

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:

In fact, well-informed, professionally trained and adequately resourced law enforcement agencies are of course more effective in preventing and prosecuting all crimes, including those committed over the internet. Therefore, early in 2017, Polícia Judiciária (the Criminal Investigation Police) has set up a National Unit for Fighting Cybercrime and Technological Crime to prevent and investigate all types of cybercrime. As regards, in particular, drug trafficking, the National Unit for Fighting Drug Trafficking of Polícia Judiciária has been gradually and progressively empowering its teams to conduct investigations targeting drug trafficking via the Internet, namely through the Dark Web.

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:

International cooperation is essential to address the fight against any type of organised crime, especially cybercrime. In this regard, over the past years Portugal, namely via the Portuguese criminal police - Polícia Judiciária - has been deepening cooperation with law enforcement authorities in other countries as well as with international organizations, Europol in particular, which has enabled a significant increase in the amount of cybercrime-related strategic and operational information exchanged. On the other hand, the more frequent use of the cooperation tool “European Investigation Order” within the EU has also contributed to the increase in the exchange of information and transfer of evidence.

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

Comments:

As stated above in comment to Recommendation 1, over the past years Polícia Judiciária has been making great effort in providing its staff with the needed technical knowledge to prevent and investigate all types of computer-related crimes.

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:

In Portugal, the main law on control, use and traffic of narcotic drugs, psychotropic substances and precursors is the Decree Law 15/93, of 22 January 1993, partially revoked by the Law 30/2000, of 29 November, known as Decree Law. This Law establishes that consumption, acquisition and possession for personal consumption (provided that the amount involved does not exceed the necessary for the average individual consumption for ten days) is no longer a crime and has become an administrative offence, so this is an alternative to imprisonment for people with drug use disorders. Exceeded this amount, the individual will commit a crime, punished and foreseen (investigation, prosecution and trial) by criminal justice system. The Decriminalisation Law is implemented by the Commissions for the Dissuasion of Drug Addiction, services within the Ministry of Health, nationally wide spread and that are composed of three members advised by multidisciplinary teams, which main mission is to dissuade the use of drugs.

When a person is caught by law enforcement authorities in possession of no more than 10 daily doses of drugs (their corresponding gram limits had been established in a regulation), and the police have no suspicions or evidence that supply offences are involved, the drug is seized. The case will then be transmitted to the Commission for the Dissuasion of Drug Addiction. These members meet the offender and evaluate his/her situation and then, based on the case assessment, the Commission hears the offender and rules on the offence, aiming to treat any addiction and rehabilitate the person using the most appropriate interventions.

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:

The articulation with the police authorities is essential, as these are the forces that initiate the intervention procedure with the drug users. In fact, a bigger pressure of the police authorities upon the drug users has immediate effect on the number of administrative proceedings: this procedure allows an intervention near individuals, who have never been mentioned, but also allows to assess the true dimension of the repeated offence and the relapses, what can be decisive for the recovery process or intervention process of the offenders. Several actions were developed by the Commissions in coordination with the police authorities, key partners in the implementation of Law no. 30/2000, as: raising awareness of police officers to the addictive behaviours issues; assessment of the activities implemented and definition of future strategies, with the objective of streamlining coordination procedures (for example, measures to be taken during the Boom festival, preparation of seminars...), the debate on the sanctions applied, the safeguarding and destruction of substances seized, the sensitization of the different actors and the articulation in the framework of interventions with minors under 18.

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:

Several options are available to the Commission when ruling on the drug use offence, including warnings, banning from certain places, banning from meeting certain people, obligation of periodic visits to a defined place, removal of professional licence or firearms licence. Sanctioning by fine, which may vary by drug involved, is an available option (though not for addicts) but it is not the main objective. Users found in possession of more than 10 daily doses will be prosecuted in court for a criminal consumption offence.

In 2013, were elaborated guidelines for the Intervention on Dissuasion intended to (1) to systematize and harmonize a set of guidelines to support and potentiate the capacity of intervention of the CDT; (2) increase the levels of quality and effectiveness of these responses and interventions; (3) to ensure a common intervention facilitator of monitoring and evaluation.

The offenders pass through a three-phase intervention, which includes (1) the evaluation of the individual and the situation in which he is; (2) directed motivational intervention and focused on identified needs; (3) monitoring the situation and the change.

The integrated approach of dissuasion goes beyond the mere application of the law. Focuses on the needs and motivation to change behaviour of individuals referred by police authority or courts in the context of an episode of possession or use of illegal psychoactive substances.

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:

The implementation of the Law is based on a network approach. Allocate resources and establish partnerships are of utmost importance to develop action and help the offenders to find their own way. The coordination between the services with responsibilities in this area, both on demand and on supply field, are fundamental for the good working of the Commissions and for the support to the offenders. The assignment given by this Law to the police authorities has a very strong preventive component part; as it is a new type of approach, it needs a permanent articulation, in order to obtain better results within an integrated strategy in the fight against drugs.

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:

Not applicable. In Portugal, the alternatives to imprisonment related with the offences of consumption and possession are inscribed in the Law 30/2000 and are to be implemented by the CDT's.

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:

In 2017, 12,847 administrative offence proceedings were launched against 11,995 individuals who were consuming, possessing or purchasing illicit psychoactive substances.
As for the socio demographic profile of the users, the trend remains stable as regards the gender, with the male gender being 93% higher than the female, with only 7%.
As in the previous year, there was a higher concentration of cases between the ages of 16 and 19 (2 658) and 20-24 (3924), corresponding to 54.9% of the offenders.
In 2017, the provisional suspension of proceedings in the case of offenders who were not considered addicted were the majority of the total percentage of rulings, followed by punitive rulings and suspensive rulings in the case of drug users who accepted to undergo treatment. In 2017, the CDT's referred 10 825 offenders to undergo for treatment.

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:

Information not available

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:

Gender perspective is embedded in the National Plan for the Reduction of Addictive Behaviours and Dependencies 2013-2020 (PNRCAD), which was designed accordingly with two cross perspectives: life cycle phases and contexts where addictive behaviours and dependencies may occur. In this sense, specific programmes targeted on women are included, as the “Campaign Alcohol and Pregnancy”, the implementation of centres for substance use rehabilitation, the development of integrated programmes for maternal health care, residential women centres, therapeutic communities and ambulatory treatment methadone programme in prison.

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:

The drafting, implementation and evaluation of the National Plan for the Reduction of Addictive Behaviours and Dependencies 2013-2020 (PNRCAD) and of its actions is a participatory process involving the Ministry of Health and several other government departments, namely Education, Labour and Social Welfare, Home Affairs, Justice, Science which ensures that gender sensitivity approach is reflected in the Portuguese drug policy and in the design of targeted programmes for women.

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:

The national framework for anti-money laundering and terrorist financing has created relevant conditions for access to FIU data. Even more, in the Portuguese system, the FIU is a police type.

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:

Two distinct situations are possible: the first relates to the STRs (Suspicious Transactions Reports) sent by the obliged entities of the financial and non-financial system to the FIU. In this case the data collected and analysed will not be able to be integrated directly in the criminal investigation. Secondly, if the initiative starts in the FIU, the intelligence created will be sent to the Public Prosecution Service (DCIAP) and to the Criminal Police and will be used directly to support the criminal investigation.

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:

The training that has been provided to the FIU, needs to taking into account the human and budgetary constraints.

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: