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SUMMARY — SELECTED ISSUE:

DRUG OFFENCES: SENTENCING AND OTHER OUTCOMES

European Monitoring Centre for Drugs and Drug Addiction

Annual report 2009: the state of the drugs problem in Europe

Embargo: 10:00 CET — 05.11.2009

Introduction

The sentences that offenders receive for drug law violations across the European Union are examined for the first time in this 'Selected issue' ([1]). By analysing the most recent year's statistics, this report attempts to answer the question: What is the most likely outcome for an offender after being stopped by police for a drug law offence of use or personal possession, or supply or trafficking?

Sentencing users and traffickers

- Some 17 countries reported sentencing results separated into personal use offences and supply offences.
- The types of sentence (e.g. prison, fine, community work) given to drug offenders were reported separately for personal use and for supply offences by 13 of the 26 countries.

Discontinuance of legal action

- Twelve countries were able to supply substantial data on the numbers of formal or informal dismissals by police or prosecutors, while some indication of these numbers was available from a further five countries. Eight countries did not give any indication of the number of such 'minor' outcomes.
- In an indicative comparison using six countries' statistics, the proportion of outcomes unaccounted for could vary from 25% to 90% of drug law offences reported in the previous year.

Types of penalties received

- For personal use offences, the **Czech Republic, Denmark, Germany, France, Latvia** and the **Netherlands** were most likely to issue a fine; **Poland** and **Croatia** were most likely to issue a suspended prison sentence; and **Italy, Austria, Portugal, Slovakia** and the **United Kingdom** predominantly reported warnings or suspended processes.
- Many users who are stopped by the police do not reach court, but a few of those sentenced in court for use or personal possession go straight to prison. Frequent recidivism by drug offenders — up to 60 % according to the limited data available — might explain some of these.
- For supply offences, a prison sentence was given more often than any other sanction. In the **Czech Republic, Germany, Portugal** and **Slovakia**, most prison sentences were suspended. Two Member States (**Netherlands, United Kingdom**) gave community work orders to more than 10 % of those convicted of supply offences.

([1]) The accuracy of comparisons is limited by differences between: definitions and terminology used; data collection systems; and statistical units and their counting rules. Details can be found in the 'Selected issue' and its online annex.

- When the types of offence were not separated in the national data, and the proportions of sanctions for all offences were compared, it was still clear that fines were used frequently in **Ireland, Luxembourg, Hungary** and **Sweden**, in contrast to the use of suspended prison sentences, which was predominant in **Bulgaria** and **Romania**.

- Comparing three countries with similar legal systems, cultural backgrounds and consumption patterns, **Finland** reported the smallest proportion of petty drug offenders receiving prison sentences, while **Sweden** made greater use of immediate prison sentences for more serious offences and **Norway** made greater use of community work orders.

- Only **Ireland, Hungary,** the **Netherlands, Poland** and the **United Kingdom** reported any significant use of community work orders — in most reports of outcomes, this type of sanction appears extremely rarely.

Size of penalties received

- Thirteen countries reported the length of prison sentences given, though not always in directly comparable formats. Some smaller countries reported all individual sentences given over a year while larger ones reported an 'average'.

- The average prison sentence for use or personal possession offences ranged across the countries from one month to 29 months.

- For supply offences, the averages ranged from one month for minor sale to 38 months for serious trafficking offences.

- Long prison sentences were comparatively rare. The statistics support the hypotheses that in Europe 'drug barons' or 'kingpins' are few, and more difficult to convict than smaller, more visible dealers.

Types of drug involved

- The type of drug that led to the sentence was only reported by the **Czech Republic, Cyprus,** the **Netherlands, Portugal, Slovakia** and the **United Kingdom**. These limited statistics still show that the average sentences differed by type of drug, even in those countries where the drugs are viewed equally under the law. This suggests that judiciaries perceive differences in the levels of harm or seriousness associated with the various drugs other than any signalled by the legislation.

Diversions to treatment or counselling

- Despite unanimous political support across Europe for treatment instead of punishment for addicts, 14 of the 26 countries did not report any statistics for such outcomes.

- Crucially for policy planning purposes, it will be impossible to calculate the success rates for treatment interventions if the total number of people entering treatment is not counted.

A possible tool for evaluation

- The latest EU action plan on drugs calls on Member States to 'ensure the ongoing evaluation of drug policy'. A process evaluation, using sentencing and other outcome statistics to understand how legal changes have been implemented, would be a relatively simple but vital step in such an exercise. It would allow countries to understand how the majority of offenders are leaving the criminal justice system, and whether they are leaving by the routes intended by the lawmakers or by other routes. The evaluation could also contribute to measuring the effectiveness and efficiency of the system.