

Italy: White book on the Fini-Giovanardi (drug) law

Da Statewatch, - 23 giugno 2009

The "Libro bianco sulla Fini-Giovanardi. Tre anni di applicazione della legge 49/2006 sulle droghe", published in March 2009, also provides a wealth of further data, analysis and a collection of articles written between July 2005 and February 2008. It is available here (pdf, in Italian).

The anti-prohibitionist association Fuoriluogo, in cooperation with Associazione Antigone (which works on the penal system and prisons) and La società della ragione, has published a "white book on the Fini-Giovanardi law", to illustrate and comment the effects of law 49/2006 on drugs on the penal system, administrative punishment and on the administration of justice and the prison system. The law was introduced in a wide-ranging decree on the Turin winter Olympics towards the end of the Berlusconi government's term in power in 2006, and contained extracts from a draft law drawn up by Gianfranco Fini (now president of the chamber of deputies, Italy's lower house of parliament) that promised to revolutionise the treatment of drug offences, heralding the mass criminalisation of drug users in spite of the success of a 1993 referendum to de-penalise the personal use of drugs. Some of its contents included the lessening of distinctions between soft and hard drugs, and between dealing, trafficking and personal use, with extremely high sentences applicable to the latter, and an expansion in the use of administrative sanctions. The "white book" notes that drug confiscation figures have fallen, the number of people reported to the judicial authority has risen (particularly as regards foreigners), the amount of administrative sanctions meted out, the percentage of drug addicts in prison out of the total number of detainees and the percentage of drug addicts out of the number of imprisoned people, have all increased. Access to alternative measures to detention appears very limited while the number of pending judicial cases is increasing enormously, social and health service interventions are decreasing and pharmacological ones are on the rise, while the number of people admitted into specialised communities for rehabilitation purposes are decreasing.

Although available data is limited and partial, the authors deem it possible to draw a balance and some assessments. They criticise the "ideological choice" not to conduct a reflection on proximity support services and to apply "censorship" to discussion on harm reduction. Refusing pragmatic approaches entails a reduction of social resources made available for guidance and social inclusion activities; almost symmetrically, this goes hand-in-hand with an increase in the use of imprisonment and penal/punitive legislation. There is a recrudescence of repression in squares, places where youths gather and leisure settings alongside an intensification of "controls" through drug testing, as opposed to pre-emptive measures. This has led to the criminalisation of users (particularly of marijuana), with nearly 600,000 young people reported to the police for mere consumption since 1990. Prison overcrowding has reached record levels, passing the 60,000 mark, while their capacity is of 43,000. Imprisoning drug users is described as a "gross mistake" from a social, educational and therapeutic perspective, as well as a great injustice that illustrates the shift from a social to an authoritarian state. They conclude that drugs could be the field from which it could be possible to start anew and test different kinds of policies based on reason and solidarity.

Interior ministry data for the 2004-2007 period concerning activity to counter drugs shows a substantial increase (particularly between 2006 and 2007) in people reported to the judicial authorities (+7.5%), especially foreigners (+12.1%). Meanwhile, always comparing 2006 and 2007, the confiscation of drugs has fallen by 10.5%. The authors offer some hypotheses for explaining this conflicting data, as both would be presumed to be indicators of criminal activity in this field. The first, described as "worrying", is that criminalisation is growing in spite of a decrease in criminal activity. A second, is a focus of repressive activity that has shifted from confiscation of illegal substances to the criminalisation of people, in which arrests and guilty verdicts are more important than interception and

confiscation. Finally, as is often the case when "zero tolerance" policies are advocated, lower-profile offenders are criminalised, with small-scale and street dealers becoming the prevalent targets of operations by police forces, leading to a decrease in the amounts of drugs confiscated and a considerable increase in short prison sentences in this field. The imposition of administrative sanctions on drug offenders, which is sometimes crippling in terms of employment and personal relations (for example, by withdrawing one's driving license, passport, license to bear weapons, residence permit for foreign students, or temporarily confiscating one's vehicle, as well as informing the questore - police chief- in cases involving foreigners, with possible effects on the renewal of their residence permit), has risen by as much as 62.6% from 2004 to 2007, and the law has also provided for them to last longer than in the past. Meanwhile, formal invitations and requests to attend programmes, as well as the shelving of judicial proceedings, have decreased considerably.

As regards the presence of drug addicts in prisons and the portion of the prison population that is imprisoned for offences that include breaching the drugs law, following the *indulto* (a pardon for people who had less than three years left to serve, that was intended to lessen the problem of prison overcrowding, and also had decreasing the number of drug addicts in prison as one of its purposes) in mid-2006 which effectively lowered the proportion of drug addicts in prisons considerably as many of its beneficiaries were drug addicts who had committed petty crimes, it took less than two years to return to the previous (or even higher) levels in terms of percentage of the overall prison population. They were 26.4% before the *indulto* (16,145 out of 61,264 on 30.6.2006), 21.4% soon afterwards (8,363 out of 39,005 on 31.12.2006), only to shoot well above the original level to 27.6% a year later (13,424 out of 48,693 on 31.12.2007) before steadying at 26.8% (14,743 out of 55,057 on 30.6.2008). As for the number of people imprisoned as a result of drug offences out of the overall prison population, the figures appear to be steady between 2004 and 2007, with slightly under 38.2% of the total number of prisoners and 49.5% of foreign ones imprisoned as a result of drug offences on 30 June 2008 (21,037 and 10,213 out of 55,057, respectively). The figures on drug offenders and drug addicts imprisoned from freedom between 2006 and mid-2008 show an increase -from 27.1% and 27.6% respectively in the first half of 2006, to 30.7% of drug offenders and 36% of drug addicts, whose proportion had briefly decreased in late 2006 and early 2007, in the first semester of 2008.