



**Doc. 15114**

10 June 2020

## Drug policy and human rights in Europe: a baseline study

### Committee Opinion<sup>1</sup>

Committee on Social Affairs, Health and Sustainable Development

Rapporteur: Mr Joseph O'REILLY, Ireland, Group of the European People's Party

### A. Conclusions of the Committee

1. The Committee on Social Affairs, Health and Sustainable Development ("Committee on Social Affairs" hereafter) welcomes the timely report prepared by Ms Hannah Bardell (United Kingdom, NR) for the Committee on Legal Affairs and Human Rights ("Legal Affairs Committee" hereafter), on the basis of our Committee's previous work on promoting public health policy in drug control. The Legal Affairs Committee report complements my own report on "Involuntary addiction to prescription medicines" for the Committee on Social Affairs.

2. However, a public health approach is paramount in all drug policy, not just when dealing with involuntary addiction to prescription medicines, as even rights-compliant measures can lead to negative public health outcomes. Child protection is also a concern which requires special attention and needs to be mainstreamed into all drug policy.

3. The Committee thus agrees that member States should assess whether the intended and unintended effects of drug-related measures are consistent with international human rights standards – and with a public health approach – and adapt these measures accordingly. It fully supports the recommendation to the Committee of Ministers to adopt authoritative, comprehensive and concrete guidance to member States in this area of policymaking, with meaningful participation of all relevant stakeholders. And it believes it paramount to furnish the Council of Europe Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs ("Pompidou Group") with a new mandate which fully supports a human rights – and public health – approach to drug policy in Europe.

4. With this in mind, the Committee on Social Affairs wishes to propose a few specific amendments to reinforce the text.

### B. Proposed amendments

#### *Amendment A (to the draft resolution)*

In paragraph 3, add the following words after "international human rights standards":

---

1. Reference to committee: [Doc. 14587](#), Reference 4396 of 8 October 2018. Reporting committee: Committee on Legal Affairs and Human Rights. See [Doc. 15086](#). Opinion approved by the committee on 2 June 2020.



*“and a public health approach”.*

*Amendment B (to the draft resolution)*

Move sub-paragraph 4.2.1. to become sub-paragraph 4.1.1.

*Amendment C (to the draft resolution)*

Add the following new sub-paragraph after sub-paragraph 4.1.1.:

*“considering shifting overall competence for the co-ordination of drug policy from the Ministry of Interior to the Ministry of Health”*

*Amendment D (to the draft resolution)*

Add, at the end of sub-paragraph 4.1.2.:

*“including indicators that focus on the direct impact of drug policies on people;”*

*Amendment E (to the draft resolution)*

Add, at the end of sub-paragraph 4.1.3.:

*“while paying particular attention to obtaining and disseminating gender- and age-disaggregated data on children’s drug use and related harms and on the nature of children’s involvement in the illicit drug trade;”*

*Amendment F (to the draft resolution)*

Add, at the end of sub-paragraph 4.1.3.:

*“including people who use drugs and other affected communities, as well as civil society organisations and experts in the design, implementation, monitoring and evaluation of drug laws and policies;”*

*Amendment G (to the draft resolution)*

In sub-paragraph 4.2.2., replace “honest” with “objective and accurate”.

*Amendment H (to the draft resolution)*

Insert the following new sub-paragraph after sub-paragraph 4.2.2.:

*“taking all appropriate human rights-compliant measures, including legislative, administrative, social, educational and capacity-building measures, to protect children from the illicit use of drugs, including by guaranteeing the adequate availability and accessibility of prevention, harm reduction and treatment services tailored to their needs, and to prevent the use of children in illicit drug production and trafficking”;*

*Amendment I (to the draft resolution)*

In sub-paragraph 4.3.1., add after “chronic” the words “and relapsing”.

*Amendment J (to the draft resolution)*

In sub-paragraph 4.3.2., replace “disproportionate” with “negative”.

*Amendment K (to the draft resolution)*

Add the following two new sub-paragraphs after sub-paragraph 4.3.2.:

*“paying particular attention to the health and social needs of people who use drugs from the most marginalised sectors of society, and to the specific needs of women, children and adolescents;”*

*“prioritising health care and social support in community settings for the treatment and rehabilitation of drug dependence;”*

*Amendment L (to the draft resolution)*

In sub-paragraph 4.4.1., replace “effectively prohibited” with “eliminated”.

*Amendment M (to the draft resolution)*

Add the following two new sub-paragraphs after sub-paragraph 4.4.2.:

*“as regards children, adhering to the Council of Europe’s guidelines on child-friendly justice, targeting efforts primarily at diversion from the criminal justice system and promoting rehabilitation over punishment, as well as refraining from criminalising children because of their drug use or possession of drugs for personal use;”*

*“training law enforcement agencies in harm reduction and increasing efforts to promote public health and human rights, including by building a constructive engagement and partnership between law enforcement officials and health providers;”*

*Amendment N (to the draft resolution)*

In sub-paragraph 4.4.3., replace “eliminate human rights abuses by” with “effectively fight”.

*Amendment O (to the draft recommendation)*

In sub-paragraph 2.1., replace “human rights as a cornerstone of” with “a human rights and public health approach to”.

*Amendment P (to the draft recommendation)*

In sub-paragraph 2.2., add the following words after “for individuals and”:

*“public health, as well as”*

### **C. Explanatory memorandum by Mr Joseph O’Reilly, rapporteur for opinion**

1. First of all, allow me to congratulate Ms Hannah Bardell (United Kingdom, NR) on the timely report she has prepared for the Committee on Legal Affairs and Human Rights. Her report complements my own report on “Involuntary addiction to prescription medicines”. I am very happy to see that the Legal Affairs Committee has endorsed a rights-based approach to drug policy, building on the Social Affairs Committee’s previous work on promoting public health policy in drug control (see, in particular, Assembly [Resolution 1576 \(2007\)](#)<sup>2</sup> “For a European convention on promoting public health policy in drug control”, and the Committee’s call, in November 2015, for a public health oriented drug policy<sup>3</sup>).

2. As Ms Bardell has rightly pointed out in her report, the outcome document of the UN General Assembly Special Session on the world drug problem held in April 2016 (UNGASS 2016)<sup>4</sup> reaffirms the commitment by all UN Member States in 2009 “to ensure that all aspects of demand reduction, supply reduction and international cooperation are addressed in [full respect for] all human rights”<sup>5</sup>. The document’s operational

---

2. [Resolution 1576 \(2007\)](#) “For a European convention on promoting public health policy in drug control”.

3. [Committee on Social Affairs, Health and Sustainable Development - Declaration \(contribution to the United Nations General Assembly Special Session on the World Drug Problem, to be held on 19-21 April 2016, in New York\) Call for a Public Health Oriented Drug Policy.](#)

4. [Outcome Document of the 2016 United Nations General Assembly Special Session on the World Drug Problem - Our Joint Commitment to Effectively Addressing and Countering the World Drug Problem.](#)

5. [UN Office on Drugs and Crime \(UNODC\), Political Declaration and Plan of Action on International cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, 2009](#)

recommendations have been further developed by the International Guidelines on Human Rights and Drug Policy in 2019<sup>6</sup>. What is missing – including in some of our Council of Europe member States – is the political will to realise the commitment entered into and to implement the recommendations made.

3. This is regrettable, since countries which have moved away from the repressive “war on drugs” approach to a rights-based, public health approach (such as Portugal), have fared much better than countries which have held on to the old mantra, even when measured using such simple indicators as drug related deaths. As proposed by Ms Bardell, identifying more relevant indicators (which also take into account the UN Sustainable Development Goals), could make the benefits of a rights-based, public health approach even more visible, and thus contribute to eroding opposition to it (**Amendment D**).

4. Much of the opposition to the “new” approach stems from myths fed by lack of or inaccurate data; however, the rise of populism and the far-right in recent years have also contributed to politicians feeling the need to show they are “tough” on drugs and crime. Shifting overall competence for the co-ordination of drug policy from the Ministry of Interior to the Ministry of Health (recognised by Ms Bardell as good practice in her report) can be an important antidote (**Amendment C**).

5. It is also worth pointing out the importance of a public health approach in all drug policy. Even human rights-compliant measures can lead to negative public health outcomes: for example, criminal justice responses to drug-related crimes may respect human rights, legal guarantees and due process safeguards pertaining to criminal justice proceedings, but nevertheless be the wrong approach to take for young drug-dependent offenders. A public health approach would yield more positive results for both the individual and society. This is why it is paramount for drug policy to be reformed across the Council of Europe to be both consistent with international human rights standards and a public health approach (**Amendments A, B, K, M, O, P**).

6. Children’s rights are human rights, too – and children are entitled to special protection. This also applies in the area of drug policy and drug-related offences. Data on children is, however, sometimes inaccurate, if it is collected at all, and not mixed in with that of “young people”. Particular attention to obtaining and disseminating gender- and age-disaggregated data on children’s drug use and related harms and on the nature of children’s involvement in the illicit drug trade is thus paramount (**Amendment E**).

7. Of course, States should first of all prevent children from falling victims to drugs or drug-related crime in the first place, and should thus take all appropriate human-rights compliant measures, including legislative, administrative, social, and educational measures, to protect children from the illicit use of drugs, including by guaranteeing the adequate availability and accessibility of prevention, harm reduction and treatment services tailored to their needs, and to prevent the use of children in illicit drug production and trafficking. Education, health and other professionals should be adequately trained to identify cases of drug involvement and to take necessary steps when required (**Amendments F, H**).

8. If children do get involved with drugs, they should not be criminalised because of their drug use or possession of drugs for personal use, in line with the International Guidelines on Human Rights and Drug Policy (March 2019) and as reiterated by the UN Committee on the Rights of the Child. Children need to be protected from drugs, and helped to stop using them, not criminalised if they use them (or become dependent on them). Children easily become frightened to ask for help for themselves or others, because criminalising them means they fear arrest, shame, or prison – from a public health point of view, criminalising children because of their drug use is catastrophically counterproductive, leading to unnecessary deaths and damage to their mental and / or physical health. Criminal records alone ruin children’s education and employment prospects, while prison time brutalises children and can make them into the hardened criminals they never were before. If children commit other drug-related crimes, they should be diverted from the criminal justice system as much as possible – rehabilitation should take precedence over punishment. Needless to say, where diversion from the criminal justice system is not possible, the Council of Europe’s guidelines on child-friendly justice<sup>7</sup> should be adhered to (**Amendment M**).

9. The other proposed amendments aim at strengthening the text: **Amendment G** underlines the need for objective and accurate information and education on the risks of drugs. **Amendment I** recognises the fact that drug dependence is not only a complex chronic medical condition, but also, alas, a frequently relapsing one. **Amendment J** suggests that all laws, policies and practices which have negative effects on the voluntary and non-discriminatory access to good quality risk- and harm-reduction and health services for drug-dependent people should benefit from review, not only those which may have disproportionate effects. **Amendment L**

---

6. [International Guidelines on Human Rights and Drug Policy](#)

7. [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#)

proposes eliminating (rather than just prohibiting) the use of excessive force and disproportionate sentencing against people who use drugs. **Amendment N** aims at strengthening the fight against drug trafficking organisations and transnational organised criminal groups.

10. In conclusion, I believe that the Assembly should fully support the draft resolution and draft recommendation proposed by the Legal Affairs Committee. Member States should assess whether the intended and unintended effects of drug-related measures are consistent with international human rights standards – and with a public health approach – and adapt these measures accordingly. The Committee of Ministers should adopt authoritative, comprehensive and concrete guidance to member States in this area of policymaking, with meaningful participation of all relevant stakeholders. And the Pompidou Group should be furnished with a new mandate which fully supports a human rights – and public health – approach to drug policy in Europe.