

Project “Strengthening NGO capacity and promoting public health and human rights oriented drug policy in South Eastern Europe”

Drug Strategy and Drug Legislation in Bosnia and Herzegovina

Public meeting with contributions of researchers, policy makers
and practitioners in the field of Drugs
14 May 2015, 14.00-17.00 hours,
Faculty of Law, University of Sarajevo, Conference Hall, 2nd floor



Diogenis Association, in co-operation with the faculty of Law at the University of Sarajevo and Association Margina, organised a public meeting about drug strategy and drug legislation in Bosnia and Herzegovina.

The meeting was held in the Bosnian/Croatian/Serbian language. The participants, presenters, and panelists included professors and assistants from the Faculty of Law at Sarajevo University, representatives of NGOs, representatives of the Ministry of Internal Affairs FB&H and the Ministry of Internal Affairs of the Canton of Sarajevo, the ambassador of Greece in Bosnia and Herzegovina and his assistant, students, interested individuals, and staff members of the Diogenis Association. This meeting was organised as an integral component of the project on “Strengthening NGO capacity and promoting public health and human rights oriented drug policy in South Eastern Europe”. The project is financially supported by the regional program of the European Commission DG Enlargement and the Open Society Foundations (OSF).

Dr. Borislav Petrović, professor and Dean at the Faculty of Law, acted as Chairman of the meeting. Thanasis Apostolou (the Director of the Diogenis Association) addressed the meeting and referred to the background of this meeting. He thanked the faculty of law of the University of Sarajevo, as well as Dr. Borislav Petrovic for the co-operation. The cooperation of Diogenis with the Law faculty goes back to participation of two researchers who -in their personal capacity- contributed to the research on “Drug Strategy and Drug Legislation in South Eastern Europe” and the research on “Sentencing of Drug Offenders, the Legislators Policy and the Practice of the Courts in South Eastern Europe”. The Diogenis Association initiated these studies. This meeting aims to inform a broader public about the conclusions and recommendations of the two studies, and give the opportunity for a dialogue between policy makers, scientists, practitioners in the field of drugs, and the public. He thanked Dr. Irma Deljkic and Dr. Amila Ferhatovic for their willingness to make the presentations about their research. One of the main aims of such meetings is the involvement of civil society in the decision making process on drug policy. Diogenis is currently leading the project, supported by the European Union and the Open Society Foundations, to establish a legal umbrella organization of NGOs working in the field of drugs in South East Europe. Margina Association is one of the partners in this project. Denis Dedajić (the Director of the Margina Association) addressed the meeting and announced that the drugs Coordinator of Bosnia and Herzegovina had, unfortunately, other obligations and could not attend the meeting. With these two speeches the meeting was officially opened.

Findings and proposals of the presented studies on Drug Policy in Bosnia and Herzegovina

Dr. Borislav Petrovic explained that Dr. Bojan Dobovšek, professor at the University of Maribor, Slovenia, and Dr. Davor Derencinovic, professor at the University of Zagreb, Faculty of Law, Croatia, could not attend the meeting due to personal reasons. Thereafter he introduced the researchers and gave the floor to Dr. Irma Deljkic, Assistant Professor at the University of Sarajevo, Faculty of Criminal Justice sciences, to present her findings and recommendations on Drug Strategy and Drug Legislation in Bosnia and Herzegovina.



Dr Deljkic referred to the main lines of the country report “Drug Strategy and Drug Legislation in Bosnia and Herzegovina” see <http://www.diogenis.info/ckfinder/userfiles/files/BOSNIA.pdf> She referred to the description of the current national drug strategy in Bosnia and Herzegovina and the drug legislation; Initiatives for drug law reform undertaken by the government and/or the parliament in the last 10 years; the description of the results of these initiatives and background information about their success or failure; Standpoints of relevant stakeholders on drug law reform and their proposals and recommendations for further research and advocacy work .The research of Dr. Deljkic has shown that at the time her report came out in 2013, a

major problem in Bosnia and Herzegovina was the lack of a consistent implementation of the Drug Strategy and legislation in the country. The main recommendation was the establishment of a State office on Drugs that would operate as the responsible body for the implementation of the Drugs Action Plan.

NGOs also participated in the research and proposed further improvements on policy. An area of focus was the improvement of the situation in prisons. In particular, changes to the current drug laws, the decriminalization of drug possession for personal use and support of harm reduction services, were perceived as key elements of improvement.



Dr. Amila Ferhatović, assistant professor at the Faculty of Law of Sarajevo University, presented her research on: "Punishment of the Perpetrators of Drug-Related Criminal Offenses, the Legislative Policy and the Practice of the Courts in South-East Europe". Her findings demonstrated how Bosnia and Herzegovina does not possess a methodologically unified monitoring and recording system in the field of narcotic drugs. Consequently, no exact data concerning this phenomenon is available, thus preventing valid and up to date understanding of narcotic drug abuse in the country. However, important to note that other studies have confirmed that this situation in Bosnia and Herzegovina is similar to that of other countries in the region.

The study examined the legal framework in Bosnia and Herzegovina. Considering the fact that there are four Criminal Codes in Bosnia and Herzegovina which prescribe the drug issue in somewhat different ways, and that there are no indications that the criminal legislation could be unified in the near future, the report proposes "with a view to the future law" (*de lege ferenda*) the enactment of a *lex specialis* for drug-related offenses at the state level. This law would be based on the incriminations from the four existing Criminal Codes, with equally constructed dispositions (using the most appropriate existing solutions in order to reach an optimal solution). The existing sanctions would not need any amendments since the severity of punishment is on the appropriate level. This way, the issue would be equally regulated at the state level. This would have multiple positive effects, since all citizens are equal under the law. It would also affect the harmonization of the practice of investigating crimes of drug abuse (the practice of courts, prosecutors and law enforcement agencies). The prevention of drug related offenses and drug addiction would finally have a better, stronger basis. She recommended the integration of the four existing criminal codes into a single comprehensive code, for drug related offenses. This measure would harmonize the practice and enforcement of drug regulation as well as streamline investigations

Furthermore, to enhance the efficiency of court sentencing, she recommended ongoing education for judges, prosecutors and law enforcement agencies. This education would focus on drug abuse, methodological research, and evidence collection, consequently improving indictments. This enhanced efficiency would provide two principal benefits. Firstly, appropriate sentences/sanctions would be pronounced on a more regular basis, and secondly, this harmonization would improve crime prevention by sending a clearer, unified message to the population.

After a short break the meeting continued with a panel discussion. The participants were: Dr. **Borislav Petrović**, **Admir Vatreš**, The Inspector for narcotic drug-related criminal offenses of the Ministry of Internal Affairs of the Canton of Sarajevo, **Denis Dedajić**, Director of the Margina Association, and **Semin Kadić** from the Ministry of Internal Affairs FB&H.

Proposal for a *lex specialis*

Dr. Borislav Petrović introduced the proposal abstracts of the two studies. Dr. Amila Ferhatović's proposal for a *lex specialis* -a law on drugs with criminal provisions, which would be enforceable on the entire territory of B&H- was the first issue discussed by the panel. Proponents of this law underlined the fragmented legal framework existing in B&H. Indeed, four criminal codes, encompassing seven types of incriminations, are in vigor in B&H; however, they are not applied uniformly across the country. For instance, a crime in one region will not necessarily be considered as one in another region. Dr. Petrović opened the discussion on this topic by seeking the professional opinion of the panel discussion participants.

Mr. Admir Vatreš was of the opinion that such a *lex specialis* would be an excellent solution as it would enable the police to work on the entire territory of B&H seamlessly without formal legal limitations, ultimately leading to much better investigation results. Mr. Vatreš went a step further by suggesting that drug possession for first-time criminal offenders should be treated as a misdemeanor offense, and that possession should be a criminal offense only in the case of recidivism.

Mr. Dedajić stated that the non-government sector had had the same idea and discussion 4-5 years ago. He expressed concern about the current process that occurs from the perpetration of a crime to its final sentencing. In his opinion, the *lex specialis* law would streamline this process. He expressed his satisfaction with the fact that such a *lex specialis* is being proposed by academics, as he considers it to be the ideal proposal, which would undoubtedly be endorsed by all the NGOs.

The decisive role of the Academic community/Joint efforts can lead to better results

In the discussion that followed, a student raised the question of whether the enactment of such a law in Bosnia and Herzegovina is realistic. Dr. Petrović answered that question by saying that such a law would be the ideal solution for the repression of this type of crime, but the current political situation in B&H is unfortunately such that he does not see the possibility, or goodwill, for the enactment of such a law. Another participant from the public found the answer of Dr. Petrović unsatisfactory and came with the idea that the academic staff should assume a decisive role and introduce to the wider public the positive aspects of the enactment and the efficiency of such a law. He was of the opinion that such an initiative would have a positive effect, because politicians cannot ignore academics and the doctrinal interpretation of the need for such a law.

These comments were answered by Dr. Petrović, who emphasized the importance and the key role of university staff (academics) in the creation of legal and subordinate acts, which is not the case today. He also referred to the introductory address of Thanasis Apostolou, who introduced the excellent idea that to tackle effectively the drug phenomenon, involvement of all actors concerned is necessary. A joint effort from the relevant authorities, scientists, people working in the field and NGO initiatives will most certainly lead to better results.

Joint education of police and judiciary on drug legislation

Mr. Vatreš complimented the idea and thoughts of Thanasis Apostolou and Prof. Petrović, and in his own manner, went another step forward and stated that the professors of the faculties of law and criminal justice sciences should definitely be involved in the mandatory education of the police and the prosecutors' office. He pointed out that the cooperation of the police and the prosecutors' office is not at a satisfying level today, due to the different interpretations of the legal provisions etc. He also suggested that by organizing legal education sessions with both police and prosecutor's office staff would firstly improve the quality of the relations, and, secondly, it would remove all the legal doubts or uncertainties arising out of the legal provisions.

Possession of drugs/harm reduction programs and criminal law

Prof. Petrović turned the discussion to a more specific question by asking Mr. Vatreš "what does the police do when it finds a small amount of drugs in the possession of a certain person, since the possession is a criminal offense in FB&H?" Mr. Vatreš referred to the fact that the possession of drugs makes approximately 70% of all drug-related crime. The police treat possession as a criminal offense, regardless the amount that someone possesses. However, when drugs are found on addicted drug-users, the most common approach is suggesting the imposition of a measure of mandatory addiction rehabilitation, as it is the best possible option. Mr. Vatreš raised the question of the distribution of syringes within the program of Harm Reduction by the NGOs, since this could also be seen as a criminal offense according to the provisions of the current Criminal Law of FB&H. The Police submitted this question with an explanation to the prosecutors' office, and received the answer that the law has to be enforced towards everybody. In other words, according to the interpretation of this instruction, the police should process the members of the NGOs that participate in harm reduction programs, which would be absurd. However, the police tacitly avoid the criminal prosecution of the non-government sector for these reasons. Mr. Dedajić explained that the harm reduction programs, do not only consist of the distribution of syringes, but they also include substitution therapy, condom distribution, regular testing, etc. He also emphasized that 28 KM are saved in repressive measures with each 1 KM invested in harm reduction programs. Harm reduction programs are, in fact, a shared model of social care implemented by NGOs and the government.

A representative of NGO PROI referred to several problems that they face by the implementation of the harm reduction program, as well as to the benefits of the program itself. He thanked the police for having a sense of understanding for their work, unlike the prosecutors' office. He also emphasized that he works himself in harm reduction programs on a daily basis, and that he can conclude from personal experience, and from what he sees in the field, that the impact of drug crimes has widespread and serious consequences.

The role of Parents of drug dependent people

Dr. Petrović asked a specific question about the role of parents of the addicts. Can they be involved in the harm reduction programs as well, and do they provide any type of assistance to the non-governmental sector by the implementation of this program?

Dedajić emphasized that the parents of the addicts are the last ones to learn about their children's addiction. At first, they refuse to accept that fact while their children are still probational occasional drug addicts. When they become real addicts, it is usually too late to do anything to prevent drug use. In that context, there are parent associations, in which the parents meet and discuss their common problems with other parents. However, there are no professionals in these associations, and everything comes down to a couple parents and conversations without a therapeutic effect. Dedajić also pointed out the fact that there are 15.500 injection drug dependent people in B&H today. This data comes from the central data base, which is anonymous, and which he considers to be a fantastic tool and indicator for the process of drafting documents, since it enables the tracking and social control over drug dependent people.

Dr. Petrović asked Thanasis Apostolou to address the participants and close the Public meeting. Thanasis Apostolou stated that it was a good decision to conduct the discussion in Bosnian. Important aspects of the Drug policy in Bosnia and Herzegovina have been raised and recommendations have been discussed. The discussion about the Lex Specialis, possession of small quantities of drugs, and harm reduction services are issues for further consideration. The recommendations about cooperation of the police, the judiciary and the universities are very concrete and must have a follow up. The experience of NGOs needs to be used in further developments of Drug Policy. He appreciated very much the presence of so many young people at the meeting and their participation in the discussion. Finally, Thanasis Apostolou referred to the United Nations General Assembly Special Session (UNGASS) to be held in New York in April 2016. This is a major event for the future drug policy worldwide. The Assembly will evaluate the current drug policy and will discuss new ways of responding to the challenges of our time. Diogenis will organize, in September 2015, in Sarajevo a meeting with the aim to discuss the proposals for the UNGASS and to contribute to the global discussion from the perspective of the South East European region.

He thanked the University for hosting this meeting and providing the venue, as well as the selfless assistance of Dr. Petrović and Dr. Amila Ferhatović by the organization. Dr. Petrović expressed his thanks to the researchers, the panelists and the participants at the discussion, for their suggestions and recommendations, and closed the meeting.

Sarajevo, 14 March 2015

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