

ICPS newsletter[®]

Ukraine plans to prosecute drug addicts even more, rather than improving treatment

In Ukraine, the gravity of offences related to drug trafficking is determined according to lists of drug substances that are approved by the Ministry of Health. Moreover, criminal prosecution for possession of illegal drugs is based on much smaller quantities of a drug than similar limits in most developed democracies. This difference leads to a situation where individual are punished mainly for privately using drugs rather than for smuggling and dealing them as in other countries. Ukraine recently revealed plans to further increase the criminalization of drug addicts

Russia. At the moment, however, it is an average of ten times lower in Ukraine, that is, individuals become criminally liable for possessing ten times smaller quantities of drugs than in Russia.

The main efforts of Ukraine's law enforcement agencies are aimed at counteracting possession. Today, more than 65% of crimes related to the circulation of illegal drugs involve the possession of these drugs without the aim of selling them. In other words, drug users who buy and possess drugs for personal use because of addiction are made criminally liable. At the same time, efforts to uncover serious drug-related crimes constitute less than 30% of all offences related to illegal drugs. The overwhelming majority of crimes related to the possession of drugs are involve quantities that border on insignificant, for example: 6 g of marijuana, 0.11 g of opium acetate or 0.55 g of extracted opium, 0.0005 g of heroin, 0.016 g of amphetamine, and so on.

Ukraine plans to strengthen persecution of addicts rather than dealers

Despite the strongly stated position of Ukraine's NGOs, the Drug Oversight Committee under the Ministry of Health has decided to drop the threshold for criminal liability for possessing drugs without the aim to sell them, rather than raising it. The Committee itself prepared the Ministry's draft decree and got approval for this document from all the relevant ministries and government bodies. The nature of the changes makes clear that the aim of the draft decree is to strengthen the criminal prosecution of drug addicts. Its main target group is the average drug user rather than organized drug criminals, which is in contrast to contemporary European practice.

If the proposed amendment is adopted, the average drug user in Ukraine could be made criminally liable for possessing quantities of illicit drugs that are much

In July 2005, the Ministry of Health announced that it was drafting Decree "On amending the tables of small, large and excessive quantities of drugs, psychotropic substances and components circulating illegally" for passage. According to this draft decree, the quantities of drug substances permissible for possession will be substantially reduced, which will only increase pressure on drug addicts and aggravate the HIV/AIDS problem. This can only worsen the criminal situation in the country and other negative consequences.

Many community organizations have drawn the attention of government officials and the general public to the negative consequences of the proposed changes. But this campaign failed to result in the cancellation or revision of the draft decree. In September, representatives of human rights and community organizations, including ICPS, repeatedly turned to the Government with requests to drop this draft decree and set up a working group that included representatives of all stakeholders to find an appropriate solution to the problem.

The world is turning away from prosecuting drug addicts

The tables of small, large and excessive quantities of drugs, psychotropic substances and components circulating illegally are the deciding factor in terms of whether an activity related to the circulation of drugs is deemed unlawful and threatening to society. The norm for illegal possession of prohibited substances written into these tables can lead to criminal (Art. 309 of Ukraine's Criminal

Code) or civil responsibility (Art. 44 of Ukraine's Code of Administrative Offences). The latest version of these tables was approved in August 2000. The norms for large and excessive quantities of drugs that also determine the scope of other crimes related to the illegal circulation of drugs (drug smuggling, dealing, theft, and so on) were approved at the same time.

Recently, international organizations and NGOs that deal with drug-related problems have repeatedly proposed raising the threshold for criminal responsibility for the possession of illegal drugs, to bring it in line with standard European practice. Many EU countries have largely decriminalized the possession of drugs for personal needs either de jure or de facto. As a result, the primary efforts of the police are directed at fighting organized drug-related crime, that is, drug smuggling and dealing.

In May 2004, as a result of proactive steps undertaken by human rights and community organizations, the Russian Government approved a Resolution "On approving average doses of drugs and psychotropic substances..." Along with earlier amendments to the Russian Criminal Code, the threshold for criminal responsibility was actually raised tenfold. Later, pressured by representatives of law enforcement agencies, the Russian legislature passed first reading of a bill that tightens the norms for possession of drugs. These amendments are expected to reduce the threshold for criminal responsibility for possession of drugs by 50% on average. Until 2004, the threshold was almost identical in Ukraine and

Small (insignificant) quantities of drugs in select EU countries and in Ukraine

	Austria	Cyprus	Czech Republic	Germany	Hungary	The Netherlands	Ukraine
Marijuana (cannabis)	up to 20 g	up to 30 g	20 cigarettes	6–30 g	N/A	5 g	5 g
Heroin	3 g	up to 10 g	up to 1 g	0,5–1 g	up to 0.6 g	0.5 g	0 g
Cocaine	15 g	up to 10 g	up to 0.5 g	N/A	up to 2 g	0.5 g	0.02 g
Amphetamines	10 g	N/A	up to 0.5 g	N/A	up to 0.5 g	0.5 g	0.15 g

Sources: Ukrainian Ministry of Health, European Monitoring Center for Drugs and Drug Addiction, <http://www.emcdda.eu>

smaller than the average daily dose of these drugs. According to the All-Ukrainian Council for Patients' Rights and Protection, this kind of change will restrict access to assistance for people suffering from cancer, elderly patients and those in the final stages of HIV-infection, in other words, those who need drugs to ease pain and reduce home-nursing.

On the other hand, the adoption of this amendment will have little or no impact on the activity of the organized drug traffickers and individual dealers who are actually responsible for the spread of drug addiction in Ukrainian society. Meanwhile, these amendments will lead to a significant increase in the number of drug users who will be taken to court instead of receiving legitimate treatment for drug addiction. In short, this change will mostly result in more drug users being put behind bars.

Repressive policies don't work

According to numerous studies, overly strict legislation makes the behavior of injecting drug users (IDUs) more risky, increases the number of overdoses, increases the shared use of syringes that spreads HIV/AIDS, and raises the overall number of drug-related deaths.

Most experts say that the key impact the changes proposed by the Ministry of Health will be:

- a growing number of criminal cases and prison sentences involving drug users;
- the further marginalization of drug addicts;
- less support for IDUs through harm reduction programs and an increase in the spread of HIV/AIDS among this group of drug addicts;

- growing crime;
- the further spread of HIV/AIDS inside the overcrowded prison system;
- growing public spending on investigation, criminal proceedings, imprisonment;
- growing corruption among investigative and prosecutory officers, judges and medical personnel.

Arguments against the proposed draft decree were presented in an open address submitted by the All-Ukrainian Harm Reduction Association, a national charitable organization, to the Ministry of Health and the Drug Oversight Committee in July 2005. This address was supported by two specialized committees of the National Coordinating Council to Prevent the Spread of HIV/AIDS: the Committee for the Protection of Human Rights for People Living with HIV/AIDS and Vulnerable Groups, and the Committee for Working with Vulnerable Groups.

In September 2005, these committees repeatedly turned to the Ukrainian Government and relevant government bodies with an appeal regarding the need to reject the Ministry of Health's draft decree and a proposal to involve experts from community and international organizations in the development of a "Table of Drug Quantities..." that would reflect the real situation and conform to the commonly accepted practice in counteracting the trafficking of illegal drug. ■

The information in this article was presented by Pavlo Skala, a policy and advocacy specialist of the International HIV/AIDS Alliance in Ukraine and Deputy Chair of the Committee for the Protection of Human Rights for PLHA and Vulnerable Groups at a

In Russia, public policy is impossible in practice, so theories abound

Representatives of Russian NGOs and non-government think-tanks admit that it is impossible to develop public policy comprehensively in Russia because the country has neither real political competition nor free elections. This was the conclusion of participants in a conference called "Public Policy Centers and Think-Tanks in the FSU and Eastern European Countries" that took place in the town of Pushkino, near St. Petersburg, 22–24 September 2005. The Russians presented the results of successful projects at the local level, but admitted that it was impossible to work with the central government. The ICPS presentation of actual projects aimed at cooperation with the government and the possibility of influencing the policy-making process in Ukraine during the conference roused keen interest among conference participants.

In many ways, though, their Russian counterparts have outperformed Ukrainian academics in policy studies. This was the conclusion of ICPS Deputy Director for Development Volodymyr Nikitin: "If we look at the number of dissertations and collections of articles published in Russia, it becomes clear that Ukraine is lagging behind in terms of academic support for public policy. Moreover, public policy is a subject of research in the Russian Academy of Sciences and there are chairs in this field in a number of universities. Western specialists also note the need for independent public policy centers to work closely with academic and university associations."

This conference was organized as part of a project to study the state of policy and public policy centers in the Czech Republic, Lithuania, Russia and Ukraine. The results of this study will be published shortly. The research was carried out by organizations that belong to PASOS, an international network of non-government policy centers in 17 European and Central Asian countries (<http://www.pasos.org/>).

roundtable called "Government Anti-Drug Policy: Urgent Issues and Approaches to Reforms" held at ICPS on 21 September 2005.

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