

Issue I: Use of the Internet for drug-related activities

Recommendation 1

Governments should be encouraged to ensure that their law enforcement agencies are well informed, professionally trained and suitably resourced so as to be effective in the investigation of cyber-related offences and the related use of the Internet for illicit trafficking.

Any action taken YES NO

Comments:

Please see answers to recommendations 2 and 3. Both the State Police and the Customs have allocated resources in order to improve skills and knowledges of employees working with cyber related offences, including drug related. In addition, in 2018 resources were allocated to strengthen the cyber-crime unit at the State Police (additional 15 employees and new equipment). Although this unit does not specialises in drug related cases, presumably the capacity building of this unit will have positive impact on all cyber-crime investigations.

Recommendation 2

Governments must work together to overcome the obstacles encountered in undertaking the investigation of cyber-related trafficking offences across multiple jurisdictions and introduce the changes needed in legislation, practices and procedure to expedite information-sharing, enquiries with Internet service providers and the transfer of evidence.

Any action taken YES NO

Comments:

The State Police of Latvia has implemented the Project "Strengthening the fight against serious and organised cross border criminality and promotion of the cooperation with the countries involved" (VP/IDF/2017/2, SOCEF).

The overall objective of the Project SOCEF was to set up the Joint Action Models (conceptual best practices and models) to tackle and to prevent cross border serious and organised crime. One of the priorities within the Joint Action Models was the following: enforcement of the illegal distribution of drugs (with a special attention to such modus operandi as distribution by Darknet, or so called DRUGS). One of the seminars in the priority DRUGS has been attended by the representatives from the Europol, Austria, Finland, the Netherlands, Lithuania and Estonia, in total 25 experts presented information on trends in the area of illegal distribution of drugs, mostly discussing issues related to challenges raised by the illegal distribution of drugs via hidden networks such as Darknet. As a result of the Project, an investigation has been launched by the Latvian State Police against vendor operating on the Darknet (investigation is ongoing, detailed data shall not be disclosed). As well as specific equipment for the monitoring and investigation of drug trafficking cases via the Internet has been obtained within the Project. Equipment is at the disposal of the Organised Crime Combating Department of the State Police of Latvia.

According to the information provided by the Customs, 2017 alone, approximately 80 cases involving digital means to order and sell narcotics online across borders were investigated. Requests for information from international sources were made for approximately 10 cases: IP addresses, user data, logins-passwords, etc. Observed issues: public prosecutors and judges are more likely to investigate local Latvian cases, rather than expand their searches internationally – possibly due to inadequate funding; there is no systematised data collection and analysis; and resources for staff training and systems research are lacking.

Recommendation 3

Governments should encourage their law enforcement agencies to develop the specialist skills that will support the investigation of cyber-related offences and lead to successful criminal prosecutions.

Any action taken YES NO

Please refer to the recommendation 1

Comments:

The State Revenue Service of Latvia (the Customs) has employed a specialist, whose main job is investigating Darknet-related criminal activity (researched over 100 incidents and cooperated in an additional 60 investigations) and compiling information from digital sources. The specialist has participated in four training courses on digital information research (Interpol, CEPOL, Latvian Customs, OLAF). Suggested improvements include: 1) training for public prosecutors and judges to develop understanding because they often do not use provided information; 2) an additional qualified employee and more funding for investigative tools (including virtual currency wallet finders, blockchain analysis); and 3) qualitative investigation of Darknet-related criminal activity and subsequent analysis and data collecting and compiling.

Issue II: Alternatives to imprisonment for certain offences as demand reduction strategies that promote public health and public safety

Recommendation 1

Governments are encouraged to make full use of alternatives to imprisonment for people with drug use disorders in contact with the criminal justice system, particularly at the time of their arrest and at the pretrial stage.

Any action taken YES NO

Comments:

Criminal Law and Criminal Procedure Law does not provide different rules for people with drug use disorders, but according to Criminal Procedure Law Section 241 paragraph two a security measure shall be applied to a suspect or an accused if there are grounds to believe that the relevant person will continue criminal activities, or hinder pre-trial criminal proceedings or court or avoid such proceedings and court. Moreover, a security measure can be not related to deprivation of liberty. According to Criminal Procedure Law Section 243 paragraph one security measure which are not related to deprivation of liberty are notification of the change of the place of residence; reporting to the police authority at a specific time; prohibition from approaching a specific person or location; prohibition from a specific employment; prohibition from departing from the State; residence in a specific place; personal guarantee; bail; placement under police supervision. In case of arrest people with drug use disorders have the right to receive health care services according to Law On the Procedures for Holding under Arrest. As already mentioned, legal framework in Latvia does not provide different rules for people with drug use disorders, but according to Criminal Law Section 46 paragraph two and three determining the type of punishment, the nature of and harm caused by the criminal offence committed, as well as the personality of the offender and circumstances mitigating or aggravating the liability shall be taken into account. Provided basic punishment in The Criminal Law are deprivation of liberty, community service or a fine (depends on committed criminal offence).

Recommendation 2

Governments are encouraged to promote and implement institutional mechanisms, including through induction and training programmes, that enable the police to screen, assess and refer appropriate cases to treatment facilities, taking into account their dual role as the first responders and the first criminal justice actors encountered by people with drug use disorders when they come into contact with the criminal justice system.

Any action taken YES NO

Comments:

Recommendation 3

Governments are encouraged to adopt or amend legislation, policies, and guidelines that allow flexibility when handing down sentences for drug-related offences that take into account the nature and gravity of the offence as well as the personality and background of the offender.

Any action taken YES NO

Comments:

According to Criminal Law Section 46 paragraph two and three in determining the type of punishment, the nature of and harm caused by the criminal offence committed, as well as the personality of the offender shall be taken into account. In determining the amount of punishment, the circumstances mitigating or aggravating the liability shall be taken into account. For drug-related offences which are classified as a criminal violation, a less serious crimes or serious crimes the applicable punishment is a temporary deprivation of liberty, deprivation of liberty, community service or a fine. Thereby flexibility when handing down sentences for drug-related offences is provided.

Recommendation 4

Governments are encouraged to employ a multidisciplinary approach in providing treatment and rehabilitation as an alternative to conviction or punishment and to promote and develop the capacity for institutional coordination between justice, health, and social services authorities.

Any action taken YES NO

Comments:

Criminal Law Section 253.2 provides that unauthorised use of narcotic and psychotropic substances are criminal violation. According to Criminal Law Section 58.1 paragraph one a person who has committed a criminal violation or a less serious crime, may be conditionally released from criminal liability by a public prosecutor if, taking into account the nature of the offence and the harm caused, information characterising the accused and other circumstances of the matter, a conviction has been acquired that the accused will not commit further criminal offences. Criminal Law Section 58.1 paragraph four provide that in case of conditionally releasing from criminal liability, the public prosecutor, with the consent of the person, may impose as a duty to receive medical treatment for alcoholism, narcotic, psychotropic, toxic substance addiction or other addictions.

Recommendation 5

Governments are encouraged to implement measures to increase public awareness of the benefits of using alternatives to imprisonment.

Any action taken YES NO

Comments:

Recommendation 6

Governments are encouraged to collect and analyse gender- and age-disaggregated data on the use of alternatives to imprisonment and, if applicable, to undertake periodic evaluation of existing initiatives to provide treatment as an alternative to conviction or punishment for people with drug use disorders.

Any action taken YES NO

Comments:

Although legal framework allows alternative to imprisonment, in practice such cases are very rare.

Issue III: Mainstreaming gender perspectives in drug-related policies and programmes

Recommendation 1

Governments are encouraged to collect and analyse gender-disaggregated data to obtain more information about the situation and circumstances of women drug users and the various roles women assume in drug-related crime and in organized crime groups with a view to developing and implementing effective and comprehensive policies and programmes.

Any action taken YES NO

Comments:

Gender perspective is always considered in researches and monitoring (e.g. treatment and crime statistics). Occasionally, specific researches are carried aiming to study gender-based issues, e.g., men who have sex with men; drug use during pregnancy; drug use among sex workers (mainly women) etc. Additionally, a drug users cohort study is carried out on regular basis since 2006. In 2018, the 10th phase of the drug users (high risk use) cohort study was published. It also includes the information on women's roles in drug related crimes, imprisonment, experience of addiction treatment, usage of harm reduction service and other (in Latvian: https://www.spkc.gov.lv/upload/Atkaribu_slimibu_zinojumi_faili/2017_kohorta_report_final.pdf).

Recommendation 2

Governments are encouraged to ensure non-discriminatory access to health-care services for women, including in prison, and to develop gender-sensitive prevention, primary care, treatment and reintegration policies and programmes, particularly for pregnant women and women with caretaking responsibilities.

Any action taken YES NO

Comments:

Health care system in the prisons of Latvia already provide equal access for men and women. Women in prisons are provided with specific health care measures by gender like specific gynecologist help, possibility to give a birth in public (not prison) hospital, possibility to live with new born child in special prison unit where all needs of the child are provided, possibility to visit children aged 1 – 4 years in special prison unit several time a day, etc. Addicted women have rights to ask transfer to Addiction Prevention Centre in Olaine prison like men. As well they have full access to all services provided in prison system in regard of prevention of drug use, treatment, etc.

Recommendation 3

Governments are encouraged to ensure close cooperation and collaboration among all relevant national authorities in developing and implementing gender-sensitive drug policies and programmes that take into account the specific needs and circumstances faced by women and girls with regard to the world drug problem.

Any action taken YES NO

Comments:

Gender perspective is always considered in drafting policy, however, specific programmes targeting only men or women are rare.

Issue IV: Money-laundering, illicit financial flows and effective countermeasures

Recommendation 1

In support of the investigation of money-laundering offences and the recovery of the proceeds of crime, Governments are encouraged to enable access by their law enforcement authorities to the information held by their financial intelligence units.

Any action taken YES NO

Comments:

An Asset Recovery Office (ARO) has been established within the State Police Latvia on 31 December 2016. ARO is a competent authority for the implementation of cooperation between national AROs in accordance with Council Decision 2007/845/JHA. In addition to the aforementioned, ARO processes and transfers inquiries of the entities of the State Police and other LEA to national ARO entities, as well as supports investigations of the entities of the State Police.

Recommendation 2

Governments are encouraged to ensure that evidence gathered through investigations of money-laundering offences by their financial intelligence units has legal standing in their courts if used in prosecutions brought by other law enforcement agencies.

Any action taken YES NO

Comments:

Information provided by the Control Service (Latvian Office for Prevention of Laundering of Proceeds Derived from Criminal Activity) cannot be used as an evidence in a court. The information must be verified by means of criminal proceedings.

Recommendation 3

Governments are encouraged to make use of the tools available for training and building the capacity of their law enforcement authorities, financial investigators and prosecutors available through the Global Programme against Money-Laundering of the United Nations Office on Drugs and Crime (UNODC) and other training institutions.

Any action taken YES NO

Comments:

In 2017 and 2018, trainings for law enforcement authorities were conducted widely at national level.

Recommendation 4

Governments are encouraged to share with UNODC the results of their national money-laundering risk assessments to facilitate a coordinated global response and to strengthen the capacity of competent authorities and financial institutions to thwart attempts at money-laundering.

Any action taken YES NO

Comments:

Please see the results of the 5th assessment round of the Council of Europe on the situation of Anti-money laundering and counter-terrorist financing measures: <https://rm.coe.int/moneyval-2018-8-5th-round-mer-latvia/16808ce61b>

By the end of 2018 an Action Plan for the Prevention of Money Laundering and Terrorist Financing until 31 December 2019 was adopted by the government. It is available here (in Latvian): <https://likumi.lv/ta/id/302218-par-pasakumu-planu-noziedzigi-iegotu-lidzeklu-legalizacijas-un-terorisma-finansesanas-noversanai-laikposmam-lidz-2019>