

Wolfgang Goetz

## Towards a public health approach to drug use in the European Union

---

*Dear [appropriate salutations: President, chair, ambassadors...]*

Today, I will talk about whether there is a move in the European Union **towards increased emphasis on public health**, when dealing with offences related to drug use.

In doing so, I will consider **two approaches separately**:

the **Criminal Justice Approach** and the **Public Health Approach**.

I will illustrate these approaches with the changes that have taken place in drug laws in EU countries.

**The criminal justice approach** towards drug users was institutionalised in the **United Nations Convention of 1988**, which clearly requested States' Parties to establish possession for personal use as a criminal offence.

The idea behind this was that enforcing a reduction in drug demand would assist efforts to reduce drug supply.

However, since the EMCDDA started monitoring drug laws in **the late 1990s**, we have seen **a contraction** in the criminal justice approach, as European countries change the laws relating to drug use.

The many changes made in Europa take **four main forms**:

1. Changes in laws to reduce the maximum prison sentence, as in **Finland, Greece, and the Czech Republic**;
2. Changes in laws to remove prison sentences for minor offences, as in **Belgium and Slovenia**;
3. Changes in laws to be able to simply close a minor case, such as those developed (was already there, but further developed) in **Austria** and introduced in **Poland**.

We call this '**depenalisation**' (removing the penalty).

4. Changes in laws to modify the **status of the offence** from criminal to non-criminal (which then also removes the prison sentence), as in **Portugal, Luxembourg, Croatia** and, most recently, **Malta**.

We call this change in status '**decriminalisation**'. It is still an offence, just not a criminal offence.

**What we do not see** in Europe is what we call '**legalisation**', which is any removal of penalties to allow supply of drugs for non-medical purposes, such as we see in parts of the **United States or in Uruguay**.<sup>1</sup>

So far the changes that have taken place in the **criminal justice approach**. ....

But now to the **the public health approach** in the field of drugs, which is also embodied in the Conventions, in particular in the option of giving '**alternatives to punishment**', measures such as 'treatment, education, aftercare, rehabilitation and social reintegration'.

---

<sup>1</sup> Netherlands (de facto legal): Here I am describing changes over EMCDDA monitoring period, the last 20 years; the Dutch system was implemented long before then.

These measures have been established in the Conventions since 1971<sup>2</sup>, but unfortunately they seem to have taken a low profile.

Since the 1990s, in Europe this concept of **alternatives to punishment** has sometimes been referred to as 'alternatives to prison' — but in this term the emphasis on public health is only implied, it is not stated. So it has sometimes been interpreted as being no more than punishment outside prison.

From 2000 on, in Europe we see the development of mechanisms to increase the diversion of problem users towards treatment, from the different stages of the criminal justice system: **the police, the prosecutor, and the court**.

- At the **police stage**, we see arrest referral schemes as in the **UK** (in the UK the police has more power), or sending the offender to a Dissuasion Commission as in **Portugal**.

---

<sup>2</sup> Updating the 1961 Single Convention with the 1971 protocol

- At the **prosecution stage**, we see that the prosecution may be suspended subject to completion of a treatment programme or similar, and this happens in eleven EU countries<sup>3</sup>.
- At the **court stage**, again subject to a treatment programme or similar, we see in 8 countries<sup>4</sup> the option of suspending court proceedings.

In 10 countries,<sup>5</sup> some courts may proceed to conviction and then suspend the sentence.

And in 5 countries,<sup>6</sup> there is the possibility of making the sentence itself a rehabilitative measure.

We know that much crime — such as property crime — is driven by the need for money to buy drugs. I am pleased to say that **most of the options** I have just mentioned **are available not only for drug-use offences**, but also for other offences connected with drug addiction. So even those arrested for theft or similar may still be diverted to treatment if it is appropriate.

---

<sup>3</sup> France, Luxembourg, Romania, Italy, Spain, Belgium, Greece, Austria, Latvia, Netherlands, Poland (ATP paper p7)

<sup>4</sup> Belgium, Czech Republic, Denmark, France, Luxembourg, Austria, Hungary, Poland (ibid)

<sup>5</sup> Czech Republic, Estonia, Spain, France, Germany, Latvia, Luxembourg, the Netherlands, Austria, Slovakia (ibid)

<sup>6</sup> France, Croatia, Sweden, UK, Norway (ATP paper p8)

**A key question is however — do these approaches work?**

Certainly some do!

But I would like to give a more nuanced answer, and to share some of the general lessons we have learned about their design and implementation, **which are crucial** if these approaches are to be successful.

With regard to **the design of these approaches**, the important point is to be consistent and realistic.

Policymakers are often caught between the need for a public health response and the long-established need to look ‘tough’ on drugs, so a public health alternative may be designed with several restrictions around it. Yet these may render the option ineffective.

For example:

- Diversion to treatment may be possible only for those with no criminal convictions. Many heroin addicts will already have a criminal conviction, so they would not be eligible.

- If treatment is offered **instead of the penalty**, many drug users would choose it. If treatment is only offered **after the penalty** has been carried out, users have no incentive to take it up.
- If diversion operates **at the sentencing stage**, it will use valuable resources to process the offender up until that stage.  
If diversion is possible **earlier**, perhaps by the prosecutor, it will reduce court backlogs and improve the efficiency of justice.

With regard to **implementation of public health approaches**, we have learned that **one size does not fit all**; the offenders should be carefully matched to their needs (*as inter alia the recently adopted **EU minimum quality standards** in demand reduction in the EU require*).

Let me give **you some actual examples** we have seen in EU countries over the years:

- If **non-problematic cannabis users** are sent to treatment programmes designed for heroin users, there will be poor completion rates for the cannabis users, and fewer places for the heroin users.

- If a law is passed permitting diversion to treatment, **those treatment places should be available**. If they are not, clinics may refuse to prioritise 'criminals' over other clients.

The task of the EMCDDA is to provide information on evidence-based drug policies, but in this particular area, the evaluations that form our evidence **are few or informal**.

Unfortunately, **high-quality scientific evaluation** of the different alternatives around Europe **is still rare**.

Through our Treatment Demand Indicator, we know that **large numbers of drug users are being diverted** from the criminal justice system to treatment, but in many countries there is no systematic review of the efficiency or the effectiveness of those measures.

And I hope I have illustrated **the importance of evaluation** with the earlier examples; it was only due to evaluation that these problems came to light, and the system could be improved.

Nevertheless, the studies we see often suggest that these public health alternatives are more successful than the criminal justice approach at reducing recidivism and encouraging treatment uptake.

**Dear colleagues,**

Concluding my intervention here, let me join the chorus **in favour of more public health oriented policies towards drug users**, and let me say that **I am heartened to see** that the work preceding this next UNGASS seems to be moving in this direction.

But while we need to insist more on the **greater integration of public health into criminal justice**, let me say that I see a parallel need; the need to **strengthen the monitoring and evaluation capabilities** of Member States, and Institutions, both regional and worldwide, to show with evidence how successful this approach can be... and to constantly improve it.

Looking at the European Union, our monitoring activity confirms that many European countries, since 2000, have tried to **rebalance their drug policies 'towards' a public health approach**.

Please note how I say '**towards**'.

**We are still moving**, ...and I would not yet say.... that we have arrived.

**End**

(1377 words)