

Necessary corrections to anachronistic regulations of the Greek Drug Law

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The proposal of the legislative committee of the Ministry of Justice for reform of the drug law is a good start for a modernisation of the drug control system in Greece. As announced by the Minister for Justice, Transparency and Human Rights, Miltiadis Papaioannou, in the Committee on Social Affairs of the Greek parliament, the proposed reform aims to contribute to a more humane treatment of drug users and drug dependent people and reduce the number of people in prisons sentenced for cases directly related to drugs. In order to meet these two objectives the following reforms, according to the Minister of Justice and the explanatory report of the new draft law, are proposed:

1. Decriminalization of drug use and more lenient measures for supply and possession of drugs and for cultivation of cannabis plants for personal use.

Until now the use of drugs is considered in the Greek drug law a crime that is punishable by imprisonment up to one year. By early 2000 the sentence was 5 years imprisonment. In the new law, drug use will not be considered a crime. The decriminalization of use is motivated by the view that drug use is an act of self-harm (aftoprosvoli) and, for the sake of consistency, has to be addressed by the legislator in the same way as dependence of tobacco or alcohol which is not less dangerous and harmful to health but is not considered as crime. The supply and possession of drugs and the cultivation of cannabis plants for personal use, although it would be logical to also remain unpunished, are considered to be misdemeanours and remain punishable offenses because they are dangerous to others. The distinction between crime and misdemeanour serves also to facilitate the control activities of authorities which can be focused on investigation of more serious crimes

2. Rationalisation of penalties for drug trafficking

Drug trafficking remains a felony. Objective criteria are defined to distinguish lighter, heavier and very serious cases of trafficking, with a corresponding scale of penalties. so that: (a) a more fair treatment can be provided to smugglers of small quantities, especially those who are drug dependent, proportional to the degree of the demerits of their offence, the circumstances under which the act occurred and the status of drug dependency.

b) no cases of disproportional large or disproportional small punishments will occur for the same offences

c) Traffickers who commit severe crimes of trafficking cannot escape the threat of the most severe penalty (life imprisonment). This will be achieved through the ban of lighter penalties for major drug traffickers who will be determined by objective criteria and will no longer receive favourable treatment even if they invoke drug dependence.

3. The right to treatment.

Basic evidence for the diagnosis of drug dependence of the offender is in the current legislation a forensic expert's report. In practice it has been proved that the logistical shortcomings and diagnostic criteria of drug dependence, which are foreseen by the decision of the Minister of Health and Social Security cannot be implemented and have created several difficulties. The requirements for example for sampling of body fluids (urine or blood) and any organic material of the accused, to conduct toxicological analysis and laboratory testing, is appropriate only for the detection of recent use and not the detection of drug dependence of the accused. The new law will introduce a comprehensive system of proof, with the explicit provision that the court is obliged to take into account besides the forensic expert's report also other evidence, including documents relating to monitoring or therapeutic counselling programs, findings of laboratory tests, or a medical history of diseases associated with drug use.

The basic starting point of facing the dependent offender is the therapeutic approach, with his consent. The proposed law considers the consistent monitoring and completion of therapeutic treatment programs, an essential element of anti-criminal drug policy and for those dependent drug users who choose to follow therapeutic programmes, the adverse consequences of a their penal sentence should be reduced.

With the right to treatment the anti-criminal policy is effectively promoted, since it has been scientifically proven that dependence treatment helps dependent users to abstain of any illegal activity, whereas the imprisonment heightens delinquency and social exclusion.

Criticism of the proposals

The key points of the proposed draft law have been commended immediately after the presentation by the minister of justice.

The reactions were focused on the cultivation of cannabis for personal use and the proposed way to diagnose dependence that takes into consideration additional evidence besides the forensic expert's report. The critics on this second issue focused primarily on the bureaucratic setting of the procedure.

The cultivation of cannabis for personal use and the method of diagnosis of dependency are, in my opinion, two main points which the Government must explain adequately by the presentation of the law. The issue of cannabis is being discussed worldwide. All proposals to regulate the availability (and consequently production) of cannabis in different countries have foundered, because the international treaties on drugs prevent such arrangements. We will see, by the submission of the law to parliament, how the government will motivate the proposal for cultivation of cannabis for personal use and what she expects that the results of that measure will be.

The reactions of the political parties followed, in this phase of the debate, the usual oppositional reviews without any reference to the rationale and specific proposals that have been announced. Those who are engaged in daily practice and know the problem of drug use and dependence make positive comments about the new law on the point of the decriminalisation of use and the right to treatment, but express also reservations on certain points, and doubt whether the right to treatment will be implemented amid the economical crisis.

The draft law will be, as announced by the Minister of Justice, submitted to Parliament and presented for public consultation next September.

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