sentence consists of two to five years imprisonment (Art. 4).

Making available a place for public access for illicit drug consumption or tolerating consumption in such spaces is punishable by imprisonment from three to ten years and prohibition of certain rights (Art. 5).

Deliberate prescription of high risk drugs by a physician without medical necessity is sentenced by one to five years imprisonment (Art. 6).

Administering high risk drugs to a person carries a sentence of imprisonment of one to five years (Art. 7).

The supplying of toxic chemical inhalants to a minor, in view of consumption, is penalized by imprisonment from six months to three years (Art. 8).

Regarding the organization, management or funding of the actions set out in Articles 2-8, the maximum limits of punishment shall be increased by three years (Art. 10).

Furthermore, encouragement of illicit drug consumption is punishable (Art. 11). If the actions stipulated in Articles 2, 6-8 and 11 resulted in the victim's death, the offender is sentenced to imprisonment from 10 to 20 years.

Regarding products likely to have psychoactive effects, Law No. 194/2011 provides for sentences concerning offences stipulated by the law.

Persons who, without authorization, perform operations with products knowing that they are likely to have psychoactive effects are to be sentenced with imprisonment from two to eight years and denial of certain rights. Persons performing such operations that should or could anticipate the psychoactive effects are sentenced to one to three years imprisonment (Art. 16). Persons who intentionally perform operations with products likely to have psychoactive effects, claiming that they are authorized or when the sale is permitted, are punishable by imprisonment of three to ten years (Art. 17) and denial of rights. If the offences resulted in injury of one or more persons who require medical care for healing, the penalty is imprisonment from six to twelve, or seven to fifteen years, depending on the seriousness of the injury. If the offence results in the death of a person, the penalty is imprisonment from 10 to 20 years (Art. 18).

Overall, the sentences for drug-related crimes are to be characterized as strict compared to other offences. Some drug law offences (Art.2 (2)) reach the same maximum limits of sentencing as serious offences such as homicide (which is punishable by imprisonment of 10 to 20 years), or even first degree murder (punishable by imprisonment from 15 to 25 years) in the case of offences stipulated in Article 3 (2) Law No. 143. This aspect is also apparent with regard to the treatment for the execution of penalties. Persons sentenced to imprisonment exceeding a term of 15 years, must serve their sentence in a maximum-security treatment facility (Art.20 (1) Law No. 275/2006 on the Execution of Criminal Penalties).

Law No.143/2000 distinguishes between the activities of "offering for sale, sale, distribution, delivery under any title, sending, transportation, procurement, purchasing, holding or other transactions related to ***the circulation of risk drugs***, without right" (Article 2 (1)) and the same activities with ***high risk drugs***. For these offences the penalties stipulated are different. Whenever trafficking activi-

ties involve risk drugs, the penalties range from 3 to 15 years (Article 2 (1)). The penalties for high risk drugs are from 10 to 20 (Article 2 (2)).

Also, Law No. 143/2000 distinguishes between the activities of "entering or leaving the country and the import or export of ***risk drugs***, without right" (section 3 (1)) and the same activities, but involving ***high risk drugs*** (Article 3 (2)). The penalties for the activities involving risk drugs are from 10 to 20 years (Article 3 (1)), and those for high risk drugs from 15 to 25 years (Article 3 (2)).

Law No. 143/2000 sanctions drug possession. Therefore, a person who is caught holding drugs may be punished for possession of drugs for personal use or for drug trafficking. Law No. 143/2000 does not specify the quantity of drugs considered to be for personal use and the quantity considered drug trafficking. For this reason, in practice judges take into account the person's intention (they had drugs for their own use or for drug trafficking). In reality, there are many consumers who are caught holding small amounts of drugs and are sanctioned for drug trafficking; many of them tend to "borrow" from one to another. For these drug dealers, the judge gives the sentence for penalty under the supervision of the Probation Service.[12]

The District Court prosecutes the causes because it is considered that drug offences, stipulated by Law No. 143, are of high severity.[13]

In the case of an offender that has previous convictions for drug offences in another country - if the conviction does not appear in the criminal record-, the court does not have knowledge of the conviction, and then the offender is considered as a primary offender.

If the court is aware of it, appropriate steps for the recognition of a judgment from another country must be taken. The procedure is quite complicated.

7. Drug Law Enforcement in Practice

7.1. Types of punishment or law enforcement

The penalties for drug offences have changed over time. Thus, the penalties provided by Law 143/2000 were amended by Law 522/2004. Law 522/2004 has introduced different punishments for "cultivation, production, manufacture, testing, extraction, preparation, processing, purchasing of risk drugs for personal use, without right, which shall be punished with imprisonment from 6 months to 2

12. According to the interview conducted with the head of the Probation Service Bucharest.

13. In Romania, normally, offences are prosecuted in the criminal sections of the First Instance Court and then go to the District Court and the Court of Appeal.

years or a fine"[14]. 'If the above activities involve high risk drugs, the punishment is imprisonment for a period ranging between 2 and 5 years (Art 4 (2)).

Also, by Law 522/2004 situations have been introduced that are considered as aggravating circumstances requiring higher penalties. This is the case of the situations where "drugs were sent or delivered, distributed or offered to a minor, a mentally ill person, to a person in a treatment program or similar activities prohibited by law have been conducted relating to one of these persons or if the offence was committed in a medical facility or institution, educational institution, military facility or institution, detention facility, centers for social assistance, rehabilitation or medical-educational institutions, places where pupils, students and youth carry out educational, sports or social activities, or near these"(Art 14, paragraph 1, letter c).

Law 522/2004 also introduced modifications for those involved in "the cultivation, production, manufacture, testing, extraction, preparation, processing, purchasing of risk drugs for personal use, without right" (Article 4 of Law 143/2000). The following were mentioned: the possibility to "revoke or replace preventive arrest with another preventive measure" (Article 19[15], (3)), the possibility to "be included, with the consent of the accused or defendant, in the integrated circuit of assistance for drug users" (Article 19[16], (2)). In the case of the criminal prosecution being pursued, Law 522/2004 mentioned the possibility of the court to "decide not to apply any penalty or to postpone the punishment" (Article 19[17] (1)) if the defendant complies with the provisions of the protocol of the integrated program he has been included in. If the court decides to postpone a decision, the time until the decision constitutes a probationary period (Article 19[18] (3)). After the trial period, the court may take three types of decisions: a) to apply no penalty - only if the defendant complies with the assistance program (Article 19[19], (5)), b) to postpone the punishment for a period up to 2 years and to include him in the assistance program (Article 19[20] (6)) and c) to enforce the punishment (6).

14. Article 4 (1) of Law 143/2000 amended by Article 6 of Law 522/2004 on preventing and combating illicit drug trafficking.
15. Shall take effect together with the new Criminal Code.
16. Shall take effect together with the new Criminal Code.
17. Shall take effect together with the new Criminal Code.
18. Shall take effect together with the new Criminal Code.
19. Shall take effect together with the new Criminal Code.
20. Shall take effect together with the new Criminal Code.

According to the *National Report on Drugs (2011),* "the legal stipulated provisions for drug users and persons prosecuted for the offence of possession of drugs for personal use were not applied"[21]. According to the legal provisions, there was the possibility that the mentioned persons may not receive imprisonment penalty, if they accepted to be included in an integrated assistance program. The problem was caused by the lack of implementation of the new Criminal Code and the new Code of Criminal Procedure.[22]

For drug users who have committed drug related crimes the possibility of suspension of penalty under the supervision of the Probation Service has been provided.[23]

7.2. Cultivation of plants containing drugs

For the cases of legally cultivated plants containing drugs, under Article 8(1) of the Regulations for Implementing the Provisions of Law 143/2000 on preventing and combating illicit drug trafficking and consumption, as amended and supplemented, "monitoring the cultivation of plants containing drugs is an activity that involves, on the one hand, checking the permits issued by authorized bodies for crops that are intended for lawful processing, and on the other hand, the requirement for those cultivating and processing such plants based on authorization to declare the purpose of the crops which must be expressly stated in the permit"[24].

In Romania, cannabis crops have been identified both inside persons' residences (apartments, attics) and outside hidden within the woods (near Bucharest, capital of Romania) or within other crops (maize). Cannabis crops were identified during the execution of searches at the residences of persons caught in flagrant drug trafficking. Most cases of crops were identified as a result of information obtained by the police from undercover witnesses or persons involved in drug trafficking wishing to reduce their sentence (according to the legislation of Romania if information about a person who is smuggling/cultivating drugs is provided, the sentence is reduced by half). The specialized police services had identified cannabis crops in localities of Moldova (North-Eastern Romania),

21. National Antidrug Agency, *National Report on drugs (2011),* p. 20.
22. Law 286 from 17 July 2009 regarding the Criminal Code.
23. Under the Criminal Code, enforced by Government Ordinance 92/2000 published in the Official Monitor 423 of 1.09. 2000 as amended by Law 211/2004 published in the Official Monitor 505/4.06.2004.
24. Government Decision No. 860/2005 published in the Official Monitor of Romania, Part I no. 749 from 17/08/2005.

Maramureș (North-West of Romania), Timișoara (South-West), in Central Romania (Covasna) and Bucharest. The localities are mainly those that are situated in the border areas. A small proportion of the persons identified were cultivating for personal use. Most of the times, the quantity (number of plants and the land cultivated) were quite high. From the investigations it became clear that the drugs were meant to be sold on the international market.

There have been situations where cannabis cultivated inside a residence is destined for trafficking (e.g. inside a residence where cannabis was cultivated 78 plants, 26 kilos of green plants, 10 kilos of dried plants and 4 kilos of dried stems were discovered)[25].

7.3. Information about pre-trial detention

Pre-trial detention for drug-related offences can be implemented. As provided by Article 19 index 1 (3) of Law No. 143, concerning offences stipulated under Article 4[26], if pre-trial detention has been ordered, it can be revoked or replaced by another preventive measure. Criminal proceedings shall be pursued as stipulated in the Code of Criminal Procedure (Article 19 index 1 (4). In case the reasons that determined the order of pre-trial detention have changed, pre-trial detention can be replaced by the preventive measures not to leave the locality or the country, as set in Article 139 Code of Criminal Procedure.

The public prosecutor shall order an assessment of the offender by the Center for evaluation, prevention and counseling. Based on the evaluation report received from the center, the public prosecutor may order, with the consent of the accused, the inclusion into an integrated care programme for drug consuming persons (see 4.5.) As Article 2 of Law No. 522/2004 stipulates, the provisions of Article 19 index 1 will come into effect with the coming into force of the new Criminal Code.

25. http://www.ziare.com/stiri/droguri/aproape-60-de-kilograme-de-marijuana-intr-un-lan-de-porumb-din-neamt-1190675, http://www.ziare.com/stiri/droguri/maramures-tineri-retinuti-pentru-cultivare-si-comercializare-de-canabis-1128416, http://www.ziare.com/stiri/droguri/timis-prinsi-in-timp-ce-isi-ingrijeau-cultura-de-canabis-1120403, http://www.ziare.com/stiri/droguri/ferma-de-canabis-descoperita-de-politisti-in-covasna-1046511

26. Article 4 Law No. 143/2000: For cultivation, production, manufacturing, experimentation, extracting, preparing, processing, buying or possession of risk drugs for one's own consumption the sentence is imprisonment between six months and two years, or a fine. Regarding the mentioned actions involving high risk drugs, the sentence consists of two to five years imprisonment.

According to data provided by the Directorate for Investigation of Organized Crime and Terrorism Offences (DIICOT)[27], in 2011, 615 drug law offenders (8,09%) including 21 minors out of 7,606 convicted persons were held in pre-trial detention.[28] The number of persons held in pre-trial detention slightly decreased compared to 2010. In 2010, 689 charged (10,7 %) including 24 minors out of 6,436 prosecuted drug law offenders were held in pre-trial detention.[29]

7.4. Assessment of the offender's potential substance dependence

The *Law No. 143/2000 on preventing and combating illicit drug trafficking* supplemented and amended by *Law No. 522/2004 on preventing and combating illicit drug trafficking* define "the assessment-determining of the psychological and social characteristics of the drug user by the Centers for prevention, evaluation and counseling in order to include and monitor the drug consumer in a psychological and social program under case manager supervision."[30]

Law No. 522 Article 11 also details on the procedural provisions related to the assessment of drug use: "Article 19 index 1(1) For the offences mentioned in Article 4[31], the prosecutor may order, within 24 hours after the initiation of the criminal prosecution, the assessment of the consumer by the Center for prevention, evaluation and counseling for the purpose of his inclusion in the assistance circuit for drug users."

In Romania there are several legal regulations establishing the criteria enabling the units which can provide medical care for drug addicted persons, the selection cri-

27. Directorate for Investigation of Organized Crime and Terrorism Offences (central unit and 15 regional units) within the Prosecutor's Office attached to the High Court of Cassation and Justice. The Directorate carries out the criminal prosecution of drug law crimes and is in charge of the supervision of the criminal prosecution carried out by special subordinated police units (Art. 2 Law No. 508/2004).
28. DIICOT, *Activity Report* 2011, p. 195, available at http://www.diicot.ro/index.php?option=com_content&view=article&id=52&Itemid=69
29. DIICOT, *Activity Report* 2010, p. 179, available at http://www.diicot.ro/index.php?option=com_content&view=article&id=52&Itemid=69
30. *Law No. 522/2004 regarding the prevention and combating of illicit drug trafficking and consumption*, Article 1, Section 5.
31. We are talking about the offences under Article 4 of *Law 143 from 2000 on preventing and combating illicit drug trafficking and consumption* amended by *Law 522 from 2004*: "the cultivation, production, manufacture, testing, extraction, preparation, processing, purchase or possession of risk drugs for personal use without right is punishable with imprisonment from 6 months to 2 years or fine".

teria for the NGOs that can carry out programs for the prevention of disease transmission among drug users. This is the case of *Order No. 187/2002 of the Minister of Health and Family for defining the types of health facilities that could be authorized to provide medical care for drug addicted persons, as well as the non-governmental organizations that could be authorized to carry out activities to prevent the transmission of pathogens through blood among injecting drug users*.

Since 2006 the *Joint Order No. 1216 from May 18 has come into force, regarding the modalities for carrying out integrated programs of medical, psychological and social care for persons with custodial status, who are drug users*. The order was issued by the Minister of Justice, Minister of Administration and Interior and Minister of Health. This order provides clarifications regarding the medical examination, the evaluation of the drug user, the services offered within the integrated program, the integrated programs of assistance to the drug consumers (see also paragraph 5.7 *Sentencing levels and the prison situation*).

7.4.1. Assessment of drug use when entering into preventive custody

In 2009, the Independent Service for Detention and Preventive Custody/Arrest (SIRAP) was established within the General Directorate of Bucharest Police (DGPMB). Initially, this service had all the detention facilities in Bucharest under its subordination. From 2010 onwards, SIRAP has coordinated "the distribution of the persons deprived of liberty within the DGPMB and has under its direct subordination two arresting facilities: the visited one - no. 1 - and Centre no. 12 for the detention and preventive arrest of minors."[32]

When a person is arrested, he is examined by a physician or nurse in the medical office of DGPMB. If an arrested person claims to be a drug user, he is taken for medical examination to the Clinical Psychiatric Hospital "Prof. Al. Obregia", onto the Addicts ward.

According to the sources studied, "clarifying the status of user/addicted user is determined through a recollection examination, based on markers - signs of injection - as well as a psychiatric exam, in collaboration with the Clinical Psychiatric Hospital "Prof. Al. Obregia"[33]. Drug users are kept in the detention Center no. 1.

32. Răzvan Adrian Paiu, Adrian Marcel Iancu (eds), *Conectarea instituțiilor din circuitul juridic și cel de îngrijire pentru reabilitarea consumatorilor de droguri care au comis fapte penale (Connecting the institutions from the legal circuit and the care one for the rehabilitation of drug users who have committed criminal offences)*, p. 24.

33. Răzvan Adrian Paiu, Adrian Marcel Iancu (eds), *Conectarea instituțiilor din circuitul juridic și cel de îngrijire pentru reabilitarea consumatorilor de droguri care au comis fapte penale (Con-*

7.4.2. The Prosecutor's Office

This is required to disclose the status of a drug user in the documents that are drawn up and sent to the court. There is the possibility to use a drug use assessment (to CPECA), in accordance with Article 19, index 1 of Law 143 from 2000 amended by Law 522 from 2004. The prosecutor may decide, based on the assessment of CPECA and the forensic expertise, to include the drug user in an integrated program of assistance to drug consuming persons.[34]

7.4.3. The court

The judge has the ability to request the Probation Service to draw up a psycho-social assessment report for a drug user case.

The judge may decide to suspend the execution of the sentence in detention when the following conditions are met: 1) the penalty for the offence committed is not more than four years of imprisonment; 2) has in record a previous prison sentence for less than 1 year - except in cases stipulated by Article 38 of the Criminal Code, 3) the judge considers, based on the data obtained from the criminal files and the psychosocial assessment report drawn up by the Probation Service, that the offender will not commit further criminal acts. Furthermore, the judge may also decide to suspend the execution of the sentence in the case of "concurrence of offences, if the penalty is imprisonment of up to three years and the conditions specified in paragraph 1, letters b and c are met".[35]

The judge may decide in such cases to suspend the execution of the sentence under the supervision of the Probation Service and to apply Art. 86^3 paragraph 3 letter f of the Criminal Code. According to this provision, the person is required "to submit to control measures, treatment or care, especially for the purpose of detoxification."[36]

---

necting the institutions from the legal circuit and the care one for the rehabilitation of drug users who have committed criminal offences), p. 26.

34. Law 143 of 2000 amended and completed by Law No. 522 - this provision shall take effect upon the entry into force of the new Criminal Code.

35. Răzvan Adrian Paiu, Adrian Marcel Iancu (eds), *Conectarea instituțiilor din circuitul juridic și cel de îngrijire pentru reabilitarea consumatorilor de droguri care au comis fapte penale (Connecting the institutions from the legal circuit and the care one for the rehabilitation of drug users who have committed criminal offences)*, p. 31.

36. Romanian Criminal Code in force.

The sentence ruled by the judge may be revoked if the convicted person does not meet the measures and obligations provided by law for persons entering into the custody of the Probation Service. If the execution of the sentence under probation is revoked, the offender will serve his sentence in prison.

7.4.4. Assessment of the drug user entered into the custody of the Probation Service (PS)

A. Prior to entering into the custody of the Probation Service

The Probation Service draws up, at the request of the judge, the psychosocial assessment report of the drug user offender. When collecting the input for the referral, the probation counselor shall consider the following aspects:

1. **Data regarding drug use**: "the drug/drugs used, the history of usage (period of time, the onset of the use, the reasons behind use, the age,
2. the length of use) information regarding the degree of addiction, the frequency and the quantity of drug use (working on a scale of three levels: episodic, occasional and systematic use, operating in these categories with the definitions provided by the World Health Organization)"[37]
2. **Data regarding the drug user and his relationship within the family environment**: "the way these relationships were affected during consumption, the consumer's image in the community, the material and moral support from family."[38]
3. Data concerning drug use motivations;
4. **Institutions that provided services prior to entering the PS:** "for addiction treatment, as well as for identifying those who can further integrate the drug user into their services."[39]

The PS collaborates with several institutions to obtain complete information regarding the drug user situation: the Anti-drug Prevention, Assessment and Counseling Centers (CPECA) subordinated to the National Anti-drug Agency - NAA,

37. Răzvan Adrian Paiu, Adrian Marcel Iancu (eds), *Conectarea instituțiilor din circuitul juridic și cel de îngrijire pentru reabilitarea consumatorilor de droguri care au comis fapte penale (Connecting the institutions from the legal circuit and the care one for the rehabilitation of drug users who have committed criminal offences)*, p. 32.
38. Răzvan Adrian Paiu, Adrian Marcel Iancu (eds), *Conectarea instituțiilor din circuitul juridic și cel de îngrijire pentru reabilitarea consumatorilor de droguri care au comis fapte penale (Connecting the institutions from the legal circuit and the care one for the rehabilitation of drug users who have committed criminal offences)*, p. 32.
39. Idem, p. 33.

non-governmental organizations - NGOs, hospitals and other institutions with which it signed cooperation agreements.

B. After a drug user offender has received a ruling from the judge to execute the sentence under the supervision of the Probation Service

In case a drug user receives a ruling with the execution of the sentence under the supervision of PS, his case is assigned to a probation counselor that becomes the case manager. The probation counselor will undertake all legal steps generally provided for the persons entering into custody and the necessary steps provided for that particular individual (the judge may, according to the law, specify various obligations and measures appropriate to the situation of the person concerned).

If the obligation "to submit to control measures, treatment or care, especially with the purpose of detoxification"[40] is mentioned, the probation counselor undertakes all the necessary steps to comply with it.

When entering into the custody of the Probation Service, the convicted person is informed about the judge's sentence, the measures and the obligations stipulated by law for those entering into PS custody.

Next, the counselor shall draw up a surveillance plan adjusted to the person convicted. For the production of a monitoring plan, he takes into consideration the measures and obligations imposed by the sentence, as well as the needs identified during the evaluation.

The probation counselor also makes an assessment of the person based on 12 areas: "family and social environment, education level and provisional experience, state of health and, of course, addiction problems that the convicted person is facing."[41]

If the person entered into the custody of the Probation Service has not been assessed (an evaluation report was not drawn up by PS) or the counselor appreciates the need for a reevaluation, then a written request from the SP is sent to the NAA. The request will be sent if the drug user gives his written consent for evaluation. The CPECA case manager sends the Probation Service "the initial assessment report, the individual support plan and the agreement of medical, psychological

40. Romanian Criminal Code in force.

41. Răzvan Adrian Paiu, Adrian Marcel Iancu (eds), *Conectarea instituțiilor din circuitul juridic și cel de îngrijire pentru reabilitarea consumatorilor de droguri care au comis fapte penale, (Connecting the institutions from the legal circuit and the care one for the rehabilitation of drug users who have committed criminal offences)*, p. 34.

and social care signed by the drug user, as well as the consumption screening test if necessary."[42]

7.4.5. Assessment of the drug user at the National Anti-drug Agency

According to *Law No. 143/2000 on preventing and combating illicit drug trafficking and consumption* subsequently amended and supplemented with *Joint Order no. 1216 from May 18, 2006 regarding the modalities for carrying out integrated programs for medical, psychological and social assistance for persons with custodial status, which are drug users*, the drug using evaluation is carried out by CPECA subordinated to the NAA.

The drug user may enter evidence for evaluation by CPECA if this is requested by the prosecution, the court of law, the Probation Service or the National Administration of Penitentiaries.

7.4.6. In case the drug user is arrested or enters the prison system

When entering into custody or prison a mandatory medical examination is carried out. During this evaluation several situations could be identified. There is the possibility that the detainee states he has a history of drug use whereby the doctor announces the unit management to contact CPECA (Article 12 (1) of Joint Order). There is the possibility that the detainee declares that he is already included in an integrated program of support and then the necessary arrangements to his reintegration to the CPECA program are made (Article 16 of the Joint Order). The possibility exists that the physician has some suspicion that the detainee is a drug user. In this case, the detainee is informed about the CPECA and, after obtaining the prisoner agreement, the arrest or prison management is informed. The arrest or prison management contacts CPECA (Article 7 (1) and (2) of Joint Order). The same happens if the prisoner declares he is a drug user during detention.

CPECA makes the assessment of the consumer at the request of the custody unit or prison management. A case manager is assigned for each inmate. The case manager goes to the detention centre or prison to carry out the assessment. If the consumer is in custody, the evaluation is carried out by the case manager and the staff that provides medical and psychological care. If the consumer is in prison, the

42. Răzvan Adrian Paiu, Adrian Marcel Iancu (eds), *Conectarea instituțiilor din circuitul juridic și cel de îngrijire pentru reabilitarea consumatorilor de droguri care au comis fapte penale (Connecting the institutions from the legal circuit and the care one for the rehabilitation of drug users who have committed criminal offences)*, p. 37.

assessment is made by the case manager, the medical staff and the staff providing psychological and social assistance (Article 8 (2) of Joint Order).

The assessment is carried out according to the rules established by the *Government Decision No. 860/2005 for approving the Regulation of the application of Law 143 of 2000 on preventing and combating illicit drug trafficking and consumption, as subsequently amended and supplemented.* Article 14 states that "the assessment identifies the individual characteristics of the consumer in order to select the program and individualized medical, psychological and social services." The assessment is to obtain information in the following areas:

"a) personal and consumption history and specific signs of intoxication and/or withdrawal syndrome;

b) biomedical conditions and current complications which, although not related to the intoxication or withdrawal syndrome, require treatment because they can entail risks or may complicate the care and rehabilitation process;

c) psychological condition and/or psychiatric complications, as well as other conditions that may generate risks or complications that can occur in the care and rehabilitation process, such as acceptance/resistance to treatment, potential relapse, further use, etc.;

d) social and family conditions that may be sources of individual, family or community support or may hinder/prevent the care and rehabilitation process;

e) legal status."[43]

7.4.7. Assessment of the drug user in prison

In the penitentiary system there are other activities for the assessment of drug users. In 2011 the *Guide to best practices for psychologists working in prison was drawn up*. A chapter of this guide is intended for psychologists carrying out activities with detainees that have a history of drug abuse. In this chapter the activities that must be completed within the psychological interventions and the assessment activities that shall be made are mentioned: 1) "the initial evaluation made during the period of quarantine and observation, in order to identify individual needs and risks. At this stage it is essential to identify the risk of withdrawal and its treatment, providing support and developing a therapeutic

43. Article 14 (2) lit. a-e from *Government Decision No. 860/2005 for approving the Regulation for the application of Law No. 143 of 2000 on preventing and combating illicit drug trafficking and consumption, as subsequently amended and supplemented.*

relationship, in order to elaborate an individualized plan of intervention during the execution of the prison sentence, 2) psychological evaluation throughout the execution of the sentence in prison, 3) psychological evaluation at the end of the sentence of imprisonment."[44]

The intervention of the psychologist working with people with a history of substance abuse involves using the following methodology: "screening assessment, semi-structured interview SCID I and SCID II, motivational interview, personality questionnaires, questionnaires of completing phrases and behavioral, projective tests and analysis of other documents (individual file)."[45]

7.5. Framework for the so-called police entrapment

Law No. 143/2000 on preventing and combating illicit trafficking and drug use contains provisions regarding the "carrying out of deliveries under surveillance, with or without the total replacement of drugs or precursors"[46] authorized by the Prosecutor Office within the Supreme Court of Justice. Another article of the law states the conditions under which undercover investigators may be used, "the prosecutor may authorize the use of undercover investigators to discover the facts, identify authors and obtain evidence in cases where there are serious indications that an offence referred to in this law has been committed or is about to be committed"[47]. Within this law the formalities which must be completed are mentioned: written authorization for the use of undercover investigators, the period of the authorization of up to 60 days and the possibility of prolonging the authorization for 30 days (Article 21 (2)).

For carrying out "undercover" activities necessary to identify criminals and criminal activities, police officers working as "undercover agents and their collaborators can purchase drugs, chemicals, essentials and precursors with prior authorization of the prosecutor"[48]. The Law also provides, in Article 22 (2), that "the documents produced by the police officers and their collaborators may constitute evidence".

44. Corduneanu Loredana, Sorescu Oana, Ionescu Cristina, Mucioniu Ana Maria, Ciobanu Natalia, Marian Nicolae, *Derularea activităților psihologice cu persoanele private de libertate cu antecedente în toxicomanie* în: "Ghid de bune practici pentru psihologul care lucrează în penitenciar", Iași, 2011, pp. 147- 148.
45. Corduneanu L, Sorescu O, Ionescu C, Mucioniu A M, Ciobanu N, Marian N, *Derularea activităților psihologice cu persoanele private de libertate cu antecedente în toxicomanie* în: "Ghid de bune practici pentru psihologul care lucrează în penitenciar", Iași, 2011, p. 148.
46. Article 20 of *Law No. 143/2000 on preventing and combating illicit trafficking and drug use.*
47. Article 21 (1) of *Law No. 143/2000 on preventing and combating illicit trafficking and drug use.*
48. Article 22 (1) of *Law No. 143/2000 on preventing and combating illicit trafficking and drug use.*

Also, the law provides for the possibility of monitoring the telecommunications systems and the IT systems with the prosecutor's authorization when "there are serious indications that a person who is preparing to commit of an offence under the current law (Law 143/2000) or who has committed such an offence uses systems of telecommunication or IT"[49]. The same law also mentions that these systems may be monitored for a limited period, without actually specifying the period. References to the undercover agents, under surveillance deliveries and the conditions for carrying out these activities may also be found in *Law no. 508/2004 regarding the establishment, organization and functioning within the Public Ministry of the Directorate for Investigating Organized Crime and Terrorism*[50], published in the Official Monitor of Romania, Part I, no. 1089 from November 23, 2004, subsequently amended and supplemented.

The Emergency Ordinance No. 131 from December 21, 2006 amending and supplementing Law no. 508/2004 regarding the establishment, organization and functioning within the Public Ministry of the Directorate for Investigating Organized Crime and Terrorism amends Article 17 of Law 508/2004 and provides clarifications regarding the conditions under which the undercover investigators, the collaborators and the informants of the judicial police may be used:

> "ARTICLE 17
>
> (1) If there is probable cause that an offence has been committed or is being prepared to be committed and conferred by this Law within the jurisdiction of the Directorate for Investigating Organized Crime and Terrorism, which cannot be found or whose perpetrators cannot be identified by other means, undercover investigators or collaborators and informants of the judicial police may be used, under the conditions provided by the Criminal Procedure Code and other special laws.
>
> (2) Undercover investigators are officers or agents of the judicial police specifically designated for this purpose and, with the motivated authorization of the prosecutors of the Directorate for Investigating Organized Crime and Terrorism, they may carry out investigations for the offences referred to in

49. Article 23 (1) of *Law No. 143/2000 on preventing and combating illicit trafficking and drug use.*

50. According to Law No. 508/2004, the Directorate for Investigating Organized Crime and Terrorism (DIICOT) has in its attributions - Article 12 letter f - "the offences under Law No. 143/2000 preventing and combating illicit trafficking and drug use, as subsequently amended and supplemented, and Law. 300/2002 regarding the legal status of precursors used in the illicit manufacture of drugs, as subsequently amended and supplemented."

this Law. The acts concluded by the undercover investigators and their collaborators may constitute evidence."[51]

The DIICOT prosecutors also have the possibility to have at their disposal and to authorize motivated deliveries under surveillance (Article 17 (3) and (5)), to order protective measures for witnesses, experts and victims (art. 17 (4)), to authorize motivated covert activities carried out by investigators, collaborators and informants of the judicial police (Article 17 (5)). The authorizations can be given by reasoned order for a period of 60 days and prolonged for 30 days but not more than one year (Article 17 (6)).

The ordinance authorizing the activities of the undercover investigator must also contain - under the Emergency Ordinance no. 131 of December 21, 2006 - data regarding:

Article 8

"a) solid and concrete indications justifying the measure and the reasons why the measure is necessary;

b) activities that the undercover investigator may conduct;

c) persons against whom there is the assumption that they committed an offence;

d) the identity under which the undercover investigator plans to conduct the authorized activities;

e) the period for which the authorization is given;

f) other references prescribed by law.

(g) In urgent and duly justified cases the authorization may also be requested for activities other than those for which the authorization has already been given, about which the prosecutor following must decide immediately."[52]

8. Data regarding the imposed sentences from the courts

In recent years, the number of prosecuted drug law offenders has been increasing. The number of drug related offences solved by DIICOT rose from 2,906 criminal

51. *EMERGENCY ORDINANCE no. 131 from December 21, 2006 for the amending and supplementing of Law no. 508/2004 regarding the establishment, organization and functioning within the Public Ministry of the Directorate for Investigating Organized Crime and Terrorism.*

52. *EMERGENCY ORDINANCE no. 131 from December 21, 2006 for the amending and supplementing of Law no. 508/2004 regarding the establishment, organization and functioning within the Public Ministry of the Directorate for Investigating Organized Crime and Terrorism.*

cases in 2009 to 3,360 cases in 2010 and reached 4,087 in 2011.[53] Thus, the number of cases has increased by 21.64% in 2011 compared to 2010.[54] In 2011, 1,060 persons out of a total number of 7,606 prosecuted persons were referred to the courts, out of which 615 persons (including 21 minors) were held in pre-trial detention, see above 4.4. In 436 cases charges were laid. In addition, there were 603 cases with decisions to waive prosecution due to the low level of seriousness of the case (according to Art.18[1] Criminal Code) and 3,048 cases with decisions to waive prosecution.[55]

Data available by the EMCDDA show that in the period from 2002 to 2008, the number of suspected persons related to drug law offences has doubled from 2002 with 1,420 to 2,936 in 2008.[56]

Regarding convicted persons, the courts have convicted 718 persons for offences related to Law No.143/2000 on preventing and combating drug use and trafficking out of a total of 41,891 convicted persons in 2010. Out of these, 17 persons were minors.[57] There has been an upward trend in recent years regarding the number of persons convicted for drug possession for personal use and for drug trafficking. Regarding minors, the number decreased in 2010 compared to 2009. The overwhelming majority of minors were convicted for drug trafficking offences.[58]

According to the National Anti-drug Agency National Report on Drugs, almost all convicted offenders were given custodial sentences (n=705 out of 718). Criminal fines were given to 13 offenders. About half of the convicted persons (n=354) were sentenced to imprisonment. In most of these cases, a sentence of

53. See National Anti-drug Agency, *National Report on Drugs*, 2011, p. 149 and DIICOT, *Activity Report* 2011, p. 22.

54. DIICOT, *Activity Report* 2011, p. 22.

55. Idem, p. 195.

56. EMCDDA *Statistical Bulletin* 2012, Table DLO. Drug law offences, 1995 to 2010, Part (ii) Number of reports of persons. http://www.emcdda.europa.eu/stats12/dlotab1b, accessed on 06.08.2012.

57. National Anti-drug Agency, *National Report on Drugs,* 2011, p. 152, for the number of convicted persons for drug law offences and *Justice Status Report of the High Council of Magistracy* 2010, for the total number of convicted offenders in 2010, p. 87, available at http://www.csm1909.ro/csm/index.php?cmd=24&lb=ro. Note that the figures relating to drug law offenders mentioned in the High Council of Magistracy *Justice Status Report* 2010 slightly differ from those in the *National Report* of the National Anti-drug Agency: they refer to 712 convicted drug law offenders, including 18 minors, pp. 87, 89.

58. National Anti-drug Agency, *National Report on Drugs*, 2011, pp. 152-153.

1 to 5 years imprisonment was given to adult offenders (n=350). In about one third of cases, a sentence of 5 to 10 years imprisonment was imposed on adults. A majority of the offenders sentenced to imprisonment were convicted because of drug trafficking (n=241). A small proportion (n=32) of offenders were convicted for drug possession for personal use. The further share of custodial sentences imposed on convicted persons was made up of conditional discharge orders (17,6%) and licensed supervision orders (32,2%). The number of persons sentenced to imprisonment decreased in 2010, while the number of persons serving their sentence in the community was rose. The National Anti-drug Agency emphasized the trend of the courts over recent years to give licensed supervision orders including detoxification treatment, which is related to the increasing number of convicted drug law offenders within probation services.[59]

9. Sentencing levels and the prison situation

Year	Total number	Persons held in pre-trial detention, convicted in first instance	In %	Persons sentenced to imprisonment, finally convicted	In %	Persons in rehabilitation centers	In %
2007	29,390	2,947	10.03	26,231	89.25	212	0.72
2008	26,212	3,112	11.87	22,937	87.51	163	0.62
2009	26,716	4,430	16.50	22,145	82.89	163	0.61
2010	28,244	4,630	16.39	23,435	82.97	179	0.64
2011	30,694	3,313	10.79	27,213	88.66	168	0.55

***Source**: National Administration of Penitentiaries, Activity Report 2011*

Since 2008, an increase in the number of persons sentenced to imprisonment (finally convicted) can be observed. The number of persons serving pre-trial detention was on the rise from 2007 to 2010 and decreased from 2010 to 2011. Regarding the long term trend however, since 1992, when the total prison population was 44,011[60], the number of inmates decreased considerably by almost one third by 2011.

59. Idem, pp. 152-154.

60. International Centre for Prison Studies, *World Prison Brief Romania*, http://www.prisonstudies.org/info/worldbrief/wpb_country.php?country=161, accessed on 05.08.2012.

The prison population rate at the end of July 2012 was 150. Regarding the long-term trend, from 1992 to 2010 the prison rate decreased with oscillating numbers from 193 to 132.[61]

In Romania, there are distinct categories of prisons. The legal framework regarding imprisonment is provided by the Law on the Execution of Criminal Penalties (Law No. 275/2006), further amended and modified.

At present, there are 45 detention facilities in the country.[62] According to the National Administration of Penitentiaries Activity Report 2011, 15 prisons are open and half-open, with a further 15 prisons set as closed and maximum security types of imprisonment. Furthermore, there are special prisons: one women's prison and four prisons for minors and young adults in the country. In addition, there are six prison hospitals for persons with special health care needs. Regarding juveniles, they may also serve their sentence (in terms of an educational measure) in one of the three re-education centers. Three therapeutic communities for former drug users were established (two in Bucharest and one in the women's prison Târgşor). With regards to pre-trial detention, 21 custody units/departments exist in Romania.[63]

In 2011, 1,471 offenders (4,8%) out of 30,694 offenders were imprisoned for the possession of drugs or for drug trafficking.[64]

According to the Activity Report 2011 of the National Administration of Penitentiaries[65], 102 former drug users were included in the three rehabilitation communities in the country: 66 persons in the Bucharest-Jilava Prison, 22 detainees in Bucharest-Rahova and 14 in the Târgşor Women's Prison.

Regarding self-declared drug users in penitentiaries, there were 2,043 (7,6%) self-declared drug user inmates out of a total of 26,721 incarcerated persons in 2010. In the period from 2001 to 2010 the number of self-reported drug user inmates doubled, whereas the total prison population decreased by half.[66]

61. Idem.
62. National Administration of Penitentiaries, http://www.anp-just.ro/frame.php?page=dinamica.php, accessed on 05.08.2012.
63. See National Administration of Penitentiaries, *Activity Report* 2011, p. 2, available at http://www.anp-just.ro/infogen/Bilant2011/Bilant%20activitate%20ANP-%202011.pdf
64. Idem, p. 3.
65. Idem, p. 2.
66. See National Anti-drug Agency, *National Report on Drugs*, 2011, citing data from the National Administration of Penitenciaries, p. 156.

The majority of drug law offenders were sentenced for drug trafficking (see also 4.7. on convictions).

According to the EMCDDA Statistical Bulletin 2012, there were 76 convicted persons for use-related offences (10.6%) and 479 for supply-related offences (66.7%) out of a total of 718 convicted persons for drug-related offences in 2010. 163 persons were convicted for other types of offences (22.7%).[67]

In recent years, Romanian authorities carried out various reformatory measures in order to improve detention conditions. Regarding the legislative situation, the enactment of the Law on the Execution of Criminal Penalties (Law No. 275/2006) provided for different conditions in penitentiaries, according to the prison regime (see 5.2.). Ministry of Justice Order No. 433/C/2010 approved the minimum compulsory rules on accommodations in penitentiaries. It provides a minimum of 4 m^2 per person for inmates in a closed or maximum security regime (including minors, young adults and remanded persons) and 6 m^3 per person for persons within an open or half-open regime. In principle, these regulations are in line with the recommendations of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT, see report CPT/Inf (2008)41). However, the European Court consistently stated that the living space for inmates is at the minimum limit accepted by the CPT. The European Court also found that Romanian courts had acknowledged the systematic nature of overcrowding in Romanian penitentiaries.[68]

When the new Criminal Code comes into effect, authorities expect an improvement of the detention conditions, as the new code emphasizes the enlargement of educational measures, criminal fines and alternatives measures to imprisonment and lowers the limits of prison sentences regarding numerous offences.[69]

67. EMCDDA *Statistical Bulletin* 2012, Table DLO-2. Offence type in reports for drug law offences, 2009 or 2010, Part (i) Number and percentage of all reports for drug law offences. http://www.emcdda.europa.eu/stats12#display:/stats12/dlotab2a, accessed on 06.08.2012.

68. See *Group of cases Bragadireanu against Romania - 23 cases concerning conditions of detention in prisons and police detention facilities*, Memorandum prepared by the Department for the execution of judgements and decisions of the European Court of Human Rights, Ministers' Deputies Information Documents, CM/Inf/DH(2011)26, 10 May 2011, available at https://wcd.coe.int/ViewDoc.jsp?id=1937977&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383

69. See ibidem.

The occupancy level as of 31.7.2012 regarding all detention facilities, including rehabilitation centers and prison hospitals was 119.5% and 123.1% in penitentiaries.[70]

10. Information on drug use inside prisons

Information on drug use inside prisons in Romania have been presented in the studies carried out in 2006 and 2011 by the National Antidrug Agency and the National Administration of Penitentiaries.

10.1. The presence of drug use among the prison population

The *Study regarding the consumption of drug, alcohol and other psychoactive substances in the prison environment in Romania* (2011) shows the presence of drug use among the prison population prior to and after entering the prison system. Carried out on a representative sample for the prison population aged between 15-64 years (2,100 inmates interviewed), the study[71] highlights that 25.1% of all persons in the prison system stated they had used drugs throughout their life.[72] The results of the study from 2011 show a growing share of drug users in prison (in 2006 there were 18.5%).[73]

The same studies reveal the distribution of drugs users in prison, depending on the period they used substances: prior to entering the prison, throughout detention, in the last 12 months and in the last 30 days.

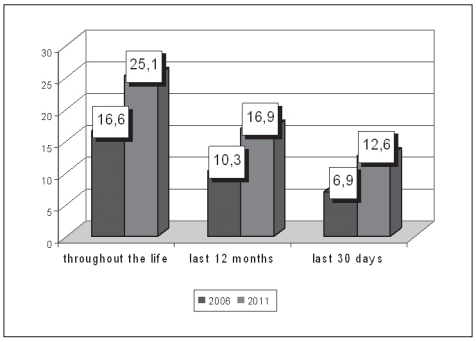
70. National Administration of Penitentiaries, http://www.anp-just.ro/frame.php?page=dinamica.php, accessed on 05.08.2012.

71. The National Anti-drug Agency, *National Report on Drugs*, 2011, p. 181.

72. According to the *National Report on Drugs*, have been considered drugs "all types of illicit drugs, as well as psychoactive substances sold as "legal drugs or ethnobotanical plants": marijuana, ecstasy, inhalants, cocaine, crack, amphetamine, ketamine, hallucinogens, heroin or opiates, mephedrone, spice other ethnobotanical plants." (National Anti-drug Agency, 2011:181).

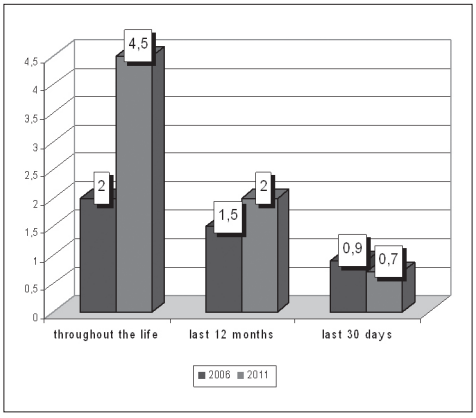
73. The National Anti-drug Agency, *National Report on Drugs*, 2011, p. 181.

Diagram 1
Data regarding the use of new substances with psychoactive/ ethnobotanical properties (SNPP) and illegal drugs, prior to the period of detention



***Source**: The National Anti-drug Agency, National Report on Drug Situation, 2011, p. 181*

Diagram 2
Data regarding the use of SNPP (new substances with psychoactive/ ethnobotanical properties) and illegal drugs, during the period of detention



***Source**: The National Anti-drug Agency, National Report on Drug Situation, 2011, p. 181*

The same study gives us data on the types of drugs used throughout life and during detention. (see Table 1).

Table 1
The types of drugs used throughout life and during detention

Type of drug used	2011* Prior to the detention	2011* Inside prison	2011* Total	2006** Total
Heroin	11.1	2.2	11.7	8.4
Cocaine	9.1	0.4	9.3	6.2
Hashish	9	0.8	9.4	7.6
Cannabis	9.2	0.7	9.3	9.6
SNPP	5	0.6	5.3	0
Ecstasy	4.5	0.1	4.5	5.2
Methadone	3.2	0.3	3.2	2.9
Amphetamines	1.9	0	1.9	1.5
LSD	1.7	0	1.7	1.2

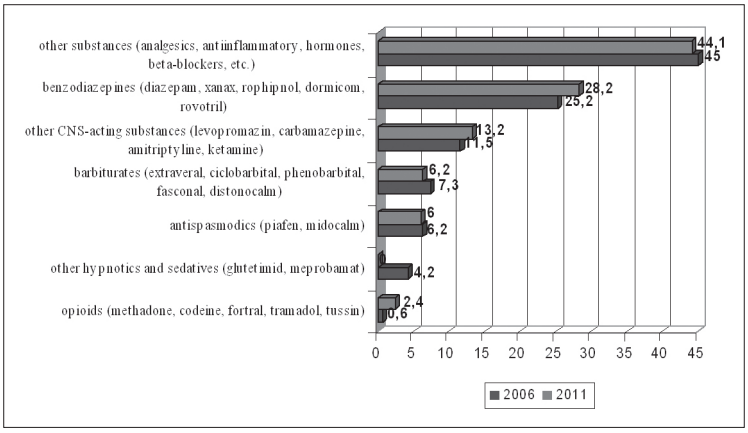
** The data were provided by the National Anti-drug Agency, National Report on Drug Situation, 2011, p. 182*

*** The data were provided by the National Anti-drug Agency, The prevalence of drug use inside the prison system, 2006, p. 29*

Inside the prison system the presence of medicine use without prescription has also been reported.[74] This statement was made in a publication within the project "*Enhancing the functional capacity of the integrated social services offered to addicts and former addicts for labor market integration through actions for developing innovative tools and working methods and implementation of training programs*".

74. Țucă Elena Carmen, *Despre droguri de la A la Z. Ghid practic de prevenire și informare în doomeniul adicțiilor (About drugs from A to Z. A Practical Guide to Prevention and Information in Addictions),* University of Bucharest, Oscar Print, 2012.

Diagram 3
The distribution of detainees who use medicines without medical advice in detention



***Source**: Țucă E C, About drugs from A to Z. A Practical Guide to Prevention and Information in Addictions, University of Bucharest, Oscar Print, 2012, p. 63*

10.2. Data on drug injecting inside prison

According to data provided by the National Anti-drug Agency and the National Administration of Penitentiaries, 5.5% of the detainees interviewed in the survey conducted in 2006[75] stated that they were injecting drug users. The same study mentioned that 4.3% of the interviewed inmates started injecting drugs in prison. Approximately one third of them stated that they shared the injection instruments: syringes (29.3%) and needles (31.1%)[76].

According to data provided by the National Administration of Penitentiaries through Address 7153/DRS/06.08.2012, on the Health Department records, at the end of 2011, there were 2,328 detainees registered that declared themselves as former drug users. Furthermore, the studies conducted inside prisons[77] showed that

75. The data were provided by the National Anti-drug Agency, *The prevalence of drug use inside the prison system*, 2006, p. 46.
76. Ibidem.
77. The survey was carried out on a sample of 2800 subjects (approximately 10% of all persons deprived of liberty).

"5.7% of them reported drug use prior to the arrest, and 3.7% reported sharing injection equipment"[78].

According to the "Behavioural and Serological Survey on the Prevalence of Infectious Diseases among IDUs", made in 2010[79], 44% of the subjects interviewed executed their prison sentence. Of these, "19% - have injected drugs in prison during their detention."[80]

10.3. The presence of hepatitis C and B among drug users

The National Administration of Penitentiaries indicates there is "evidence of a higher prevalence of infection with hepatitis C and B among the detainees who were former drug users, compared to the prison population in general, therefore it was decided to implement services to reduce the risks related to drug use inside prisons in Romania."[81]

10.4. Data on drug trafficking in prisons and the violence generated by it

According to the research[82] conducted by the Division for Crime and Terrorism Prevention of the National Administration of Penitentiaries (2010), there is drug trafficking within the Romanian penitentiary system. The survey performed at the level of all directors of prisons (42) and at the level of the staff of the territorial offices of the Directorate for Prevention of Crime and Terrorism (55) highlighted the peculiarities of drug trafficking in prisons. Drug trafficking is carried out by drug trafficking networks involving prisoners convicted for offences related to drug use and trafficking, as well as prisoners who have committed other crimes. There is a hierarchy of the network members. The heads of the drug networks and the persons convicted for drug related offences are less "visible". The inmates most active on the drug market are those who have greater freedom of movement inside prison, because of the regime of execution of the sentence, or inmates who are in-

78. National Administration of Penitentiaries through the address 7153/DRS/06.08.2012.
79. The survey was conducted by UNODC, the Romanian Angel Appeal and the National Anti-drug Agency.
80. "Behavioral and Serological Survey on the Prevalence of Infectious Diseases among IDUs" made in 2010 and cited by the National Anti-drug Agency, *National Report on the Drugs*, 2011, p. 178.
81. National Administration of Penitentiaries through the address 7153/DRS/06.08.2012.
82. National Administration of Penitentiaries, Division for Crime and Terrorism Prevention,, *The phenomenon of consumption and trafficking of prohibited substances in the prison environment. Elements for diagnosis and prognosis,* 2010, available at: http://www.scribd.com/doc/30563012/Studiu-Consumul-si-traficul-de-droguri-in-penitenciare

volved in activities (those working in the canteen or in workshops and other prison specific workstations).

Regarding the violence generated by drug trafficking/drug use inside prisons, the authors of the report provide information about the sources and forms of manifestation of the violence. The acts of violence between prisoners are generated by: restricted access to drugs, accumulation of debts and the increased interest of the traffickers to recover their money. Among the forms of manifestation of violence related to drug trafficking are "acts of intimidation/violence exercised between detainees or acts of violence manifested by inmates against the prison staff amid frustration (due to difficult accessibility to prohibited substances)"[83]. More than half of respondents (60%) "consider that drug trafficking generates violence to a very large extent"[84].

11. Treatment facilities and harm reduction services available in custodial settings

According to the handbook[85] drawn up under the project "Creating the national integrated system for the rehabilitation of drug users who have committed offences", financed through the Program for pre-accession projects MATRA MPAP 2009, reference number MAT09/RM/9/1, there are a number of documents and standards regulating the assistance activities intended for drug users in custodial status:

> Joint Order of the Ministry of Justice no. 1216/C from May 18, 2006, the Ministry of Administration and Interior no. 1310 from May 19, 2006 and the Ministry of Health no. 543 from May 18, 2006 *regarding the modalities for carrying out integrated programs for medical, psychological and social assistance for persons with custodial status, who are drug users*;
>
> 2011 MAI - Operational Standards no. 8032 concerning the *Integrated assistance for drug users that are in detention and preventive arrest centers*.

83. National Administration of Penitentiaries, Division for Crime and Terrorism Prevention„ *The phenomenon of consumption and trafficking of prohibited substances in the prison environment. Elements for diagnosis and prognosis,* 2010, p. 14 available at: http://www.scribd.com/doc/30563012/Studiu-Consumul-si-traficul-de-droguri-in-penitenciare

84. Ibidem.

85. Răzvan Adrian Paiu, Adrian Marcel Iancu (eds.), *Conectarea instituțiilor din circuitul juridic și cel de îngrijire pentru reabilitarea consumatorilor de droguri care au comis fapte penale (Connecting the institutions from the legal circuit and the care one for the rehabilitation of drug users who have committed criminal offences)*, 2012, p. 23.

Also, currently being finalized are *The standards concerning the integrated assistance of juvenile drug users.*[86]

11.1. Programs to reduce drug-related risks

According to the data provided by the National Administration of Penitentiaries, within the penitentiary system the following programs to reduce drug-related risks are carried out:

> "informative activities regarding the risks associated with drug use, especially intravenous administration, training peer educators among inmates, methadone substitution program, needle exchange program, counseling and voluntary testing program for HCV, HBV and HIV"[87].

The analysis of the information on programs conducted in prisons highlights the existence of the following types of programs:

2008 - The methadone substitution program, developed by the National Administration of Penitentiaries in partnership with UNODC.[88]

> In the initial stage, the program was intended only for the inmates of the Penitentiary Hospital Bucharest-Rahova and the Penitentiary Bucharest-Rahova. Currently it is available in 10 units of the penitentiary system (3 penitentiary hospitals, 6 penitentiaries for men and 1 women penitentiary).
>
> During 2008-2011, 65 inmates have benefited from the methadone substitution program. The methadone administered is in tablet form and is taken crushed by grinding or milling. The treatment is carried out under strict supervision.
>
> Furthermore, 30 detainees were included in the detoxification program of the Penitentiary Hospital Bucharest-Rahova. Most of them continue the substitution treatment started before the arrest.

2008 - The syringe exchange program was implemented in partnership with UNODC.[89]

86. Răzvan Adrian Paiu, Adrian Marcel Iancu (eds.), *Connecting the institutions from the legal circuit and the care one for the rehabilitation of drug users who have committed criminal offences*, p. 23.
87. National Administration of Penitentiaries through address 7153/DRS/06.08.2012
88. National Administration of Penitentiaries through address 7153/DRS/06.08.2012
89. National Administration of Penitentiaries through address 7153/DRS/06.08.2012

The initial phase was carried out in the Penitentiary Bucharest - Jilava. The access to the program is done based on code. Prisoners receive disposable syringes and alcohol wipes.

	Number of persons that have accessed the program	Number of disposable syringes distributed
2008	60	2150
2009	107	10704
2010	83	18383
2011	29	5036

***Source**: National Administration of Penitentiaries through address 7153/DRS/06.08.2012*

11.2. Programs for inmates who are former drug users

In the period December 2008 - November 2009, the Criminal Justice Reform Foundation and the National Administration of Penitentiaries carried out the project "Development of community mental health assistance for persons deprived of liberty", with the financial support of the European Union through the Phare Program 2006. Under this project, with the support of the Directorate of Social Reintegration within the National Administration of Penitentiaries, a ***Specific program for psychosocial assistance intended for persons with history of substance abuse has been developed***. The intervention program addressed the former drug user inmates who met the following conditions: 1) have not used drugs in the last 3 years or are in the period of withdrawal and 2) after conducting psychological assessments were recommended to participate in programs intended for former drug users[90].

The program was structured in two modules: an educational module and a therapeutic one. Each module lasted 12 weeks. The educational module had as a target audience active drug users and former drug users. The objectives of the educational module were: "1) to inform consumers about the consequences of drug use; 2) to inform on issues related to infectious and contagious diseases, HIV-AIDS, hepatitis, tuberculosis; 3) to encourage the integration in a group, the active participation and explaining of ideas; 4) to identify and prepare persons deprived of liberty for the therapeutic module, 5) to identify and present to the participants potential

90. These evaluations are made periodically and their results are included in the *Individualized plan for educational and therapeutic assessment and intervention* (according to Corduneanu L, Petrescu S C, *Specific program for psychosocial assistance intended for persons with history of substance abuse*, Print &Grafic, 2009, p. 12).

social support networks available in the area of residence that could support the efforts to prevent relapse, in penitentiary and after release."[91]

The therapeutic module included the participation of former users at 1-2 weekly meetings of the group during the12 weeks. The multidisciplinary teams of specialists[92] of the program had to: "1) maintain the motivation for abstinence, 2) provide the beneficiaries with information allowing the formation of copying abilities, 3) provide the beneficiaries information capable of identifying and reducing drug related habits and replacing them with sustainable and positive activities, 4) to transmit and form techniques for the recognition and management of situations with acute need of consumption; 5) provide information to identify social support networks in risk situations."[93]

According to data provided by the National Administration of Penitentiaries[94], in year 2010, the Directorate for Social Reintegration within the National Administration of Penitentiaries implemented the ***Specific program for psychosocial assistance intended for persons with history of substance abuse in all penitentiaries***. Up to the completion of this report, the program was attended by 1,924 inmates. Furthermore, during 2010 - July 2012, 2,219 former drug user detainees have benefited from specific psychological counseling.[95]

In the period April 2009 - April 2012, the project RO 0034 "The establishing of 3 therapeutic communities in the Penitentiaries Rahova, Jilava and Târgşor was carried out"[96]. The program lasted 36 months and was funded by the governments of Iceland, The Principality of Liechtenstein and the Kingdom of Norway through the European Economic Area Financial Mechanism. The program was carried out by the General Inspectorate of the Romanian Police and the National Antidrug Agency in collaboration with the Ministry of Justice, the Ministry of Health and Social

91. Corduneanu Loredana, Petrescu Sven Cristian, *Specific program for psychosocial assistance intended for persons with history of substance abuse*, Print &Grafic, 2009, p. 11.
92. The multidisciplinary teams consisted of: psychologists, social workers, educators, physicians, sports monitor, representatives of the safety of detention service and penitentiary system (Corduneanu and Petrescu, 2009: 15).
93. Corduneanu L, Petrescu S C, *Specific program for psychosocial assistance intended for persons with history of substance abuse*, Print &Grafic, 2009, p. 12.
94. National Administration of Penitentiaries through address 7153/DRS/06.08.2012
95. National Administration of Penitentiaries through address 7153/DRS/06.08.2012
96. Istrate G. C., Răileanu L. D., Verdeş C., Călin C. F., Ţone M., Teoroc C., Medeleţ L. M., Nedelcu F., *Therapeutic community - a method of treatment for drug users in prison*, C.N.I. Coresi SA, Bucharest, 2012

Services the Organization PHOENIX Hague from Norway, the National Administration of Penitentiaries and the Probation Directorate. The program aimed to "provide support and social reintegration services for drug users that have committed offences"[97]. From 1 January 2011 to 30 April 2012, 197 persons deprived of liberty were included in the created therapeutic communities.[98]

12. Potential to develop or expand mechanisms for the diversion of drug users from prison into community based treatment

With the enactment of the new Criminal Code, a range of diversionary measures will be enlarged. Prosecutors can decide to suspend prosecution in case a drug user has not committed other offences. The offender will then be sent to a Center for drug prevention, evaluation and counseling for the assessment and referred for treatment.[99]

13. Strategy for social reintegration of the offenders

Currently there is no national strategy for the reintegration of inmates.

In 2010 work on the draft of the *National Strategy designed for the reintegration of inmates started*.: The National Administration of Penitentiaries, the National Antidrug Agency and NGOs were involved in the elaboration of the strategy. Although initially it was foreseen that in 2011 the strategy would "be promoted and implemented by the end of 2011"[100], from discussions with representatives of the Directorate for Social Reintegration of the National Administration of Penitentiaries it became clear that the workings are still in progress.

In the Romanian prison system, detainees that are former drug users have access to educational programs and activities conducted by specialized personnel from the Directorate for Social Reintegration. According to the data provided by C. Pripp[101], during detention former drug users have the opportunity to participate in educa-

97. Istrate G. C., Răileanu L. D., Verdeş C., Călin C. F., Ţone M., Teoroc C., Medeleţ L. M., Nedelcu F., *Therapeutic community - a method of treatment for drug users in prison*, C.N.I. Coresi SA, Bucureşti, 2012, p. 9.

98. National Administration of Penitentiaries through address 7153/DRS/06.08.2012

99. See EMCDDA, Country legal profiles, Romania. http://www.emcdda.europa.eu/html.cfm/index5174EN.html?pluginMethod=eldd.countryprofiles&country=RO, accessed on 06.08.2012.

100. National Antidrug Agency, *National Report on Drugs*, 2011, p. 189.

101. Pripp C, *Unpublished documentary material*, Psychosocial Assistance Services, Directorate for Social Reintegration, the National Administration of Penitentiaries, 26.07. 2012.

tional activities (school and vocational training) designed to facilitate social reintegration through continuing school education, vocational qualifications, requalification or initiation in handicrafts.

At the same time, inmates have access to educational programs:[102] programs for family life education, civic education, health education, literacy for detainees who cannot be schooled, training programs for liberation, general education programs "The Universe of Knowledge" (divided into 4 sections: literature, history, environmental education, economics). In addition to these, there are semi-structured educational activities (inmate culture development and artistic activities), individual informative talks on various topics requested by the detainees, library activities, exits/ excursions in the community (participation in competitions, shows, sporting events, visits to cultural institutions), religious activities according to the doctrine and worship practices specific to each prisoner (knowledge and respect for moral-religious values, ethical and civic spirit development, strengthening links with the family and the parish) and volunteering.

By Order of the Minister of Justice no. 420/22.01.2011 public interest activities in which prisoners can be involved as volunteers have been established: "cultural, artistic, educational, sporting, religious and environmental protection activities are organized by central and local authorities, non-governmental organizations or other legal persons (e.g. planting and reforestation of public lands, waste collection, development of flood defence works, works to combat soil erosion, expansion of irrigation, public roads landscaping, snow removal activities, activities for the developing of shelters for stray animals)"[103]

The analysis of the information presented in the "National Report on Drugs" revealed the existence of programs that aimed at the social reintegration of drug users.

In 2010 a project meant to contribute to the labor market integration of former drug users was initiated: "*Enhancing the functional capacity of the integrated social services offered to addicts and former addicts for labor market integration through actions for the development of innovative tools and working methods and implemen-*

102. Ibidem.

103. Pripp C, *Unpublished documentary material*, Psychosocial Assistance Services, Directorate for Social Reintegration, the National Administration of Penitentiaries, 26.07. 2012.

tation of training programs"[104]. Within this project a Center for Social Inclusion inside the Giurgiu Penitentiary was established.[105]

According to information provided by the National Antidrug Agency[106], in 2010 the program MATRA MPAP PROJECT - MAT09/RM/9/1 *"Creating the National Integrated System for the rehabilitation of drug users who have committed offences continued*." Partners: the National Antidrug Agency, the Public Ministry, Department for Probation, National Administration of Penitentiaries and the General Inspectorate of Police.[107]

14. Data concerning the recidivism of the offenders sentenced for drug-related crimes

There are no statistical data regarding recidivism of drug law offenders available.

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

During 2009 there were three members of parliament who had legislative initiatives related to banning ethnobotanics. Initiatives have not passed debates in Parliament. However, in February 2010 the Romanian Government issued an emergency ordinance forbidding 36 substances and then another 8 substances.

RHRN had a legislative initiative in 2010 proposing the amendment of Law 143 of 2000, changing Articles 2, 4 and 16. Changes aimed at the decrease of penalties for drug users, the introduction of a minimum threshold for the quantities of drugs that constitute evidence for better delimitation of cases of drug trafficking and the cases of consumption. Also, the initiative aimed at the elimination or clarification of Article 16, which allowed the investigator to put pressure on the consumer involved in drug trafficking for the purpose of purchasing the necessary drugs for his own consumption. They wanted also the orientation towards a therapeutic direction and to remove the criminal penalties of imprisonment of Article 4. The initia-

104. The project is developed by the University of Bucharest in collaboration with the Association "Promoting the Right to Health", Siveco Romania and Go Business Solutions. The project is co-financed by European Social Fund through the Sectoral Operational Programme "Human Resources Development 2007 - 2013 Invest in people!"

105. Ibidem.

106. National Anti-drug Agency, *National Report on Drugs*, 2011, p. 190.

107. Ibidem.

tive stayed with the Ministry of Justice (apparently there are no specialists to analyze criminal details).

The National Anti-drug Agency mentioned in the "National Report on drugs" (2011) that two legislative proposals were issued and submitted in 2010 to the Romanian Senate.[108]

The proposals aimed at the amending of *Law no.143/2000 for preventing and combating traffic and illicit drug use* and of *Law no.339/2005 regarding the legal status of plants, substances and preparations containing narcotic and psychotropic substances*[109]. The first legislative initiative proposed the introduction of the medium risk drug term, the increase of penalties for offences provided by Law no. 143, the establishment of medical centers for ethnobotanical consumers. This initiative was rejected by the Senate.

The second legislative initiative aimed at prohibiting and punishing with imprisonment the persons involved in activities that dealt with substances, herbs or preparations which posed high risk for the consumers. The initiative passed the Senate and the Chamber of Deputies.[110] In 2011 10 legislative proposals that amended Law no. 143/2000 for preventing and combating illicit drug trafficking and consumption and for introducing new regulations for ethnobotanical commercialization were registered.[111]

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

The interviews conducted with the representatives of the institutions having in custody persons convicted of drug trafficking and related crimes[112] enabled the identification of proposals for amendments to the legislation that would allow to improve the activities intended for drug users: a) the amendment of the legislation so that the probation counselor may request the judge rule that the consumer be obligated to follow treatment (when drug use during the period of surveillance is

108. National Anti-drug Agency, *National Report on Drugs*, 2011, pp. 18 - 19.

109. National Anti-drug Agency, *National Report on Drugs*, 2011, pp. 18 - 19.

110. National Anti-drug Agency, *National Report on Drugs*, 2011, pp. 18 - 19.

111. National Anti-drug Agency, *National Report on Drugs*, 2011, pp. 18 - 19.

112. Probation Service Bucharest and Social Reintegration Department of National Administration of Penitentiaries.

revealed) and b) the multiplication and diversification of services for drug users - development and multiplication of therapeutic communities for drug users.

On the other hand, the representatives of some non-governmental organizations that conducted similar programs for drug users[113] have also made, in addition to the proposals to provide multiplication and diversification of services for drug users, proposals on:

1. Allocation of increased amounts of money from the state budget for treatment services provided to drug users or liberalization of the use of methadone.
2. The financing from the state budget of services provided by NGOs in order to ensure the stability and continuity of these services ensured up to now from international financing sources (project financing).
3. Clarifying the Public Procurement Law as to allow the purchase of services for drug users existent on the market. Organizing auctions for these services.
4. Amending Law 143/2000 - removal of the provisions that sanction drug possession for personal use (decriminalization of drug possession for personal use).
5. Amending the law under NAA is operating: passing the Agency under the authority of the Ministry of Health or the Prime Minister. For better functioning and ensuring the confidentiality of the relationship between the patient and the care personnel. The separation of police structures operating criminal investigation activities (supply reduction) from structures dealing with treatment, prevention, care and policies (demand reduction).

113. Romanian Harm Reduction Network and Alliance to Fight Alcoholism and Addiction.

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

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

ISBN: 978-960-562-142-1