



INFORMAL DRUG POLICY DIALOGUE

An initiative by the
Andreas G. Papandreou Foundation (APF)
and the Transnational Institute (TNI)



REPORT **APF/TNI Expert Meeting** **16 October 2008** **European Parliament, Brussels**

On 16 October 2008 Members of the European Parliament (EP) and national Parliamentarians met upon initiative of the Transnational Institute (TNI) and the Andreas Papandreou Foundation (APF) at the European Parliament to discuss the ongoing review of the goals and targets adopted at the United Nations General Assembly's Special Session on Drugs (UNGASS) in 1998. In March 2009 at the 52nd Session of the UN Commission on Narcotic Drugs (CND), the UN Member States will decide whether they will continue to counter the world drug problem with the current policy instruments or will propose adjustments in order to be more effective and meet the challenges of the changed global circumstances. Parliamentarians can play a decisive role in the decision making process towards this important event. The meeting at the European Parliament aimed to increase the involvement of parliamentarians in this process, to encourage them to take action in their respective constituencies with proposals and suggestions for the political declaration that is going to be adopted in Vienna in March 2009.

Opening

Mr. Jan Marinus Wiersma MEP, vice-chairman of the Socialist Group (PES), opened the meeting. He expressed his appreciation for the initiative and pointed out that the PES, as well as the other political groups in the EP who supported this event, welcomed the proposal to have a debate on drug policy in advance of the important gathering in Vienna in March 2009.

As a Dutch politician, Mr. Wiersma is aware of the importance of international debate on the drugs issue and its relation to different approaches at a national level. At the same time such debates help to find the right balance between protection of health and repression. Drugs are a global issue with cross-border characteristics and as such cannot be approached in isolation. The criminal aspects of the issue and the social and economic consequences of production and trafficking are a matter of common responsibility and need cross-border and international cooperation. In relation to this Mr. Wiersma referred to the recent visit of Ingrid Betancourt at the European Parliament where she stressed the need to raise awareness of human rights in the context of drug policy.

Not only governments, but also civil society has to be actively involved in this discussion. Good proposals from civil society organisations that have expertise and experience in the field of drugs will help the Civil Liberties and the Health Committee of the Parliament to react adequately in the ongoing debate. That is why several political groups of the European Parliament support this initiative and have prepared this meeting together with the organisers.

The Chair of the meeting Mr. Thanasis Apostolou of APF thanked Mr. Wiersma and the political groups in the European Parliament that supported the initiative for their willingness to host this meeting. He explained the aim of the meeting and referred to the background of the Informal Drug Policy Dialogues. These dialogues started in 2003, after the mid-term review of the UNGASS 1998,

as an initiative of the Andreas G. Papandreou Foundation and the Transnational Institute. The initiative aims to bring together a group of policy makers, experts and practitioners in order to analyze crucial developments and dilemmas in current drug policy and discuss possible alternatives for a more consistent and effective policy. The participants can use the ideas discussed during the meetings to take concrete initiatives in the form of proposals, discussion papers, debates etc in their respective settings. Since 2003, five international meetings have been organized with participants from European countries, the US, Canada, Latin America, South East Asia, as well as representatives of various international organisations (UNODC, EMCDDA, WHO, CICAD, the European Commission). Regional Informal Drug Policy Dialogues have recently been organised by TNI and the Washington Office on Latin America (WOLA) in Latin America, and TNI and the German Gesellschaft für Technische Zusammenarbeit (GTZ) in South East Asia. The meetings of the past years have focused on the developments in drugs policy in relation to the CND meetings in Vienna and especially the UNGASS review.

Preparations of the 52nd CND and the High Level meeting in March 2009: State of affairs

Mr. Martin Jelsma (TNI) gave a quick overview of developments in the drug control system since the UN Single Drug Convention in 1961, the preparations for the UNGASS review, and the new challenges after March 2009.

He referred to the optimistic assumptions underlying the Single Convention of 1961, when it was agreed to gradually eliminate opium over a 15-year period, and coca and cannabis within 25 years. The Single Convention was established as a universal system for controlling the cultivation, production, distribution, trade, use and possession of narcotic substances, with special attention on substances derived from plants: opium/heroin, coca/cocaine and cannabis. Almost half a century passed since 1961 and the aims of the convention have not been achieved.

More than hundred substances are classified under various degrees of control. The most controversial classifications on the lists are those of coca leaves on list I, and cannabis on both list I and list IV, which is reserved for the most dangerous substances. The widespread use of cannabis does not match its classification, and cannabis policies are discussed all over the world. At present, the government of Bolivia is seriously challenging the classification of the coca leaf.

The 1971 Convention on Psychotropic Substances was developed in response to the diversification of drug use. It introduced controls on the use of more than a hundred psychotropic drugs, such as amphetamines, LSD, ecstasy and valium, which are again classified into four lists. Compared with the strict controls imposed on plant-based drugs, the 1971 treaty imposed a weaker control structure, due to pressure from the European and North American pharmaceutical industry during the negotiations.

As a response to the growing illegal drug market during the 1970s and 80s , the 1988 Convention Against Illicit Traffic provided measures against narcotrafficking, money laundering and the deviation of chemical precursors, as well as an agreement on mutual assistance, including extradition. The Convention also reinforced the obligation of countries to apply the sanctions of criminal justice to combat all the aspects of production, possession and global trafficking of drugs.

Ten years after the third Convention was adopted, the international community gathered in New York at the UNGASS on Drugs in 1998. At this UNGASS three tendencies were apparent:

- 1) those who wanted to dedicate the UNGASS to reaffirming and reinforcing the existing worldwide system of control;
- 2) those – particularly from some Latin American countries - who were of the opinion that the

current regime is biased in its emphasis on the producer countries of raw material (coca and opium), while more attention should be given to the problem of consumption, funds for alternative development, and more rigorous measures against money laundering and prevention of deviation of precursors. They proposed a more balanced approach between demand and supply reduction.

- 3) those who raised the question of the validity of the policies carried out and proposed the further development and introduction of harm reduction strategies.

The 1998 UNGASS resulted in a series of Action Plans on the themes of reducing demand, chemical precursors, amphetamines, money laundering, judicial cooperation and promotion of alternative development. A new deadline was also included in the political declaration to “eliminate or significantly reduce the illicit cultivation of the coca bush, the cannabis plant and the opium poppy by the year 2008.” In view of this demand, a commitment was made to “achieve significant and measurable results” for the year 2008. The same question that dominated the 1998 UNGASS – whether to reaffirm and reinforce the worldwide system of control, or rather to reassess the current system and reduce its negative health and social consequences – is emerging again in the 2008-2009 review.

The task of making the assessment and formulating new proposals has been delegated to the UN Commission on Narcotic Drugs (CND), which meets in Vienna. At the CND in March 2008 two days were devoted to a thematic debate on the assessment. What has been achieved in the decade 1998-2008? What obstacles have been encountered on the path to accomplishing the objectives the UNGASS 1998? A period of “global reflection” was started in March 2008 in order to discuss the outcomes of the thematic debate and start working on new proposals that can be adopted in 2009. Between June and October 2008 five expert working groups discussed issues related to demand and supply reduction and presented their conclusions.

The International NGO forum “Beyond 2008”, held in Vienna from 7-9 July 2008, was a civil society contribution to this discussion. 13 NGO consultations were held in 9 regions around the world in preparation for the Forum. At the Forum the participants unanimously adopted a declaration and three resolutions which express their views and common positions on the principles and guidelines that should underpin future drug policy, and make recommendations to governments that can be included in the political declaration.

From October to December 2008 a series of preparatory meetings will work towards the High Level meeting in March 2009. The results of the five working groups, as well as inputs from the side of civil society, will be taken into account during these meetings. The aim is to start negotiations for a new political declaration and possibly additional action plans for the coming decade. At the end of the year or early January a draft declaration will be ready.

The challenge is now to get the UN Member States to acknowledge that, in terms of impact on the market, the current policies have not been successful, and that adjustments in the global drug control regime are necessary. The fact is that in the past decade the prison population related to drug offences has doubled. At the same time harm reduction practices related to drug use are now implemented in more than 80 countries worldwide; partly due to the HIV/AIDS epidemic amongst drug users. What would be the best way to include progress in the field of harm reduction, the problem of overcrowded prisons and the need for proportionality of sentences in the new guidelines to be adopted?

At the moment no Member State is starting a discussion about changes in the drug control regime, although there are signs that this issue will be an item in the near future. The United Nations Office on Drugs and Crime (UNODC) raised this issue in a confidential memorandum prepared on request

of the International Narcotic Control Board (INCB) in relation to the HIV/AIDS crisis. The legal experts of UNODC state: “It could even be argued that the drug control treaties, as they stand, have been rendered out of synch with reality, since the time they came into force they could not have possibly foreseen these new threats.” Another document is the conference room paper “Making drug control ‘fit for purpose’: Building on the UNGASS decade” where the executive director of UNODC states that “there is a spirit of reform in the air, to make the conventions fit for purpose and adapt them to the reality on the ground that is considerably different to the time they were drafted.”

The EU and the 52nd CND, March 2009

Mr. Maurice Galla of the Drugs Unit of the European Commission pointed out that, in the past years, the EU has pushed for a more thorough review of the goals and targets set at the 1998 UNGASS. The period of global reflection which is now taking place is a direct result of this. Already in 2006 the EU tabled a resolution asking for an independent evaluation. This resolution was adopted by the CND, and the EU funded UNODC to set up an expert group to assess the work and progress made since 1998.

This expert group consisted of independent researchers and representatives of EU agencies such as the EMCDDA and EUROPOL and similar agencies from other regions of the world. Following the EU’s own experience with policy evaluation, it was obvious that not everything that we perceive or want to do in policy is also the outcome of our efforts. Things do not work out as we plan. The expert group advised UNODC on the process of assessment and subsequently the EU suggested in a new resolution that the whole of 2008 should be used to reflect on the findings of the assessment.

The same resolution proposed that the deliberations must result in a new political declaration. The EU is of the opinion that the UN Member States have to take into account the emerging challenges of the past decade and look at what has to be changed and where the weaknesses of the current system are. These elements have to be reflected in the new political declaration.

No EU Member State – as has already been said - touches the issue of change or reform of the UN Conventions on Drugs, but the EU wants an in-depth assessment of the results of the political declaration, action plans and measures adopted by the UNGASS in 1998.

The EU is critical about some points of the review report as presented by UNODC at the beginning of 2008. For example the report states that a general “containment” of the drug problem has been achieved. This means basically that we have more or less stabilised and managed the drug problem during the last years. The EU will, in the coming negotiations, make the point that this is not the case. If we only look at the production of opium in Afghanistan, and the rising prevalence of drug use in almost all countries, it is clear that there is no sign of containment. Still, there has been progress. Member States have created a more coordinated structure on drug policy and have introduced new policies. New concepts like harm reduction have spread to more countries than before 1998; but much more remains to be done.

The EU would like to include the following points in the new political declaration: strengthening demand reduction as a key priority; harm reduction should be part of the overall drug policy framework; and the concept of shared responsibility has to be implemented as a common challenge for all countries, since the distinction between producing and consuming countries is not valid in all cases.

The EU is supporting third countries with a substantive budget of about 700 million Euros for alternative development programmes. Measures to reduce drug production have to be implemented

only if they serve security and alternative livelihoods.

Respect for the Human Rights Conventions is a key issue for the EU. This includes the right to health, human rights in relation to the rule of law and, in particular, in relation to the proportionality of law enforcement interventions. The EU aims for a multidisciplinary approach with good coordination and cooperation, and a policy based on scientific evidence. The EU has one of the more sophisticated systems of monitoring demand reduction results; still, in the field of supply reduction, much remains to be done.

In sum, the EU hopes that the new Political Declaration will take into account lessons learned in the past ten years and will at least include the necessary important changes. The process in the coming period will not be always easy; there are a lot of differences among the UN Member States and it will take a lot of effort from the EU as a cohesive body to speak with one voice and make alliances in order to achieve the above-mentioned aims.

Towards the new Political Declaration: issues in play

Mr. Mike Trace of the International Drug Policy Consortium (IDPC) focussed his contribution on some of the debates that are taking place in the UN setting. He started with an observation about attitudes that Member States are taking to this UNGASS review. There are a number of Member States – and this is the dominant position of the 27 EU Members - that want to use this review as a step towards refining, modernising and meaningfully reviewing the UN drug control systems. They want to improve things, to adjust, learn and move on. There are also a number of UN Member States that are coming into this review with the objective of making sure that no such review takes place. The existing system must remain as it is. They consider the current system sacrosanct, unrefinable and not amendable. There is also another group of Member States - very diverse in their background - which have expressed little interest in the review. Broadly speaking, their view is that UN policy has little effect upon their actions at the national and local level. It is an oversimplification to divide UN Member States into these three groupings, but it does at least indicate the variety of positions adopted in the current debate.

Referring to issues that are in play and main concerns and controversies, it has been pointed out that a series of debates is taking place that are crucial for the outcomes of the March 2009 CND.

The first debate is about the scale of the market: how openly do various actors in this process want to acknowledge the reality that there has not been a significant reduction/elimination of drugs? There are some countries that want a clear statement in the political declaration that we have failed to significantly reduce production and use. But it is unlikely that any political meeting at the UN will acknowledge failure in that clear a way, which would be highly unusual. The current battle is actually around the alternative analysis coming from the UN agencies and some Member States that significant reduction has not been achieved, but we have been able to contain the market. Another point – closely related to this debate - is whether we even need to review the drug control system. Many Member States are uncomfortable with a review of progress achieved. Whether or not this view is held, however, the setting and reviewing of objectives, collecting data on whether these have been met, and then deciding the way forward in relation to this, is an important part of good policymaking.

Within the UN system, voices can also be heard suggesting that the 2009 meeting should be the last formal review of this type. It could be that the outcome of the political declaration is that we will continue a series of actions, but without deadlines, objectives or High Level reviews. EU Member States are fighting strongly against this approach. They say that in any area of complex policy we

should at the very least be setting out what we are trying to achieve through the policy and agree a timeframe for review. This is an important debate related to the question of whether we can treat drug policy like we do any other security or health or social policy, where we regularly review our activities.

The second significant conceptual debate is about the nature of objectives and concepts. The predominant drug control objectives over the past century - they have been slightly amended over the last ten years - are the reduction/elimination of the scale of the illegal drug market (less cultivation, more seizures, more arrests and fewer users). New concepts and objectives like harm reduction, alternative development, health and social well-being and the fight against poverty are also focussed on the negative consequences of the illegal market. The aim to reduce the scale of the drugs market remains a valid objective, but the reality of poor achievements in this field prompts more countries to give greater policy priority to the impacts and negative consequences of that market. It is necessary to review objectives and achievements properly. This is an important debate that has not yet been resolved at the UN level.

A third significant debate, probably more controversial and less supported by Member States at the moment, is the concept that not only there is a need for a balance between the scale of the market and the consequences of that market, but there is also a need to acknowledge that our policies and our actions also have negative consequences. This is not a concept that has found its way strongly into UN Member States positions, but it is pointed out in several papers that have been released by UNODC and in some of the speeches of its Executive Director. The Global NGO forum "Beyond 2008" has included this concept in its declaration and resolutions and is actively propagating it to governments.

A fourth debate addresses the cohesion of drugs policy across the UN system as a whole. Coordination between UNODC and other UN agencies has to improve. That means better coordination between UNODC and the Human Rights treaty bodies in Geneva. Greater attention has to be given to human rights and the need for cohesion between human rights treaty obligations and drug control obligations. Similar attention has to be given to cooperation between UNODC and United Nations Development Programme/World Bank; combining drug control aspects of UN operations and the poverty reduction and development aspects. A cohesive response on health issues, addiction treatment and treatment of HIV/AIDS has to be developed in close cooperation with the World Health Organisation (WHO) and UNAIDS.

Discussion

Mrs. Marusya Lyubcheva MEP (PES) raised the issue of regional cooperation in drug policy, focussing in particular on the Balkan region. Mrs. Lyubcheva pointed out that there are regions which are more predisposed to drug trafficking due to their geographic location. The Balkans is one of these regions. The experience of many countries has shown that demand and supply reduction, and the fight against drug trafficking, requires co-operation on governmental, regional and local level, as well as involvement of NGOs, media and civil society. A concerted effort can lead to results. Cross-border cooperation and exchange of best practices is needed. A network of national agencies in the region can contribute to a regional approach with joint projects and initiatives taking into account the specific regional characteristics. Special attention must be given to programmes targeting youth. Educational programmes incorporated in the school curricula must be supported in order to prevent drug use.

In reaction it was pointed out that the regional approach is well embodied in the EU strategy and the EU action plans. There exists also an action plan for cooperation between the EU and the Balkan

countries. Funds are available for programmes like the instrument for pre-accession assistance (IPA), the prevention and information programme to support initiatives in drug prevention. Regional cooperation can be enhanced when governments make the drugs problem a priority. Finally, it has been remarked that prevention programmes can contribute to prevent drug use, but we cannot rely just on information to achieve results. The factors that dictate the scale of drug use amongst young people tend to be wider social factors such as poverty, social exclusion, and education policy. Another suggestion on this issue was to look at prevention not only as abstinence but also in connection to harm reduction.

Mr. Vittorio Agnoletto MEP (GUE/NGL) remarked that there is a discrepancy between policies and practice on the ground in supply and demand reduction initiatives. As an example he mentioned the resolution that has been adopted by the EP on the opium situation in Afghanistan. The EP endorsed the proposal to make opium production available for the production and use of morphine, but no Member State has taken action on this and neither has the European Commission.

He pointed out that drug policy is not a matter of language and declarations, but of concrete action. There are too many contradictions in the policies that are implemented. The EU Member States are somehow critical of current supply reduction activities but there is no real movement among them to make other choices. The same applies to harm reduction. The EU strategy is in favour of harm reduction, but the Commission has no competence on this issue and the individual Member States have different policies and practices. The same applies to evidence-based policies. There is evidence that certain practices are effective, but governments do not decide to incorporate them in the official policy.

Other speakers referring to other regions supported these observations. In South-East Asia there are countries open to some harm reduction measures but they are at the same time hard on the repression side. Such contradictions also appear at the UN level. Changing policies and attitudes is, however, a question of time. There are positive signs of the acceptance of new ways and practices, and it is important to move forward presenting the positive results of measures taken.

The way forward

The following proposals regarding a possible way forward were raised:

EP Resolution

A proposal has been made to examine the possibilities of passing a new resolution in the European Parliament before March 2009. Members of the European Parliament have to take the initiative on this. Commenting on this proposal, it is said that the idea of a new resolution is a tricky path and can be risky. The experience with the resolution on opium from Afghanistan showed that it is difficult to assemble a grouping of members sufficient to push something through. If members of the European Parliament do decide to pass a resolution, it would be preferable to address some conceptual issues like human rights, public health and focus on the negative consequences of the drug market. Those are concepts that will help substantially the negotiations on the political declaration. The experience is that if parliamentary debates are framed as liberal versus repressive they end up with a strong debate on a close vote.

Declaration

Another option would be to reactivate the initiative of an anti-prohibition paper. There are a lot of contacts inside the EP and outside: more actors could be involved, national Parliamentarians, national networks and others. It was noted that it would be better to speak in terms of public health, human rights and harm reduction. The use of language in terms of prohibitionist or anti-prohibitionist positions has negative connotations and creates a deadlock in the debate.

Involvement of Civil Society

The March meeting must not be an experts and specialists meeting. Civil society has to be actively involved. Besides NGO and government activities, social mobilisation is very important and this has to be encouraged.

In relation to these proposals it has been asked whether there are possibilities to involve the European Civil Society Forum in order to discuss a common strategy on the UNGASS. In response, it was pointed out that the main task of the Forum is to advice the Commission on issues concerning European policy. This does not mean that the Forum cannot discuss wider issues. There is a meeting of the Forum in February 2009 where the issue can be put on the agenda. It must also be kept in mind that the European Commission will be at the CND with no other position than the common position agreed by EU Member States.

Advocacy on a national level

It is important to work on the national level with governments and parliaments. Civil society organisations can lobby them to adopt positions consistent with those put forward by the international NGO Forum “Beyond 2008” and to push for Ministerial Level participation at the High Level segment of the CND. Individual States are Members of the CND and they will decide. Civil society will be most influential by influencing the individual Member States. NGOs can also ask that national delegations to the CND include representatives from civil society organisations and experts.

October 2008