



Drug Policy Dialogue in South East Europe

Drug Policy and Drug Legislation in South East Europe

Serbia



NOMIKI BIBLIOTHIKI

Country Report Serbia

Preface

The concept of security has changed, but the problem of drugs remains the same while society itself changes. We should, nevertheless, be able to predict the emergence of new threats in order to reduce the harm they eventually cause. As NGOs have gained a deeper insight into drug related problems in our societies, their impact and contribution in designing solutions to future problems should by no means be ignored. That is why this volume of the country reports of the Drug Law Reform Project initiated by Diogenis Association, one of the leading nonprofit organizations that promote drug policy dialogue in South East Europe is the first step towards reducing the harm to society caused by drugs. The aims and the objectives of the project are to exchange views, concepts, and findings among scientists, researchers and practitioners from various countries on a rather broad field of drug legislation in the South East European countries, in particular with a view to bringing to the fore the role of NGOs in policy making related to drug issues. This cooperation will highlight the differences in legislation, new ideas, theories, methods, and findings in a wide range of research and applied areas in connection with the drug situation in the South East European countries.

The empirical part of the study compares the relevant national strategies on drugs, national substantive criminal legislations, national drug laws and institutions, as well as drug law enforcement in practice, sentencing levels, and the prison situations in Albania, Bulgaria, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Greece, Romania, Serbia, Slovenia, and Montenegro. As regards the general picture of the report as a whole, several common traits are obvious. There is a severe gap between acts of legislation and their practical implementation. This task includes examination and development of laws, theories, structure, processes and procedures, causes and consequences of societal responses to drug criminality, delinquency, and other security issues. The next paper focuses on supra-regional comparisons and aims to explain why NGOs play an important role in identifying the factors necessary for effective reforms. Adequate financing of NGOs is especially problematic, for it is a crucial factor in establishing their independence. The most profound example of how financing influences this independence-gaining process is the fact that there is currently no workable system for financing NGOs, as these mainly rely on international funding schemes overly susceptible to political influences.

The new security concept of the European Union is built on the Lisbon Treaty and the Stockholm Programme in which drugs turn out to be integral to all contemporary threats. Prevention and repression of drugs and crime is an aim no one would

dare to question. Drugs have always been present, and it seems they always will be; therefore, we must control and manage them to minimize their risk for society, though we might never succeed in totally eliminating them. The countries along the Balkan route of drugs need to take a more balanced approach to gathering and collating intelligence on drugs, and exchange their experiences gained in law reforms and put these into practice. Implementation of new ideas should be based on accurate threat assessments, not on political or media priorities. NGOs can assist in developing the necessary expertise required for these tasks, for they have a broader insight into drug related problems.

Due to various pressures and interests, there is often a lack of cooperation between governmental and non-governmental institutions. It is often the case that the objectives of various interest groups are more strongly defended than those of democratic society, evermore deepening the gap between the law and its practical implementations. A weak civil sector lacks the eagerness to tackle these problems, as there are no powerful NGOs or other pressure groups that would criticize state politicians for their deficient work. Political apathy and the overall mistrust of the populations are reflected in weak support to new ideas and lawful solutions. The media usually play a limited role in presenting these solutions and usually lack the necessary expertise in drug related topics. It seems that the legislation governing civil sectors does not encourage the development of such NGOs that would criticize the state.

The problem with funding and a lack of interest in communication between politics and NGOs prevails and the non-governmental sector still has great difficulties claiming for itself the status of an equal partner in drug reforms. To remedy this, we should encourage any cooperation between the public sector and NGOs. Greater opportunities for funding these organizations may stem from international cooperation and from EU institutions, such as the one established within the Diogenis project which, through its web page, publications, etc., is becoming an increasingly powerful voice informing and educating the public about adverse drug effects and other drug related issues. It participates in international researches and projects. It provides a good example of how to carry out researches, conferences, and round tables while focusing group discussions on drug related problems existing in the South East European countries. Nevertheless, and in spite of the problems, the future researches and legislation should also focus on controlling the flow of the money. Since the money earned from drugs is invested in legal business, through corruption and money laundering, we should expose legal solutions in order to curb those problems in the future.

Bojan Dobovsek Ph. D.

Introduction

In all the countries of South East Europe¹ there are initiatives to change the drug laws. Several countries are changing their legislation in order to adjust it to the new socio-political conditions and some are changing their legislation in order to meet the requirements of the European Union in view of becoming members of the EU.

The Diogenis Association took the initiative to set up a project on *Drug Law reform in South East Europe*, because this is a crucial period for the development of drug policy in the SEE countries within which civil society involvement can play a positive and decisive role. It is our conviction that non-governmental actors in the field of drugs have to have a say in shaping drug policy and influence drug Legislation. This volume is the result of cooperation between the Diogenis Association, NGOs participating in the Drug Policy Network in South East Europe² and the researchers affiliated with research institutes and universities in the countries in South East Europe³.

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1. The countries of South East Europe participating in this project are: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Greece, Montenegro, Romania, Serbia, Slovenia.
 2. The following organisations participate in the Drug Policy Network in SEE: Aksion Plus, Albania; NGO Victorija, Banja Luka, Bosnia Herzegovina; Association Margina, Bosnia and Herzegovina; Initiative for Health Foundation (IHF), Bulgaria; Udruga Terra Association, Croatia; Healthy Options Project Skopje (HOPS), Former Yugoslav Republic of Macedonia; Association DIOGENIS, Drug Policy Dialogue in SEE, Greece; Kentro Zois, Greece; Positive Voice, Greece Juventas, Montenegro; Romanian Harm Reduction Network (RHRN), Romania; NGO Veza, Serbia; Association Prevent, Novi Sad, Serbia; The “South Eastern European and Adriatic Addiction Network” (SEEAN), Slovenia; Harm Reduction Association, Slovenia.
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The volume contains separate reports per country which describe the current National Strategy on Drugs, the national substantive criminal law, the national drug laws and institutions, Drug law enforcement in practice, sentencing levels and the prison situation, initiatives for drug law reform undertaken by the government and/or parliament in recent years and proposals and recommendations for further research and advocacy work.

Some findings which are characteristic for the situation of drug policy and drug legislation as presented in the country reports are summed up here.

Discrepancy between strategies and practice

All SEE countries have adopted a *National Strategy* during the last decade. The majority of them have also adopted Action Plans for the implementation of the Strategy. With the exception of some countries *the majority have not evaluated their strategy and action plan*. Most of the countries do not have formal evaluation mechanisms. It has been suggested that the establishment of external evaluation has to be carried out by independent institutions. According to the national strategy of all SEE countries, *NGOs and civil society should play an important and active role in policy making*, mainly in the field of treatment and rehabilitation, but also on harm reduction. In practice there is a gap between strategy and practice. Harm reduction is not enshrined in national legislation and many projects will be in danger when external funding is terminated.

Different legal traditions; common practice of high penalties; no distinction between “soft” and “hard” drugs; penalisation of possession for personal use.

The criminal justice systems in the countries of SEE have different legal traditions. There is great diversity in all the participant countries in the typology of the penalties imposed according to the legislation. The main custodial sanction in all SEE countries is imprisonment. Fines are also included in all the sanction systems that were examined. The duration of imprisonment ranges from a few days to 15, 20, 25 or 30 years. Life imprisonment is imposed in five countries (Greece, Bulgaria, Slovenia, Romania, Former Yugoslav Republic of Macedonia), while in Bosnia-Herzegovina long-term imprisonment ranges between 21-45 years. There is also a vast

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diversity in the ways that custodial sanctions are served and the alternative forms provided during sentencing. Probation/conditional sentencing or a suspended sentence are provided in all sanction systems of the SEE countries.

In the criminal legislation of all countries, there are provisions concerning cultivation, production and trade of drugs (trafficking); With the exception of Greece where use is penalised, in the vast majority of the countries, only the possession of drugs is penalized. In general, in the national legislation, there is no distinction between “soft” and “hard” drugs. For the majority of the countries, there is no legally established difference between small and big dealers. For several of the countries, there is a differentiation for organized criminal groups of dealers.

Cannabis production and use is dominant in all countries of the region

Cannabis cultivation is dominant in all the SEE countries. Large quantities of cannabis plants are detected, uprooted and confiscated by the law-enforcement authorities in Greece, Bulgaria, Slovenia, Romania, Bosnia-Herzegovina, Croatia, Former Yugoslav Republic of Macedonia and Albania.

Increase of the prison population over the last years; poor living conditions and increasing drug use in prisons; inadequate medical care inside prisons.

For the majority of the countries, the living conditions in detention facilities are very difficult because prisons are overcrowded. This fact is a common problem and a general endemic characteristic of the correctional systems of the majority of the countries.

The problem of drug-use in prisons emerges clearly through the national reports. There is diversity in the provision of treatment programmes for drug dependent prisoners. Medical care inside prison is provided for all prisoners by medical staff while only outside the prison can help from other medical institutions and NGOs programs be provided to prisoners. It is possible to divert drug users from prison into community-based treatment for drug addicted perpetrators of drug-related offences, though diversion mechanisms combined with treatment programmes (suspension of penal prosecution, execution of the sentence/probation/ conditional release from prison) are currently implemented in a very limited way.

Social re-integration programmes almost absent

For the majority of the SEE countries, the strategy for social reintegration can be characterized as either incoherent or only nominal and there seems to be a long way to go for the implementation of such policy. There is no specific strategy for social reintegration in Bulgaria, while two NGOs have been implementing projects for social reintegration and re-socialization of offenders following the execution of their sentence.

With the exception of Croatia, in the vast majority of the participant countries, there is no statistical data available for recidivism of the offenders sentenced for drug-related crimes. According to the data provided by Croatia, the rates of previous convictions are exceptionally high among drug offenders.

Support for alternative measures to incarceration, reservations to decriminalization

The relevant national authorities and the state recognized agencies and service providers are cautious in their reactions concerning proposals for change which are considered to be contrary to the international conventions. Governments and parliaments are making use of the room that exists in the international conventions to introduce new ways of facing the problem, but they are hesitant to speak about reform of the conventions.

NGOs express clearly the wish for reform in several areas, especially the decriminalization of possession for personal use and the wish to enshrine harm reduction services in the national legislation. But also NGOs are on the one hand concerned about the general feeling of the public that is reserved towards decriminalization of drugs and on the other hand they are in favor of restricting access to illicit drugs, to which young people have easy access via internet.

All relevant stakeholders support alternative measures to incarceration of drug offenders. They are convinced that alternative measures will result in a reduction of incarceration and minimization of the negative consequences of criminal prosecution and short-term prison sentences to drug addicted persons.

Unbalanced Spending of Financial resources

Broadly speaking, the available resources for drug supply reduction and drug demand reduction is not balanced. The national strategies present a comprehensive view in which the elements to reduce drug demand and supply of drugs are balanced. However, in practice there are difficulties in implementing this balanced approach. Some say that this is due to lack of budgetary resources. Others point out that it is a question of priorities and policy orientation. Lack of human resources and financial support for treatment programs is a significant issue; it is necessary to allocate increasing amounts of money from the state budget for treatment services provided to drug users.

The *Drug Law reform Project* will undertake further initiatives concerning legislative reforms in South East Europe. The next steps will be an in-depth analysis and research of specific issues relevant for countries in the region. The regional character of our activities is of great importance since we aim to support reforms that also promote coordination and close cooperation between the South East European countries. This approach is particularly important due to the cross-border charac-

ter of criminal offences associated with drug trafficking, as well as common socio-political characteristics of the majority of states in the region. The project aims to promote policies based on respect for human rights, scientific evidence and best practices which would provide a framework for a more balanced approach and will result in a more effective policy and practice. A major concern of our activities is to encourage open debate on drug policy reform and raise public awareness regarding drug policies, their effect and their consequences for individuals and society.

This project and the other activities of the Diogenis Association are an effort to connect developments and initiatives in the SEE region with the European Union's Drug Strategy and Action Plan as well as with global developments on Drug Policy. After several decades of implementation of the current international drug control system, there is worldwide a sense of urgency to adjust the system, correct the aspects that cause adverse consequences and make it more effective. Open dialogue with the relevant authorities responsible for Drug Policy is essential in the search for more humane and effective Drug Policies and practice. The critical voices of civil society organisations such as the NGOs must be seen as a complementary contribution to the Drug Policy debate. Our cooperation with research institutes and universities is growing and there is mutual appreciation of our activities. The combination of the NGOs practical experience in the field and the scientific insights of researchers is a valuable contribution to the drug policy debate. It is up to the policy makers and governments to make use of proposals and recommendations and incorporate suggestions in Strategic choices and Legislation.

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Country Report Serbia

by Dragoljub Jovanović¹

I. The current national drug strategy and drug legislation in the Republic of Serbia

1. National Strategy on Drugs

The Serbian strategy in the fight against drugs in the Republic of Serbia was adopted in 2009 and covers the period from 2009 through 2013 (hereafter referred to as the National Strategy) It was made with the aim of promoting and preserving the health of the population and reducing drug use and harm caused by drug abuse. The National Strategy indicated that the economic losses due to drug trafficking, illegal money flows, the high cost of medical treatment and social welfare are huge. In the fight against illicit drugs, it is clear that the whole community in all its parts must be organized, on top of which should be the highest state institutions with intersectional collaboration. The Strategy in the fight against drugs for the period from 2009 to 2013 in the Republic of Serbia is an act which contains all the important and relevant issues related to the fight against drugs. Based on the strategy, the Government of the Republic of Serbia in April 2009 adopted the Action plan for implementing the strategy.

The guiding principles of the National Strategy are the following: *Strengthening institutional capacity; Respect of constitutionality and legality; Protecting the citizens of the Republic of Serbia; Protecting the community; Protection of human rights; Right to information; Multidisciplinary; Comprehensive and continuous work and approaches to the problem; Availability of services - services to help addicts; Decentralization; Ethics and Professionalism; De-stigmatization;*

The Action Plan was adopted in order to implement the national strategy, the definition of concrete measures. The goals of the Action Plan are the following: *Effective and coordinated fight against illicit drugs; Improvement of measures to protect families; The involvement of all sectors of society in activities related to the fight against illicit drugs; More efficient use of measures that achieve a reduction of health*

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and social consequences of drug abuse in society and a reduction of drug use in society, especially among children and young people.

The goal of the strategy is a coordinated and structured plan to combat drugs, prevent and treat substance abuse with balanced and structured goals and actions that will be implemented to achieve the strategy, and strengthen international cooperation in all sectors in the fight against drugs. The strategy aims to clearly define how the state will coordinate the fight against drugs, and the resources which the state plans to use in this fight. For each of the fields of the strategy there are clearly defined objectives and actions that will be applied for the realization and implementation of the strategy. On the basis of the strategy in 2009 an action plan for the implementation of the strategy for the fight against drugs in the Republic of Serbia for the period from 2009 to 2013 was adopted. The measures envisaged in the action plan are based on the Strategy and are in accordance with the Strategy of the European Union in the field of drugs for the period from 2008 to 2012. The Strategy and Action Plan foresees multidisciplinary activities of all sectors (state, local, religious, non-governmental) in achieving the stated goals.

The goals to be achieved by not only the strategy but also the action plan are: Efficient and coordinated fight against drugs in the Republic of Serbia; More efficient use of measures that achieve a reduction in the health and social consequences of drug abuse in society and reducing the use of drugs in society, especially among children and young people; The advancement of measures to protect families; Involvement of all sectors of society in the activities related to the fight against drugs.

As the fight against drugs is a multidisciplinary problem it requires a multidisciplinary approach, and it is necessary to coordinate all government sectors in the fight against drugs. The Action Plan provides coordinated activities at all levels in this effort and the inclusion of all relevant ministries and institutions in the area of its operations. The institutions that participate in the fight against drugs are; the Ministry of Health, Ministry of Defense, Ministry of Internal Affairs, Ministry of Finance, Ministry of Culture, Ministry of Youth and Sports, Ministry of Labor and Social Policy, Ministry of Education, Ministry of Justice, etc. The Action Plan through its objectives, activities and indicators determine which ministry, organs of state administration or local governments coordinate and work to achieve them. Based on the adopted strategy and action plan it provides clear coordination of all state institutions and non-governmental sectors in the fight against illicit drugs. The Serbian Government as activity coordinator in 2009 established a Commission to combat abuses of illicit drugs, which aims to control the implementation of the strategy. The **RS** government is responsible for activities aimed at harmonizing the EU position in the implementation of the strategy.

The Ministry of Health activities are focused on the maintenance of regular, periodic meetings of the joint bodies and the competent administrative authority to oversee the fulfillment of the objectives of the Strategy. In cooperation with other stakeholders they make action plans that are in accordance with the approved action plan. It organizes research strategies for achieving the goals of the various ministries, organizing a series of training sessions in the area of drugs and precursors. In cooperation with other ministries it makes proposals on amendments to the legal framework within the legal provisions related to illicit drugs, working on improving the areas related to the control of production and trade of narcotics and precursors. In cooperation with the Ministry of Police it worked to establish control among those participating in trafficking. Also, in cooperation with the Ministry of the Interior it designated storage for the disposal of seized drugs and precursors, and participated in the establishment of the destruction of seized illicit drugs. In cooperation with other ministries and NGOs the Ministry of Health is working continuously to achieve the objectives and activities in the field of prevention, early detection and treatment of the addicts. **The Ministry of Defense** participates in activities in the implementation of the Strategy. It adopts the action plans within its jurisdiction, in cooperation with other ministries and in cooperation with relevant ministries involved in the amendment of legal acts. The Ministry of Defense is also participating in the establishment of new doctrines in the treatment of substance abuse, as well as linking experts in the fields of drug research. It carries out research on the prevalence of drug use in the army of Serbia, as well as cooperating in the service areas of narcotics and precursors. **The Ministry of Interior** deals with the tasks of reducing drug supply and also prevention. Plans and objectives are implemented through the Police, while the Ministry of Interior has the task of setting up international cooperation (EUROPOL, EMCDDA, INTERPOL), the coordination of bodies within the country, training and education of law enforcement agencies, working in the field of illicit drugs, leadership of law enforcement, as well as analytical and intelligence activities for the detection of offences, related to illicit drugs. The Interior Ministry conducts joint investigations with Bosnia-Herzegovina, Slovenia, and Croatia and provides intelligence to Western European countries. The Drug Smuggling Department continues to develop a database for crimes, arrests, and seizures of drugs, and chemical precursors. The Security Information Agency hosts law enforcement liaison officers from Bulgaria, Romania, Croatia, Italy, Austria, and other countries in the region. The **Police** carry out different duties: protection of lives, personal safety detection and investigation of crimes and offences, arresting the perpetrators, protection of national borders, supervision and regulation of the traffic etc. Tasks, which are performed by uniformed police, criminal police and other specialized police units, also include work in the field of illicit drugs. Among the many directorates under the Police, the Criminal Police Directorate

plays an important role in the field of illicit drugs. The **Illicit Drugs Section** which is specialized in the task of detection and prosecution of crimes related to illicit drugs operates within the police. **The Ministry of Justice** participates in activities in the implementation of the Strategy. It adopts the action plans within its jurisdiction, in cooperation with other ministries and in cooperation with relevant ministries involved in the amendment of legal acts. It works on improvement in the areas competent for the control of production and trade of narcotics and precursors. In cooperation with the Ministry of Police it worked to establish control among those participating in trafficking. Also, in cooperation with the Ministry of the Interior and Ministry of Health it designated storage for the disposal of seized drugs and precursors. It deals with the tasks of reducing drug supply and also prevention. **The Prison Administration** of the Republic of Serbia performs administrative and professional assignments concerning the enforcement of prison sanctions, organization of prisons and correctional facilities, personnel and other conditions for the functioning of the prisons and the correctional facilities. The task of the Prison Administration is to enforce the rights and obligations of the persons who have been deprived of liberty. **The Ministry of Finance** provides an action plan within its jurisdiction, in accordance with the adopted strategy and action plan, as well as providing a draft according to the guidelines of the strategy. In cooperation with other ministries it is involved in strengthening the control and punishment of the illegal manufacture of drugs and precursors, as well as strengthening the control and punishment of the illegal import and export of drugs and precursors. **The Ministry of Culture**, in cooperation with other ministries participates in intensifying the involvement of citizens in the implementation of the strategy. It is involved in achieving the goal of reducing drug supply and drug demand. **The Ministry of Youth and Sports** encourages the involvement of citizens in activities related to the fight against illicit drugs. It participates in early detection and intervention, and in the rehabilitation and reintegration of drug addicts. It brings its own action plan in accordance with the Action Plan. It participates in activities aimed at reducing the demand for illicit drugs. **The Ministry of Labor and Social Affairs** coordinates the work of the institutions under its jurisdiction in dealing with high-risk groups (Prevention, early detection, intervention) in the field of social protection. The strategy for the fight against drugs in the Republic of Serbia has foreseen local communities, social services and NGOs playing a significant role. Unfortunately, this topic has not been elaborated on in appropriate regulations, and therefore there no greater implementation has been put into practice since 2001. The practice was introduced to permit NGOs to visit the institutions for the enforcement of sanctions, with the aim of monitoring within the institution. As one of the major challenges in the process of improvement and change, programs of reformation (treatment programs) are based on evaluations provided by NGOs and international organi-

zations and detected deficiencies that are considered to be changed. As part of a strategy for reform of the enforcement of institutional sanctions in 2005, one of the planned activities was the improvement of the mechanisms of control and supervision, inspection and the monitoring system of the NGO. NGO representatives participated in the drafting of the Strategy for reform of the enforcement of institutional sanctions and key documents in it. In comparison to previous periods in this area, a trend in increasingly significant progress has been noted. NGOs participate in activities aimed at reducing the demand for drugs. They participate in the realization of rehabilitation and social reintegration of treated addicts as well as ongoing efforts to reduce the harm caused by illicit drugs.

In the field of International Law, The Republic of Serbia signed the following international treaties:

United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) Former Yugoslavia signed and ratified the Convention on 20 December 1988 and 3 January 1991. The Republic of Serbia 2001 Succession Law

The Republic of Serbia ratified the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances adopted in Vienna 1988 (“Official Gazette of SFRY-International Treaties”, No. 14/90),

The Convention on Narcotic Drugs since 1961, ratified in 1964 (“The Official Gazette SFRY” - Addendum No. 2/64),

Convention on Psychotropic Substances since 1971 (“Official Gazette of SFRY”, No. 40/73). Law ratifying the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, (“Fig. SFRY International Treaties, no.14/90).

In addition to the above Convention, the Republic of Serbia has signed a number of bilateral agreements. The Strategy and action plan against drugs in the Republic of Serbia for the period 2009-2013 is in line with EU legislation in this area.

2. National Substantive Criminal Law

Republic of Serbia Criminal Cod recognizes two types of crimes, misdemeanours and criminal offences. Drug related offences are considered as criminal offences. The Criminal Code deals with all drug related crimes.

Criminal Code chapter one basic provision: **Article 1:** No one shall be punished and no criminal sanction shall be imposed for an offence which did not constitute a criminal offence in law before it was committed, nor shall punishment or other criminal sanction not prescribed by law before the criminal offence was commit-

ted be imposed on anyone. **Article2:** Punishment and admonitions shall only be imposed on offenders found culpable of criminal offences. **Article 3:** The protection of human beings and other fundamental social values constitute the basis and limitations for defining criminal offences, prescribing criminal sanctions, and their application, to a degree required for the suppression of those offences.

Misdemeanor law one basic provision: **Article1:** This Law shall regulate: the notion of a misdemeanor, requirements for misdemeanor liability, requirements for prescribing and enforcement of misdemeanor sanctions, the system of sanctions, misdemeanor proceedings, and the procedure of enforcement of a decision. **Article2:** A misdemeanor is an unlawful culpably committed act that is stipulated as a misdemeanor by a regulation of the competent authority. There shall be no misdemeanor if unlawfulness or guilt is excluded although there are all the essential elements of a misdemeanor. **Article3:** No one may be punished for a misdemeanor or other misdemeanor sanctions may be applied against him/her, if such an act, before it was committed, was not stipulated as a misdemeanor by a law, or by a regulation based on a law, and for which it was not prescribed, by a law or other regulation based on a law, by what type and degree of sanction the misdemeanor offender may be punished.

Criminal sanctions according to Article 4 paragraph1 are the following:

- Punishment,
- Admonitions,
- Security measures
- Corrective measures

The following sanctions may be pronounced to perpetrators of criminal offences according to Article 43:

- Imprisonment;
- Fines;
- Community service;
- Revocation of driver's licences.

Cautionary measures according to Article 64 paragraph 1:

- Suspended sentence and
- Judicial admonition

Security measures according to Article79 of Criminal Code are the following:

- Compulsory psychiatric treatment and confinement in a medical institution article 79 paragraph 1;
- Compulsory psychiatric treatment while at liberty article 79 paragraph 2;
- Compulsory drug addiction treatment article 79 paragraph 3;
- Compulsory alcohol addiction treatment article 79 paragraph 4;
- Prohibition from practising a profession, activity or duty article 79 paragraph 5;
- Prohibition to operate a motor vehicle article 79 paragraph 6;
- Confiscation of objects article 79 paragraph 7;
- Expulsion of a foreign nationals from the country article 79 paragraph 8;
- Publication of the judgement article 79 paragraph 9;
- Restraining orders prohibiting physical proximity and communication with aggrieved parties article 79 paragraph 10;
- Bans on attending specific sports events article 79 paragraph 11.

Law on juvenile criminal offenders and criminal protection of juveniles diversion orders according to Article 7:

- Settlement with the injured party so that by compensating the damages, apology, work or otherwise, the detrimental consequences would be alleviated either in full or partly;
- Regular attendance of classes or work;
- Engagement, without remuneration, in the work of humanitarian organizations or community work (welfare, local or environmental);
- Undergoing relevant check-ups and drug and alcohol treatment programs;
- Participation in individual or group therapy at suitable health institution or counseling centre.

Educational measures, juvenile detention and security measures, stipulated by Article 79 of the Criminal code may be pronounced to juvenile offenders, with the exception of restraint to be engaged in his occupation, business activities or duties.

Educational measures according to Article 11 are the following:

- Warning and guidance: Court admonition and alternative sanctioning;
- Measures of increased supervision: increased supervision by parents, adoptive parent or guardian, increased supervision in foster family, increased supervision

by guardianship authority, increased supervision with daily attendance in relevant rehabilitation and educational institution for juveniles;

- Institutional measures: remand to rehabilitation institution, remand to correctional institution, committal to special institution for treatment and acquiring of social skills.

Alternative Sanctioning according to Article 14:

The Court may order the juvenile:

- To apologize to the injured party;
- To compensate for the damages caused, within his personal capacity;
- To regularly attend classes and work;
- To qualify for an occupation commensurate with his abilities and talents;
- To participate, without remuneration, in the work of humanitarian organizations or perform community work of social, local or environmental character;
- To involve in particular sports activities;
- To undergo relevant check-ups and drug and alcohol treatment programs;
- To participate in individual or group therapy in relevant institution or counseling centers and to act in accordance with work programs created for him in these institutions;
- To attend vocational training classes or to prepare for the exams in a designated field of study;
- Not to leave his place of permanent or temporary residence unless guardianship authority or the court grants him special permission to leave; increased supervision:
- Increased supervision by parent, adoptive parent or guardian Article 15
- Increased supervision in a foster family Article 16
- Increased supervision by guardianship authority Article 17
- Increased supervision with daily attendance in relevant juvenile rehabilitation and educational institution Article 18
- Alternative sanctioning together with increased supervision measures Article 19

Institutional measures are the following:

- Remand to educational institution Article 20

- Remand to a correctional institution Article 21
- Remand to a special institution for treatment and acquiring of social skills Article 23

Juvenile Prison Sentence is provided in Article 29.

Criminal Code and criminal-law regulative of Republic of Serbia contains statutory provisions related to alternative sanctions which can be delivered to offenders charged with drug related sentences and / or for some other criminal offences which fall within the scope of these sanctions. Article 65 paragraph (2) The court may order in a suspended sentence that the penalty shall be enforced if the convicted person fails to restore within a specified period of time material gain acquired by the commission of the offence, fails to compensate damages caused by the offence, or fails to fulfil other obligations provided in provisions of criminal legislation. The court shall set the period of time for fulfilling such obligations within the framework of the specified probationary period. Security measures ordered together with conditional sentences shall be enforced, Article 65 paragraph (3). During sentencing, the court, in certain cases prescribed by law, may impose a convicted parole. (Article 65 CCRS). Probation and court sanctions may be imposed on the perpetrators of minor crimes, in situations where the court decides that only the imposition of these sanctions will have a positive effect on the perpetrator not to commit new crimes. Probation or a conditional sentence cannot be less than one nor more than five years, Article 65 paragraph 1. In addition to the suspended sentence it shall be determined if the sentence shall not apply if the convicted probation (probation) does not commit a new criminal act. By applying the Article 65 paragraph 2 a sentence may be carried into execution if he does not fulfill his obligations as ordered by Article 65 paragraph 2. The court may order in a suspended sentence that the penalty shall be enforced if the convicted person fails to restore within a specified period of this material gain acquired by the commission of the offense, fails to compensate damages caused by the offense, or fails to fulfill other obligations provided in provision of criminal legislation. The court shall set the period of time for fulfilling such obligations within the framework of the specified probationary period. Security measures ordered together with conditional sentences shall be enforced section mark Article 65 paragraph 3 Criminal Code of the Republic of Serbia. Application of Article 66 defines the conditions when you can pronounce a suspended sentence. Article 66 Criminal Code of the Republic of Serbia specifies the conditions when it can impose a suspended sentence. Article 66: 1) A suspended sentence may be pronounced where a custodial penalty in duration of less than two years has been determined for the perpetrator of a criminal offence. 2) For criminal offences punishable by terms of imprisonment of ten years or more, the sentence may not be conditional. 3) A suspended sentence may not

be pronounced if not more than five years have elapsed from the time the sentence pronounced to a perpetrator for premeditated criminal offence became final.4) In determining whether to pronounce a suspended sentence the court shall, having regard to the purpose of suspended sentence, particularly take into consideration the personality of the offender, his previous conduct, his conduct after committing the criminal offence, degree of culpability and other circumstances relevant to the commission of crime.5) If both a term of imprisonment and a fine are imposed, only the custodial sentence may be suspended.

The application of the Article 71 defendant to the court may impose suspended sentence with protective supervision. Protective supervision includes assistance, care, supervisory and protection measures provided by law. Article 73 defines protective supervision. Article 73: Protective supervision may comprise one or more of the following obligations: 1) Reporting to competent authority for enforcement of protective supervision within periods set by such authority; 2) Training of the offender for a particular profession; 3) Accepting employment consistent with the offender's abilities; 4) Fulfilment of the obligation to support family, care and raising of children and other family duties; 5) Refraining from visiting particular locations, establishments or events if that may present an opportunity or incentive to re-commit criminal offences; 6) Timely notification of the change of residence, address or place of work; 7) Refraining from drug and alcohol abuse; 8) Treatment in a competent medical institution; 9) Visiting particular professional and other counselling centres or institutions and adhering to their instructions; 10) Eliminating or mitigating the damage caused by the offence, particularly reconciliation with the victim of the offence. Closer to the statutory provisions which define further requirements related to Chafe supervision are defined using the Article CCRS 74-76

Judicial Admonition Article 77 CCRS:

(1) Judicial admonition may be pronounced for criminal offences punishable by imprisonment under one year or fine, which have been committed under such extenuating circumstances that they render them particularly minor. (2) For particular criminal offences and under conditions provided by law, a judicial admonition may be pronounced even when such offences are punishable by imprisonment up to three years. (3) The court may pronounce admonition for the joining of offences, provided requirements referred to in paragraph 1 and 2 of this Article have been established for each of them. (4) In deliberating whether to pronounce a judicial admonition, the court shall, having regard to the purpose of the admonition, particularly take into consideration the personality of the offender, his past conduct, his conduct after commission of the offence, and specifically his attitude to the

victim of the offence, degree of culpability and other circumstances under which the offence was committed. (5) Judicial admonitions may not be pronounced to members of armed forces for criminal offences against the Army of Serbia. Another mechanism that applies is a conditional release. Criminal Code RS Article 46 as one of the mechanisms used is parole. All rights and obligations relating to conditional release are regulated by the **Criminal Code Article 46**: (1) The court may conditionally release convicted persons who have served two-thirds of their prison sentences if in the course of serving the prison sentence they have improved in such a manner that it would be reasonable to assume that they will behave well while at liberty, and, in particular, that they will refrain from committing new criminal offences until the expiry of the prison sentences imposed. In deliberating whether to conditionally convict persons, consideration shall be given to their conduct during service of their sentences, performance of work tasks, relative to their abilities, and other circumstances indicating that the purpose of punishment has been achieved. (2) In its decision on conditional release, the court may order the convicted person to fulfil obligations envisaged by provisions of criminal law. (3). In the case referred to in paragraph 1 of this Article, unless conditional release is revoked, it shall be considered that the convicted person has served his sentence.

Revocation of Conditional Release Article 47: (1) The court shall revoke conditional release where convicted persons while on conditional release commit one or more criminal offences punishable by custodial sentences of six months or longer. (2) The court may revoke conditional release, where convicted persons while on conditional release commit one or more criminal offences punishable by custodial sentences of up to six months, or does not fulfil one of the obligations ordered by the court in accordance with Article 46 paragraph 2 of this code. In determining whether to revoke conditional release, the court shall particularly take into consideration whether criminal offences are related, their motives, and other circumstances indicating that revocation of conditional release is justified. (3) The provisions of paragraphs 1 and 2 of this Article shall also apply when the person conditionally released is tried for a criminal offence committed prior to conditional release. (4) When the court revokes conditional release it shall pronounce a penalty by applying provisions of Articles 60 and 62, paragraph 2 of this code, taking the previously pronounced sentence as already established. The part of the sentence served by the convicted person for the preceding conviction shall be calculated into the new sentence, whilst time spent on conditional release shall not be included. (5) If the person on conditional release is convicted to a term of imprisonment of less than one year, and the court does not revoke conditional release, the conditional release shall be extended for the period of imprisonment for such sentence served by the convicted person. (6) In the cases referred to in paragraphs 1 to 3 of

this Article, conditional release may be revoked not later than two years from the date the conditional release expired.

In certain cases provided for by law, the perpetrator of the offense may be imposed with a fine . Criminal definition of the terms and conditions about the fine article can be found by using CCRS 48-51.

Community service may be imposed for criminal offences punishable by imprisonment of up to three years or a fine (Article 52 paragraph 1). Community service may not be pronounced without the consent of the offender. In imposing these sanctions the court must take into account the purpose of the punishment and the type of offense committed.

Special provisions relating to offenses related to drugs are reflected in the possibilities of the court in criminal and misdemeanor proceedings to impose drug treatment. Treatment of drug addicts is voluntary, but the state as a mechanism of defense against drug and substance abuse measures has introduced compulsory treatment (Article 83 CCRS). When an adult person is in question, measure of compulsory treatment can be at liberty and open. Compulsory medical treatment at liberty shall be ordered to the defendant to a suspended sentence and cannot exceed 3 years, or until healing. The measure of compulsory treatment is imposed for the defendant who has committed a crime when there is a danger that the defendant due to dependencies is going to commit a new criminal offense. In case the defendant willfully fails to undergo the treatment, or treatment is interrupted, measure of compulsory treatment from freedom will be replaced with measure of the closed type of compulsory treatment. **Law on offenses** of the Republic of Serbia stipulates that the application of Section 46 of the violator may impose protective measures of compulsory treatment of alcoholics and drug addicts (Section 46, paragraph 6), and applying the **law on misdemeanors** section 53 can impose compulsory treatment of alcoholics and drug addicts. By applying article 68, paragraph 4 of the **juvenile offenses** person may impose a special obligation to undergo rehab and treatment of alcohol dependency, drug or other substance abuse and addiction. Special obligations that are imposed against a minor, the application of this article may not last longer than six months and must not interfere with a minor's education or employment. Execution of special obligations is carried out under the supervision of the Center for Social Work who has an obligation to regularly inform the court imposed on the execution of special duties. Where minors are concerned by the **Law on Juvenile Offenders and Criminal Protection of Juveniles** court for juveniles with application of Article 14 against a minor may impose one or more special obligations if it determines that the relevant requirements or prohibitions are needed to affect the minor and his or her behavior. One of the spe-

cial obligations that the juvenile court may impose to a minor is “to submit to examination and treatment of addiction caused by the use of alcoholic beverages or narcotic drugs” (Article 14, paragraph 7). Article 39 of the law on juvenile offenders requires that a minor can be imposed with security measures only when they pronounce educational measures or a juvenile prison sentence. Security measures of mandatory treatment of alcoholics and security measures of compulsory drug treatment cannot be imposed with warning measures and directives. Article 146 of the juvenile offenders are required to carry out security measures of mandatory psychiatric treatment and confinement in a medical institution, compulsory treatment of alcoholics and drug addicts. Compulsory treatment must be adapted to the age and personality of minors.

3. National Drug Laws and Institutions

Law related to Psychoactive Controlled substances: Stated by law, this determine the terms for the production of controlled traffic psychoactive substances, and the conditions and procedures for issuing permits for the manufacture, distribution, export, import and transit of controlled psychoactive substances. The law is setting up conditions for the cultivation and processing plants from which traffic can get controlled psychoactive substances, and use of psychoactive controlled substances. Article 2 of the said Act provides that controlled substances are psychoactive substances that are on the list of controlled psychoactive substances. Psychoactive substances controlled under paragraph 1 of this article are:

- 1) Narcotic drugs or narcotics,
- 2) Psychotropic substances,
- 3) Products of biological origin that have psychoactive effects,
- 4) Other psychoactive controlled substances.

Law related to substances used for illegal manufacture of intoxication drugs psycho damaging substances: This law regulates the conditions for the production and wholesale distribution of substances used in unauthorized production of narcotic drugs and psychotropic substances (hereinafter referred to as the precursors), supervision in this area in order to prevent their abuse or exploitation of an improper purpose, as well as other issues of importance to this issue.

Law on Drugs and Medical Supplies (“Official Gazette of RS”, br.30/2010): This law regulates the terms and procedure for obtaining marketing authorization, or entry of drugs into the registers by the Agency for Medicines and Medical Devices Agency of Serbia, production and marketing of drugs and medical devices and

monitoring in these areas, the Agency for Medicines and Medical Devices Agency of Serbia and other issues relevant to drugs and medical devices.

Criminal Code (“Official Gazette of the RS”, Nos. 85/2005, 88/2005 - corr., 107/2005 - corr., 72/2009 and 111/2009): This Code regulates all matters relating to criminal offenses (Type of crime offenses, stipulated penalties, etc.).

Criminal Code of Republic of Serbia incriminates:

Unlawful Production and Circulation of Narcotic Drugs (Article 246 CCRS):

(1) Whoever unlawfully produces, processes, sells or offers for sale, or whoever purchases, keeps or transports for sale, or who mediates in sale or buying or otherwise unlawfully puts into circulation substances or preparations that are declared narcotics, shall be punished by imprisonment of from three to twelve years. (2) Whoever unlawfully has grown poppy seeds or psychoactive hemp or other plants used to manufacture narcotic drugs, shall be punished by imprisonment of from six months to five years. (3) If the offence referred to in paragraph 1 of this Article is committed by a group, or if the offender has organized a network of dealers or middlemen, the offender shall be punished by imprisonment of five to fifteen years. (4) If the offence referred to in paragraph 1 of this Article is committed by an organized criminal group, the offender shall be punished by imprisonment of a minimum of ten years. (5) The offender referred to in paragraphs 1 through 4 of this Article who discloses from whom he obtained narcotics may be remitted from punishment. (6) Whoever unlawfully manufactures, obtains, possesses or gives for use equipment, material and substances that are known to be intended for production of narcotics shall be punished by imprisonment of six months to five years. (7) All narcotics and means for production and processing shall be seized.

Unlawful Keeping of Narcotics (article 246a CCRS): (1) Whoever unlawfully keeps for their own use small quantities of substances that are declared narcotics, shall be punished by a fine or imprisonment up to three years, or may be remitted from punishment. (2) The offender referred to in paragraph 1 of this Article who reveals from whom he purchases narcotics may be remitted of punishment. (3) The narcotics shall be seized

Facilitating the Use of Narcotics (article 247 CCRS): (1) Whoever induces another person to take narcotics or gives him narcotics for his or another's use or places at disposal premises for taking of narcotics or otherwise enables another to take narcotics, shall be punished by imprisonment of six months to five years. (2) If the offence referred to in section mark 1 of this Article is committed against a juvenile or several persons or has resulted in particularly serious consequences, the offender shall be punished by imprisonment of from two to ten years. (3) If the offences referred to in section mark 2 of this Article results in death of a person, the

offender shall be punished by imprisonment of from three to fifteen years. (4) For criminal offence referred to in paragraphs 1 and 2 of this Article, health-care workers who provide medical assistance to enable the use of narcotic drugs shall not be punished. (5) The narcotics shall be seized.

Drug addiction does influence the sentence that the addicts receive. During the sentencing consideration is given to beneficial and detrimental circumstances surrounding the case, together with the mental condition of the offender and his ability to understand the importance of the committed offence. This is particularly important because in instances where drug addiction is present or during the trial it becomes known that offender is a drug addict, a psychiatric evaluation is required to establish level of liability, which can have a significant influence on the sentence. Where drug addiction is suspected during the trial or it becomes known that offender is a drug addict, a psychiatric evaluation is required to establish level of liability, which can have a significant influence on the sentence. While psychiatric evaluation has a significant influence on instructing of mandatory treatment, courts are not formally bound by its findings. Formally there is no difference in law between 'soft' and 'hard' drugs in the Criminal Code of Republic of Serbia. Criminal Code Republic of Serbia does not recognize light and heavy drugs. All drugs were also sanctioned in the criminal code. RS legislative system does not distinguish between narcotics, dividing them into light and heavy, but puts them in the same category, which means that the abuse all kinds of drugs prescribed by the same criminal sanctions are related

Penalty policy in relation to drug related offenses range from several months to many years of imprisonment and prison sentences. Compared with some other sentences imposed for murder for example there is overlapping in length of the penalties. The longest sentence for crimes related to drug is from five to fifteen years, while the penalties for murder is punished by a term of imprisonment of between five and fifteen years duration, penalty for aggravated murder is ten to forty years, etc. Compared to the general sentencing level in Republic of Serbia treatment of offenders for drug related crime is less strict. There is a substantial discrepancy between the sanctions provided for in the law and the actual sanctions imposed by the courts. Over the last years, in the cases instituted in connection with drug-related offences, suspended sentences have outnumbered effective custodial sentences. Applying Criminal Code courts have sentenced, in addition to a suspended sentence, and imposed a measure of compulsory treatment of drug addicts in custody. The practice shows that the courts in most cases apply imprisonment with a suspended sentence and a measure of freedom to the treatment of drug addicts. This aspect is regulated by Criminal code. Organised manufacture and distribution of intoxicating drugs is considered as a more serious criminal offense (ar-

ticle 246 Criminal Code of Republic of Serbia paragraph (3, 4). *Article 246 CCRS Paragraph 3:* If the offence referred to in paragraph 1 of this Article is committed by a group, or if the offender has organized a network of dealers or middlemen, the offender shall be punished by imprisonment of five to fifteen years. *Article 246 CCRS Paragraph 4:* If the offence referred to in paragraph 1 of this Article is committed by an organized criminal group, the offender shall be punished by imprisonment of a minimum of ten years. All actions related to drugs are considered criminal. Depending on the type of the offense, Criminal Code of Republic Serbia applies article 246, 246a and article 247. Depending if the offense is related only to drugs, or there are other types of crimes which are part of the trial, addiction is considered as one of the relevant reasons for crime being committed. Criminal legislation does not look favourably on repeated crimes. In addition to considering drugs as a criminal offence, criminal legislation (criminal code, offence law...) as a legal protector of society and the individual, implemented specific obligations and measures for treatment of drug addicts and alcoholics regardless of whether they are imprisoned or free. During sentencing, most appropriate treatment is considered with the aim of yielding the best results.

4. Drug Law Enforcement in Practice

Since 2000 there has been a significant change in the Criminal Code of Republic Serbia. In accordance with European standards and as it is approaching and entering the European Union, the Republic of Serbia is continually changing legislation in the field of justice. As the finest example of change in the criminal law is the abolition of the death penalty, then the introduction of alternative sanctions etc. Within a decade of its existence, the NGO "VEZA" has presented in its bulletin information that they received from an inquiry into police procedure towards intravenous addicts. Their research record indicates that there is an inadequate relationship between the police and judicial authorities against drug addicts. As stated, 72% of them think that the police actions caused injuries which endangered their health. Also 72% experienced abstinence crisis in prison or under arrest and most of them were not treated, 34% of them have never received some kind of treatment for abstinent crises while being incarcerated. Through implementation of appropriate criminal - legal regulation, Ministry of internal affairs, in cooperation with Prosecutor's Office, organizes supervisory, tracking and custody actions against persons who unlawfully cultivate and produce narcotics. When we speak about unlawful production and circulation of narcotics by one person, Criminal Code of Serbia, in Article 246, paragraphs 1 and 2, regulates this field by definition:

Article 246 CCRS Paragraph 1: Whoever unlawfully produces, processes, sells or offers for sale, or whoever purchases, keeps or transports for sale, or who mediates

in sale or buying or otherwise unlawfully puts into circulation substances or preparations that are declared narcotics, will be punished by imprisonment of from three to twelve years.

Article 246 CCRS Paragraph 2: Whoever unlawfully has grown poppy seeds or psychoactive hemp or other plants used to manufacture narcotic drugs, shall be punished by imprisonment of from six months to five years.

When we speak about several persons acting in conspiracy or about organised criminal group, Criminal Code of Serbia, in Article 246, Paragraph 3 and 4, regulates this field by this definition:

Article 246 CCRS Paragraph 3: If the offence referred to in paragraph 1 of this Article is committed by a group, or if the offender has organized a network of dealers or middlemen, the offender shall be punished by imprisonment of five to fifteen years.

Article 246 CCRS Paragraph 4: If the offence referred to in paragraph 1 of this Article is committed by an organized criminal group, the offender shall be punished by imprisonment of a minimum of ten years.

One of the key questions in criminal - legal regulations is pretrial detention and how it functions.

Pretrial detentions as a way of reaction, may take place only when there are reasonable suspicions indicating that the person/persons committed the criminal act and there is an actual danger that if the person/persons stay free, it could endanger preliminary proceeding. Pretrial detention, as a way of governmental institutions reacting, is regulated by the Criminal Procedure Code of the Republic of Serbia, Chapter VIII (measures to secure the presence of the defendant and for unobstructed conduct of criminal proceedings). Criminal Procedure Code of Republic of Serbia in Article 188 paragraph 7 says that one of the measures which may be undertaken against a defendant in order to secure his presence and unobstructed conduct of criminal proceedings may be detention. Detention may be ordered only under the conditions specified in Criminal Procedure Code, Paragraphs 210-223. Detention, as a criminal - legal mechanism, is used in Republic of Serbia a lot. Total number of those in detention is constantly increasing. In Serbia in period from 2005-2011 there was more than 46,500 persons in detention. Law on Police of Republic Serbia, in paragraphs from 53-54, defines conditions and possibilities of police detention. Violation Code of Republic Serbia, in Paragraphs 165-168 also defines conditions and possibilities of detention. In cases where it is suspected that there is an addiction with people who are in custody for the commission of the offense, in order to incorporate all

the circumstances surrounding the crime was committed psychiatric expertise is used. The practice so far shows that this kind of expert evidence is good, but clinical practice suggests that long-term trials often leads to individual prisoners being subjected to medical treatment after several years of abstinence from all psychoactive substances, (There is a large gap of time between the crime-part trial-verdict-implementation measures of treatment), which in many ways makes it difficult and impedes not only the justice system, but also a system of execution of criminal sanctions and social medical systems that deals with the treatment of addiction. Criminal Code of Republic Serbia Article 246, 246a, 247 regulates all problems related to the drug trade. Applying article 246 paragraph(3) of the Criminal Code of Republic Serbia regulates the drug-related offenses that make up an organized group or individual who is part of an organized group or has organized a network of resellers or middleman. Article 246 paragraph (4) of the Criminal Code of Republic Serbia refers to the offense being committed by organized criminal groups. The law on organized crime contained a number of positive innovations in the battle against illegal production and trafficking of narcotics. The data indicate that about 60% percent of organized criminal groups in Serbia is engaged in illegal drug trafficking. In Republic of Serbia, there are neither general provisions dealing with the issue of police entrapment nor specific rules for the offence of drug trafficking. As in most countries statistics on the execution of penal sanctions are kept. Department for Execution of Criminal Sanctions publishes annual statistics on the work of the institutions under its jurisdiction. Judicial authorities (courts) as referral authorities have an opportunity to monitor the dynamics of the implementation of the sanctions imposed. The Law on execution of criminal sanctions in its provisions requires that the institutions for execution of criminal sanctions to regularly submit reports to the courts. Bureau of Statistics of the Republic of Serbia in reports is publishing information relevant to this issue.

5. Sentencing Levels and the Prison Situation

The prison population ranges between 8000 - 10000 prisoners. According to report of ICPS (International Centre for Prison Studies) prison population rate per 100.000 of national population was 153 (based on an estimated national population of 7.25 million at 31.12.2011). The type of prison offenders are sent to depends on their crime and their sentence. The risk of harm to the public and how likely offenders are to try to escape are also important considerations. Population in certain prisons depends on the seriousness of their convictions. Prisoners are sorted by the type of openness of prisons, and type and seriousness of their sentences. There are 28 prisons in Republic of Serbia under supervision of Prison Sentencing

Office operating under framework of Ministry of Justice. These prisons are split into the following types:

- 17 semi-open prisons
- 1 high security closed prison (KPZ Pozarevac)
- 1 closed prison
- 1 training prison for juvenile offenders
- 2 closed male prisons (KPZ Nis and KPZ Sremska Mitrovica)
- 1 semi-open female prison in Pozarevac
- 4 open male prisons, and
- 1 prison hospital (KPD Hospital in Belgrade).

Table 1
Number of registered drug addicts among prisoners

	Number of registered drug addicts among prisoners						
	2005	2006	2007	2008	2009	2010	2011
Detained	706	2143	3208	2801	1534	2151	1770
Convicted	1654	1724	3019	2948	2528	3286	2811
Juveniles	96	98	112	34	32	60	20
Punished for minor offence	103	224	241	280	401	714	328
Total	2559	4189	6580	6063	4495	6211	4929

Source: Ministry of Justice Annual Report Prison Administration Operation

Under the Criminal Code of the Republic Serbia, all drug-related offenses are characterized as a criminal offense. At this point it is quite difficult to distinguish whether the persons were deprived of their liberty for possession and sale, or for personal use. It is evident that almost all prosecuted indicate that the drug was for personal use.

Table 2
Total number of prisoners per category from 2005-2011

Received during the 2005		received during the 2006		received during the 2007		received during the 2008		received during the 2009		received during the 2010		received during the 2011	
Con-victed	11917	Con-victed	12711	Con-victed	13668	Con-victed	14214	Con-victed	9023	Con-victed	7660	Con-victed	7925
Treatment measures	314	Treatment measures	273	Treatment measures	316	Treatment measures	278	Treatment measures	73	Treatment measures	76	Treatment measures	79
Detained	9903	Detained	10014	Detained	10461	Detained	12086	Detained	9299	Detained	8585	Detained	8510
Juvenile imprisonment	46	Juvenile imprisonment	50	Juvenile imprisonment	49	Juvenile imprisonment	50	Juvenile imprisonment	12	Juvenile imprisonment	4	Juvenile imprisonment	9
Educational measure	242	Educational measure	240	Educational measure	213	Educational measure	243	Educational measure	84	Educational measure	80	Educational measure	98
Punished for minor offences	5530	Punished for minor offences	5744	Punished for minor offences	5388	Punished for minor offences	6093	Punished for minor offences	6829	Punished for minor offences	7567	Punished for minor offences	10235
Total	27952	Total	29032	Total	30095	Total	32964	Total	23972	Total	26856	Total	26856

Source: Ministry of Justice Annual Report Prison Administration Operation

Table 2 shows only the data on the number of people during those years arriving at execution sanctions. Onto the specific number must be added those that are already in prison and therefore the number of inmates in one year are far higher. Data show that, on average, in prisons in Serbia there are between 8000 to 10,000 inmates at any moment (Estimated maximum capacity of institutions in Serbia 8887 persons deprived of their liberty). In relation to the anticipated capacity of institutions for execution of criminal sanctions it is evident that here is a problem of congestion of the institutions. Number of persons deprived of their freedom in the Republic of Serbia from year to year is increasing which has led to overcrowding of institutions. In addition to this problem there is an evident problem with the adequate redistribution of persons deprived of their freedom in the institution, which results in certain institutions having a higher number than the capacity of the institution allows. While on the other hand, some institutions have a smaller number of persons deprived of their liberty than they could receive by capacitive conditions. Although prisons are a closed system controlled drug use is present inside the controlled system. Drug use creates dependence, so from that it can be concluded that one part of the prison population continues to take drugs inside prison (during a prison sentence).

Table 3

Type and quantity of illegal substances and objects found in searches

Type and quantity of illegal substances and objects found in searches							
	2005	2006	2007	2008	2009	2010	2011
Narcotics (heroin, cocaine)	87 gr.	370 gr.	470 gr.	194 gr.	209 gr.	139 gr.	132 gr.
Narcotics (marihuana and hashish)	370 gr.	310 gr.	520 gr.	127 gr.	419 gr.	177 gr.	180 gr.
Non-allowed medications, tablets etc.	11 pieces	1876 pieces	> 4000	2993 pieces	4456 pieces	4634 pieces	5131 pieces
Alcohol	19 liter	30 liter	22 liter	157 liter	142 liter	141 liter	131 liter

Source: Ministry of Justice Annual Report Prison Administration Operation

Based on data from seized illegal and legal psychoactive substances shown in Table 3 (shown in the table are only statistical data relating to legal and illegal psychoactive substances, it does not diminish the existence of other prohibited items into prisons, which are the subject of this paper). From these data in Table 3 it can be concluded that there is continued use of drugs in prisons. It often happens that

when using the drugs within the prison prisoners share equipment, and consequently the risk of transmission of infectious diseases is bigger. The problem of infectious diseases within prisons is evident and it increases the frequency of certain infectious diseases. Determining diseases that were obtained prior to arrival or during the prison sentence is difficult to clearly define (Health Education of the Republic of Serbia's population is low, there is no developed habit of keeping control of health).

Table 4
Type and rate of infectious diseases

INFECTIOUS DISEASES	2005	2006	2007	2008	2009	2010	2011
HEPATITIS C	528	1400	1784	1349	2097	1570	3187
HIV	22	19	27	47	70	46	60

Source: Ministry of Justice Annual Report Prison Administration Operation

Table 4 presents data on infectious diseases related to HIV and hepatitis C, but this does not diminish the existence of other infectious diseases (hepatitis A, hepatitis B, tuberculosis, etc). In relation to the number of people in institutions for the enforcement of sentences of deprivation of liberty for alleged period there was a dramatic increase in people suffering from hepatitis C (Statistics for the period 2005-2011 have shown that patients with the diagnosis of an infectious disease hepatitis C is the most common infectious disease). Number of people diagnosed with hepatitis C in the period 2005 to 2011 was six times higher. When it comes to harm reduction programs in correctional institutions these programs are used to a minimum, and this type of treatment is not sufficiently exploited.

Table 5
Persons on substitution program

Persons on substitution program	
Number of persons on substitution program as at 31 Dec 2008	66
Number of persons on substitution program as at 31 Dec 2009	103
Number of persons on substitution program as at 31 Dec 2010	119
Number of persons on substitution program as at 31 Dec 2011	128

Source: Ministry of Justice Annual Report Prison Administration Operation

There is great potential for these mechanisms to be much more developed and / or extend the application of alternative sanctions. Currently in institutions for the

enforcement of the sanctions program works the “department without drugs” that were established in cooperation with and support of OSCE mission, which aims at absolute abstinence from all psychoactive drugs without substances.” Department without drugs” entered into the strategies of the Republic of Serbia in the fight against drugs to expand and improve the program by linking it to make it easier to facilitate the implementation of treatment.

Table 6
Persons on Drug-free Unit

Drug-free Unit		
Capacity of Drug-free Unit 2011 332 persons	Number of persons in the Unit as at 31 Dec 2011 169 persons	Average number of persons in the Unit in 2011 225 persons
Capacity of Drug-free Unit 2010 43 persons	Number of persons in the Unit as at 31 Dec 2010 15 persons	Average number of persons in the Unit in 2010 12 persons

Source: Ministry of Justice Annual Report Prison Administration Operation

First basic of public prosecution in Belgrade signed an agreement with the Special hospital on addiction, Theodore Drajzera 44, in Belgrade on implementation institutes of the Opportunity (Delayed prosecution). By applying the Law on Criminal Procedure article 283 (Public Prosecutor may postpone prosecution for criminal offenses for which fines or imprisonment of up to five years, if the suspect accepts one or more obligations). The application of article 283, paragraph (5). Law on Criminal Procedure the public prosecutor may face in the process to delay prosecution if the suspect agrees to undergo rehab for alcohol or drugs. In the case that the agreement is complied with and it produces good results (Terminated with the use of psychoactive substances) in the legally stipulated time (Deadline is set by public prosecutors, with the provision that this deadline cannot be longer than a year) does not come up to the institution of the criminal proceedings. At the moment there is no comprehensive strategy for dealing with the reintegration of offenders after the execution of prison sentence in Republic of Serbia. Preparation of legislation to regulate this area is ongoing. Whether a person gives to others or sells abuses or is dependent on the substance is in relation to the legal and moral norms in the conflict. Crime of the Narcotics-offenders can be viewed in two ways: as a criminal act and the type of offenses addicts commit to reach drugs and crime as addicts under the influence of drugs. According to data presented at the National Commission for the Prevention of substance abuse held on 11.04.2008, the ¾ robbery in Serbia are offenses that have been committed by drug addicts. If we add

the fact that the RS is partially covered by Smuggling routes, the so-called “Balkan route” then the data on the prevalence of criminal activities related to drugs is even more alarming. With regard to the geographical position of our country, it occupies one of the major places as a transit zone for illegal distribution of narcotics. All this leads to the fact that the rate of recidivism in connection with drug trafficking or criminal offenses were committed under the influence of drugs are high.

II. Initiatives for drug law reform undertaken by the government and/or the parliament in the last 10 years

The Republic of Serbia is a major transit country for the movement of narcotics. Serbia took measures to improve its capacity to combat drug trafficking through new laws and law enforcement initiatives that tend the regulations on narcotics, corruption, organized crime. Serbia’s updated drug laws are adequate. However improved communication and strategic coordination among law enforcement and judicial bodies can considerably enhance the comprehensive law enforcement landscape.

2001: Practice was introduced to permit NGO to visits facilities for the prison administration

2002: A special law was passed(Law on the fight against Organized Crime).

2004: Department for Execution of Penal Sanctions established a commission for the health care of prisoners.

2005: The Ministry of Justice of the Republic of Serbia adopted the Strategy for the reform of the penal system in Serbia.

2005: Decision on establishing a national strategy to fight corruption.

2005: A law on juvenile offenders and criminal protection of juveniles was adopted.

2006: The Law on Execution of Criminal Sanctions was adopted.

2008: The Serbian parliament adopted a set of laws to improve efforts to combat illicit drug trafficking, organized crime and corruption.

2008: The Serbian Parliament passed a set of laws in October 2008 to enhance Serbia’s law enforcement’s efforts to combat narcotics smuggling, organized crime, and corruption. The package of laws includes a law to regulate immigration and movement of people through the country, an asset seizure law, and a law creating a new Anticorruption Agency.

2009: The government of RS adopted a strategy for the fight against illicit drugs in the Republic of Serbia for the period 2009 to 2013.

2009: Amendment of the Criminal Code of the Republic of Serbia was performed.

2009: Established the National Commission for the Fight Against illicit Drugs.

2010: The law on controlled substances psychoactive was adopted.

2010: A strategy to reduce the overload accommodation in the institutions for execution of criminal sanctions in the Republic of Serbia for the period since 2010 - 2015 was adopted.

2012: First basic of public prosecution in Belgrade signed an agreement with the Special hospital on addiction, Theodore Drajzera 44, in Belgrade on implementation institutes of the Opportunity (Delayed prosecution).

III. Standpoints of relevant stakeholders on drug law reform and proposals and recommendations for further research and advocacy work

- Criminal Code shall be in accordance with EU law
- Amendments to the Criminal Code of RS. There was a change in the criminal law relating to illicit drug offenses
- The Criminal Code is in line with the current trend in the world.
- The Criminal Code RS does not recognize the division of light and heavy drugs and criminalize all acts related to illicit drugs
- In years to come there must be significant investment in institutions that deal with treatment of addicts.
- Issues related to illicit drugs should not be regulated only at the state level, but there should be an international collaboration of all sectors
- On the basis of the strategy and action plan implementing a series of preventive programs has been initiated.
- In years to come a lot of work has to be done in raising the level of professional public awareness about the disease of addiction in order to reduce stigmatization of addicts.
- In the next years there must be intense and more cooperation and communication between the state and NGOs in the field of drugs.
- The next period in RS must open several methadone centers in support of the harm reduction program, all in order to help the addicts.

- At this point, agreements on cooperation for an even better health care system- the system of execution of criminal sanctions and social system in order to facilitate the social reintegration of addicts when they are released from prison are under discussion.
- Continuous education will continue in health, police, etc. on addiction.
- To strengthen citizen's awareness that drug addiction is a disease and there is no need to stigmatize addicts.

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The Drug Law reform Project in South East Europe aims to promote policies based on respect for human rights, scientific evidence and best practices which would provide a framework for a more balanced approach and will result in a more effective policy and practice. A major aim of our activities is to encourage open debate on drug policy reform and raise public awareness regarding the current drug policies, their ineffectiveness and their adverse consequences for individuals and society.

Το Πρόγραμμα Μεταρρύθμιση της Νομοθεσίας για τα Ναρκωτικά στη Νοτιοανατολική Ευρώπη στοχεύει στην προώθηση πολιτικών που βασίζονται στο σεβασμό των ανθρωπίνων δικαιωμάτων, την επιστημονική τεκμηρίωση και τις βέλτιστες πρακτικές που θα προσφέρουν ένα πλαίσιο για μια περισσότερο ισορροπημένη προσέγγιση και θα οδηγήσουν σε αποτελεσματικότερες πολιτικές και πρακτικές. Ιδιαίτερα σημαντική επιδίωξή μας είναι να ενθαρρύνουμε την ανοιχτή συζήτηση για μεταρρύθμιση της πολιτικής των ναρκωτικών και να ευαισθητοποιήσουμε την κοινή γνώμη για τις δυσμενείς επιπτώσεις και την αναποτελεσματικότητα της ισχύουσας πολιτικής των ναρκωτικών για τα άτομα και την κοινωνία.

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