

# idpc Magazine

International Drug  
Policy Consortium

The parties to the Convention are “concerned with the health and welfare of mankind.”

*Preamble of the 1961 Single Convention on Narcotic Drugs.*

薬の話

## Introduction

Over the last decades, there has been much discussion about the effectiveness of several aspects of the drug control system. The police play a decisive role in enforcing drug laws, and directly experience the effects caused by the implementation of several provisions that aim to reduce drug use in our society. Therefore, although it is not the task of the police to design policy strategies and decide priorities in action plans, it is crucial to listen to their experiences. The police should systematically be asked to comment on proposed drug policies and make suggestions to improve current practice.

This second edition of the IDPC magazine features interviews with police officers from South East Europe and Eurasia – namely Albania, Greece, the Kyrgyz Republic, Serbia and Ukraine. The police officers are asked to express their views on their countries' law enforcement strategies, which in these two regions often tend to focus on arresting drug users for possession of small amounts of illegal substances.

This Magazine is a very welcome initiative, because in South East Europe and Eurasia, as in other parts of the world, there is currently much discussion on the effects of repressive measures towards drug users. The prevailing view remains that punishment, deterrence and fear of social stigma can effectively prevent drug use. Enabling an open and public debate that questions this attitude is not common practice in most countries in the region; while the countries that experienced a political transition in the 1990s are still seeking to achieve a balance between following the mentality of repressive regimes and tackling the new challenges of freedom and democracy.

It is encouraging that some police officers are open to discussing this issue, although this magazine clearly highlights that many countries are still closed to the idea of an open debate on drug policy issues.<sup>1</sup> There is a need for a systematic approach in the drug policy debate, and there are many obstacles yet to be overcome. The experience in the Kyrgyz Republic shows that, after a long time of advocacy and education, a change in attitude is possible. This political commitment is indispensable for the implementation of new ways to approach the issue of drug use. IDPC member organisations are aware of the opportunities that can be created for drug users through better understanding and cooperation between health and social service providers and law enforcement agencies. At a regional meeting in Athens in March 2010, NGOs from eight Eastern European countries decided to establish a regional network to strengthen their relationships, create opportunities for mutual cooperation, exchange best practice and improve their contacts with national and regional authorities. One of the main items of discussion was the necessity to develop a new law enforcement strategy. It was recommended to refocus law enforcement objectives in this area, and commit to increased partnerships between health and social care agencies.

The main concern of the parties who signed the 1961 Single Convention on Narcotic Drugs was the 'health and welfare of mankind'.<sup>2</sup> The question is whether law enforcement practice in the past decades concerning possession of drugs for personal use has been the most appropriate

1 IDPC had planned to interview police officers from several other countries in the region, but was refused access to interviewing a police officer by the relevant government departments, which ignored our request to do so.

2 Preamble of the 1961 Single Convention on Narcotic Drugs

means of protecting our public health and welfare. The voices of social and healthcare workers, but also – as shown by this magazine – of many law enforcement officials, now clearly indicate that repression and the punishment and imprisonment of drug users are not the appropriate answers to drug use and dependence. Drug law reform on this issue is gradually gaining ground all over the world. It is the only way to meet the main concern of the 1961 Single Convention, namely to protect the health and welfare of mankind.

*Thanasis Apostolou*

*IDPC Regional Coordinator for South East Europe*

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## Interview with a practicing police officer, Athens, Greece<sup>3</sup>

*This interviewee chose to remain anonymous.*

### **What effect does arresting drug users for possession of small amounts have on the level of drug use in society?**

The issue of drug use is a social phenomenon and therefore not only a matter of police intervention. There are many factors that lead people to use drugs and young people are particularly susceptible to drug use.. Age, family situation, friends, the temperament of a person, their social behaviour and the reaction of the social environment in which one lives are important factors in drug use.

The duty and responsibility of the police in relation to this issue is to enforce the law. The police are obliged to intervene when there is violation of the law. The repressive measures imposed by the police are a deterrent, but if not accompanied by actions that will help users make the choice for a responsible lifestyle that protects their health and makes them able to participate in society, they do not essentially lead to sustainable results. Fear of arrest and criminal records are helpful for many casual drug users in preventing them from using, but it is different for dependent users who are not essentially affected by repressive police action.

### **What do you think is the best way to tackle a teenager arrested for drug possession for personal use, who is obviously just making a bad choice early in life?**

I would like at this point to make the distinction again between a person who uses drugs occasionally and a user who is addicted to drugs. Problematic users face different sanctions from occasional users. Addiction cannot be treated through arrest and punishment. Addiction cannot be deterred and be prevented by police measures. Addiction needs to be treated. Social and psychological support is needed to enable somebody to overcome their addiction. For addicted users, the influence of police intervention cannot be considered as a solution to the problem. What is needed for this category of users is a long-standing programme of support by specialised institutions for treatment and programmes that aim at social integration and rehabilitation. Career guidance, links with family, social acceptance and future orientation, can help to get free from dependence. The police, however, are not the authority in charge of changing criminal law. This is a matter of political choice and governments should take steps accordingly. For occasional use, deterrence plays a bigger role. Contact with the police and the justice system, as well as fear for social stigma may limit drug use and provide incentives for abstinence. I am a supporter of the intervention of law enforcement and justice, especially for young people, because these interventions act proactively. I do not believe that a libertarian policy on drugs is a wise choice. Drugs are dangerous to health and harm users in their social functioning.

3 Penalties for possession of drugs for personal use have been gradually reduced in Greece since 1987. The current sentence applied is between 10 days and one year of Imprisonment. Incarceration of dependent drug users is not imposed for possession for personal use. Occasional users face penalties if they are in possession of larger than 1 ½ g of heroin or cocaine and 50 g of marihuana or 5 g of hashish (these are the amounts that the law recognises as quantities for personal use). The punishment for drug trafficking or any type of supply is very harsh. The Greek code for Drug Offences calls for a penalty of imprisonment of between 10 and 20 years for common cases and impose a life sentence for aggravated ones. The implementation of these provisions has burdened the already overcrowded Greek prisons. 40-50% of the prisoners are sentenced for violation of the drug law. A special commission has recently been established to advice the Minister of Justice on possibilities of reform of the current penal law on drugs. It is expected that the commission will come with its proposals at the end of 2010.

***Who do you think is the best way to tackle a drug user who continues to commit low-level criminal offences to buy drugs despite having been repeatedly punished by the courts?***

The question refers probably to the treatment of problematic users. As mentioned earlier, repressive measures that are not accompanied by supportive programmes do not work. If these people are only confronted with repressive measures, the result is a vicious cycle of arrest, punishment, incarceration, release and often a return to criminal activities to support their drug use. We have to try to break this vicious cycle. The police can make a contribution to this with more humane treatment of these people. Criminal offences must be punished and repressive measures help to prevent use temporarily, but they are not a permanent solution. The repeated condemnation of dependent users by the courts could perhaps be transformed into a mandatory inclusion in treatment, social integration and rehabilitation programmes. It is perhaps the only way to break the vicious cycle of delinquency, punishment, sentence, release, and again delinquency. This needs to be done by developing programmes where the police will be only part of the solution, because the issue is not only a matter for the police but also for society. Therapeutic and other social institutions as well as family support are needed. This is the best way to address drug dependence.

**Interview with Aleksandr Zelichenko, PhD, practicing police officer and Director of the Central Asian Centre of Drug Policy, Bishkek, Kyrgyz Republic**

***What effect does arresting drug users for possession of small amounts have on the level of drug use in society?***

In 2005, a rapid assessment from the Asian Centre on Drug Policy showed that 40 per cent of people sent behind bars for drug offences were sick people who were on hard drugs. I think that it is a terrible decision to send sick people behind the bars, because they are not criminals.

The law changed in 2007. Now, individuals caught with 1g of heroin, 5g of opium and 20g of marijuana are no longer considered criminals and it is impossible to send them to prison. For the first offence, they are given an administrative punishment. The same person can be detained with small amounts of drugs and sentenced to administrative punishment twice during the same year. However, if the person is arrested a third time, a criminal case will be opened against them. We have also established a close cooperation between the police and NGOs, doctors and social workers. A 48-hour educational course in the police academy now explains to police officers how to handle a drug user, how to cooperate with NGOs, and what needs to be done to prevent HIV and drug use. It also includes information about harm reduction services. In parallel with the decriminalisation of drug use and lowering penalty sanctions for possession of small amounts of drugs, Kyrgyzstan hardened the legislative pressure for the serious drug-related crimes, such as large-scale drug dealing. Sentences for serious drug-related crimes can be very hard – up to 25 years of imprisonment. This was a big change in Kyrgyzstan.

At first, this change was difficult to accept among police officers. The process took ten years, beginning in 1998, during which the Ministry of Internal Affairs did a lot of advocacy to educate

law enforcement agencies, governmental structures and the Parliament about the change. At that time, there was a lot of resistance from the police about the idea; they arrested people attending methadone centres and people providing needle exchange services. But they then followed the orders of the Ministry of Internal Affairs. Police officers are now trained to cooperate with NGOs. Peer training by drug users and sex workers is also provided to high-level police officers. The police can now refer drug users to harm reduction services and drug treatment centres (those run by the government provide methadone, whereas those operated by NGOs provide rehabilitation and needle exchange services).

***What do you think is the best way to tackle a teenager arrested for drug possession for personal use, who is obviously just making a bad choice early in life?***

In Kyrgyzstan, we think that it is a great mistake to arrest a teenager, and throughout the country, we only have one prison dedicated to young people. There is no text either that provides for the arrest of individuals caught in possession of a small amount of drugs. It is the same legal norm, as I mentioned above – administrative punishment. When arrested for the first time, the person will pay between US\$11 to US\$50, or will be put under administrative arrest for five days. If arrested a second time within a period of one year, the person does not have a choice and will be placed under administrative arrest for 5 to 15 days. If a person is arrested for possession of a small amount of drugs a third time within a period of one year, a criminal record is opened, and the punishment will consist of 100 to 240 hours of public labour (such as cleaning streets), or a tax fee that can reach up to US\$150, or restrictive measures for up to two years, or up to two years imprisonment. Teenagers almost never get a prison sentence for drug possession.

***What do you think is the best way to tackle a drug user who continues to commit low-level criminal offences to buy drugs despite having been repeatedly punished by the courts?***

I do not have a comprehensive advice on how to do this, but I am absolutely convinced that compulsory treatment is not going to give the desired result. It is necessary to convince the person to agree to go through a full treatment and rehabilitation programme, including social rehabilitation, methadone substitution therapy (if needed), 'half way house', case management, etc.

**Interview with a practicing anti-drugs police officer, Tirana, Albania**

*This interviewee chose to remain anonymous.*

***What effect does arresting drug users for possession of small amounts have on the level of drug use in society?***

Based on global evidence, the number of drug users is increasing. Preventing the increase in the number of drug users does not require more severe sanctions but increasing services delivered to them. I think that Albanian legislation should be changed because the fight against drugs – to reduce drug supply and the number of drug users – is not effective.

According to the law, someone caught in possession of narcotic substances for personal use is not considered a criminal offender, but I am still obliged to arrest them.

In fact, there is no clear distinction between possession for personal use and possession for drug dealing. Therefore, if I catch a drug user with a small quantity of drugs, I am required by law to start legal proceedings. After filling administrative papers, we send their blood/urine test to the lab to examine what type and quantity of drugs the offender has used. Based on this information, I request a sentence based on the exact quantity that the drug offender had used or had in their possession when arrested. The quantities are defined by the Forensic Medicine Institution, an institution that has the means and expertise to outline what should be considered as a personal use dose of narcotic drugs. If the Institution decides that the dose can be considered as being for personal use, the case is suspended.

***What do you think is the best way to tackle a drug user who continues to commit low-level criminal offences to buy drugs despite having been repeatedly punished by the courts?***

We only tackle them through sanctions and criminalisation, and I think that this legislation should be changed as well. I do not think that we need more severe sanctions. Instead, more services should be introduced for this population group. This way, we can be more cost effective in preventing the increase of drug use in Albania.

Other aspects should be addressed as well, namely improving the infrastructure and expertise of State law enforcement structures in order to assist those drug users who need help. The role of the state is indispensable in this context. At present, drug use and dependence are becoming a much greater problem, even compared to HIV/AIDS.

## **Interview with Mr. Dragan Rakic, Chief of Unit to Combat Drug Addiction, Police Department of Belgrade, Serbia**

***What effect does arresting drug users for possession of small amounts have on the level of drug use in society?***

First of all, the police force is a law enforcement body and our targets are drug dealers, not drug consumers. Of course, we are also in a contact with drug addicts and we do arrest them, but they are usually witnesses against drug dealers in court procedures.

According to our law, possession of opiates in any quantity is a criminal act, so at the same time as they purchase drugs, drug users are witnesses against that drug dealer, but also criminal offenders since they are in possession of drugs. Art 246 of the Criminal Code 'Unlawful Production, Keeping and Circulation of Narcotics' primarily targets drug dealers. But a separate criminal act was recently passed, and the criminal charge for opiate possession is most frequently filed against drug users. When we arrest them, they are aware that we will file criminal charges and that the estimated sanction is between 1-3 years of imprisonment but

they may also be released. In reality, there is a problem: because 80-90 per cent of filed criminal drug charges concern possession, our courts are overloaded. Just think about this situation: when we arrest someone with 0,01g of marijuana, we are obligated by law to charge that person. What kind of a sanction is the judge supposed to impose? A solution to the problem of an overburdened system is preventive measures that should primarily be performed by family, teachers and school psychologists. When someone becomes a drug addict, it is usually too late, that is why prevention is the most important intervention.

Last year, the Belgrade police conducted 2,500 drug seizures. Divide that by 365 days, and you'll get the number of seizures per day. Therefore, our targets are not drug users and we dedicate more time to fighting against drug dealers. There is a special department in our Unit for drug use prevention and we give educational lectures for high school students.

***What do you think is the best way to tackle a teenager arrested for drug possession for personal use, who is obviously just making a bad choice early in life?***

We must understand one thing in our society: drug dependency is an illness and not a vice, as many people think. When people suspect that someone is an addict, they write them off immediately. We could argue about what it means to be a drug addict. No one will think that an addict is someone who has taken drugs only once, someone who smokes weed and laughs. Rather, people are much more likely to picture someone stoned, with his head falling, unshaved and messy. In our society, a drug addict is 'a person who uses heroin'.

The police do not have an educational role. We have established a prevention department, but we are primarily a law enforcement body that cleans the streets of drugs and chases drug dealers. The law does not authorise us to arrest that kid and to take him home to his parents. The law precisely states what we must do when we find anyone with drugs, even though it may seem obvious that he made a wrong choice in life. If the person is a minor, we need to call the parents, guardians or others and police officers who are specially trained to work with minors. Our hands are tied. Neither I nor the operative officers have the right to simply tell that person to go home, and that is a problem. For example, if we catch some kid with a few grams of marijuana, the police do not have the right to tell him "we know that you are consumer and that you are not a threat to society, you are more of a threat to yourself, go home". We have to undertake the whole pre-trial procedure and finally file criminal charges against that person.

If we had any legal options, then having a conversation with that kid would be most important in order to reach the cause of the problem. It is important to uncover what interests that young person has. If he is just hanging out and doing nothing, then it would be important to find some responsibilities for him, not necessarily to give him a shovel and tell him to go dig, but to engage him in sports, activities with his peers, to find some normal and healthy activities. Broadly speaking, it is not a police matter. It is a job for teachers, psychologists and parents. Unfortunately, it rarely happens in practice that a child gets so afraid of the police that it does not cross their mind to take drugs in the next five years. I want to be clear: it is a subculture problem – when kids recognise that other kids have a drug problem, under the pressure from their parents, school and surroundings, they slowly isolate these kids. And that is how all of these drug problem kids – and there are a few in every class – are spontaneously creating their own environment, their own group with problems. How are they supposed to get out of that problematic group if you do

not find a way to reintegrate them? They only fall deeper into the problem. The police are on the fringe of the problem, and we could do more than what we are already doing.

Sometimes, parents come to complain to us, even though their kid has not committed any criminal act and are of no interest to us. They come and say 'we found small amounts of grass'. We are obliged by law to take any drug to the toxicology lab and write in the file that 'these drugs are taken by John Doe'. It is the only way we can help the parents. We tell them to bring the child so we can try to talk to them. This is an everyday task of the prevention department, although legally it is not our responsibility.

***What do you think is the best way to tackle a drug user who continues to commit low-level criminal offences to buy drugs despite having been repeatedly punished by the courts?***

It is a fact that people who enter the drug world and who begin consuming drugs pay for their drugs with pocket money or money from their parents. And that works for some time. After that, they start pressuring their parents, stealing from their parents, selling home appliances and when they have sold most of the stuff – which happens very quickly since our people are poor – and then some of them start getting into criminal property acts while others start working as small-scale drug dealers. That is the way 'subcultures' – as I like to call it – are formed and drug users are recruited. I only know a few people that have tried and smoked marijuana in their lives, this happens rarely. In most of cases, it is just the beginning for serious drug use which severely damages health. That is why legalisation of marijuana, about which people are talking so much, is a wrong step. No matter how harmless it is or what its effects are compared to alcohol or tobacco, marijuana still changes the person.

When it comes to the vicious circle in which the consumers are locked, the police cannot do much more, our hands are tied. We are a law enforcement agency and we cannot do anything other than what is stated in the law. If we were acting differently, we would be committing a criminal act – a 'professional misconduct'. When it comes to repeat offenders, they just receive stricter sanctions from the courts. In the Criminal Code, there is a provision stating that a person can be released if he reveals the name of the person that provided him with drugs, but again, the police cannot do much more. We still have to file criminal charges and we also provide the court with our notes stating that he revealed the name of his provider. But there is another problem – many of these people do not want their cooperation with the police to be written in the criminal charges, because it is the worst thing that can happen to you in that kind of environment. A lot of them would like to hide that fact, so we try to protect them in different ways, but if the entire court staff know there is little chance to keep it from the public.

A couple of years ago, we would just file misdemeanour charges against drug users and the highest sanction was 60 days of imprisonment or a monetary fine. Sometimes, the person was simply released, or we did not press charges if possession was for personal use and the person collaborated with us. Sometimes, however, we would arrest a person with a kilo of heroin and the court would redefine it from a criminal to a misdemeanour charge, and that is nonsense. I don't want to enter into a discussion about courts and the legal system but we were disgusted about that. Now, it is up to the law creators to define the specific quantity of drugs for personal use that will not be considered as a criminal act. If all parts of the system are not functioning,

the work of the police is harder, because it doesn't make sense to arrest the same person every 2 or 3 months. It means that something is wrong. We send a person to court on criminal charges, and a month later, that person is arrested again. It is making our work more difficult, because that person is then more careful and hides better. That is why I say that the problem of drug addiction is a much broader societal problem than just a police issue. No one contacts us when the Criminal Procedure Law is being revised; we are there to enforce and function within the framework of the law.

### **Interview with Pavlo Skala<sup>4</sup>, former police officer, International HIV/AIDS Alliance, Kiev, Ukraine**

#### ***What effect does arresting drug users for possession of small amounts have on the level of drug use in society?***

I think that it has no serious positive effect, but this kind of policy has a lot of negative consequences. It is important to differentiate between small and large amounts of drug possession, and it is different in every country. In Ukraine, the amount for which a person can be prosecuted is very small – it is even less than daily dosages, for example for heroin or other opiate. In Ukraine, the police consider drug users mostly as criminals, and at least as administrative offenders. The police do not consider drug users as chronically ill people.

The negative effect of these policies is a high prevalence of HIV and hepatitis B and C. Since drug users are marginalised, they use dangerous intravenous practices, and their behaviours become more risky. All these negative consequences occur mostly because of these policies. Other negative consequences include high levels of corruption among law enforcement personnel because they try to catch more drug users to get bribes or other benefits from the drug users they arrest.

From a police officer's perspective, arresting drug users is positive because it is easier to investigate criminal offences: police officers catch regularly drug users to receive money and information on other crimes they investigate (drug dealers, property crime, robberies, etc.) and involve them in under-cover police operations. According to internal regulations within the Ministry of Interior, this high-risk group of drug users is a number one priority for serious crimes, and they are checked and investigated as potential suspects and/or witnesses to provide information on the crime. Drug users are registered by the police in a database, so it is not difficult to find them. The database is updated on a regular basis.

I do not know any other positive effect, and it clearly does not result in any shortage of drug use, and does not affect late start of drug use.

4 Pavlo has been a practicing police officer for 12 years, and served for 6 years at the Drug Enforcement Department of the Ministry of Interior of Ukraine.

***What do you think is the best way to tackle a teenager arrest for drug possession for personal use who is obviously just making a bad choice in early life?***

There should definitely be no criminal punishment for teenagers. In Ukraine, I think that there should be administrative sanctions in the law. They should be provided with different possibilities and options, for example treatment, rehabilitation, substitution therapy, or any other treatment. Currently, these policies are not enforced at all in Ukraine.

Using social work or fines are fine by me, but I think that it depends on the person: if they have an income, if they work, etc. There should be different options. At the moment, we use fines and administrative arrest<sup>5</sup> for up to 15 days for drug driving, possession of small amounts of drugs, etc. Some 'unofficial' social work is involved during administrative arrest, such as cleaning police facilities, removing garbage, etc. During the Soviet period, people in administrative arrest were involved in construction and factory work. Now, this is no longer possible because these factories have been privatised. There are also some articles in our administrative code which provide that a person caught for possession of small amounts of drugs will not be prosecuted, but be considered as administrative offenders. For example, if you are less than 16 years-old and have less than 5g of marijuana, you are considered as an administrative offender. When a person is under 18, they will not be put in jail for administrative arrest, because they are not adults.

I think that this age distinction for drug offences it is normal because a person aged 16 or 18 has a different behaviour and a different understanding of the situation than an older offender.

***What do you think is the best way to tackle a drug user who continues to commit low-level criminal offences to buy drugs despite having been repeatedly punished by the courts?***

The person should have a choice, the possibility to be involved in some treatment, especially if they are already chronically dependent. They should be considered patients and not be treated as criminals. If you are talking about other criminal offences, for example shoplifting or theft, it is a different story. But for drug possession, I do not see any other efficient solution.

Another option would be to change the threshold on possession of drugs: the quantity of drugs should be upgraded so that people are not considered as criminals, but as administrative offenders. The quantity of drugs should be adequate. In some countries, a quantity of more than 10 times a daily dose is considered criminal. But according to our legislation, less than one daily dose is already a criminal offence, and this should not be the case.

5 The person is detained and spends up to 15 days in ordinary pre-detention jail and centres, but separately from criminal offenders. This is what is used for many types of administrative offences, for example for hooligans.

## IDPC

The International Drug Policy Consortium (IDPC) is a global network of non-governmental organisations (NGOs) and professional networks that specialises in issues related to the production and use of controlled drugs. We aim to promote objective and open debate on the effectiveness, direction and content of drug policies at national and international level, and support evidence-based policies that are effective in reducing drug-related harms. We produce occasional briefing papers, disseminate the reports of our member organisations about particular drug-related matters, and offer expert consultancy services to policy-makers and officials worldwide. IDPC members have a wide range of experience and expertise in the analysis of drug problems and policies, and contribute to national and international policy debates.

## TalkingDrugs

TalkingDrugs is an online space reflecting the global challenge posed by illicit drugs. It provides an opportunity to share stories and insights that will help us find better ways to control illicit drugs and prevent them causing excessive harm. Everybody is welcome to contribute and get involved. We want people to tell their stories – you can document the impact of drugs in your own community and support others telling their stories through the making of videos, taking photographs and translating content to ensure that the message gets out to as many people as possible. TalkingDrugs is managed by Release, the UK's centre of expertise on drugs, the law and human rights.

If you want to support the project as a volunteer, please email [volunteers@talkingdrugs.org](mailto:volunteers@talkingdrugs.org) and give us an idea of your skills, experience and what you would like to gain from becoming involved in Talking Drugs”.

## The IDPC Magazine

This is the second issue of the IDPC magazine series. These magazines bring together personal stories to highlight the real, lived experiences of people affected by drug policy around the world. In this issue, we explore the views of police officers throughout South East Europe and Eurasia on law enforcement for drug-related offences. These include interviews from police officers in Albania, Greece, the Kyrgyz Republic, Serbia and Ukraine. The editorial is written by Thanasis Apostolou, IDPC Regional Coordinator for South East Europe, who describes the challenges of the predominant law enforcement strategies consisting in treating drug users as criminals, rather than people with social and health problems.

We hope you find this magazine of interest. If you have any suggestions for themes or articles for future issues, please email IDPC at [contact@idpc.net](mailto:contact@idpc.net).