


España
1995


EUROPEAN COMMISSION

CONFERENCE ON DRUGS POLICY IN EUROPE

**SUMMARY OF DISCUSSION
AND
CONCLUSIONS**

BRUSSELS

December 7-8 1995 — March 25-26 1996

EUROPEAN PARLIAMENT



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CONFERENCE ON DRUGS POLICY IN EUROPE
BRUSSELS, DECEMBER 7-8, 1995

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FOREWARD TO
THE FINAL CONCLUSIONS
ON THE DRUGS CONFERENCE
HELD ON 7-8 DECEMBER 1995
IN BRUSSELS

Mrs. Anita Gradin, Member of the European Commission

When the Commission in 1995 decided to organise a conference on the drugs policies in Europe, together with the Spanish Presidency and the European Parliament, it did so in order to give the fight against drugs a higher political priority within the European Union. The production, consumption and trafficking of drugs is a major concern to citizens in all Member States. It is vital that this is adequately reflected in the work of the European Union. Their call for action must be taken seriously.

Through bringing together people from all Member States to examine drugs policies as they are presently carried out we also hope to be able to see more clearly the added value of an increased EU involvement in this area. There is no doubt that much of what needs to be done will continue to fall to the responsibility of our Member States. But the conference also permitted us to identify some areas where increased cooperation is urgently needed.

I am particularly thinking of the new patterns and trends we have seen involving the use of synthetic drugs, often by very young people. We have over the years spent considerable time and money, trying to help reduce domestic cultivation and production of drugs such as cannabis, heroin and cocaine. These efforts have largely been concentrated to countries outside of the European Union and there is little doubt that this work must continue to be a priority in the years to come. I believe that if we want to be credible in persuading other countries to cooperate in the fight against drugs, we must also demonstrate that we are dealing with our own domestic production problems in a comprehensive and serious way.

The area of synthetic drugs is only one area where cooperation between EU Member States and between the EU and other countries should be developed further. There are, of course, many more. The conclusions and recommendations from this conference and follow-up seminar show clearly that many more steps must be taken in order to build a Europe free from drugs.



Mr Carlos Lopez Riaño, Secretary of State, Spain

The document before you is a digest of the debates and discussions which took place at the Conference on Policies towards Drugs in Europe held in March 1995 and continued, in part, in March 1996.

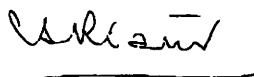
When we decided, while holding the Presidency of the Council, to join in organizing this Conference, we did it because we were convinced that it met a genuine need, the need to work together to analyse the situation regarding drug consumption and trafficking in Europe, so that we could work out conclusions that would be helpful to us as we face the challenges of the immediate future. Together with the three institutions which convened the Conference, the Committee of the Regions, the Economic and Social Committee, Europol and the European Monitoring Centre for Drugs and Drug Addiction were actively involved in setting the Conference up - in other words, all the Community institutions and agencies with a direct or indirect interest in finding a solution to this serious problem.

We were also helped in our work by representatives of the United Nations Drugs Programme, the Council of Europe's Pompidou Group and the World Health Organization's Regional Office for Europe. The contributions they made were extremely helpful.

Spain's wish, from the outset, was to tackle the drug phenomenon on all fronts at once, as we were certain that there would never be any progress along the road to a solution unless policies for reducing demand and curbing supply were looked at together. This all-embracing way of looking at a solution is certainly one of the most important features of Europe's policy on drugs and is the linchpin for that policy in my country.

The Conference proved to be a very high-level forum for reflection and debate, and the atmosphere of freedom and rigour in which the ideas of all participants were expressed formed in itself one of the most remarkable successes of the occasion.

As one of the organizers of the Conference, I hope that these conclusions will be studied and debated and will be of use in the continuing work of hammering out Europe's own policy. I should be pleased if they reached the hands of as many political leaders, health professionals and teachers as possible - not to mention all those people, bodies and institutions whose work is related to the question of drugs, one of the problems of greatest concern to all Europe's citizens. The consolidation of the European Union will depend, among other things, on our ability to find solutions to questions such as those we considered at the Conference. I am sure that we are moving forward on the right path.

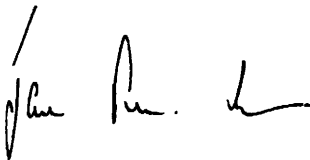


Mrs. Hedy d'Ancona Mep and Sir Jack Steward-Clark Mep

The drugs problem continues to be a matter of increasing concern for two main reasons. Firstly, drugs use, particularly amongst young people increases with no abatement of "traditional" drugs such as heroin and cocaine and with a dramatic increase in the amount of synthetic drugs being consumed. Secondly, huge profits continue to be made by drugs traffickers and their allies, providing them with the means to utilise the most sophisticated equipment and to employ the ablest of criminal brains. By contrast, governments across Europe and elsewhere show a depressing lack of unity in tackling the problem both on the law and order side and most particularly in prevention and rehabilitation. The creation of Europol in The Hague and the European Monitoring Centre for Drugs and Drug Addiction in Lisbon are steps in the right direction, but these must be properly controlled and made to become effective bodies which are well supported by all nationalities of the European Union.

New solutions need to be found. A better knowledge of methods used and a comparison of results achieved have to be made available. Much better coordination of intelligence, better training and better equipment are all necessary.

The conference and the follow-up seminar which took place on 7-8 December and 25 March were organised jointly by the Council of Ministers, the European Commission and the European Parliament. This joint approach has in itself been a welcome development. The conclusion of the proceedings which follow show, we hope, that the conferences were valuable for the quality of their contributions and the recommendations made.



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EUROPEAN COMMISSION

CONFERENCE ON DRUGS POLICY IN EUROPE
BRUSSELS, DECEMBER 7-8, 1995

INTRODUCTION

by

Santiago de Torres

Conference Coordinator

Introduction

The conclusions of the four working parties reveal a high degree of consensus. The salient feature of this Conference on drug policies in Europe was undoubtedly the spirit of openness and tolerance displayed by all those attending.

The experience of a Conference attended by representatives of the fifteen Member States, the European Parliament, the European Commission, the Committee of the Regions and the Economic and Social Committee was most satisfactory. It would be worth envisaging other such meetings in the future so that the representatives of the European institutions can air their opinions and options.

The information supplied by the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and by the Europol Drugs Unit was found to be particularly helpful.

The following are the principal lessons to be drawn from the conclusions of the various working parties:

1. There is wide-ranging agreement in the Community today on the drugs phenomenon. The various plans of action to combat drugs, the Council's achievements and the directives so far in force bear witness to the common resolve.
2. National policies have a great deal in common. Even their lowest common denominator is already quite substantial.
3. All those present at the Conference were clearly determined to pursue together their reflection and analysis on the situation regarding drug trafficking and consumption in Europe. For the future it would be a good idea to convene meetings of this kind to look into specific aspects of the problem.

This was a *sui generis* conference in that the Community institutions' standard procedures were not followed; this was what made it possible to analyse and debate the issues in the kind of depth that would not otherwise have been possible.

We have taken a small step forward, and we have taken it together. That is the message of hope that emerges from this Conference. We must now convey to all the people of Europe the idea that we have worked along concerted lines, knowing for sure that this is the only way of devising solutions to what is one of the biggest problems facing our society.

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CONFERENCE ON DRUGS POLICY IN EUROPE
BRUSSELS, DECEMBER 7-8, 1995

WORKSHOP N° 1

Chairperson: Mrs J. Bengoa (Spanish Presidency)

Rapporteur: Mr. E. Wynn (Committee of the Regions)

Prevention Policies

Introduction

During the discussion of the workshop on the prevention policies, several topics were raised, as listed below. As time was lacking to discuss these different subjects, therefore, no consensus on all topics could be reached. There is a clear need to continue the discussion in the near future.

Primary Intervention

Secondary Intervention

1. Most of preventive actions against drugs abuse are carried out by Member States, both community and school context. Within the community, preventive measures in each country are different and demonstrate a great variety, not only in the different intervention areas but also in the theoretical context.
2. Exchange of information on "best practices" in different prevention programmes should be encouraged through the promotion of coordinating networks that could identify and compare common knowledge, involving cooperation of health, police, social and education agencies. The EMCDDA is an example of how it will be possible to access and share this kind of information and assess its value.
3. All governmental drug related policies recognize prevention as one of the main elements in national policies. Prevention objectives in each intervention should be clearly established, including evaluation in a time frame in order, to allow assessing their effectiveness. The percentage of the national budgets dedicated to prevention activities do not constitute a reliable indicator of the preventive impact in each EU country. A clear working definition on drug prevention concepts is required.
4. There is a need of a comprehensive approach in activities aimed at influencing attitudes and behaviour in order to prevent the outset of drug abuse. The effectiveness of prevention activities should involve social and environmental circumstances and coordinated interventions in the fields of other relevant social, cultural and economic policies : employment and job expectations, housing, sports and leisure activities, etc.
5. Prevention programmes targeted at young people, school or community based, including also mass media campaigns, must take to account the so

called "protective factors", stressing positive behaviours, shown by a large majority of youngsters that develop healthier lifestyles. Indicators and knowledge on these "protective factors" should be established. Participating preventive experiences done with young people are important in this field. We call for further study of this factor to be carried out.

Research and training

1. There is a need of a strategy to identify successful and cost effective prevention policies and programmes. Research and new indicators on preventive interventions are lacking. We call for the development of methodology research on primary prevention. Training in methodological and experimental skills with a specific focus on interventions covering all disciplines of a preventive nature should be available at the European level.
2. Common positions on preventive programmes can only be reached by rigorous research, evaluating the effectiveness of preventive primary and secondary interventions. Relevant new indicators to preventive interventions are also needed. The EMCDDA programme calls for coordination and cooperation with Member States.
3. A view emerged that multi-sectorial primary prevention programmes and networks involving health, police, education and social actors should be examined.

The role of local authorities in the implementation of policies and national prevention programmes needs to be defined.

1. Local and regional authorities are close to citizens and democratically accountable to them. Services they provide are wide-ranging and include education, social welfare, health, housing, planning, economic regeneration and in most countries a wide range of environmental services. They are strategically based to provide a dynamic approach to prevention, with understanding of the needs of their particular population. The European Union and member countries should develop a strategy to make maximum use of this resource.
2. The augmenting competencies of local authorities in the field of drug prevention gives ground for the development and reinforcement of the coordination structures in Member States, and promotion of best practices in this domain.

3. There is a wide range of experiences on drug prevention (and rehabilitation treatment) within local/regional Authorities in Europe. Problems exist in sharing good ideas, developing new thinking and enabling specific issues, common to all, to be debated. There should be a meeting point for local/regional authorities who wish to debate drug issues. The development of proposals as to how this can be achieved needs urgent consideration.

Horizontal and interdisciplinary cooperations and coordinations.

1. Complexity of the drug dependencies phenomenon leads the development of preventatives, health and legal measures. These measures engage at different levels national, regional and local bodies and NGOs. Missions and objectives of actors involved are different and even might be considered as contradictory.
2. To be complementary all efforts of these actors are to be coordinated both vertically and horizontally in Member States and at EU level. The coordination should be made more explicit.
3. Definition of drug prevention programmes remains to the Member States responsibility. Nevertheless, the entering into force of the Treaty on the European Union and the community potential in the field of Public Health allowed the proposal of a community action programme for the prevention of drug dependencies including activities in the fields of information, education and training. Effort should be concentrated on implementing this community programme. Development of fora of cooperation, promotion of working partnership between different actors of Member States at community level constitutes the basis of a European strategy coherent and respecting local context.
4. NGO's represent an important element in drug prevention programmes in most Member States. Cooperation with and participation of NGO's represent a key element for optimal development of drug prevention programmes.
5. Experience showed at community level that transnational networks ensure the development of long term activities, facilitate the improvement of knowledge of the evolution of drug phenomenon and the transfer of best practices throughout Europe.
6. Development of synergies between such transnational networks constitute one of the major challenges for the Community.

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CONFERENCE ON DRUGS POLICY IN EUROPE
BRUSSELS, DECEMBER 7-8, 1995

WORKSHOP N° 2

Chairperson: Mr. G. Borchardt (European Commission)

Rapporteur: Mrs. H. Salisch (European Parliament)

Comparison of Legislation

Introduction

The objectives of the workshop concerning comparison of legislation was to identify the common elements in the Member States legislation concerning all aspects of the drugs phenomenon. To prepare the workshop, the Commission has financed a study by Professor de Ruyver from the University of Gent, entitled "Identification of Differences in Drug Penal Legislation in the Member States of the European Union". A summary made by Professor de Ruyver was also available. In addition the Commission prepared a summary report on the comparison of legislation in each Member State.

Two experts contributed to the debate: Professor de Ruyver (University of Gent) and Mrs Cesoni (University of Geneva)

Exchange of views

A. Presentation by Professor de Ruyver

Professor de Ruyver stressed the difference between penal legislation and its application in practice (prosecution, sanctions and enforcement). In his opinion, there is a number of differences between, on one hand, the legislative situation in a particular Member State, and on the other, the practical enforcement. There are many common elements in Member States legislation due to the existence of an international framework, such as the United Nations International Conventions and the international cooperation activities of the European Union. The present situation can be summarised as follows:

1. Classification of Drugs and Controlled Substances

With the exception of one Member State (probably a temporary situation), the classification of drugs and controlled substances in all Member States of the European Union on the whole corresponds with existing international conventions. In a number of Member States, there exists a distinct penal approach in relation to a specific drug, Opium, or to categories of drugs (Cannabis products), resulting in different penalties but basically the classification of drugs are in line with international conventions.

2. Penalties for Drug Use

Nine Member States apply penalties whilst in five Member States drug use is not an offence (nevertheless, in those five Member States

possession of drugs constitutes an offence). One Member State applies administrative penalties. The maximum sentence varies between 3 months and 5 years or more. In certain cases, there is the possibility of waiving penalties in the case of a first time offence. In practice, drugs use is generally considered as a medical rather than a penal problem. The penal procedure contains a number of provisions for imposing the commencement of detoxification treatment.

3. Penalties for Drug Possession

Possession of drugs is prohibited in all Member States. In two Member States possession for personal use is subject only to administrative penalties. There is a number of differences in terms of maximum penalties applied. For simple possession with no aggravating circumstances, the penalties vary from 3 months to 5 years. Most Member States make a distinction in terms of offenses for possession of drugs for personal use. Some make a distinction between possession of Cannabis products and other drugs. A number of Member States make a distinction based on different criteria such as dangerousness, addictiveness and quantity. There are also certain Member States where no distinction is made.

In the case of possession by a drug addict, all Member States have provisions for proposing treatment rather than prosecuting and ordering imprisonment.

In the case of possession by a dealer, repressive measures are applied in all Member States. In certain Member States an explicit distinction is made between the dealer and the dealer who is himself a drug addict.

In summary on the subject of drug possession, there is a number of differences in Member States legislation. The penal law plays a more important role than in the case of drugs use.

4. Legal Means for Imposing or Recommending Treatment of Addicts who commit an offence

All Member States have provisions for proposing to drug addicts a therapeutic treatment. Different possibilities exist:

- A civil and administrative procedure
- A penal procedure

In principle, in the case of an offence, a penal procedure is applicable. At the level of prosecution most of the Member States apply the principle of opportunity. The Public Prosecutor may incriminate the offender and, in

this case, (s)he can propose certain conditions to the offender for the suspension of the prosecution procedure. Often drug addicts are offered the possibility of following a detoxification treatment. In a number of Member States the principle of legality is used. Equally, in these countries the Public Prosecutor may propose to drug addicts to undergo treatment. With regard to penalties a wide range of situations exist in the Member States, such as, the suspension of the charge, the deference of the sentence with individual probation conditions.

Two Member States have legislative provisions for obligatory treatment. However, this provision is rarely applied in practice.

In conclusion, the drug addict can decide to follow a detoxification treatment on the proposal of the Public Prosecutor (choice between penal incrimination or treatment) or of the Judge (choice between imprisonment or treatment).

B. Presentation by Mrs Cesoni

Mrs Cesoni considers that a homogenous drugs approach in Europe would imply coherency between principles, legal text and judicial applications. There should be a consensus on the objectives to be pursued. Also, clear priorities should be set by Member States on the various objectives, such as, demand reduction, risk reduction, fight against traffickers through the repression of drugs use and possession, reduction of delinquency linked to drugs abuse, rehabilitation of drug addicts, etc.. In the absence of these priorities at Government level, it will be the enforcement authorities who will set the priorities. Mrs Cesoni acknowledged a new trend: the recourse to a social medical approach in case of drug addiction. This consideration did not exist when the legislative framework was created. Also, at the time that legislation was established, drugs use was different compared to today and drugs users were marginal groups in society.

Mrs Cesoni noted that in most Member States the drug addict is a sick person who is also considered as an offender. She concluded that those Member States consider the drug addict as an offender who needs treatment. In her opinion, priority should be given to public health issues and increase preventive actions as well as to a different approach based on the nature of the drugs. She also mentioned that there is a consensus among field experts on the negative secondary effects of repressive policies on drug addicts. As a consequence, while it is necessary to maintain a repressive approach mainly against traffickers priority should be given to the social medical assistance and not to application of the sentence.

C. General Debate

1. Main Questions addressed

The following questions were discussed:

- What role plays the law in relation to drugs use ? If it does, then can it play a structural role, that is to say, :
 - can it serve educational / preventive purposes
 - can it dissuade potential users from consumption
 - can it help addicts to break the habit
- Is penal law an objective in itself or a component of an integrated drugs policy ?
- Which law can reach the result that the spread of drugs use is prevented ? Is there a need for criminal penalties against drugs use ? If yes, then under which circumstances (only when it results in a disturbance of public order) ? Are administrative penalties not enough ?
- How to assess the contradictory situation of the drug addict, that is to say, as both a sick person and an offender?
- Does criminal law enforcement reduce or increase the use of drugs ?
- What is the position concerning treatment methods including those based on the recourse of Heroin ?
- Does a flexible drugs approach need the harmonisation of legal provisions (from EU/Member States/Regional/Local Authorities) ?
- Is it sufficient to adopt common political priorities taking into account the existence of different legislation. ? Could we use Article K 1.4 on the Treaty on European Union for coordination or do we need a change of the treaty ?

2. Summary of Discussion

A number of common elements were found in Member States legislation as well as differences in approaches. The group discussed the efficiency of the penal law in relation to drugs abuse. On this point, the group was unanimous in considering that penal law constitutes only one element of

the fight against drugs. Unanimity was also reached on the need for the penal law to severely repress the traffickers who are considered serious offenders.

The penal law should, on the contrary, be more lenient on the drug addicts/delinquents who are both sick people and offenders.

With regard to the situation of the drug addict as a sick person or an offender different positions were expressed but many Member States have recognised that the social medical approach is becoming increasingly important. For most of them the detoxification treatment plays a bigger role than the strict application of penalties.

The dangerousness of alcohol on one side, and of certain concentration of substances (THC) in so-called 'soft drugs' on the other, have been discussed but without reaching common views.

With regard to the question of harmonisation of Member States legislation in the drugs area the workshop expressed doubts on the necessity and opportunity of such an effort. It was, indeed, accepted that all Member States have fulfilled their obligation resulting from the three UN Conventions.

If harmonisation was to be discussed, the question would be on which legal basis (Article K.1.4 of the TEU?). One should firstly set common objectives in relation to the illicit use of drugs as well as the means to reach these objectives.

The role that society has to play in imposing limits to individuals in order to protect them or to let them freely use drugs has also been at the centre of the debate. A scientific approach on the problem and on the damages to ones health caused by certain substances seems the best approach to this problem.

A number of controversial aspects remained unresolved, such as,

- is the present distinction between licit and illicit substances still compatible with scientific knowledge about the effects of psychotropic substances on humans ?
- why ban drugs even where substitution therapies are a recognised method of treatment?
Should the law permit supply on prescription ?

- should drug taking be regarded as a social and cultural phenomenon, a criminal offence, a pathological symptom ?
- can one distinguish between drugs ?
- is it possible to legislate for a drug-free society ?

D. Common Aspects

A certain consensus emerged concerning the following aspects:

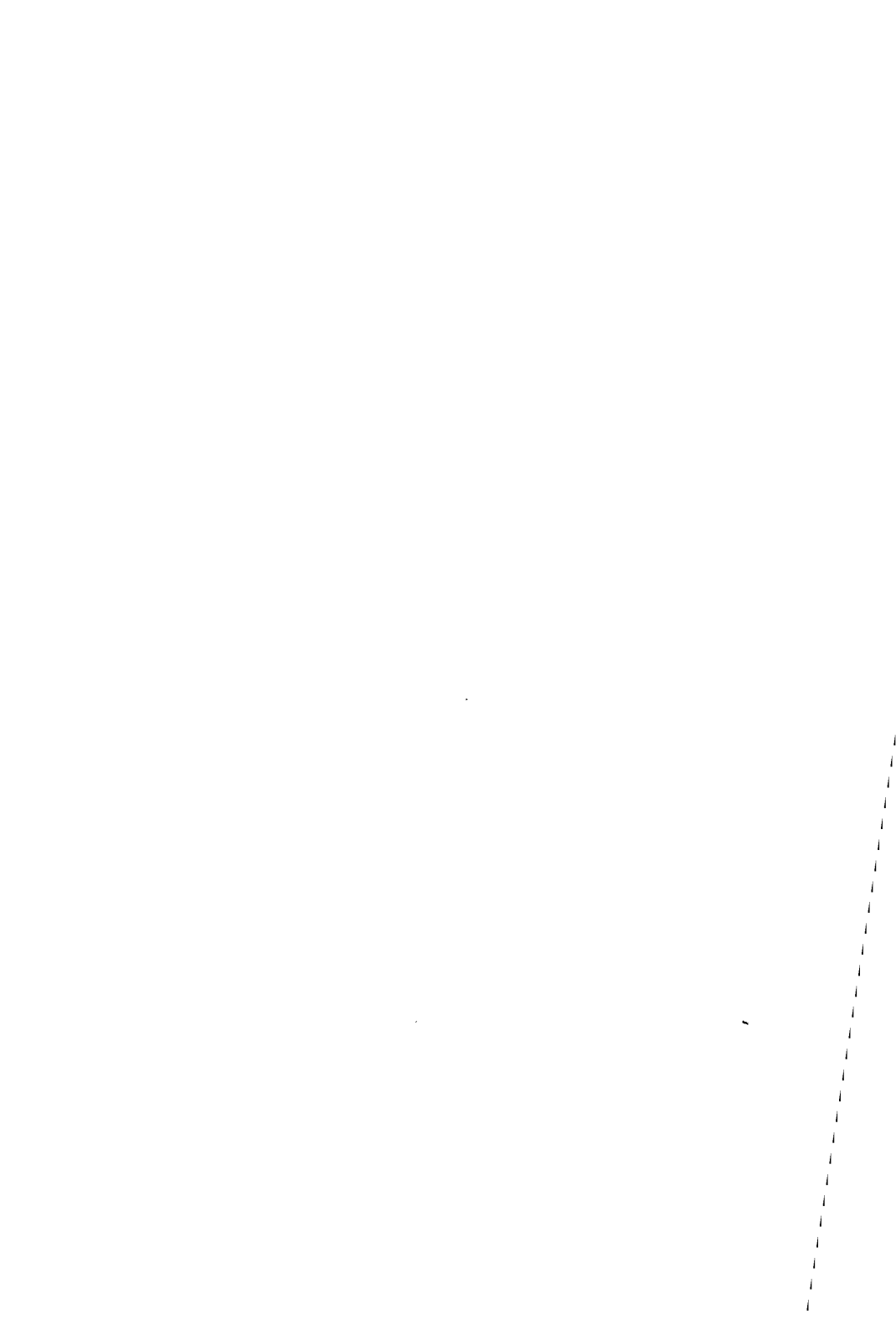
1. Penal law is an essential instrument of the fight against the drugs phenomenon. However, it is only one aspect of the anti-drugs strategy and it is not in itself sufficient and ought not to be considered as an aim in itself.
2. A great majority of Member States are in favour of providing social medical support, in particular, in case of voluntary treatment by the drug addicts as an alternative to criminal penalties.
3. Illicit trafficking is severely repressed in all Member States.
4. Possession of small quantities for personal use should be less severely repressed as in the case of possession of large quantities which is an indication of the intention of selling the drugs.
5. It appears that in practice there exists the possibility of waiving penalties in the case of a first time offence for drug use.
6. Statistics and data on the drugs phenomenon, its causes and its consequences need to be improved.
7. Taking into account that all Member States have ratified the relevant international UN Conventions, it was expressed that at this stage harmonisation is not a feasible objective as it should be based on common elements in the setting of priorities (which do not exist for the moment).
8. In this context, it was considered that Article K.1.4 of the TEU could possibly be used as a legal basis for harmonisation as there is no other evident legal basis for harmonisation in the Treaty. It was reminded that Article 129 (EC Treaty) explicitly excludes any harmonisation of the laws and regulations of the Member States in the public health area.

E. Conclusions and Possible Follow-up

The members of the workshop concluded on the need of a comprehensive and differentiated approach based on the combination of prevention, information, treatment, criminal law and research work. They also stressed the need to improve the mutual understanding of each others applications of penal laws. The workshop was able to provide a useful basis for exchanges of views in this area but more should be done as a follow-up, such as,

1. deepen insight into the practical implementation of law
2. distinguish regional differences as regards implementation in every State
3. reassessment of laws as a component of a comprehensive strategy (including the efficiency of the application of penalties and laws.)
4. investigate the drugs situation in the Member States and the trends over time.

A number of participants expressed their appreciation for the opportunity which this workshop provided for the first time in discussing national drug legislation. The exchange of views has been extremely useful and constructive. They, however, felt that there is much more work to be done in this area and hope that it will be possible to continue the debate in the same format in the near future.



Introduction

This seminar was convened by the European Commission, the Italian Presidency and the European Parliament to continue the work initiated by workshop n° 2 on the comparison of legislation at the Conference on Drugs Policy in Europe which took place in Brussels on December 7-8, 1995. The members of the workshop expressed the wish to further improve the understanding of each others application of the relevant legislation. The outcome of this follow-up seminar would then be made available as an element in the examination by the Commission and the Council of the possible contribution which harmonisation of Member States laws might make to the problem of drugs, as requested by Heads of State and Governments at the Madrid European Council.

The fields covered by the seminar were :

- drugs classification
- drugs use
- drugs possession
- drugs trafficking
- alternative measures to penal sanctions

Drugs Classification

A. Relations between Classification and Sanctions

The debate has shown that in a majority of Member States (10) there is no direct relation between the drugs classification introduced in their legislation according to the UN Conventions and the penal or administrative sanctions applicable to offences related to the substances under control. In other Member States (5) such a direct relation exists. Nevertheless, in the application by the Police and Judicial authorities it is more the seriousness of the offence (nature of substance, quantity, aggravated circumstances, etc...) which determines the sanctions applied than the different classification.

The drugs classification in the UN Conventions are mainly based on scientific and medical criteria for the regulation of production, selling, import, export and licit trade. The specific application of the relevant national legislation have on the contrary as a main objective the protection of public health. Indeed, the sanctions vary according to the danger that the substance may cause.

B. Problems resulting from new Synthetic Drugs

During the debate all delegations expressed their preoccupation concerning the rising trend in production, trafficking and abuse of new synthetic drugs.

Member States have expressed their concern on the difficulty of defining quickly the dangerousness of these substances which are produced with chemical molecules which are sometimes not classified and, therefore, are not subject to control and as a result, are not legally forbidden.

A number of Member States have stressed the lack of reliable information concerning these new substances which each day appear on the drugs market, with foreseeable difficulties for the law enforcement services of the Member States.

The extreme facility of producing these new synthetic drugs (in small laboratories, or in kitchens), the high level quantity of doses which can be produced daily, the use of substances which are not controlled and the rising trend in consumption of these new drugs render these substances one of the priority objectives of the fight against drugs in the coming years.

It was noted that gaps exist between the moment where new substances are introduced into the illicit market and the moment where these substances are classified in one of the lists of the UN Conventions. This gap which can last up to 2 years, according to participants, allow these new drugs to circulate freely.

A proposal has been made to study the possibility of introducing a system which would permit the 15 Member States to control these new molecules in an efficient and rapid manner. To this aim, a Community instrument pursuing this objective could be elaborated. This proposal has received a very large support of the participants.

Drugs Use and Possession

A. Use and Possession of Drugs for Personal Use

There is a large consensus concerning the personal use of drugs when this is not linked to trafficking or related to aggravated circumstances.

In general, the competent authorities prefer not to send the drug addicts to

prison opting for administrative, medical or social measures, in particular, for those drug addicts who wish to undergo treatment. The social, medical approach becomes indeed the privileged strategy of the 15 Member States to face the abuse of drugs, when physical or psychological dependence exists and when the circumstances would justify a minor sentence. In case of occasional use with no aggravating circumstances, the drug user is approached, is invited to refrain in future from taking drugs or receives a fine or is subject to administrative sanctions.

Prison continues to play a repressive role only when important quantities are concerned or in the presence of aggravated circumstances which may be according to the national legislation group use, public use, use in schools, use in the presence of minors, peer pressure, etc..

All Member States agree to make a distinction between, on one side, drug-related offences for the purpose of production, trafficking and illicit trade of drugs, often made by small or larger organisation with lucrative objectives, and, on the other side, personal use by a drug addict or occasional user.

B. Definition of Quantities for Personal Use and Trafficking

Large differences exist not only between Member States but also between regions in Member States in the evaluation of quantities which are considered for personal use and trafficking. A similar quantity of drugs could be the subject of different judgements at Member States level or within a Member State by the different regions. In this context, the Judicial and Police authorities have the possibility of applying sanctions which would take into account alleviating or aggravating circumstances (quantity, nature of drugs, repeated arrests, health condition of addict, social situation, etc..).

It was concluded that there is a need to investigate, in the most precise way, the quantities of each drug that, in practice, the Judicial authorities in each Member State consider for personal use or for trafficking. The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) could contribute to this work.

Illicit Trafficking

In general terms it is considered that national legislation are providing efficient measures to the problem of illicit trafficking of drugs. In most Member States there exists a permanent adaptation of laws to the necessity that emerge in this sector.

In the last years, legislation concerning the illicit trafficking in drugs has been associated to the fight against organised crime by integrating measures against money laundering and the control of the illicit trafficking of chemical precursors.

The real problem lies in the lack of efficient cooperation between Member States. The majority of participants considered that a more close cooperation represents the appropriate strategy to find a solution to the existing problems.

The measures to combat money-laundering and controls on unlawful trade in precursors were cited as an example. The 1988 United Nations Convention and the two Community regulation and directive on these issues have provided a solution in practice to problems that might arise between the States when dealing with these matters.

The following are some of the proposed areas where cooperation could be enhanced in the near future:

- liaison officials
- controlled deliveries
- intelligence services and the role of Europol
- relations with central and eastern European countries
- goods confiscated from drug traffickers and their possible use in prevention and enforcement policies
- trends in the effectiveness of national policies and the role of the EMCDDA in this field.

It is proposed to identify areas where greater cooperation would help to resolve the practical problems encountered by Member States when applying the legislation.

This approach is regarded as more effective and realistic than a possible harmonization of national legislation. *More in-depth cooperation will lead to greater approximation in practice.*

Alternative measures

All the Member States are considering alternatives to a prison sentence for persons convicted of a drugs offence in certain circumstances: for non-serious offences (imprisonment for up to 2-3 years), when the persons health requires treatment and when there is a high degree of voluntary acceptance for treatment.

In practice, however, the situation in a certain number of Member States of the social and treatment centres does not reflect the priority given to a social medical approach to the drugs problem. Indeed, these infrastructures are not always able to cater for all these people due to insufficient technical and financial resources.

The supervision and control mechanisms, and the characteristics of the alternative measures are very varied. Projects to evaluate such measures are under way in some States.

Most of the delegates recognize that this type of measure is multidisciplinary and that the family, social resources, employment possibilities, training, etc. all have their role to play.

The need for better assessment of the results of such projects is accepted, and it is felt that the EMCDDA is the institution best suited to launch the evaluation programmes.

Lastly, various participants have given a positive verdict on programmes using methadone treatment to assist and reinforce existing alternative methods.

General

The seminar, organized jointly by the Italian Presidency, the European Parliament and the Commission, and the method of work was favourably received by the delegates. Further thematic seminars organized on similar lines should be convened.

EUROPEAN PARLIAMENT



EUROPEAN COMMISSION

CONFERENCE ON DRUGS POLICY IN EUROPE
BRUSSELS, DECEMBER 7-8, 1995

WORKSHOP N° 3

Chairperson: Sir Jack Stewart-Clark (European Parliament)

Rapporteur: Mr. P. Faucherand (European Commission)

Control of Supply and
Repression of Illicit Trafficking

Workshop No. 3 aimed to identify common elements in the control of supply and repression of illicit trafficking.

The group concentrated on the following topics:

- A) Internal flows of drugs within the EU;
- B) Control of precursors and chemical substances;
- C) Fight against money laundering;
- D) Police, customs and judicial cooperation, including reinforcement of external border control;
- E) Delinquency linked to drug abuse.

Discussions

The principal points made in the course of the debate were as follows:

A) Internal flows of drugs within the EU

Participants examined the interconnections between the economic context, the political context and the context of judicial cooperation which constitute the factors leading to an increase or reduction in the phenomenon of drugs.

On the basis of the observation that economic growth gives greater possibilities for the development of criminal organisations, and that these organisations benefit from poverty to recruit delinquents/couriers more easily, the group stressed the importance of paying close attention now to the economic and political development in Central and Eastern European countries, as well as in a number of countries with which the Community or the European Union is linked by cooperation or association agreements. In particular, the need was underlined to include systematically in this type of agreements clauses referring to the fight against drugs and to develop concrete co-operation projects with these countries.

The group stressed the importance to be attached to the economic infrastructures, including transport, for the development of criminal organisations, which have modern commercial structures and experts in marketing, finance and law, etc.

Several cases were pointed out in which these organisations had sought participation, in the form of shareholdings, in European companies. It was also noted that, in the majority of the cases, transit countries generally become consumption countries.

Lastly, it appeared that, in order to be better able to measure the impact of the actions undertaken, the quantitative indicators (seizures, etc) were not sufficient, but had to be supplemented by qualitative indicators making it possible to understand better all the parameters of the traffic.

B) Control of precursors and chemical substances

The participants considered the question of precursors. Apart from the technical aspects, it was pointed out that several types of problems occur as regards effective action in this field:

1. necessary cooperation with business circles, whose interests mostly overlap with those of the official authorities and who have information that the latter do not have;
2. interdepartmental cooperation where, by their nature, various different administrations (Industry, Health, Police, Customs, etc) are led to work increasingly together to apply Community legislation;
3. international cooperation, insofar as any action in the field of precursors has to associate exporting countries, countries of destination but also transit countries within the framework of regional arrangements. This also includes cooperation with the specialized international organizations to ensure the necessary coherence of actions (INCB, Interpol, WCO, etc.).

While taking note of current developments, including the forthcoming conclusion of agreements in this field with the Andean countries, the group raised certain points to which solutions have to be found:

1. the establishment of connections between administrative cooperation involving the 1st pillar of the TEU and police or even judicial cooperation involving the 3rd pillar. That raises, in particular, the question of the links to be set up between Europol and the administrative authorities working under cover of Community legislation. Difficulties were mentioned on this subject, concerning the functioning of the 3rd pillar and the group recommended in particular in this connection that a single co-ordinating body be designated for the drugs questions dealt with in the various authorities.
2. the need to supplement the mutual administrative assistance agreements on precursors by agreements between the EU and the same partner countries in the fields of police and legal cooperation.
3. the advisability of ensuring that our partners with whom economic cooperation agreements, or other agreements, are signed also engage in a

concrete way in cooperation against the diversion of precursors. It was expressly regretted, for example, that the ASEAN countries have not reacted more positively to the proposals which were made to them. Other sensitive countries were also mentioned.

The rapid conclusion of an agreement in this field with the United States was requested.

C) Fight against money laundering

Participants carried out an analysis of the situation in the Union. Five opening remarks were made:

1. the extent of the phenomenon; although difficult to determine precisely, it would seem that known cases of money laundering connected with drugs represent an important money supply which is constantly increasing (3/4 of the money laundering files dealt with in Belgium);
2. the fight against money laundering is an essential element of an overall and integrated strategy in the fight against drugs;
3. the ratification of the international conventions by all the Member States is essential;
4. close cooperation between the Union and the international organizations has to be maintained and intensified;
5. adequate convergence of efforts has already been obtained, even if improvements remain possible.

It was stressed in particular, on the basis of the practical difficulties encountered in the anti-drugs area, that it was desirable:

1. to complete the process of extending the repression of money laundering beyond narcotics alone;
2. to create central coordination units at national level where they do not exist and to allow such units to carry out the contacts necessary at the various levels involved (administrative, police, judicial);
3. to ensure full application of the Directive in all the Member States, in such a way that each fulfils its undertakings;
4. to apply the directive to the non-financial professions which carry out activities particularly likely to be used for the purposes of money laundering;
5. to set up adequate cooperation mechanisms between all the authorities concerned both at national and Union level. For this purpose, it would be advisable to study the possibility of drawing up a convention between the Member States within the framework of Title VI of the TEU.

In response to the difficulties mentioned as regards obtaining evidence, it was suggested that the burden of proof should be reversed whenever there are indications that funds are linked to drug trafficking and then to compel the owner of the funds to prove their lawful origin.

D) Police, customs and judicial cooperation, including reinforcement of external border control

The group stressed the importance of cooperation between customs and police forces. An improvement in the situation was recognized by the participants, in particular thanks to the presence of customs officers in the EDU/Europol. Several examples were quoted of Member States in which, once the specific character of each service was accepted by all concerned, constructive collaboration was able to develop and result in particular in the creation of common groups on the ground.

The importance of liaison officers was recognized by the group, in particular to facilitate the information flow in complete confidence.

Concerning the creation of a database, the group considered that it was advisable in the first place to know exactly what already exists (CIS, Europol, SIS, etc), and to ensure bridges between these various systems.

The principal difficulty is not so much, in the opinion of the group, the quantity of information available, but how to share it and use it in common. That raises the problem of confidence between services because the effectiveness of a system depends on its reliability (protection of the sources of information, of persons' physical safety, etc).

The exchanges of officials between services and between Member States, such as the Matthaëus Community programme in the customs field, were recommended.

Opinions were more divergent on equipment, which is expensive and for which the question of financing has not been resolved. It appeared, however, that most of the time this equipment is not limited to the detection of drugs but is also used for the control of ordinary goods and in the fight against other major trafficking areas (weapons, smuggling of cigarettes, of strategic products, of nuclear products, etc).

Lastly, the question arose of the need to succeed in the long term in laying down jointly a policy for establishing liaison officers in third countries, who

would work for the benefit of the whole Union and no longer only for the Member State from which they come.

E) Delinquency linked to drug abuse

The group considered crime connected with the abuse of drugs. A consensus emerged to distinguish petty crime, associated with drug consumption, from major organized trafficking, even if it appeared that it is sometimes difficult to know what does, or does not involve organized trafficking.

A second consensus point emerged to note that this is an area where finding the balance between prevention and repression is very delicate.

As far as petty crime is concerned, a distinction was made between, on the one hand, the consumers of new drugs ("recreational consumers") which concerns financially secure people and takes place on rural and urban environments on which there is little information and, on the other hand, the consumers of cannabis and heroin found in highly urbanized areas which are often affected by high unemployment and have a significant foreign population.

The role of law enforcement agencies was stressed not only as enforcement bodies but also especially for their contribution to prevention through their contacts with the social partners (local councils, district associations, etc.).

It was noted that various approaches had been tested locally and at regional level, not always successfully, and that apparently, there is no overall solution.

The participants expressed the desire, in view of the complexity of the problem and the difficulty of establishing a dialogue with the persons concerned, to carry out a detailed comparison of the experiments made to try to learn lessons for everyone. This study should be undertaken as a priority by the EMCDDA.

Recommendations

The following recommendations were made by the group:

- R.1.** It is most important that there should be clarification, simplification and speeding up of police, customs and judicial procedures if the rise in major crime, which is spear-headed by the drugs trade, is to be curbed. These procedures are presently hampered by the clumsiness of mechanisms of intergovernmental cooperation which is subject to the six-monthly rotating presidency.
- R.2.** Since the entry into force of the TEU, the CELAD committee, whose job it was, has been abandoned. Whilst it was not perfect this committee had started to work. There is, therefore, an urgent need to set up the appropriate structure which would be the single co-ordinating committee to coordinate and oversee the implementation of a 5-year plan, thus ending the compartmentalization that is the result of the current existence of 18 working parties in this field.
- R.3.** It is agreed that both equipment and training of customs and police, especially along the external border of the EU, is very inadequate. As regards co-operation with the Central and Eastern European countries, the fact that police and customs often cannot communicate because of language barriers only emphasises the need for better co-operation and training. The question of differing cultures also plays a role in accentuating difficulties.
- R.4.** Complaints were made that insufficient funding is being given under the 3rd pillar. These complaints concern, on one hand, the purchase of detection equipment which exceeds the financial capacities of certain Member States and thus is prejudicial to the homogeneity of the protection of the Union's external border, and, on the other hand, the carrying out of coordinated anti-drugs operations. It would also be advisable to set up an EU-financed training programme to provide special training for instructors from national law enforcement agencies (police, customs etc.) with a view to developing a common approach to drug-related activities.
- R.5.** The PHARE programme was referred to in the drugs context. It is considered that there is a need for clarification of 1st, 2nd and 3rd pillar responsibilities and for some form of integration of policies to enable funds to be used to best effect.

- R.6.** The aspect of intelligence is vital as regards gathering, analysing and disseminating information. In this context the rapid conclusion of instruments, such as EIS and "Naples II" Conventions, and the rapid adoption of the CIS Regulation are of paramount importance.
- R.7.** It is recommended to establish, in particular in the field of precursors, connections between administrative cooperation involving the 1st pillar of the TEU and police or even judicial cooperation involving the 3rd pillar. In particular, such connections should be set up in this field between Europol and the administrative authorities working under cover of Community legislation.
- R.8.** Independently of the need to continue concluding agreements on precursors with the principal sensitive countries, it is recommended, in order to ensure collaboration between Union partners in the international effort to combat drugs, that clauses referring to the fight against drugs, including in the field of precursors and money laundering, be introduced systematically into cooperation or association agreements concluded by the Community or the European Union and that concrete cooperation projects be developed with the countries concerned.
- R.9.** As far as tackling money laundering is concerned, there is a need for better cooperation between the international organizations competent in this field, in particular the EU, Interpol, EDU/Europol, WCO, UNDCP, the Council of Europe and the Financial Action Task Force. The meetings of the financial disclosure units taking place in the Egmont Group, which includes other agencies besides the EU units, such as Fincen in the United States, are signs of a development in the right direction.
- R.10.** It is recommended that the possibility should be studied of drawing up a convention between the Member States within the framework of Title VI of the TEU, to set up adequate cooperation mechanisms between all the authorities concerned with the fight against money laundering, both at national and Union levels.
- R.11.** As regards money laundering it is agreed that certain laws have been too mechanistic and insufficiently intelligence based. This has meant that too often banks undertake a plethora of form filling which in turn floods police offices. It is vital that banks and other financial establishments report suspicious transactions, but this needs to be in a selective manner on the basis of intelligence. We also need to work on developing a system on this basis using high technology wherever possible.

- R.12.** Consideration needs to be given to reversing the burden of proof whereby, in certain circumstances, the depositor or transferer of money would have to demonstrate that his funds are of a licit origin.
- R.13.** Training of bank staff is vital and a cross country programme needs to be developed for the use of governments and financial institutions to achieve an effective and commonly understood system of detecting dirty money.
- R.14.** Money launderers are managing to transfer, on a large scale, significant sums of dirty money by electronic means which it is difficult to detect. In order to avoid the persistence of these weaknesses in the current provisions, it is indispensable that the provisions of the Directive on money laundering be applied fully to these transactions.
- R.15.** It is recommended that the Directive on money laundering be applied to the non-financial professions which carry out activities particularly likely to be used for the purposes of money laundering.
- R.16.** Considering the short time in which the Europol Drugs Unit, the forerunner of Europol, has been operating till now, it was stated that progress on its operation and work carried out has been considerable. Nonetheless it is very urgent that the Convention be signed and implemented. Any further delay would be regrettable and if this has to go on for several more years, then the situation would become intolerable.
- R.17.** It is recommended that the EMCDDA be entrusted, in the field of crime connected with drug consumption (urban petty crime), with carrying out a comparison study of the various experiments undertaken to try to derive lessons from it for all concerned.

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EUROPEAN COMMISSION

CONFERENCE ON DRUGS POLICY IN EUROPE
BRUSSELS, DECEMBER 7-8, 1995

WORKSHOP N° 4

Chairperson: Mr. A. Amerio (Italian Presidency)

Rapporteur: Mr. P. Perez (Spanish Presidency)

International Cooperation

Objectives: Identification of common views and priorities
in the area of international cooperation.

A) *Integration of assistance to the fight against drugs into development cooperation policies of the EC and of its Member States.*

There is a general agreement on the existence of a sustained political commitment and increasing international cooperation in the field of drugs.

"The EU Action Plan 1995-1999) to combat drugs provides a useful framework to promote cooperation and the report of the Group of experts on drugs submitted to the Madrid European Council represents an important contribution in identifying actions to be pursued.

In this context, special reference is made to the key role played by the UNDCP. It is also stressed that there is a need for EU coherence in addressing the three dimensions in which international cooperation on drugs have to deal with: bilateral, multilateral and EU level.

The drug dimension should be adequately taken into consideration in development cooperation programmes.

It is also noted that, in implementing development cooperation policies, the importance of economical, social and cultural factors should be retained.

The key element for effective coordination lies in information sharing. The need for sub-regional coordination is also noted, with a view to define priorities.

B) *Concerted EU actions in the context of national drug control master plans*

EU assistance programmes should be guided by National Drug Control Master plans where these exist and their implementation should be supported. Assistance should also be lent to their preparation.

There is a need to have effective coordination, in all dimensions of drugs, between the national authorities involved, in view of the multi-disciplinary nature of the problem.

EU coordination should be pursued between countries at regional and sub-regional levels with a view to promoting cooperation on shared aspects of the problem.

C) Means of strengthening coordination and complementarity with other donors as well as with international organisations.

The need to ensure and to strengthen coordination within EU Member States, in drug related international fora, is recognised.

Due consideration should be given to the positions of recipient countries, encouraging a continued dialogue between these and the EU in order to assess their needs.

In order to achieve these objectives it is proposed to establish an informal ad-hoc working group to study specific proposals made to assure and improve coordination and coherence of the UE in the field of drugs control.

D) Potential impact and longer term effectiveness of policies and programmes in the areas of demand reduction and supply reduction.

Supply and demand are inter-dependent at global as well as country and sub-regional levels. In order to attain lasting effects, a balanced response is required in supporting promising pilot projects and replicating and amplifying their results through national and regional programmes. Both on supply reduction and demand reduction, side programmes should be appropriately integrated into economic and social development efforts, including alternative development. It was recognised that a successful repression on the prevention of money laundering and precursor control require efficient law enforcement measures, including judicial cooperation

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CONFERENCE ON DRUGS POLICY IN EUROPE
BRUSSELS, DECEMBER 7-8, 1995

ROUND TABLE
ON INFORMATION

The Working Party considered the main questions before it on the basis of its earlier consensus.

Its findings are set out below.

1. There is a general across-the-board demand for information to give a comprehensive overview of the problem of drugs consumption in Europe drawing on existing sources. These sources should gradually be made more comparable, reliable and consistent, this being a *sine qua non* for the establishment of measures and strategies that really work at Union, Member State, regional and local levels.
2. There is a consensus on the view that information is vital to decision-makers, who need to:
 - identify the problems they are to tackle;
 - plan their measures in response;
 - monitor and measure their impact on the drugs phenomenon.
3. The European Monitoring Centre must accordingly build up methodologies for both quantitative and qualitative data-gathering and for improving the reliability and comparability of the data. The partners in EMCDDA should give a firm commitment to supply EMCDDA with the data in their possession, whether they be received from government, non-government or international organizations (especially Europol, the Pompidou Group, WHO, Interpol, UNIDCP, WCO or the Community institutions).
4. EMCDDA must undertake (and find the means) to process and disseminate the data it obtains from the wide range of users, decision-makers, Community institutions, Member States, professional organizations and workers on the ground.
5. The overview of the situation regarding drugs in Europe that EMCDDA gradually builds up should integrate and summarize information available from health and welfare services and the enforcement authorities to complete the picture of the drugs phenomenon in the Union.
6. More specifically, EMCDDA should look at work done by relevant international and European organizations, collate and coordinate the information available from them and obviate the risk of duplication. All concerned agree on the importance of sound cooperation with Europol.

7. The immediate need is for EMCDDA to be in a position to look into the epidemiological situation and the various Member States' approaches, policies and actions.
8. EMCDDA should develop methodologies and instruments for the assessment of measures to combat drug abuse in Europe and thereby contribute to identifying points on which there is actual or potential consensus.
9. EMCDDA is requested to cooperate closely with its various categories of partner to clarify with them their real information needs and the indicators to be used for meeting them, having regard to developments in information needs as the situation on the ground and consumption patterns evolve.

The attention of participants at the conference was drawn to EMCDDA's need to be given the requisite resources to perform its tasks.