ISSN 1725-5295

European Monitoring Centre
for Drugs and Drug Addiction

ANNUAL REPORT 2005

SELECTED ISSUES

EN

Legal notice

This publication is available in English.

Cataloguing data can be found at the end of this publication.

Luxembourg: Office for Official Publications of the European Communities, 2005

ISBN 92-9168-246-2

Printed in Belgium

PRINTED ON WHITE CHLORINE-FREE PAPER

European Monitoring Centre
for Drugs and Drug Addiction

Rua da Cruz de Santa Apolónia, 23–25, 1149-045 Lisbon, Portugal
Tel. (351) 218 11 30 00 • Fax (351) 218 13 17 11
info@emcdda.eu.int • http://www.emcdda.eu.int

Selected issue 2

Alternatives to imprisonment — targeting offending problem drug users in the EU

Introduction

The alternatives to prison that may be offered to drug-using offenders cover a range of sanctions that may delay, avoid, replace or complement prison sentences for those drug users who have committed an offence normally sanctioned with imprisonment under national law. In this chapter, the focus will be on those measures that have a drug-related treatment component. It will describe the political and legal background, the application and implementation, including common problems, and the effects of treatment as an alternative to imprisonment.

Alternatives to imprisonment can be related to the aim of 'rehabilitative justice', that is, a focus on rehabilitation for the long-term benefit of both offenders and the community. Like the eighteenth-century change from physical punishment to moral rehabilitation, rehabilitative justice can be seen as an extension of longstanding attempts to increase the efficiency of sentencing (see, for example, Foucault, 1975). Mediation, community work and administrative and monetary sanctions are some examples of injunctions that are used as alternatives to imprisonment or, more generally, alternatives to punishment. A review of international research conducted between 1982 and 2002 revealed widespread support for restorative sentencing options, particularly for young offenders (Roberts and Stalans, 2004).

Alternatives to imprisonment cannot be viewed separately from the marked increase in drug-related crime, a phenomenon that has been ongoing since the 1960s, and developments in criminal legislation in the EU countries (see *Annual report 2005: the state of the drugs problem in Europe,* Chapter 7 and www.emcdda.eu.int).

For offenders in the EU, the most severe consequence of crime is imprisonment. However, prison is a particularly detrimental environment for problem drug users (EMCDDA, 2003). Prisons are overcrowded in many countries, and economic reasons for promoting alternatives to prison should not be underestimated because they are generally less expensive than incarceration.

As an alternative to prison, drug-related treatment that is linked to the penalty has been progressively introduced over recent decades for problem drug users. This development is consistent with the evolution of more humanitarian paradigms in legislation and criminal justice systems as well as with more advanced psychosocial and medical models of addiction. In the EU today, problem drug users are increasingly considered as having a medical and psychosocial disorder and not merely as criminals. At the same time, it has been shown scientifically that drug-related treatment can be effective in breaking the vicious and costly circle of crime and drug use.

Policy and legal developments

International developments

The UN Single Convention on Narcotic Drugs of 1961, signed and ratified by the countries of the EU, was the first international document endorsing the principle of providing measures of treatment, education, aftercare, rehabilitation and social reintegration as an alternative to, or in addition to, conviction or punishment (Article 36 (b)) for drug-related offences. In the intervening 40 years, the principle has been reaffirmed and strengthened several times by UN and EU agreements, strategies and action plans and by interpretation of the UN conventions as proposed by the International Narcotic Control Board (INCB) ([1]).

In its 2004 report, the INCB, which is the control organ for the implementation of UN drug conventions, favoured treatment as an alternative to prison:

> 'Drug prevention efforts, coupled with accessible treatment programmes offering psychosocial support and pharmacological therapy, supported by local law enforcement efforts that target the drug trafficking activities of addicts, may have a synergistic effect: reducing both the supply of and the demand for illicit drugs. Programmes that offer alternatives to prison and combine both law enforcement and individual recovery components have proved to be effective both in treating health conditions associated with drug abuse and in reducing crime; they may also prevent young drug

([1]) UN comprehensive multidisciplinary outline (1987); UN Convention Against Drug Trafficking (1988); UNGASS declaration on the guiding principles of drug demand reduction (1998); UNGASS action plan (1999); EU drugs strategy (2000–04); EU action plan on drugs (2000–04); United Nations General Assembly's special session 8–10 June 1988: *Political declaration guiding principles of drug demand reduction and measures to enhance international cooperation to counter the world drug problem*; and INCB, *Annual report 1996,* Chapter 1: Drug abuse and the criminal justice system, paragraph D. Effective use of criminal justice systems, sub-para 23 and 26 (at http://www.incb.org/incb/en/index.htm).

abusers from coming into contact with the criminal culture in prison. Consequently, demand reduction activities such as treatment alternatives that provide choices for drug abusers outside drug distribution networks may affect drug trafficking organizations and reduce their ability to supply illicit drugs.'
(United Nations, 2005)

The EU action plan on drugs 2000–04 (Council of the European Union, 2000) proposed that Member States set up concrete mechanisms to provide alternatives to prison, especially for young drug offenders. The subsequent evaluation of the action plan stated that, in all Member States, more attention was being paid to drug-using offenders, as illustrated by the increase in community-based alternatives to incarceration (European Commission, 2004a).

Changes in the national legislation of several countries reflect this development. Laws enacted in Portugal in 2000, Luxembourg in 2001, Belgium and Greece in 2003 and, to a lesser extent, the United Kingdom in 2004 removed or reduced prison sentences for certain drug use or possession offences, ostensibly for all adults although this would include young adults (and minors) as well. In 1999, a circular in France recommended custody as a last resort for young offenders. The Children Act of Ireland makes the same recommendation, and emphasises prevention and the diversion of young offenders from prosecution. To this end, as well as raising the age of criminal responsibility, it also enshrines the Garda Juvenile Diversion Scheme in statutory law. A law on the criminal responsibility of minors in Spain in January 2000 applies to those minors aged between 14 and 18 years who were fully intoxicated, or suffering severe withdrawal symptoms, at the time of committing an offence, and offers a variety of penalties, both including and excluding custodial measures (EMCDDA, 2004).

The new EU action plan on drugs 2005–08 (adopted by the European Commission and sent to the Council of the EU and the European Parliament at the time of writing) asks Member States to 'make effective use and develop further alternatives to prison for drug addicts who commit drug-related offences' (European Commission, 2005).

National legislation

The first European references to alternatives to prison for drug users date from around the beginning of the 1970s. For example, the concept of alternatives to prison for drug users was mentioned in a Danish government report in 1969. France included the concept in its penal code when the French law of 31 December 1970 linked the principle of treatment order to all stages of the criminal procedure from referral to the public prosecutor to final judgment. Subsequently, all EU Member States have modified their legislation and their criminal justice system as well as their health and social services systems in order to assist offending problem drug users to improve their health and their social situation and to reduce crime and other harm to society.

Legal situation — treatment alternatives to prison

An ELDD (European legal database on drugs) survey of the main treatment alternatives to prison or prosecution offered by the criminal justice systems throughout the Member States shows a primary focus on addicts or problem

Three stages of the legal proceedings

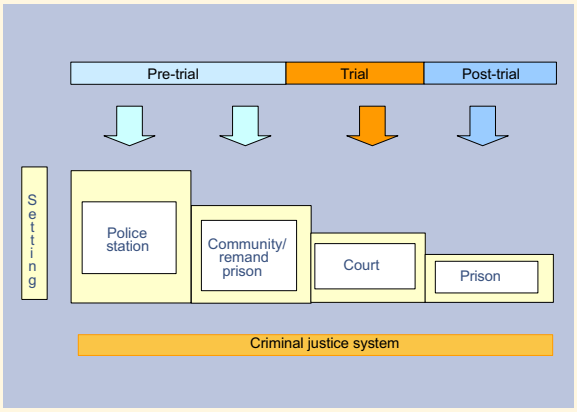
Generally, treatment as an alternative to imprisonment can be applied at three distinct stages of the legal proceedings (Werdenich and Waidner, 2003).

Pre-trial stage: Custody and pre-trial detention can be suspended for treatment. Decisions on diversion to treatment are made by the police, prosecutor or remand judge. Client, probation service and drug treatment providers are included in the decision-making procedure.

Trial/court stage: The judge can decide to suspend proceedings for a certain period to allow the offender to access treatment, or the sentence can be fully or partly suspended conditional on the client entering a particular treatment programme. Client, judge, probation service and drug treatment provider are included in the decision-making procedure.

Post-trial stage: After serving part of the prison term, inmates can be placed in a residential clinic outside the prison. This can also be an option for conditional release. This decision is made with the consent of the client and is taken by the judge.

Criminal justice settings and referral to treatment for drug-using offenders



users ([2]). The number of treatment alternatives that the laws specify for addicts is approximately twice as many as those available for the wider category of 'drug users', that is, those found in possession of drugs. This may suggest that addicts are somehow viewed as the more appropriate recipients of rehabilitative justice and that punishment is viewed as perhaps less appropriate than for the casual drug user. It reflects the view that addiction is a medical problem that can be successfully treated, whereas drug use by non-addicts is, apparently, still seen as responsive to legal sanctions.

The survey also shows that, in many countries, the offer of treatment alternatives is not only limited to an accused charged with an offence against the drug laws (e.g. drug use, possession, trafficking). If an addict is charged with a non-drug offence, such as a property offence — with acquisitive crimes, carried out to support a drug habit, being among the principal non-drug law offences committed by drug users — there is a considerable number of treatment options available to the court or prosecutor. This shows a legislative will to avoid prison for the offender, increasing the chances of successful treatment and limiting the chances of recidivism.

Otherwise, the various treatment options share similar characteristics, with occasional differences. The majority are options for the judiciary to choose from instead of a penalty, with a few that must be awarded in certain situations: either first-time offence or, conversely, when the addiction appears to be extremely strong. The treatment options are generally alternatives to prosecution or a sentence, although a few actually are the sentence and some are given in addition to the sentence rather than as an alternative. The 'alternative' status is usually conditional on the successful completion of the treatment programme, in that failure to complete the treatment to the standard required will result in the prosecution or sentence being reinstated. Finally, only a few laws specify the particular setting where the treatment should take place, such as a closed institution. Most are to be carried out in authorised treatment settings, with the option of inpatient or outpatient treatment presumably left to the judge or advisors; a number of laws do not even mention the setting where the treatment option should take place.

Political and public consensus

There is a broad political consensus on the principle of treatment as an alternative to prison, which seems to be backed by citizens' attitudes (Reitox national reports). For example, a survey in Vienna found that the approval for imprisonment for drug use declined from 27 % to 21 % between 1995 and 2003, and in Ireland, in a recent survey of public perceptions of crime, nearly three quarters (73 %) of respondents believed that non-custodial sanctions, such as fines and community service, would be more fitting than custodial sanctions for certain crimes. In Finland, however, almost two thirds of the adult population considered severe punishment to be an important aspect of drug policy. In particular, the opinions of 15- to 24-year-old males towards anti-drug work were in favour of control measures at the expense of preventive work and, especially, treatment. Recently, public debate in Bulgaria has dealt with the drug problems encountered by delinquents, their needs and the problems related to their treatment.

Investigations by the French Parliament focused public attention on overcrowding and other harmful conditions in prisons, and influenced public opinion in favour of expanding alternatives to imprisonment. The 2003 Warsmann parliamentary report concluded that imprisonment 'should be reserved for the most serious offences'. Consequently, new legislation to adapt the legal system to developments in criminal behaviour listed alternatives to imprisonment as one of the relevant methods for the prevention of reoffending.

Organisation and administration

Inherent conflict between systems

The implementation of alternative measures to imprisonment entails an inherent source of conflict between the different administrative systems involved: the criminal justice system and the health and social services systems.

Legislative and executive decisions in the field of criminal justice are taken at national level in most EU Member States, except in federal states such as Germany and Spain where the decision-making powers are divided between the central and the regional levels. Legal and regulatory decisions relating to the health and social services systems are generally also taken centrally, whereas executive power tends to lie in the hands of the respective regional or local authorities. It seems evident that the need to coordinate decision-making and the action taken between two systems with such substantial differences in their respective degrees of decentralisation makes it more difficult to develop coherent policies for dealing with drug-using offenders (EMCDDA/University of Deusto, 1999).

Justice systems play a central role in the final decision-making process concerning the diversion or not of an offender to treatment. Generally, these decisions involve

([2]) For more detailed information, the full survey can be seen at http://eldd.emcdda.eu.int/?nnodeid=5036.

the prosecutor or the judge (court proceedings) and/or prison officials (execution of detention sentence).

A key obstacle to the judiciary system making full use of the option for treatment as an alternative to prison would be insufficient knowledge of the options provided for by law. A 'Green Paper on the approximation, mutual recognition and enforcement of criminal sanctions in the European Union', presented by the European Commission in 2004, stresses the importance of alternative sanctions in crime prevention and proposes that the acceptance of such sanctions by judges could be improved by setting up a mechanism at EU level to disseminate information, pool experience and promote good practice in this area.

O'Donnell (2002) lists the following possible reasons why progress can be slow in criminal justice reforms even when a consensus appears to be established such as treatment as an alternative to prison: institutional pessimism; bureaucratic inertia; problems of definition and measurement; political and moral considerations; and poorly designed evaluations from which generalisation is difficult.

The available evidence indicates that drug-using offenders who are able to control their addiction are less likely to break the law again than those who are unable to control their addiction (e.g. Gossop et al., 2001). However, treatment professionals traditionally regard personal commitment and free will as basic criteria for drug-related treatment and many consider that coercion is not very favourable to the success of drug treatment. Many stress the difficulty of creating a relationship of trust and motivation with the patient in a court-ordered context, where the client is in treatment because of a criminal sentence and the therapist may feel in the position of an auxiliary of the court.

An early German evaluation study (Kurze and Egg, 1989) questioned workers from treatment centres about problems with clients who were admitted for treatment under the drugs law. Complaints included a lack of insight by the clients into the illness and a lack of willingness to adhere to regulations. Workers believed that successful treatment was obtained only by using extensive motivational therapy to transform external motivation into self-motivation. In this study, as in many others, workers reported on the negative effect of these clients on the rest of the group. Behavioural patterns acquired while in prison were transferred to the therapy group, thereby considerably aggravating the atmosphere in the centre as well as impairing the motivation of other patients (Heckmann et al., 2003).

However, not all addicts choose treatment over imprisonment: the threshold for treatment might be perceived as too high, the threat of a sentence is not sufficient or realistic enough or the addict is not motivated (Van Ooyen-Houben, 2004a).

Cooperation made possible

Efforts are made to bridge the gap between the judicial and the health and social service systems through coordination structures and initiatives. Often, informal cooperation mechanisms at local level have been forerunners to more stable institutionalised forms. Small countries and regions with some autonomy in justice matters are often in a more advanced phase in the coordination process than larger centralised nations.

In Belgium, an interministerial group was created to coordinate these efforts (Law of 3 May 2003). The therapeutic advice given by independent experts has grown from an informal contribution to a formal one — 'justice case managers' — although it is still in the implementation phase. In the German *Land* of Berlin, there is an agreement between the prosecution, justice and drugs services to facilitate the continuity of treatment for drug users who are under warrant for arrest. In France, an institutional coordination framework was created to try to improve welfare and health referral for substance users brought before the court. This was extended to all subregional areas (*départements*) in 1999 in the form of local service agreements signed between departmental authorities and treatment establishments responsible for providing treatment to those referred to them by the courts. Evaluation of this system showed that it allowed better determination of the health of those people who come to the notice of the courts, a greater range of treatment options and entry into a reinforced network of court and health authorities. These improvements were most visible in the pre-sentencing phase. In Italy, each region is now responsible for health and social care, including prisons. This has led to closer ties and improved capacity to provide appropriate alternatives to prison and to provide support for reintegration of offenders on completion of their sentence.

In Denmark, Ireland, Malta and the Netherlands, for example, probation services act as a bridge between the following different systems: justice, social welfare and health. The United Kingdom possesses a wide range of services, which cooperate nationally and locally in making treatment accessible to drug-using offenders. Among these are arrest referral schemes, drug treatment and testing orders (DTTO) and the criminal justice interventions programme (CJIP), introduced in 2003, which takes advantage of all opportunities to identify offenders with drug problems within the criminal justice system

(i.e. in police custody, with the courts, on probation and in prison) and to engage them in treatment using a case management approach. This led to an increase of 47 % in uptake of treatment in the CJIP areas and a reduction in the number of people on waiting lists.

Funding and provision

Judicial sanctioning practice may be determined not only by penal law but also by financial considerations. For example, in the USA, the average cost for one full year of methadone maintenance treatment is approximately USD 4 700 per patient, whereas one full year of imprisonment costs approximately USD 18 400 per person (NIDA, 1999). The cost of an English DTTO is estimated to be between GBP 25 (EUR 36) and GBP 37 (EUR 54) per day, compared with GBP 100 (EUR 145) per day for imprisonment ([3]).

Usually, the mainstream drug treatment system is called on to ensure that offenders with drug problems receive treatment. The funding of treatment as an alternative to imprisonment for problematic drug users reflects the political–administrative structure of each Member State and may be rather complex. However, whereas treatment in prisons is funded by the justice services in most countries, treatment as an alternative to prison is usually funded by health or social welfare and security sources, with contributions made by the justice system in some cases. Local authorities play a central role in the national schemes in many countries (Denmark, France, Ireland, the Netherlands, Austria) because they are responsible for the care and treatment of drug users. As for drug treatment in general, funding is often channelled to NGO-managed drug services.

The extended possibilities for drug-related treatment as an alternative to imprisonment have greatly increased the workload of the treatment services. In some countries, this has led to waiting lists or a partial breakdown in the capacity of such services. In Ireland, Hungary, the Netherlands, Austria, Poland and Norway, convicted drug addicts who are willing to begin treatment are reported sometimes to have difficulties in finding a place in a treatment centre. In Sweden, the local welfare authorities that are responsible for drug care and the probation service sometimes have problems when negotiating treatment costs for sentenced offenders because the need for residential treatment is not acknowledged at local authority level. Denmark introduced a treatment guarantee for drug users in 2002 and, since then, the prison and probation services have not had any problems finding treatment slots for drug-using offenders who wish to be placed in treatment.

Implementation

Growing recourse to alternatives

Although recourse to alternatives to prison has increased during recent decades in the EU-15 Member States, in some countries this development has stagnated during the last five years. One of the consequences of increased recourse to alternatives to prison has been 'net widening' (Cohen, 1985), whereby the number of people falling under the supervision of the criminal justice system has increased, often without reducing the number of drug users in prison. In addition, it is not always clear from the data whether the alternatives are applied to problem drug users, or to recreational users 'encouraged' to take counselling.

In Germany, of approximately 20 000 offenders diagnosed as addicted to illegal drugs, 55 % had their sentence deferred in 2003 (although more than half of the deferrals were later revoked, see below). In Spain, the proportion of drug addicts appearing before the courts who are referred to treatment has increased since the 1995 penal code came into force. In Sweden, the proportion of drug users sentenced to prison who were diverted to treatment was about 17 % in 2003, the same as in the previous five years. In Norway, the use of partial sentences, that is, replacing part of the prison sentence with treatment in the case of serious drug crimes, has increased from about 5 % 10 years ago to 20 % in 2003. Cases of offenders referred to treatment instead of imprisonment grew from 1 200 cases in Austria in 1981 to 9 000 in 2003, although in recent years the proportion of the recourse to alternatives has diminished. Only 1.4 % of all drug users who began treatment in Greece in 2003 were referred to therapeutic services by the police or the criminal justice system. However, the percentage for adolescent drug users under 18 rose to almost 11 %. In France, it is estimated that the number of prison sentences for drug-using offenders is almost as high as that for alternatives to detention with a treatment component, but both convictions with imprisonment and referrals to treatment diminished considerably during the last decade. In Ireland, both sentences to community supervision (including those with obligation of treatment) and imprisonment increased by half.

Legislation and implementation of alternatives to prison began later in the 'new' Member States. The Czech Republic reports only a few cases of convicted drug-using offenders being diverted to community-based treatment instead of imprisonment. In Hungary, recourse to treatment

([3]) http://www.nao.org.uk/publications/nao_reports/03-04/0304366.pdf.

as an alternative to prison was rather low until new legislation was issued in 2003. It then grew dramatically from around 700 to 2 300 cases between 2002 and 2003. A Polish local study revealed that about half of convicted drug addicts were referred to treatment.

Treatment modalities

In most countries, problem drug users usually undergo treatment as an alternative to prison in residential drug-free treatment centres. This is the case in, for example, Denmark, Germany, the Netherlands, Poland, Finland, Sweden and Norway. In Spain, in 2002, half of the offenders who were treated by alternative measures to imprisonment stayed in therapeutic communities.

The proportion of clients in therapeutic communities and other residential services coming directly from court has increased significantly and has reversed the falling numbers in inpatient treatment services registered in recent years in many countries.

The theoretical or practical possibility also exists to follow outpatient treatment programmes, for example community-based substitution treatment, in some cases combined with drug-testing obligations (e.g. the United Kingdom) or community work (e.g. France). Judges may prefer inpatient services in order to safeguard the retention in treatment, whereas other considerations, such as the motivation and stability of the drug user and the availability of specialised outpatient services or particular programmes for drug-using offenders (e.g. DTTOs), may favour outpatient treatment. In Belgium, drug users are able to have electronic surveillance, for example while following outpatient drug treatment.

Timely decision

Rates of relapse into criminality vary significantly between drug users who start treatment before having contact with prison and those who enrol in treatment after serving some time in prison. A Danish study showed that those who started treatment directly after being sentenced had a repeat offence rate of 44 %, whereas the repeat offence rate of those who came from prison was 65 %. In Italy, the same tendency was observed, and sending offenders directly from court to treatment without going through prison is encouraged. A pioneering model of this practice is the programme 'La cura vale la pena' ('Cure is worth the effort'), to which the central court of Milan refers cases of drug-using offenders; treatment is then carried out in prearranged therapeutic communities. This programme has been replicated in other Italian cities. In other countries, including Ireland, Malta and the United Kingdom, different types of arrest referral schemes have been implemented. In the Nordic countries, however, drug-using offenders often first serve a term in prison while their treatment needs are assessed and, by request, they can serve the last part of their prison term in a treatment centre.

In the Netherlands, the practice of referring arrested drug addicts to treatment centres was developed in police stations. However, problems emerged, including a high drop-out rate and delays in referral caused by difficulties in finding adequate treatment facilities. To improve the referral process, the police focused on monitoring cases of multiple criminality while these offenders were remanded in custody awaiting trial. At this point, the drug user was better prepared to follow treatment and a wider range of treatments was available. Mechanisms to match the needs of the individual with the treatment offer, and vice versa, became more flexible (Van Duijvenbooden, 2002).

A special case: juveniles and alternatives to prison

Over the last 20 years, most western European countries have experienced contrasting trends in the rates of conviction of juvenile delinquents, which have decreased, and the numbers of young people being registered by the criminal justice system, which have increased. Swedish researchers report that prison sentences are very rarely applied to people aged under 18, whereas the number of young people in institutions increased in the years following the introduction of new legislation in 1999 (Sarnecki and Estrada, 2004).

Young drug users are especially vulnerable to getting into a vicious circle of drugs and crime. In line with common legal principles, there is a strong determination among legislators and in the criminal justice systems in the EU to avoid imprisonment for young and very young offenders. Justice systems are particularly concerned about underage offenders and those who have committed a first offence. Several Member States have passed legislation to provide alternatives to prison, especially for young drug offenders. One of the main objectives is to impose educational and psychosocial measures, including, for example, mediation.

In Spain, 14- to 18-year-old offenders are judged under Act 5/2000 on the Liability of Minors, which is an act aiming to impose sanctions of a social and educational nature including substance abuse treatment. Youth courts in France may order treatment for problem drug users under the age of 18, but in practice courts favour them being taken into care at an earlier stage in the proceedings at the initiative of the public prosecutor. Paradoxically, the concern for the medical and psychological well-being of minors has resulted in the procedures becoming more

rigorous. New legislation in Hungary explicitly aims to secure diversion to treatment for offenders committing drug crimes for the first time. In Luxembourg, youth courts may order treatment or counselling for underage drug law offenders.

In Cyprus, the law provides for the treatment of addicted minors and they may be detained in treatment centres, although only after an application by the guardian or others close to the minor. In Poland, drug-dependent minors can be subjected to compulsory treatment if they are unwilling to undergo treatment voluntarily ([4]). The basic legal act in this respect states that drug use by a minor and becoming intoxicated constitute the basis for instigating legal proceedings.

In Malta, the police aim to work with the treatment centres and probation services in order for young people to benefit from alternatives to sentencing and from arrest referrals. Currently under debate is the implementation of a first offenders programme, which should give first-time drug-law offenders the option to attend a drug rehabilitation programme as an alternative to sentencing by the courts. Arrest referral schemes targeting drug-using offenders aged under 18 years have been established in 10 pilot areas in the United Kingdom, and a similar scheme is being tested in Dublin. By testing young people for class A drugs (e.g. heroin) at arrest, treatment needs will be identified as early as possible (Home Office, 2004).

However, there are few specific treatment programmes that are real alternatives to sanctions under the criminal law for this group. Young offenders, who are often mainly cannabis consumers, usually do not feel motivated to enter and follow drug treatment since the available services may not meet their needs. Some Member States (e.g. Germany, Luxembourg, Hungary, Austria and the United Kingdom) have established selective prevention programmes for first offenders, generally cannabis users, that offer psychosocial support, training and counselling (see Prevention in *Annual report 2005: the state of the drugs problem in Europe*, Chapter 2).

Evaluation and research

Investigation efforts

European evaluation studies of treatment as an alternative to prison are rare and partly inconclusive. No comprehensive major national or European studies are available. Research is usually linked to pilot projects and/or specific services, that is, with particular, selected populations, a short-term perspective and often without control groups (Van Ooyen-Houben, 2004b), and random assignment is exceptional. The three-year project 'Quasi-compulsory and compulsory treatment in Europe' (QCT Europe), co-funded by the European Commission within the fifth framework research programme, aims to remedy part of this research gap. The study will compare clients referred to treatment by the criminal justice system and those who enter treatment voluntarily. It will look at the effects of quasi-compulsory and compulsory treatment courses (QCT) on the drug use, criminality and socialisation of the people who go through them, and it will investigate the determinants for a positive outcome of the various types of QCT. It is planned that results will be presented by the end of 2005 ([5]).

Retention essential

As other treatment research consistently shows, retention in treatment is a key indicator of success (for a review of the literature, see Stevens, 2003). A study in Catalonia found that, for prisoners who initiated treatment in a prison therapeutic community or in a drug-free centre outside prison, between 1990 and 1995 the rate of criminality was 32 % for those who progressed well in treatment whereas 55 % of dropouts relapsed. Of drug users treated outside prison, 37 % relapsed compared with 41 % of those treated inside prison. Similarly, the main finding of an evaluation of the first year of the Dublin drug court was that the rate at which participants were rearrested, charged and had their bail revoked declined the longer they stayed in the treatment programme. The proportion of those testing negative for opiates increased from 42 % over the first three months to 82 % in the last three months. Compliance improved significantly and 11 out of the 37 participants (30 %) were clean of all illicit drugs by the end of the period.

Dropout rates are one of the biggest problems in drug treatment in general and particularly so in treatment undertaken as an alternative to prison, since these drug users face imprisonment if they fail to complete their treatment programme. A review of Dutch research reveals that dropout rates range from 20 % to 100 %, and mostly lie between 50 % and 60 % (Van Ooyen-Houben, 2004c). Similarly, the German experience is that alternatives are revoked in 30–50 % of cases for a variety of reasons, including refusal to start or abandonment of therapy, desertion of the facility and relapse, disciplinary discharge from the facility or committing serious offences. A United Kingdom two-year follow-up study on reconviction in a population receiving DTTOs showed that 53 % of those who completed their order (only 30 % of the total) were

([4]) Article 13 of the Act on Countering Drug Addiction.
([5]) See http://www.kent.ac.uk/eiss/.

convicted of a crime within two years compared with 91 % of those whose orders were revoked (Hough et al., 2003).

A Danish study found no significant differences in treatment completion between inpatient clients who had been referred by the prison authorities and clients in inpatient drug treatment in general. Spain reports successful application of alternatives, in which only 8 % of the total number of such measures applied in 2003 were repealed because of failure to continue treatment; in Italy, the comparable figure was 10 %. Austrian research concluded that clients in treatment as a result of a court order have a lower drop-out rate than clients in voluntary treatment: 30 % vs. 50 %. Norway reports that while 786 sentences to treatment were registered as fully served in 2003, requests were made for only 89 cases to be converted to imprisonment owing to non-compliance with the conditions and/or new criminal acts.

Quality and consistency

Some studies have suggested that it is the characteristics of the treatment provided, and not of the patient or of their route into treatment, that is important in predicting success in treatment (e.g. Fiorentine et al., 1999; Millar et al., 2004). Treatment as an alternative to prison seems to work best if the addicts are motivated for treatment, if they are actively and intensively approached and advised to go into treatment, if care facilities follow clinical standards and have enough and qualified staff, if there is a feeling of a real threat of punishment, if there is close cooperation between judicial authorities and care programmes and if sufficient aftercare is available (Van Ooyen-Houben, 2004c). The key to success in DTTOs lies in retention, strong interagency cooperation, appropriate staffing, good referral and assessment, effective monitoring and review of offenders and streamlining breach procedures (United Kingdom national report, p. 77).

However, in Hungary, among several negative indicators of achievement for treatment as an alternative to prison were an excess of officials involved in the process, excessive costs of proceedings and administrative complexity. The same report also identified the deficit of treatment centres in neighbourhoods and exceeding the capacity of the services with the extra workload as negative indicators of achievement.

A good relationship with the 'key stakeholders', clear vision, good non-bureaucratic management, control and quality improvement mechanisms, reduction of the waiting time to begin treatment, adaptation of the treatment offer to the necessities of the client, a good relationship between referral and treatment services and cooperation with local authorities to encourage reintegration in the community are some of the success factors related to the more organisational aspects of alternatives to imprisonment (Nacro and DrugScope, 2003).

Conclusions

National legislation acknowledging international and European agreements and guidelines is the first prerequisite for the appropriate use of drug-related treatment as an alternative to imprisonment for drug-using offenders. Most EU Member States have legislation in place or are in the process of defining it. Nevertheless, the existing legislation must be implemented in a manner that benefits both the drug user and society. Knowledge, both about the legal possibilities and their implementation and about the drug-related treatment options that are available, is required of police, prosecutors and judges.

The criminal justice system and the health and social service systems have different points of departure and different deontological paradigms. Trust, cooperation and effective coordination at all levels are essential in order to successfully implement drug-related treatment as an alternative to imprisonment. Much can still be done in terms of attitudes, knowledge and practical management to facilitate resource-saving cooperation and coordination.

The availability and differentiation of drug-related treatment has increased over recent years. But many regions of the EU still lack the necessary variety and quality of drug services, and drug treatment services do not always have sufficient resources. In particular, drug-related treatment services for young people need to be expanded and diversified. Drug treatment staff must counter prejudices against clients referred from the criminal justice system. The staff must also have the necessary knowledge and skills to work with these clients in order to keep them motivated to take up and continue treatment.

Although scientific evidence suggests that drug-related treatment is a better and more cost-effective option for offenders with drug problems than imprisonment, research is still too scarce and too disparate to establish what works, how, when and for whom. Reduction of crime, improved health and social well-being are success indicators that benefit not only the individual drug user but society as a whole.

References

Cohen, S. (1985), *Visions of social control*, Polity Press, Oxford.

Council of the European Union (2000), European action plan on drugs 2000–04.

EMCDDA (2003), 'Treating drug users in prison — a critical area for health-promotion and crime-reduction policy', *Drugs in Focus*, No 7, European Monitoring Centre for Drugs and Drug Addiction, Lisbon.

EMCDDA (2004), *Drug law and young people*, thematic paper; contribution to the evaluation of the EU action plan 2000–04, European Monitoring Centre for Drugs and Drug Addiction, Lisbon (http://snapshot2004.emcdda.eu.int/?nnodeid=5563).

EMCDDA/University of Deusto (1999), *Alternatives to imprisonment targeting drug using offenders in the EU* (http://www.emcdda.eu.int/responses/themes/prevention_crime.shtmlt).

European Commission (2004a), 'Communication from the Commission to the Council and the European Parliament on the results of the final evaluation of the EU drugs strategy and action plan on drugs (2000–04)' (http://europa.eu.int/eur-lex/en/com/cnc/2004/com2004_0707en01.pdf).

European Commission (2004b), 'Green Paper on the approximation, mutual recognition and enforcement of criminal sanctions in the European Union' (http://europa.eu.int/comm/justice_home/news/consulting_public/gp_sanctions/green_paper_en.pdf).

European Commission (2005), 'Communication from the Commission to the Council and the European Parliament on the EU drugs action plan 2005–08' (preliminary version).

Fiorentine, R., Nakashima, J. and Anglin, M. D. (1999), 'Client engagement with drug treatment', *Journal of Substance Abuse Treatment* 17 (3), pp. 199–206.

Foucault, M. (1975), *Surveiller et punir. Naissance de la prison*, Gallimard, Paris.

Gossop, M., Marsden, J. and Stewart, D. (2001), *The national treatment outcome research study: changes in substance use, health and criminal behaviour during the five years after intake*, National Addiction Centre, London.

Heckmann, W., Kerschl, V. and Steffan E. (2003), *QCT Europe literature review Germany* (http://www.kent.ac.uk/eiss/qct/qct5.htm).

Home Office (2004), *Young offenders to be drug tested*, press release 27 July 2004. Home Office, London (http://www.drugs.gov.uk/News/1090943126. Accessed 27 October 2004).

Hough, M., Clancy, A., McSweeney, T. and Turnbull, P. (2003), *The impact of drug treatment and testing orders on offending: two-year reconviction results*. Findings 184. Home Office, London.

Kurze, M. and Egg, R. (1989), *Drogentherapie in staatlich anerkannten Einrichtungen. Ergebnisse einer Umfrage*, Berichte, Materialien, Arbeitspapiere (BMA) Heft 3. Eigenverlag Kriminologische Zentralstelle, Wiesbaden.

Millar, T., Donmall, M. and Jones, A. (2004), *Treatment effectiveness: demonstration analysis of treatment surveillance data about treatment completion and retention*. National Treatment Agency For Substance Misuse, London.

Nacro and DrugScope (2003), *Out of it — drugs, crime and social exclusion*, conference hosted by Nacro and DrugScope. 15 May 2003. The Commonwealth Institute, London.

NIDA (1999), *Principles of drug addiction treatment*, National Institute on Drug Abuse, National Institutes of Health (http://www.nida.nih.gov).

O'Donnell, I. (2002), 'The re-integration of prisoners', *Administration* 50 (2), pp. 80–96.

Roberts, J. V. and Stalans, L. J. (2004), 'Restorative sentencing: exploring the views of the public', *Social Justice Research* 17, pp. 315–34.

Sarnecki, J. and Estrada, F. (2004), *Juvenile crime in Sweden*. University of Stockholm, Department of Criminology (http://www.esc-eurocrim.org/files/youth_crime_in_sweden_sarnecki_estrada_final_version.doc).

Stevens, A. (2003), *QCT Europe — review of the literature in English* (http://www.kent.ac.uk/eiss/qct/qct5.htm).

United Nations (2005), Report of the International Narcotics Control Board for 2004.

Van Duijvenbooden, K. (2002), Presentation at EMCDDA seminar 'Lessons learned when implementing alternatives to prison for drug dependent offenders'.

Van Ooyen-Houben, M. (2004a), 'Drang bij criminele harddruggebruikers — een onderzoek naar de toepassing van drang in Nederland', *Tijdschrift voor criminologie* 46 (3), pp. 233–48.

Van Ooyen-Houben, M. (2004b), *Evaluation studies of Dutch QCT programmes*, QCT Europe (http://www.kent.ac.uk/eiss/qct/qct5.htm).

Van Ooyen-Houben, M. (2004c), *The quasi-compulsory approach to criminal hard-drug users: an analysis of the approach and a reconstruction of the programme theory*, WODC, Den Haag.

Werdenich, W. and Waidner, G. (2003), *Final report on QCT — system descriptions, QCT Europe*, European Commission, the fifth framework RTD funding programme, EISS, University of Kent.

European Monitoring Centre for Drugs and Drug Addiction

Annual report 2005: selected issues

Luxembourg: Office for Official Publications of the European Communities
2005 — 45 pp. — 21 x 29.7 cm
ISBN 92-9168-246-2

SALES AND SUBSCRIPTIONS

Publications for sale produced by the Office for Official Publications of the European Communities are available from our sales agents throughout the world.

You can find the list of sales agents on the Publications Office website (http://publications.eu.int) or you can apply for it by fax (352) 29 29-42758.

Contact the sales agent of your choice and place your order.

TD-AF-05-001-EN-C

About the EMCDDA

The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) is one of the European Union's decentralised agencies. Established in 1993 and based in Lisbon, it is the central source of comprehensive information on drugs and drug addiction in Europe.

The EMCDDA collects, analyses and disseminates objective, reliable and comparable information on drugs and drug addiction. In doing so, it provides its audiences with an evidence-based picture of the drug phenomenon at European level.

The Centre's publications are a prime source of information for a wide range of audiences including policy-makers and their advisors; professionals and researchers working in the drugs field; and, more broadly, the media and general public.

The annual report presents the EMCDDA's yearly overview of the drug phenomenon in the EU and is an essential reference book for those seeking the latest findings on drugs in Europe.

Publications Office
Publications.eu.int

ISBN 92-9168-246-2
9 789291 682461