

**Statement of the Delegation of Portugal**  
**on the thematic discussion on the implementation of the UNGASS outcome**  
**document – *Operational recommendations on cross-cutting issues: Human***  
***rights, Youth, Children, women and communities***

*Vienna, 11 October 2016*

Thank you, Mr. Chairman,

The inclusion of a chapter on human rights in the outcome document of UNGASS opens an opportunity and encourages human rights mechanisms to play a much more assertive role in drug control issues. Its recommendations must now be implemented at the national level and consolidated in future discussions on international drugs policy.

The three international drug conventions provide Member States with enough flexibility to develop drug policies adapted to their needs and circumstances. We also believe that these three important instruments don't exist in a vacuum, but are part of a broader body of international law to which States have adhered to.

Portugal is currently a member of the Human Rights Council and is a party without reservations to eight United Nations Human Rights core treaties and all their optional protocols. The Portuguese drugs policy is established firmly in that area where the rules of the international drug control system and international Human Rights obligations intersect each other in the most balanced and compatible way.

In the limited amount of time we have today, we would like to focus our intervention on two interrelated topics where Portugal is implementing a set of

policies with direct relevance to the recommendations adopted in this thematic chapter: namely **proportionality of sentencing** and **alternatives to conviction or punishment**.

At the higher end of the spectrum, proportionality means, among other things, the non imposition of the death penalty for drug related offences or, in fact, for any kind of offences. It is our belief that the death penalty is a disproportionate and largely counterproductive instrument to try to achieve the aims of national criminal justice systems. It is a violation of the basic human right to life and there is no conclusive evidence of its value as a deterrent. Portugal had a pioneering role in the abolition of the death penalty in a path initiated around a century and a half ago.

At the lower end of the spectrum, proportionality means the non incarceration of individuals for drug use or possession for personal use. This is a very distinctive feature of our drugs policy and one which translates into practice the possibilities offered to States by the three international drug conventions – in particular, Article 3 paragraphs 4.c and d. of the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Portugal introduced a model of decriminalization at the beginning of this century, as part of a broader approach designed to deter drug use and promote policies directed to public health concerns. Drug use and possession for use remain illegal, but are no longer considered criminal offences. If someone is not violent and not causing direct harm to others, we believe that prison is a disproportionate and ineffective way to address drug use, in particular because it often initiates or reinforces a negative cycle of marginalization.

In Portugal, a person caught in possession of a small quantity of any drug, defined as the amount an average user would use in a ten-day period, is referred by the police to a Drug Addiction Dissuasion Commission, where they have to present themselves within 72 hours.

These Commissions, working within the Health Ministry, are formed by three members: as a rule it will be a lawyer, a health professional and a social worker. Its work is supported by a technical unit of three to five experts: psychologists, social workers, lawyers and administrative staff.

The Commission makes a psychological and social evaluation of the offender and then applies the most appropriate decision according to the profile of the individual. The members of the Commission try to establish, among other things, whether the offender is an occasional or one time user or whether he is addicted and a problematic user.

They are designed to be non-adversarial and can impose several types of decisions and sanctions to individual cases, such as the **periodic presentation to the Commission, community service, prohibition to attend certain places, suspension of driver's licence or other licences, interdiction to travel abroad, apprehension of objects** or, in very limited cases, **finances**.

However, by far the most common decision applied by the Commissions is a **provisional suspension of the process**, usually imposed to individuals without previous record and non-addicted, as well as to drug dependants that accept initiating treatment. The suspension can last up to two years, after which, if the offender is not caught using drugs again, the process is closed and no record is kept. In 2015, for instance, the Commissions provisionally suspended 66% of the

processes, issued sanctions in 18% of the cases and found innocent the remaining 16%.

Since 2001 the Commissions have been in contact with almost 99 thousand individuals. From those, 50 thousand were non problematic users and 13 thousand were referred to specialized support. From the 11 thousand problematic drug users, 9 thousand were referred to treatment structures.

Decriminalization contributed to a substantial decline in the proportion of individuals convicted for drug-related offences in Portuguese prisons. In 1999, 44% of the total prison population was incarcerated for drug-related offences; in 2013, the number fell to 24% - helping to reduce prison overcrowding.

Resources that were previously spent in the judicial system prosecuting drug users and in the prisons where they would then serve their sentences could be directed to other important activities, like combating trafficking or in the treatment facilities.

To conclude, the data we have been accumulating over the years on the results of our policy suggest that States are not faced with a choice between following the rules of the international drug control system or their international Human Rights obligations. On the contrary, our experience indicates that the implementation of more humane and human rights based drugs policies has a positive effect on the efforts to achieve the objectives of the three conventions of promoting the health and welfare of humankind.