

Sentencing of Drug Offenders: Legislators' Policy and the Practice of the Courts in South Eastern Europe

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Preface

As part of the activities of the project “Drug law reform in South East Europe” Diogenis presents in this publication the findings of the research “Sentencing of Drug Offenders: The Legislator’s Policy and the Practice of the Courts in South Eastern Europe”.

The research deals with an important issue which –in our opinion- needs to be addressed with evidence based data of the everyday practice. The unilateral choice of punishment and imprisonment as an effective response to the drug problem has been proven to be one of the major weaknesses of the current drug control system. Criminal law responses have been considered as the most effective means to tackle it. This fact has nourished the prevailing public opinion that the more severe penalties, the better. The interaction between severe repressive measures of the legislature and a large part of the public perception that tougher penalties are needed to eliminate drug use and dependence is particularly evident in South East Europe.

However, during the last twenty five years drug laws have been amended in nearly all the countries of South East Europe. Although the focus on the importance to provide public health-oriented assistance has increased steadily and the overall approach to drug use and addiction has improved, several drug law provisions remain problematic and need to be adapted to the current scientific insights and the changing social conditions.

The country reports of this research are a contribution to the search of legal provisions that are more consistent and will lead to greater efficiency. They contain valuable information about the current state of drug laws per country, summarize the problems concerning legislation and practice on sentencing of drug law offenders and suggest alternatives.

The current discussion about the shift in drug policy and drug legislation from repressive measures and actions to public health, social inclusion and respect for human rights is supported by the findings in this research. The identification of sanctioning practices on the state (macro) level and the analysis of the practice in drug offence cases on a county (micro) level, confirm facts that are generally shared. Most drug offenders are prosecuted for and convicted of possession of drugs for personal use. Statistics also show that a significantly

A small number of drug traffickers are convicted as compared with all the other groups of offenders.

A significant finding of the research is that judges are interpreting legislation in different ways. There is a small number of judges who impose sanctions which are harsher than those required by the legislator. Some of them see drug possession per definition as drug trafficking. The vast majority of the judges, however, is more lenient than the legislator, because they take into consideration all aspects of the situation of the offender (family, social and economic situation, previous convictions etc.) It is more and more common practice that the courts pronounce very often a suspended sentence by absence of prior conviction or other extenuating circumstances and see drug offenders primarily as persons in need of treatment. In this context we may say that the judiciary must be consulted and be taken seriously by the responsible politicians and the governments before proposing new legislation on drugs.

In several countries –and also in international level– an intense discussion is taking place about punishing or not drug possession for personal use and minor drug offences. Decriminalization of drug possession for personal use is introduced in some countries with success and positive results. At the United Nations meetings, several high rank officials express the opinion that the international drug control conventions do not impose on Member States obligations to criminalise drug use and possession for personal consumption. The recent UN General Assembly Special Session (UNGASS) calls Member States to “encourage the development, adoption and implementation, with due regard to national, constitutional, legal and administrative systems, of alternative or additional measures with regard to conviction or punishment in cases of an appropriate nature” and “Promote proportionate national sentencing policies, practices and guidelines for drug-related offences whereby the severity of penalties is proportionate to the gravity of offences and whereby both mitigating and aggravating factors are taken into account”. We hope that member states in the region of South East Europe will consider these calls as an encouragement to continue reforming their drug legislation in this direction.

This research is an example of co-operation between civil society organisations and the scientific community. Diogenes owes thanks to the researchers who have been willing to do this work with very scarce resources and great enthusiasm. Thanks also to the European Commission and the Open Society Foundations for their financial support.

Country Report Bulgaria

Sentencing of Drug Offenders: Legislators' Policy and the Practice of the

Courts by Dimitar Markov¹ and Maria Doichinova²

1. National legislative policy on drugs

1.1. Drug legislative policy and the most important legal instruments that regulate suppression of abuse of narcotic drugs

There are two main laws that regulate drug-related issues in Bulgaria. These two laws tend to incorporate all the aspects related to the penetration of drugs in social life.

The Law on Control of Narcotic Substances and Precursors regulates social relations associated with the control of narcotic substances and precursors, aligning them with international treaties to which Bulgaria is a party and European Union regulations. It regulates the legal handling of substances classified as narcotics or precursors and appoints the state institutions responsible for control thereof. It also defines which of the narcotic plants/substances are forbidden to grow/import and which can be handled after obtaining a licence to that effect. It also regulates the treatment of drug-addicted persons and sets out the arrangements for the seizure and destruction of narcotic substances and precursors.

Until 2011, the lists classifying the substances subjected to the Law on Control of Narcotic Substances and Precursors were annexed to it and classification was done by the Parliament. As a result, any change to the lists (e.g. adding or removing a substance) had to be done by the Parliament through an

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amendment to the law. This approach was reasonably criticised as ineffective:
due to the fact

that the procedure for amending the law was slow and complicated, very often new substances were added to the lists long after their emergence and, in the meantime, their distribution was practically legal. This gap was overcome in 2011, when the law was amended and the lists were annexed to the Ordinance on the Procedure for Classification of Plants and Substances as Narcotic, adopted by the Council of Ministers. The ordinance, being secondary legislation, is amended by the Council of Ministers through a simpler and faster procedure.

The ordinance classifies three major types of substances:

- absolutely forbidden high-risk drugs;
- high-risk substances that can be used in medicine upon permission;
- risk drugs.

The Criminal Code deals with the sanctions envisaged for drug-related crime. It classifies the types of offences and the prescribed punishment.

Under the Criminal Code, cultivation, production of and trade in drugs, if committed without the necessary permission, are considered criminal offences. Drug use as such is not penalised. However, possession of drugs, irrespective of quantity (i.e. even a single dose for personal use) is considered a criminal offence and is subject to criminal prosecution. Drug addiction is not explicitly defined as a mitigating or an aggravating circumstance –the Criminal Code does not provide for different penalties depending on whether the offender is a drug addict or not. Offences associated with “cravings to use” are prosecuted in the same manner as ordinary offences not related to drugs. It is up to the court to decide whether and how to consider the offender’s addiction when determining the penalty.

There is a difference between “high-risk” and “risk” narcotic substances. The penalties for risk narcotic substances are less severe. The Criminal Code does not include its own legal definition of what is a high-risk or a risk narcotic substance. Therefore, the classification provided by the Ordinance on the Procedure for Classification of Plants and Substances as Narcotic applies accordingly.

In addition to these two laws, the use of drugs is also regulated in secondary legislation adopted by the government or by individual ministries. The most relevant pieces of secondary legislation include:

- Ordinance on the Procedure for Classification of Plants and Substances as Narcotic, adopted by the Council of Ministers on 10 November 2011;
- Regulation No 7/2001 of the Minister of Health concerning the terms and conditions for issuing authorisations for import and export of narcotic substances and preparations thereof (promulgated in the SG No 17 of 25.02.2011);
- Regulation concerning the terms and conditions for authorising activities under Article 73(1) of the Narcotic Substances and Precursors Control Act adopted by Decree of the Council of Ministers No 122/09.05.2011 (promulgated in the SG No 38/17.05.2011);
- Regulation No 7 of 07.09.2011 concerning the terms and conditions for implementing drug use harm reduction programmes (promulgated in the SG No 75 of 27.09.2011);
- Regulation No 8 of 07.09.2011 concerning the terms and conditions for implementing psychosocial rehabilitation programmes for individuals who have been dependent on or have abused narcotic substances (promulgated in the SG No 75 of 27.09.2011).

1.2. Compliance of legal instruments with basic international conventions on drugs

Bulgaria has signed and ratified the 1961 Single Convention on Narcotic Drugs and the 1972 Protocol amending it, the 1971 UN Convention on Psychotropic Substances, the 1988 UN Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances, as well as the Council of Europe Convention on Money Laundering, Search, Seizure and Confiscation of the Proceeds of Crime. In 2011, the Parliament adopted a series of amendments to the Law on Control of Narcotic Substances and Precursors (promulgated in the SG No 12, No 60 and No 61 of 2011), aligning the legislation with the above-mentioned international instruments.

1.3. Practical application of the legal instruments

The practical application of the Law on Control of Narcotic Substances and Precursors has not revealed significant flaws. According to the 2013 Annual Report of the Ministry of Health, in 2013 the Ministry's controlling bodies performed a total of 2,441 inspections, including seven inspections of

producers of medicines containing narcotic substances, 2,286 inspections of pharmacies and wholesale stores, and 143 inspections of treatment programmes. During the same year, the Ministry of Health issued 511 licences and 620 permits for various activities under the Law on Control of Narcotic Substances and Precursors. In the area of diagnosis and treatment, the Ministry of Health reported that in 2013 the capacity of treatment programmes was 2,887 persons (1,341 subsidised by the government and 1,546 with own funding).

The practical application of the Criminal Code reveals more problems. According to the 2012 Annual Report of the Public Prosecution Service, for the year 2012 the public prosecutors throughout the country completed 3,449 pre-trial proceedings for drug-related crimes, but submitted to the courts only 2,131 bills of indictment (about 61.8% of all completed cases). The rest were discontinued at the pre-trial stage of the proceedings. The figures for previous years reveal a similar situation: in 2011 only 55.7% of all completed proceedings were sent to court, and in 2010 the share was even lower – 52.9%. Due to the relatively severe sanctions envisaged in the law, the courts often impose sanctions below the minimum or issue suspended sentences. According to data of the National Statistical Institute, in 2012 less than half of the persons sentenced for drug-related crimes (44.5%) received effective sentences. The rest were either acquitted or received suspended sentences.

1.4. Important drug issues left unregulated

The most important gap in the legislation is the lack of alternatives to imprisonment applicable to drug-related crime. According to the Criminal Code, the only applicable sanctions for drug-related crime are imprisonment and pecuniary fines. Furthermore, the penal legislation on drugs currently in effect does not provide for treatment of drug addiction as an alternative to imprisonment, as recommended by the UN and the EU drugs strategy (2013–2020).

1.5. Role of criminal legal regulations in national legislative policy on drugs

The main role of criminal law in the national legislative policy on drugs is to define which drug-related violations, due to their dangerous nature, are considered criminal offences and are therefore subject to criminal prosecution.

In addition, the criminal law defines the type and amount of sanctions for the criminalised offences, the rules for their individualisation by the court, and the grounds and procedure for releasing offenders from criminal responsibility. Criminal law is also expected to provide specific rules applying to drugusing or drug-addicted offenders in the course of the criminal proceedings and afterwards, during the execution of the sentence. However, in Bulgaria these issues are not regulated in detail and there are very few legal provisions governing this matter specifically.

The regime of legally dealing in narcotic substances is the main subject of the Law on Control of Narcotic Substances and Precursors. This law and the secondary legislation for its application regulate the regime of import, production, processing, transportation, trade, storage, etc., in accordance with international instruments. It also regulates the composition and the responsibilities of the state institutions tasked with supervising and controlling these activities.

The Law on Control of Narcotic Substances and Precursors also includes a list of violations. These are administrative violations, not criminal offences. As such, they are not subject to criminal prosecution and are investigated and sanctioned by administrative authorities, most often the ones subordinated to the Minister of Health.

2. Criminal legislative policy on drug offences

2.1. Laws in force according to which drug abuse is an offence punishable with a criminal sanction

The Criminal Code is the only law in Bulgaria that defines the drug-related offences and their corresponding sanctions. Unlike in other countries, the Bulgarian legal tradition does not allow criminal offences and sanctions to be defined in pieces of legislation other than the Criminal Code.

2.2. Court practice with respect to the *ne bis in idem* principle

The Bulgarian Criminal Code does not differentiate between crimes and misdemeanours. This is a general principle of Bulgarian criminal law and applies to all offences, including drug-related crime.

The Law on Control of Narcotic Substances and Precursors defines a number of administrative violations. Some of these violations could at the same time

constitute criminal offences. In such a case, the controlling authority that has established the violation should forward the case to the public prosecutor to open criminal proceedings.

The differentiation between administrative violations and criminal offences is clearly defined in the legislation and there is no problematic court practice with respect to the *ne bis in idem* principle.

2.3. Description of drug-related offences prescribed by the Criminal Code and other relevant legal acts

The Criminal Code incriminates several groups of drug-related offences:³

- Distribution of drugs: This group includes the unauthorised production, processing, acquisition or possession of narcotic drugs or analogues thereof for the purpose of distribution, as well as the distribution of such drugs itself. For high-risk narcotic drugs or analogues thereof, the penalty is imprisonment for a term of two to eight years and a fine ranging from BGN 5,000 to 20,000; for risk narcotic drugs or analogues thereof, the sanction is imprisonment for a term of one to six years and a fine ranging from BGN 2,000 to 10,000; for precursors and facilities or materials for the production of narcotic drugs or analogues thereof, the sanction is imprisonment for a term of three to twelve years and a fine ranging from BGN 20,000 to 100,000 [Article 354a(1) of the Criminal Code]. Where the narcotic drugs or the analogues thereof are in large quantities, the penal sanction is imprisonment for a term of three to twelve years and a fine ranging from BGN 10,000 to 50,000; where they are in particularly large quantities, the sanction is imprisonment for a term of five to fifteen years and a fine ranging from BGN 20,000 to 100,000 [Article 354a(2) of the Criminal Code]. If the offence is committed in a public place, or by a person hired by, or implementing a decision of, an organised criminal group, by a physician or a pharmacist, by a cover supervisor, teacher or headmaster of an educational establishment, or by an official in the course of or in connection with the discharge of his/her official duties, as well as by a person acting in circumstances of dangerous recidivism, the penalty is imprisonment for a term of five to fifteen years and a fine ranging from BGN 20,000 to 100,000.

³ . Centre for the Study of Democracy. Penitentiary Policy and System in the Republic of Bulgaria. Sofia: 2011.

- Unauthorised acquisition or possession of narcotic drugs and analogues thereof: These are cases of possession of drugs for personal use, not for the purpose of distribution. The penalty is imprisonment for a term of one to six years and a fine ranging from BGN 2,000 to 10,000 for high-risk narcotic drugs or analogues thereof; imprisonment for a maximum term of one year and a fine ranging from BGN 1,000 to 5,000 for risk narcotic drugs or analogues thereof [Article 354a(3) of the Criminal Code]; and a maximum fine of BGN 1,000 if the offence constitutes a “minor case” [Article 354a(5) of the Criminal Code].
- Breach of rules established for the handling of narcotic drugs: This group covers the breach of rules established for producing, acquiring, safekeeping, accounting for, dispensing, transporting or carrying narcotic drugs. The penalty is imprisonment for up to five years, a maximum fine of BGN 5,000 and, at the discretion of the court, disqualification of the offender from holding a particular government or public office, from practicing a particular profession or from carrying out a particular activity [Article 354a(4) of the Criminal Code]. If the offence constitutes a “minor case”, the sanction is a fine of up to BGN 1,000 [Article 354a(5) of the Criminal Code]. A physician who, in breach of the established procedure, knowingly prescribes any narcotic drugs or analogues thereof, or any medicines containing such substances, is guilty of an offence which can also be subsumed under this heading. This offence is punishable with imprisonment for a maximum term of five years and a fine of up to BGN 3,000 or, for a repeat offence, imprisonment for a term of one to six years and a fine of up to BGN 5,000. The court may (or, in case of a repeat offence, must) furthermore disqualify the offender from holding a particular government or public office, from practicing a particular profession or from carrying out a particular activity [Article 354b(5) and (6) of the Criminal Code].
- Encouragement of others to use drugs: Inducing or aiding another person to use narcotic drugs or analogues thereof falls under this group and is punishable with imprisonment for a term of one to eight years and a fine ranging from BGN 5,000 to 10,000. A heavier sanction (imprisonment for a term of three to ten years and a fine ranging from BGN 20,000 to 50,000) is provided for where the act was committed against an infant, a minor or an insane person; against more than two persons; by a physician, pharmacist, cover supervisor, teacher or headmaster of an educational establishment, or an official at a penitentiary facility in the course of or in connection with the

discharge of his/her official duties (in such a case, the sanction is complemented by disqualification from holding a particular government or public office, from practicing a particular profession or from carrying out a particular activity); in a public place; through the mass communication media; in circumstances of dangerous recidivism [Article 354b(2) of the Criminal Code]. Inducing or forcing another to use narcotic drugs or analogues thereof for the purpose of prostitution, copulation, molestation, or engaging in sexual intercourse or acts of sexual gratification with a person of the same sex, is also an offence punishable with imprisonment for a term of five to fifteen years and a fine ranging from BGN 10,000 to 50,000; or by imprisonment for a term of ten to twenty years and a fine ranging from BGN 100,000 to 300,000 if the act was committed: by a person hired by, or implementing a decision of, an organised criminal group; against a person who has not attained the age of 18 or an insane person; against two or more persons; as a repeat offence; or in circumstances of dangerous recidivism.

- Administering a lethal dose of a narcotic drug: The offence is defined as administering to another person a narcotic drug or an analogue thereof in quantities likely to cause death and death ensues indeed. The penalty is imprisonment for a term of fifteen to twenty years and a fine ranging from BGN 100,000 to 300,000 [Article 354b(3) of the Criminal Code].
- Enabling the use of narcotic drugs: This group comprises two acts: systematically providing to various persons premises for use of narcotic drugs, and organising the use of such drugs. The applicable penalty is imprisonment for a term of one to ten years and a fine ranging from BGN 5,000 to 20,000 [Article 354b(4) of the Criminal Code].
- Cultivation of plants for the purpose of production of narcotic drugs: This includes the planting or growing of opium poppy, coca bush plants or plants of the genus Cannabis in breach of the rules established in the Law on Control of Narcotic Substances and Precursors. The applicable penalty is imprisonment for a term of two to five years and a fine ranging from BGN 5,000 to 10,000 [Article 354c(1) of the Criminal Code] or, if the offence constitutes a “minor case”, imprisonment for a maximum term of one year and a fine of up to BGN 1,000 [Article 354c(5) of the Criminal Code]. Any person who organises, leads or finances an organised criminal group for the cultivation of such plants or for the manufacture, production or processing of narcotic drugs is criminally liable as well, and the penal sanction is imprisonment for a term of ten to twenty years and a fine ranging from BGN

50,000 to 200,000 [Article 354c(2) of the Criminal Code]. Participation in such a group is punishable with imprisonment for a term of three to ten years and a fine ranging from BGN 5,000 to 10,000. The law exempts from prosecution any member of the group who voluntarily discloses to the authorities all facts and circumstances about the activity of the organised criminal group which are known thereto [Article 354c(3) and (4) of the Criminal Code].

- **Trafficking in narcotic drugs:** The principal elements of these offences are carrying narcotic drugs across the border of Bulgaria without due authorisation. Penalties vary with the object of the offence: for high-risk narcotic drugs and/or analogues thereof, it is imprisonment for a term of ten to fifteen years and a fine ranging from BGN 100,000 and BGN 200,000; for risk narcotic drugs and/or analogues thereof, the sanction is imprisonment for a term of three to fifteen years and a fine ranging from BGN 10,000 to 100,000; for precursors or facilities and materials for the production of narcotic drugs, the sanction is imprisonment for a term of two to ten years and a fine ranging from BGN 50,000 to 100,000 [Article 242(2) and (3) of the Criminal Code]. When the narcotic drugs trafficked are in particularly large quantities and the offence constitutes a particularly grave case, the penal sanction is imprisonment for a term of fifteen to twenty years and a fine ranging from BGN 200,000 to 300,000 [Article 242(4) of the Criminal Code]. If the offence constitutes a “minor case”, a maximum fine of BGN 1,000 is imposed under an administrative procedure [Article 242(6) of the Criminal Code]. The law gives the court an option to impose confiscation of all or part of the offender’s property in lieu of a fine [Article 242(5) of the Criminal Code]. Preparation for trafficking in narcotic drugs is also punishable with imprisonment for a maximum term of five years [Article 242(9) of the Criminal Code].

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

2.4. Severity of prescribed penalties for drug offenders compared to sanctions prescribed for other crimes and accordance with the principle of proportionality

In general, the penalties prescribed for drug-related crimes are not proportionate to the gravity of the offences. The penalties for drug-related

offences are relatively severe, combining long terms of imprisonment and substantial fines. For example, aggravated cases of drug distribution are punishable with imprisonment for a term of five to fifteen years and a fine ranging from BGN 20,000 to 100,000, which is close to the penalty for murder (imprisonment for a term of ten to twenty years). This is a consequence of a series of legislative amendments through which the penalties for all drug-related crimes were significantly increased without a reasonable justification.

At the same time, Bulgaria's penal policy on drug-related crime entirely ignores probation as a non-custodial measure and an alternative to imprisonment. Probation is not provided for as a penalty for any of the drug-related offences, even for minor offences, such as possession of narcotic drugs for personal use. Against this background, however, the sentencing of offenders for drug-related crime is practically lenient. There is substantial discrepancy between the sanctions provided for by law and the actual sanctions imposed by the courts. Despite the severe sanctions provided for *de jure*, the Bulgarian courts frequently pass suspended sentences, give penalties below the statutory minimum or replace imprisonment by probation, even though probation is not among the penal sanctions prescribed for such offences. This is done on the grounds of the possibilities provided for in the law to impose a penal sanction below the threshold or to replace it by a more lenient one.

The Table below makes a comparison between the types of penalties imposed in 2012 for all criminal offences, as well as for drug-related crime⁴ and bodily injury (as an offence punishable with comparable sanctions).

Table 1
Sentenced persons by type of crime and type of penalty (2012)

Type of penalty		Type of crime		
Drug-related crime (Articles 354a-354c of the Criminal Code)		Bodily injury (Articles 128-134 of the Criminal Code)	All crime	
Imprisonment	Up to 6 months	306	198	11 903

⁴. Excluding sentences for drug trafficking (20 sentences in 2012), which are counted together with the smuggling of goods under the general category of "smuggling".

	6 months – 1 year	396	202	7 361
	1-3 years	407	191	494
	3-4 years	34	9	435
	4-5 years	12	4	181
	5-10 years	9	10	242
	10-15 years	0	1	46
	15-20 years	0	0	31
	20-30 years	0	0	5
Life imprisonment		0	0	6
Life imprisonment without parole		0	0	0
Fine		200	20	1 288
Probation		34	321	11 118
Other		9	13	438

Source: National Statistical Institute.

As evident from the table, in terms of length of imprisonment the sentencing pattern for drug-related crime very much resembles the one for other comparably punishable offences. However, significant difference is observed as regards non-custodial sanctions –even a violent crime like bodily injury is much more commonly punished by probation than drug-related crime.

2.5. Amendments to drug-related offences

Drug-related offences were first introduced in Bulgaria in 1975, incriminating several types of conduct related to narcotic substances: production, cultivation, possession, sale, transportation, acquisition, prescription without necessity of using any, providing premises for drug use. The severity of penalties depends on whether the drugs are meant for sale or for personal use. The law was amended eight times (1982, 1993, 1997, 2000, 2004, 2006 and 2010).

- The 2000 amendments were related to both the punishable acts and the sanctions. They criminalised some new acts, such as administering a lethal dose of narcotic substance to another person and participating in a criminal

group for the purpose of cultivating opium poppy and cannabis. The amendments increased the sanctions for most offences while decriminalising the acquisition, storage, possession and carrying of narcotic drugs or analogues thereof by a person who is dependent upon such substances, where the quantity is in amounts indicating that the said quantity is intended for a single use. The 2000 amendments were the only ones which created an impression of being somewhat consistent and purposeful. On the one hand, they satisfied the need to create a more precise framework for the various types of drug-related offences by introducing the requisite variation of the length and amount of sanctions according to the degree of gravity of the acts. The framework was aligned with the newly-adopted Law on Control of Narcotic Substances and Precursors, *inter alia* through the introduction of sanctions varying in length and amount with the object of the offence. On the other hand, the amendments decriminalised the so-called “single dose”, which was a clear sign of the legislator’s understanding that drug use in itself should not be treated as a criminal offence and that the penal policy should only target producers and distributors of such substances.

- The 2004 amendments repealed the provision that decriminalised the single dose. Thus, all drug-related acts were re-criminalised, regardless of the quantity of drugs involved or the offender’s dependence. Worse yet, the heavy sanctions introduced by the preceding amendments were not modified, thus their applicability was automatically extended to persons possessing small quantities of narcotic drugs for personal use. The authors of the bill argued that the revision was imperative due to the appearance of conflicting case law regarding the interpretation of the term “quantity intended for a single use” and the increased frequency of acquittals of drug dealers apprehended with kilograms of narcotic drugs which the court held were a quantity intended for personal use. The explanatory report to the bill pointed out that “considering the avalanche growth of the number of drug dependent individuals, the State must prosecute the possession and distribution of drugs to the full extent of the law,” which should be combined with a “state policy and treatment programmes targeted at drug dependent individuals and prevention”.
- The 2006 amendments were a consequence of the ever-stronger arguments against the criminalisation of the single dose. The legislator substantially reduced the length and amount of sanctions for most drug-related offences, the distinction between distribution and personal use was reintroduced and a

paragraph was added, considerably easing the sanctioning by allowing minor cases of drug possession or breach of rules for handling narcotic substances to be punished only by a fine of BGN 1000. This provision, however, did not decriminalise but merely relaxed the sanctioning regime, albeit substantially. Nonetheless, all other consequences arising from the convictions were retained, including the impact of the sentencing on the conviction status of the sentenced person. Regardless of the amount of the sanction, after sentencing the person would be on record as having been convicted and this could entail a number of negative consequences both in the field of criminal law (e.g. disqualification from exemption from criminal liability upon commission of a subsequent act) and in other fields (e.g. consequences related to the person's social integration, such as encountering greater difficulties in finding work).

- The latest revision of the legal framework was adopted in April 2010, but it was of an emendatory nature and did not affect the substance of the provisions.

3. Crime rates of drug-related offences on state (macro) level

3.1. Prevalence of drug crimes committed by adult offenders with respect to total crime according to official state statistics

The Table below provides data on the prevalence of drug crimes based on statistics collected by the National Statistical Institute. The data refer to crimes for which the criminal proceedings were completed during the respective year. The figures include both convictions and acquittals.

The available statistics cover a period of nine years between 2004 and 2012. Before 2004, disaggregated data by type of offence were not collected.

The Bulgarian legislation does not use the two-tier system of offences (crimes and misdemeanours), typical for some other jurisdictions. For some crimes, including drug-related crime, the Criminal Code includes special provisions referring to the so-called “minor cases”. However, minor cases are not a separate category of crimes. They only provide an opportunity for the court to impose a lighter sanction on the offender. Minor cases are not counted separately and are included in the sample below, as they constitute offences along with all other types of drug crimes.

Table 2
Share of completed criminal proceedings
for drug-related crimes (2004-2012)

Year	Total number of completed proceedings	Completed proceedings for drug-related crimes (excl. trafficking)	Share of completed proceedings for drugrelated crimes
2012	40 400	1 561	3.86%
2011	42 460	1 543	3.63%
2010	43 278	1 565	3.62%
2009	42 032	1 372	3.26%
2008	38 313	1 055	2.75%
2007	33 577	1 211	3.61%
2006	34 840	1 826	5.24%
2005	32 398	1 010	3.12%
2004	31 831	787	2.47%

Source: National Statistical Institute.

As evident from the official statistics, the prevalence of drug-related crime compared to the total number of crimes has increased significantly during the last decade, reaching almost 4% in 2012.

3.2. Statistical prevalence of various drug law offences committed by adult offenders

In Bulgaria, there are no publicly accessible official statistics on the various drug-related offences. The Table below contains data from the EMCDDA annual reports on Bulgaria.

Table 3
Individuals sentenced for drug-related crime (2008-2011)

Article of the Criminal Code	2011	2010	2009	2008
Article 242(2) (drug smuggling)	24	26	25	21
Article 242(3) (smuggling of precursors)	0	4		
Article 354	0	1	1 297	949
Article 354a(1) (narcotic substances)	81	318		
Article 354a(1) (high-risk narcotic substances)	287			
Article 354a(1) (precursors and facilities)	7			

Article 354a(2) (without items)	0	109		
Article 354a(2)(1)	6	17		
Article 354a(2)(2)	5	0		
Article 354a(2)(3)	2	0		
Article 354a(2)(4) (dangerous recidivism)	65	26		
Article 354a(2)	59	0		
Article 354a(3)(1)	564	660		
Article 354a(3)(2)	18	10		
Article 354a(4)	0	3		
Article 354a(5) (minor case)	211	230		
Article 354b(1)	0	2		
Article 354b(2)(1)	1	1		
Article 354b(2)(4)	2	0		
Article 354b(3)	1	0		
Article 354c(1)	107	104		
Article 354c(2) (organising, directing)	2	0		
Article 354c(3) (involvement in OCG)	5	1		
Article 354c(5) (minor case)	9	8		
Article 365b(5)	0	1		
Total	1 456	1 520	1 322	970

Source: EMCDDA national reports on Bulgaria, citing NSI.

The data show that more persons have been convicted of possession (40.0%) than distribution (35.2%). The share of minor cases is also relatively high (14.5%). Those convicted of trafficking represent only 1.6% of all persons sentenced for drug-related crime, which is five times less than the share of those sentenced for cultivation (8.4%).

3.3. Proportion of drug possession offences committed by adults over all drug offences

In Bulgaria, drug possession is penalised irrespective of whether it is for personal use or not. The Criminal Code does not distinguish between possession for personal use and possession for purposes other than

distribution. This makes it impossible to calculate the share of those convicted of possession of drugs for personal use.

In accordance with article 354a(5) of the Criminal Code, such cases may be defined as minor ones. However, the share of minor cases (14.5% in 2011) can only be used as an indirect way to calculate the share of cases of possession for personal use, because (a) the courts are not obliged to always treat such cases as minor cases, and (b) minor cases can also include other cases apart from possession for personal use. On the other hand, there are no statistics on drug addiction prevalence among those convicted of drug-related crime. Such statistics, although not necessarily presupposing possession for personal use, could at least provide indications about the share of such cases.

3.4. Sanctions pronounced against adult drug offenders

The Table below contains statistics on sanctions for drug-related crime (excluding drug trafficking) for the period 2004-2012. The most commonly imposed penalties are imprisonment of up to 3 years and fines. This stems from the fact that imprisonment is envisaged for all cases of drug-related crime, with only two exceptions: 1) if there is a “minor case” the sanction is a fine of up to BGN 1,000, and 2) if a member of an organised criminal group cooperates with the authorities and shares all information s/he knows, then s/he may not be sanctioned.

The statistics show that, in 2012, there were 1,146 cases that ended with imprisonment and 220 cases with a fine; this leads to the conclusion that some 15% of all sanctions are for minor cases.

Additionally, a significant number of cases have ended with probation or another sanction (which can be confiscation of property or deprivation of certain rights, such as the right to exercise certain profession). These sanctions are not explicitly envisaged in the articles of the Criminal Code related to drug crimes, but can be imposed in certain cases listed in the law.

Table 4
Penalties imposed on persons sentenced for drug-related crime
under Articles 354a-354c of the Criminal Code (2004-2012)

	Year

Type of penalty 2004		2005	2006	2007	2008	2009	2010	2011	2012	
Imprisonment	Up to 6 months	173	291	378	217	228	335	351	295	306
	6 months-1 year	143	173	398	271	235	334	439	394	396
	1-3 years	305	335	606	272	187	268	302	410	407
	3-4 years	51	44	61	45	20	21	36	31	34
	4-5 years					8	16	16	11	12
	5-10 years	33	37	31	18	10	16	10	7	9
	10-15 years	14	12	2	1	0	3	0	1	0
	15-20 years	4	1	5	2	0	0	1	0	0
	20-30 years	0	0	0	0	0	0	0	0	0
Life imprisonment		0	0	0	0	0	0	0	0	0
Life imprisonment without parole		0	0	0	0	0	0	0	0	0
Fine		10	2	49	167	197	253	260	236	220
Probation		0	3	10	38	31	30	46	31	34
Other		10	15	17	33	33	3	29	16	9

Source: National Statistical Institute.

The Table and the Figure below present the statistics on sanctions for drugrelated crime (excluding trafficking) broken down by “imprisonment” and “other”, as well as the share of each category for the period 2004-2012. As evident from the figure, imprisonment still remains the main penalty for drug-related offences despite the decrease of its share after the introduction of probation in 2005.

Table 5

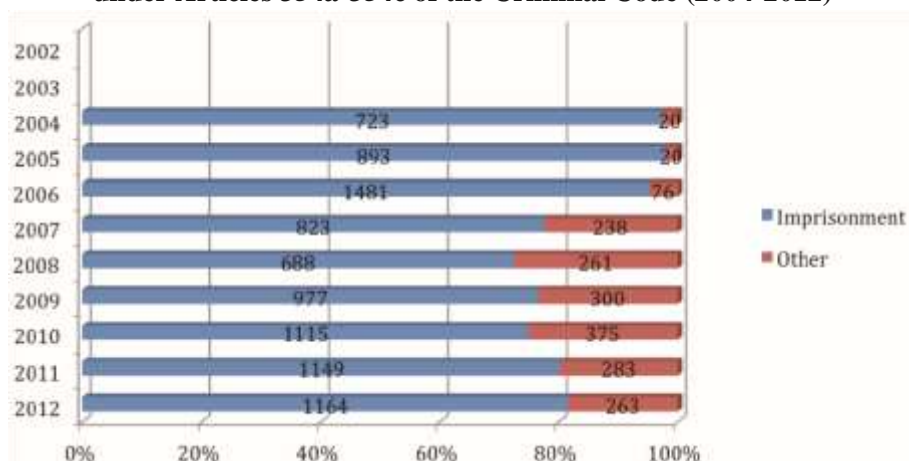
**Share of imprisonment over sanctions imposed
for drug-related crime under Articles 354a-354c
of the Criminal Code (2004-2012)**

Drug-related crimes (articles 354a to 354b)	Total	Imprisonment	Share of imprisonment	Other	Share of other
2012	1 427	1 164	78.2%	263	21.8%
2011	1 432	1 149	80.2%	283	19.8%
2010	1 490	1 115	74.8%	375	25.2%
2009	1 297	977	75.3%	300	23.1%
2008	949	688	72.5%	261	27.5%
2007	1 061	823	77.6%	238	22.4%
2006	1 557	1 481	95.1%	76	4.9%
2005	913	893	97.8%	20	2.2%
2004	743	723	97.3%	20	2.7%
2003	525	N/A		N/A	
2002	293	N/A		N/A	

Source: National Statistical Institute.

Figure 1

Share of imprisonment over sanctions imposed for drug-related crime under Articles 354a-354c of the Criminal Code (2004-2012)



Source: National Statistical Institute.

3.5. Proportion of prison sentences imposed on adult drug offenders over all prison sentences

The Table below contains statistics on imprisonment for drug-related crime (excluding trafficking) compared to imprisonment for any crime in the period 2004-2012. Data for 2002 and 2003 are not available.

Table 6
Share of prison sentences for drug-related offences over the total number of prison sentences (2004-2012)

Year	Total imprisonment sentences	Imprisonment sentences for drugrelated crimes	Share of drug-related imprisonment
2012	25 146	1 164	4.6%
2011	26 538	1 149	4.3%
2010	22 404	1 115	5.0%
2009	20 819	977	4.7%
2008	18 454	688	3.7%
2007	16 801	823	4.9%
2006	18 836	1 481	7.9%

2005	18 435	893	4.8%
2004	18 201	723	4.0%

Source: National Statistical Institute.

The share of drug-related imprisonment varies between 4.0% and 7.9%. The relatively sharp rise observed in 2006 can be attributed to the re-criminalisation of possession for personal use two years earlier. With the introduction of the “minor case” option in 2006, such cases were no longer sanctioned by imprisonment and the number of persons sent to prison reached the levels observed before 2006.

The share of drug-related prison sentences drops again in 2011 as a follow-up of the 2010 amendments.

3.6. Proportion of adult drug offenders sentenced to prison by type of drug-related offence

The data about the offenders sentenced to prison for drug-related crime is not disaggregated by type of offence. The only available data come from the EMCDDA annual reports on Bulgaria and show the share of all sentenced offenders irrespective of the penalty. According to these statistics, offenders are most often sentenced for possession (40.0%), followed by distribution (35.2%), cultivation (8.4%) and trafficking (1.6%).

Taking into account that (a) imprisonment is the sentence envisaged for almost all drug-related crimes (the only exceptions being “minor cases” and cases where an organised criminal group member cooperates with the authorities) and (b) most of the drug-related cases end with imprisonment (again with the same exceptions), it can be concluded that the share of offenders sentenced to prison by type of offence would be similar to the share of all sentenced offenders.

3.7. Influence of legislative amendments to drug offences on drugrelated crime rates

The legislative amendment that had the greatest influence over drug-related crime rates is the decriminalisation of possessing a single dose for personal use, if there is evidence that the offender is dependent on drugs and the

quantity indicates the purpose of personal use. This provision was adopted in 2000 and resulted in an immediate decrease in the number of persons sentenced for drug-related crime during the period 2001-2002.

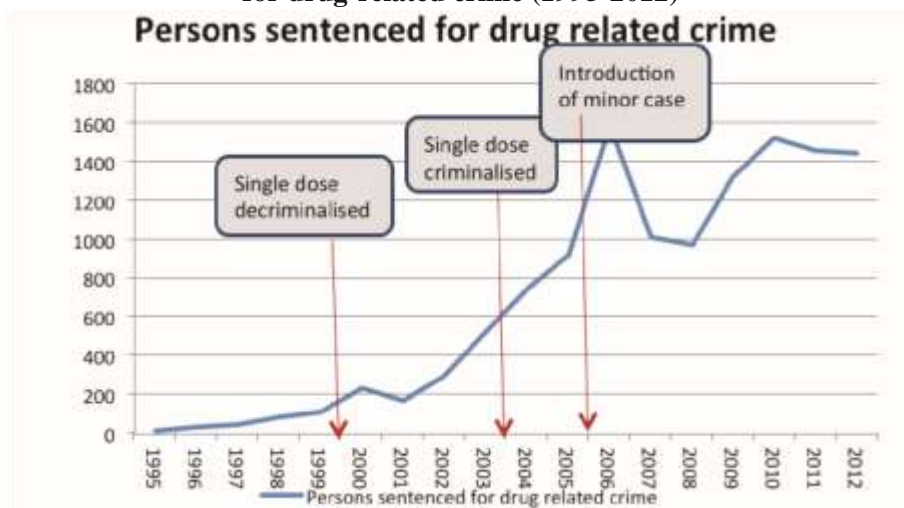
The re-criminalisation of the “single dose” in 2004 led to a very sharp increase in the number of sentences. This trend is best visible in 2006, when most of the proceedings initiated after the amendment were completed.

The ambivalent results of the 2004 amendments and the ever-stronger arguments against the criminalisation of the single dose compelled the legislator to revise the legal framework in 2006. These series of amendments substantially reduced the length and amount of the penal sanctions for most drug-related offences, reintroduced the distinction between distribution and personal use and, even though the single dose was not expressly decriminalised, a provision was added providing for a very light penalty (maximum fine of BGN 1,000) for minor cases. The reasoning of the bill expressly stated that by “minor cases” the legislator means possession of small quantities of narcotic drugs by drug-dependent persons. These amendments also had an immediate impact on the level of sentencing, leading to a significant decrease in the number of sentenced persons in 2007 and 2008.

The influence of the latest amendments can only be assessed when conviction data for a longer period are available.

Figure 2

Impact of legislative amendments on the number of persons sentenced for drug-related crime (1995-2012)



Source: National Statistical Institute.

One negative consequence of the frequent legislative amendments is the fact that it usually takes time before the courts adapt themselves to the new rules. Moreover, criminal proceedings usually last longer than one or two years, so the immediate impact is hardly identifiable. Therefore, the real impact of an amendment is best assessed at least three years after its adoption, when enough case law has accumulated on its implementation. However, in Bulgaria, amendments are usually introduced much more often and this significantly hampers the objective evaluation of their long-term impact.

3.8. Statistical deviations with respect to recidivism rates of drug offenders following the legislative amendments

The available statistics on re-offending (recidivism) are not disaggregated by type of crime. The lack of data does not allow for any direct conclusions on recidivism in relation to legislative amendments to be drawn.

Since re-offending usually leads to severer sanctions, it could be presumed that some of the heavier penalties imposed by the courts are due to recidivism. However, the available data on the term of prison sentences alone may also mean that the convicts have committed a heavier crime, and not that they are recidivists.

At the same time, drug-related crime is often associated with cravings to use, which means in practice that the same offenders are sentenced repeatedly for the same crime insofar as personal use is criminalised, as has been the case in Bulgaria since 2004. Moreover, drug addicts are often unable to find a job which ensures enough earnings to satisfy their cravings, so they are often tempted to deal in drugs or get involved in other criminal activities in order to secure their dose. In that sense, drug-related crimes are often associated with recidivism, although this conclusion cannot be confirmed by the available statistical data.

4. Crime rates of drug-related offences on county court (micro) level

4.1. Details of the research sample

The research sample covers judgments of the two courts of first instance in the capital, Sofia. Under the Bulgarian legislation, drug-related offences committed in the city of Sofia fall within the jurisdiction of the Sofia courts. Bearing in mind that the Sofia courts cover 17.5% of the country's population, the two courts have issued some 5% of the judgments in Bulgaria.⁵

The Sofia Regional Court hears cases for less serious offences (unauthorised acquisition or possession of narcotic drugs and analogues thereof without intent of distribution and breach of rules established for the handling of narcotic drugs). The Sofia District Court hears the cases for the majority of drug-related offences.

The sample does not cover the aggravated cases related to organised criminal groups, which fall within the jurisdiction of the newly-established Specialised Criminal Court.

The research sample consists of 50 judgments of the two courts issued between July 2010 and July 2013, of which 18 were pronounced by the Sofia Regional Court and 32 by the Sofia District Court. The sample thoroughly covers the two courts' practice on drug-related cases over the aforementioned period.

⁵ . All calculations are based on the National Statistical Institute data for 2012.

Bulgaria's Criminal Code was not amended with regards to drug crime during the period covered by the sample, thus all judgments but one (offence committed much earlier than the rest) are comparable.

4.2. Statistical prevalence of various drug law offences committed by adult offenders

The Table below shows the statistical prevalence of the different types of drug-related offences covered by the sample.

Table 7
Sentences for drug-related offences pronounced by Sofia Regional Court and Sofia City Court included in the sample

Provision of the Criminal Code	Number of sentences
Production, processing and possession for distribution [Article 354a(1)]	10
Production, processing and possession for distribution [Article 354a(1)] + mitigating circumstances [Articles 55-58]	6
Distribution, possession for distribution high quantities of drugs [Article 354a(1) or (2)] + recidivism [Article 29]	4
Distribution, possession for distribution high quantities of drugs [Article 354a(2)]	1
Holding, possession [Article 354a(3)]	6
Holding, possession (Article 354a(3)) + mitigating circumstances [Articles 55-58]	10
Minor cases [Article 354a(5) or (3) and (4)]	9
Growing drug plants [Article 354c(1)]	1
Drug trafficking [Article 242]	2
Total	50

Source: Centre for the Study of Democracy.

Overall, offences related to drug possession outnumber the ones related to drug dealing. Of all the 50 cases included in the sample, 21 are with intent of distribution, while 26 are for possession of drugs, 9 of them being minor cases. There are two cases of trafficking, one of which concerns a foreign citizen sending by post medicines placed under a special regime of sale.

The presence of mitigating circumstances is used for reducing the sentence in 16 cases; in 5 cases the drugs are in significant quantities and 4 of them qualify as recidivism.

4.3. Difference in the court's sentencing practice for the same criminal offences in non-suspended and suspended sentences

There is no significant difference in the sentencing practice either within the same court or between the two courts. Both courts gave suspended sentences only to offenders who had no prior conviction.

4.4. Extent to which the court uses the range of punishment between the special minimum and maximum prescribed for a specific drug-related offence

The research sample shows that, overall, the courts impose sanctions which are below the average amount prescribed by the law. The cases in which the offenders are sentenced to a penalty below the special minimum envisaged for the crime are not rare. Moreover, prosecutors usually request the court to impose the average sanction as envisaged in the law. This leads to the conclusion that the penalties prescribed by the law are stricter than the ones imposed in practice. By way of example, aggravated cases of drug distribution are punishable with imprisonment for a term of five to fifteen years and a fine ranging from BGN 20,000 to 100,000, which is close to the penalty for murder (imprisonment for a term of ten to twenty years).

4.5. Application of the Criminal Code provisions on mitigation of punishment, grounds for mitigation and prevalence of mitigated punishments

The Criminal Code allows for a reduction of the penalty in the presence of mitigating circumstances (Article 55). In such cases the court can impose a penalty below the special minimum envisaged for the crime or replace the penalty by a lighter one (e.g. imprisonment can be replaced by probation).

Also, Article 36(1) stipulates that the penalty shall be imposed in order to: 1) correct and educate the convict to compliance with laws and morals, 2) have the effect of a warning on the convict and deprive him/her of the opportunity to commit another crime, and 3) educate and warn the other members of society. Judges often refer to this article to justify the imposition of a lower penalty, stating that it would be enough to fulfil its purposes.

As a rule, in every sentence the court considers the presence of both mitigating and aggravating circumstances.

The provisions on mitigation are used pretty often when the Sofia courts consider drug-related cases. Of all the 21 cases of drug distribution or possession with intent of distribution, mitigating circumstances are used in 6 cases. In possession cases, mitigation is used in an even greater number of cases – 10 out of 16.

4.6. Amendments to the prescribed criminal frameworks of punishment for drug offences and their implementation by the court

The criminal framework for drug-related crimes was not amended during the period covered by the sample. There is, however, one case of an offence committed in 2006 (SRC No 20403/2011), when the penalties for possession of high-risk drugs were stricter. In this case the court ruled in favour of the offender, imposing the newly-prescribed penalties.

5. Individualisation of imposed sanctions

5.1. Methods used by judges to individualise a sanction imposed on an individual drug offender

The Criminal Code includes a set of rules governing the individualisation of penalties in criminal cases. In general, the courts must take into account three groups of circumstances when individualising the penalty: (a) the public danger of the act and of the offender, (b) the motives for committing the act, and (c) the mitigating and aggravating circumstances (Article 54). Special rules apply to cases of multiple crimes, re-offending, juvenile offenders, etc. There are also rules guiding the court how to individualise the sanction when the Criminal Code prescribes the cumulative or alternative imposition of more than one type of penalty.

A significant part (about 1/5) of each sentence deals with the individualisation of the imposed sanction. Judges usually provide explanations on the term and type of sanction, some of them in a separate paragraph. Individualisation always includes an analysis of both the mitigating and aggravating circumstances.

5.2. Mitigating and aggravating circumstances relevant for the choice of the type and range of punishment and circumstances mostly relied on when deciding about the punishment

The mitigating and aggravating circumstances are not defined in the Criminal Code. The law obliges the court to consider the “extent of public danger of the offence and the offender, the offender’s motives for committing the crime, and other mitigating and aggravating circumstances” [Article 54(1)], adding that mitigating circumstances lead to a lighter penalty while aggravating circumstances lead to a heavier one [Article 54(2)]. Judges are free to assess the circumstances in line with these rules.

Some of the most common mitigating circumstances, listed by their weight before the court, are:

- no criminal record;
- confession of the offence;
- youth;
- personal characteristics, regret;
- degree of public threat.

Drug addiction is sometimes considered a mitigating circumstance. This is usually the case when it is combined with small quantities of drugs and a clean criminal record.

The aggravating circumstances are less in number. Among the most common are:

- prior convictions;
- large amount of drugs (usually viewed as a prerequisite for high public danger).

5.3. Analysis of the personal characteristics of the offenders (age, sex, family status, education, employment, health condition, etc.)

The sample of 50 cases revealed the following profiles of offenders:

- Breakdown by gender:
- 3 – female;
- 47 – male.

- By age – most of the offenders are between 20 and 40 years old.
- By marital status, the average offender is not married:
- 3 divorced;
- 1 married – Irish; • 43 not married;
- 3 unspecified.
- By education:
- elementary – 12;
- secondary – 29;
- higher (including university students) – 6;
- N/A – 3.
- By employment status:
- employed – 11;
- unemployed – 27;
- university student – 1; • retired – 1;
- N/A – 10.

Based on the sample of cases, the average drug offender in Sofia would be a male, aged between 20 and 40 years old, not married, with secondary education, and unemployed.

5.4. Proportion of drug addicted offenders: drug addiction recidivism and criminal recidivism as a prevalent contributing circumstance to offending and their influence on judges' decision about the type and range of sanction

The majority of offenders covered by the sample were either using or addicted to narcotic substances. The Table below shows offenders' status in terms of drug use or addiction as referred to in the court sentences.

Table 8

**Share of offenders covered by the sample who were using
or addicted to drugs**

Drug use according to the sentence	Number of offenders
Addiction	19
· to heroin	12
· to heroin and cocaine	1
· to marijuana	2
· to marijuana + occasional use of other drugs	1
· to marijuana + occasional use of amphetamines	1
· to opiates and psychostimulants	1
· no specific drugs indicated	1
Regular use without addiction	1
· of marijuana	1
Occasional use without addiction	13
· of marijuana	8
· of marijuana and amphetamines	2
· no specific drugs indicated	3
No addiction to specific drugs	2
· to marijuana	2
No addiction	6
No data	9

Source: Centre for the Study of Democracy.

The share of those addicted amounts to 38%. The most commonly established addiction is to heroin. The share of occasional or regular users who are not addicted is also relatively high (28%). The most commonly used drug by this category of offenders is marijuana. For only 12% of the offenders covered by the sample did the court explicitly state that no drug addiction was established.

In a relatively large number of cases (18%) there is no mention of the offender's status in terms of drug use. This confirms the worrying conclusion that in many drug-related cases the courts do not examine the presence or absence of drug addiction and therefore do not take this factor into account when pronouncing the sentence.

The overall assessment of the sample shows that the majority of offenders in drug-related cases are drug consumers (users or addicts). This observation, combined with an analysis of the amount of drugs involved, leads to the conclusion that most cases are actually cases of possession of drugs for personal use (either heavily addictive drugs or marijuana to which physical addiction is greatly argued) rather than more serious crimes, like drug dealing and trafficking.

The data on recidivism are not coherent and it is impossible to draw a direct conclusion about the relation between drug addiction and re-offending. Recidivism is considered an aggravating factor and usually leads to a harsher sentence, while drug addiction is rather considered a mitigating circumstance.

5.5. Irregularities or patterns in judicial selection of sanction and accordance of imposed sanctions with the principle of proportionality and the principle of equality before the law (likesituated offenders who commit similar offences should receive similar punishment)

The analysis does not lead to the conclusion that there are significant irregularities in determining the sanctions. Bearing in mind the size of the sample and the diversity of offences, the sanctions are well reasoned and penalties are imposed with consistency, in accordance with the principle of equality before law.

One pattern that is observed is the imposition of sanctions below the average prescribed by the law and sometimes even below the special minimum. However, this does not necessarily mean that penalties are disproportionately high. It rather indicates that only petty offences reach the courts, while serious crime remains unpunished.

6. Proposals for future amendments of legislative drug policy and court sentencing practice

The lack of differentiation between a misdemeanour and a crime in the Bulgarian legislation tends to merge the borders between serious and less serious cases. Such a differentiation is not likely to be introduced any time soon, because it is considered to be against the national legal tradition.

Nevertheless, the Criminal Code needs further improvement to better differentiate between cases of drug possession for personal use (not for the purpose of distribution) and the more serious crimes of distribution and trafficking. Such a differentiation should be accompanied by the introduction of adequate alternatives to imprisonment, in particular for perpetrators of less serious crimes who are also drug users or drug addicts. Such alternatives can be consultations with psychologists, therapy, etc. Probation should be introduced as a sanction in line with imprisonment for the majority of drug-related offences. In the long run, the possession of small amount of drugs for personal use should be completely decriminalised.

On the one hand, sometimes young people who are simply trying drugs due to the bad influence of the social environment happen to end up in prison and thus lose their chance of finding a good job and have a normal life, instead of being given the opportunity to receive professional help. These young people are exposed to the unhealthy prison environment, which increases the risk of recidivism. Due to lack of adequate control, drug use in prisons has become a serious problem for the penitentiary system. At the same time, due to lack of resources, prisons are not able to offer therapy to drug users. Combined, these factors often lead to a situation where drug users are sent to prison where they continue using drugs and become addicted. More flexible alternatives to imprisonment, particularly for first-time offenders, would contribute to overcoming this problem.

On the other hand, drug dealers, often addicts themselves, are likely to receive shorter sentences for possession of minimal quantities of drugs and thus take advantage of the mitigating circumstance of their addiction and the “minor case” clause. However, this risk should not be addressed by simply increasing the sanctions, but rather by enhancing the capacity of investigating authorities to better collect evidence and thus avoid serious offenders evading justice.

Drug-addicted offenders, who often go in and out of prison, are deprived of the opportunity to receive treatment for their addiction and thus increase the risk of spreading blood-transmitted diseases in and out of prison. Figures confirm that such infections spread more intensively over time. Legislators should consider establishing specific measures, such as the provision of safe injection supplies in prisons. Another appropriate approach would be to introduce obligatory addiction treatment as an alternative to imprisonment.

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

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

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