Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 2335 (2020)[1]

Drug policy and human rights in Europe: a baseline study

Parliamentary Assembly

1. The Parliamentary Assembly welcomes recent global commitments to address and counter societal problems relating to psychoactive substances (hereafter referred to as "drugs") with full respect for all human rights and fundamental freedoms, and the increasing emphasis on a sustainable, comprehensive, balanced and evidence-based approach. It reiterates its previous calls for a European convention on promoting public health policy in drug control (Resolution 1576 (2007)).

2. The Assembly notes that strong evidence suggests that purely repressive policies which ignore the realities of drug use and dependence have been counterproductive and generated large-scale human rights abuses. These include highly damaging spillover effects in terms of public health and mortality rates, violence and corruption, discrimination, stigmatisation and marginalisation, disproportionate sentencing and prison overcrowding.

3. The principle of subsidiarity gives Council of Europe member States a significant margin of appreciation for drug policy development, within the bounds set by their obligations under international law, including the European Convention on Human Rights (ETS No. 5). In this respect, the Assembly welcomes the recent publication entitled "International Guidelines on Human Rights and Drug Policy", drafted by United Nations bodies, several States and civil society organisations. Member States should assess whether the intended and unintended effects of drug-related measures are consistent with international human rights standards and a public health approach and adapt these measures accordingly.

4. The Assembly therefore calls upon member States to:

4.1. optimise human rights protection in the implementation of drug control policies, in particular by:

4.1.1. encouraging a public health approach with non-stigmatising attitudes and language, protecting people who use drugs from suffering discrimination, exclusion or prejudice;

4.1.2. ensuring that monitoring, evaluation and State investment in drug-related policies are transparent, sustainable, adequate and duly take human rights into account;

4.1.3. considering shifting overall competence for the co-ordination of drug policy from the Ministry of the Interior to the Ministry of Health;

4.1.4. identifying relevant indicators of the effectiveness of drug policies in meeting international human rights obligations and the United Nations Sustainable Development Goals, including indicators that focus on the direct impact of drug policies on people;

4.1.5. using accurate, reliable and objective data collection methods on the effects of national drug policies on health, crime and equality, in close co-operation with regional and international networks promoting efficient evidence- and rights-based tools and standards in all areas of drug policy (including people who use drugs and other affected groups, as well as civil society organisations and experts in the design, implementation, monitoring and evaluation of drug laws

1. *Text adopted by the Standing Committee*, acting on behalf of the Assembly, on 12 October 2020 (see Doc. 15086, report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Hannah Bardell; and Doc. 15114, opinion of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: M. Joseph O'Reilly).
See also Recommendation 2177 (2020).

and policies), while paying particular attention to obtaining and disseminating gender- and age-disaggregated data on children's drug use and related harm and on the nature of children's involvement in the illicit drug trade;

4.2. ensure that drug-related prevention measures are evidence based, proportionate and adapted to different social contexts, age groups and levels of risk, in particular by:

4.2.1. prioritising objective and accurate information and education on the risks of drugs for the health and safety of people who use drugs (in particular children and young people) and others;

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;

4.2.3. encouraging safety through knowledge by providing information on drug-related services, safer drug-taking practices and drug testing to prevent the consumption of unreliable and potentially lethal street drugs;

4.3. use risk and harm reduction as well as treatment and rehabilitation services as a means to reduce adverse health and social effects of drugs, reflecting a more human-rights-based approach, in particular by:

4.3.1. treating drug disorders and addictions as complex, chronic and relapsing medical conditions and risks for social marginalisation;

4.3.2. reviewing laws, policies and practices that may have negative effects on the voluntary and non-discriminatory access to good quality risk and harm-reduction and health services for drug-dependent people;

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

4.3.4. prioritising health care and social support in community settings for the treatment and rehabilitation of people who are dependent on drugs;

4.3.5. providing equivalence and continuity of care for people who use drugs in prisons or other custodial settings, and safeguard the health of drug-dependent prisoners;

4.3.6. ensuring that individuals have given informed consent before entering treatment and rehabilitation programmes and discouraging non-consensual court-ordered treatment for drug-dependent people;

4.3.7. ensuring that drug dependence treatment is free from torture, inhuman or degrading treatment, forced labour or other human rights abuses;

4.4. ensure that criminal justice responses to drug-related crimes respect human rights, legal guarantees and due process safeguards pertaining to criminal justice proceedings, in particular by:

4.4.1. ensuring that arbitrary arrest and detention, as well as the use of excessive force and disproportionate sentencing against people who use drugs are eliminated and allegations of such abuse promptly investigated and acted upon, in accordance with international standards;

4.4.2. exhausting all available alternatives before incarcerating perpetrators of drug-related offences;

4.4.3. 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 promotion of rehabilitation over punishment;

4.4.4. 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;

4.4.5. strengthening national, regional and international co-operation and efforts to effectively fight drug trafficking organisations and transnational organised criminal groups;

4.4.6. withholding support for international drug-enforcement co-operation activities to the extent that they contribute to the execution, unlawful arrest or detention of persons for drug-related offences;

4.5. provide equal and effective protection for people who use drugs from multiple forms of discrimination in drug policy design and practice. Drug policies should be gender sensitive, address socio-economic factors and respond to differentiated needs, risks and harm faced, in particular, by certain members of society, including women; children and youth; ethnic, migrant and LGBTI communities; sex workers; homeless people; and members of other vulnerable groups.

5. Bearing in mind the forthcoming 50th anniversary of the Council of Europe Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou Group) and the anticipated revision of its statute in 2021, the Assembly recognises the important role it plays as a drug policy co-operation platform for member States. It calls on those member States that are not members of the Pompidou Group to join and on all member States to co-operate fully in its activities.

6. The Assembly calls on the Council of Europe Congress of Local and Regional Authorities to consider supporting the development of rights-based policies on drugs at a local and regional level and ensure that every nation and region can implement policies appropriate to them under these guiding principles.