



news release

from the EU drugs agency in Lisbon

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NEW STUDY INDICATES FEWER MINOR DRUG OFFENCES END UP IN COURT

EU drugs agency executive Director Georges Estievenart today launched a study that he described as the 'first concrete step taken to analyse the implementation of penal policies related to the drug problem across all EU Member States'.

The study shows an increasing trend throughout Europe for fewer minor drug offences to end in court, with the authorities concentrating on the retail sale of drugs and property crime.

In a foreword to the report from the Lisbon-based **EMCDDA** — *Prosecution of drug users in Europe. Varying paths to similar objectives* — Estievenart says drug-related offences and the response of the criminal justice system have escalated throughout Europe. 'There is also an increased level of awareness of the issue — by both policy-makers and the general public.'

He says this **EMCDDA** study, focusing on the variations between law and practice, aims to highlight the real outcomes for individuals arrested for using and selling drugs and committing property crimes. 'This is a challenging and evolving domain that is very relevant for policy-makers and we are aware that it needs to be further explored using scientific methods. However, we are convinced that this study makes a valuable contribution to increasing knowledge of the varying approaches across the Member States and to the political debate on the prosecution of drug users.'

Estievenart adds that researching and analysing the responses of the criminal justice system to drug offenders throughout Europe is one of the **EMCDDA**'s priorities. The study is the result of a decision taken by the agency's management board in 1999 to set up a legal information system on drugs (see <http://eldd.emcdda.org>). This opened the way for objective comparison between European drug laws and for the promotion of studies in the area of penal policy.

Common practices emerging EU-wide

Today's report says recently-published research describes how all EU Member States allow a certain number of drug cases to be dropped or halted at police or prosecution level. It indicates a considerable reduction in drug cases dealt with in the courts.

The **EMCDDA** study finds that this general tendency is to some extent visible in relation to minor drug offences and that, although there are differences in practices between Member States, there is some common ground from the point of view of the objectives pursued. In relation to 'simple' use or possession, i.e. for personal consumption, there is, says the **EMCDDA**, a general tendency EU-wide for prosecutors and/or the courts to look for opportunities for discontinuing criminal proceedings – or, failing that, some arrangement that falls short of severe penalties.

'Greater priority is already given in nearly every Member State to policing/prosecution of retail sale (and of property crimes, regardless of whether or not they may have been committed by drug users) than to policing/prosecution of use/possession *per se*', the report finds.

When it comes to possession/use of small amounts of drugs, not in public, most Member States discontinue prosecution at or before the court stage. In relation to the retail sale of a small amount or property crimes committed by drug users, most countries still tend to prosecute unless they are seen as very closely connected to use.

The **EMCDDA**'s study comes to the following conclusions:

- Common practices in this field are emerging among Member States. However, better comparative information about prosecution practices is required. In future, this should be based not only on expert consultation, but also on interviewing police and prosecution staff and on direct research observation of everyday practices (of the police in particular). Such work could in time lead to an indicator on prosecution/non-prosecution practice.
- Further work might also contribute to the development of a common position in the **EU**. This could build on existing national prosecution practices, emphasising the objectives to be achieved. These objectives might include the reduction of drug supply and drug demand; the reduction of problems that may be associated with drug supply and drug demand (such as public nuisance, or property crimes); the achievement of such objectives through means that are proportional; and understanding by the public of the objectives.
- Those Member States whose legal framework does not allow for non-prosecution yet whose drug strategies include 'informal' actions by the police — including diversion to treatment — might wish to consider the case for putting police and/or prosecution practices on a more formal footing.

The dilemma often faced by the legal system is summed up in the **UK** country file of the report: 'It is difficult to say what should happen ideally, or what should be common standards on prosecution of drug users. Drug users are, in one sense, no different from other offenders and require the same standards of guilt and procedures to be applied as for others. They differ in that they tend to be persistent offenders and they also often require treatment as part of their sentence.'

Comprehensive details of Member States' national drug laws have been collected and made available through the EMCDDA web site <http://eldd.emcdda.org> This includes a comparative study that examines the evidence of a trend in decriminalisation of drug use across the EU. The recent publication 'Drug in focus - Drug users and the law in the EU' was aimed at policy-makers and examined how the law treats drug users.

See <http://www.emcdda.org/infopoint/publications/focus.shtml>

The executive summary of the study is available for free at: <http://www.emcdda.org>

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