

HEROIN USERS IN BULGARIA ONE YEAR AFTER OUTLAWING THE DOSE FOR “PERSONAL USE”

Law changes and new risks



Initiative for Health Foundation

TIHOMIR BEZLOV

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INTRODUCTION

On 16 March 2004 the Bulgarian Parliament adopted an amendment to the the Penal Code repealing Paragraph 3 of Art 354a and its provision that „punishment shall not be imposed on a person dependent on narcotic drugs or analogues thereof, provided the quantity such person acquires, stores, keeps or carries, is such that reveals intention of personal use.“ This revision gained public popularity as „the single dose law“. It practically renders criminal every drug substance possession, regardless of the type or quantity of the substance, or whether the individual in possession of the dose is dependent or not. Under the new regulation, the drug wholesalers, the small drug dealers, and those just using, not trading in drugs, are treated equally harshly. The types of punishment are not diversified – prison is the uniform punitive option for all violators.

The change was carried out, despite keen objections on the part of experts and civil society organizations that it might lead to severe and unpredictable consequences. Critics of the amendment have indicated that the right to personal-use dose was a borrowing in Bulgarian law from the European legislations based on the assumption that the drug dependents are not criminals, but sick people; that they harm nobody else but themselves. It was also highlighted that not prosecuting them is both more humane and more efficient, as European practice and analysis proves that police operations typically detain more drug dependents than dealers, thus wasting public resources. As per current law, if a person gets caught holding any quantity of a law-forbid-

den psychoactive substance, the conviction for the offence could be 10 to 15 years imprisonment. In many ways the punishment thus envisioned is harsher than that for premeditated murder. The bulk trafficker caught with hundreds of kilograms of heroin may get the same sentence as a teenager caught with a cigarette of marijuana (if of age), or the sick heroin dependent, whose dose rarely goes above 0,03 grams of pure heroin.

Before the amendment was adopted questions remained unanswered, like what would happen to the country's 10 to 15 thousand heroin dependents, whose habits can easily place them in police custody, or to more than 150 thousand occasionally using marijuana (most of whom are high school and university students). According to police statistics Bulgarian prisons are crammed, and overall can house no more than 10-11 thousand. There was no plan how to deal with the consequences for those thousands of drug users who could end up in prison. Will they be entitled to treatment, how much taxpayers' money would go on that, will the trade shrink? The amendment proponents argued that, on the one hand, due to the ambiguous interpretation of the „personal use“ quantity, some drug dealers have evaded punishment; and on the other hand, the numbers of drug dependents has soared. It was also emphasised that such a measure ought to get coordinated with programs for dependence treatment and prevention to become sustainable state policy. Is this taking place a year after the amendment became effective, or are the worst scenarios about to come true?

All of the above motivated four non-government organizations – „Initiative for Health“ Foundation - Sofia, „Panacea“ Foundation – Plovdiv, „Dose of Love“ Association – Bourgas and „Open Society“ Club – Veliko Tarnovo, with the financial support and the participation of the „Open Society“ Institute, to conduct a survey of the impact of the drug legislation on some major aspects of the Bulgarian drug use scene and the lives of the injection heroin users. They do represent the most risky and vulnerable drug user group, who overall suffer the harshest consequences of drug use.

To show the place of heroin use in Bulgaria we will give an outline of the main aspects of the country's drug use. At least two criteria can be implemented: the type of drugs used, and the manner in which they are used and the presence of dependence. As per criteria adopted by the European Monitoring Centre for Drugs and Drug Addictions (EMCDDA), three categories can be identified: lifetime prevalence use, recreational drug use, and problem drug use, the latter being where the dependent users fall. Taking into account both criteria, we come up with the structure below:

▪ **„Soft drugs“ (products of cannabis)** - Surveys conducted by the Vitosha Research social survey agency over 2002-2004 prove that the number of *lifetime prevalence* users (those who have used once or several times in their lives) has gone up to some 2,0-2,5% of the population above 15 years of age, which totals 100 000 to 150 000¹. Around 0,5%, or 30 000 to 40 000, can be defined as *recreational* (having used at least once in the past three months).

¹ At the time of the first survey the lifetime percentage oscillated between 1,5% and 2,0%.

▪ **„Synthetic drugs“ (amphetamines)** – Surveys manifest that *lifetime* amphetamines users² represent 0,5% - 1,0% of the population, or 35 000 - 70 000 users. The group of „recreational drug users“ represents approximately 0,2%, i.e. 14 000 - 15 000. Experts estimate this psychoactive substance as being used by approximately 1000-2000 dependents country-wide.

▪ **Heroin** – Studies carried out by „Vitosha Research“, in accord with police registrations and relevant NGO information, prove that the *problem* drug users seem to number between 15 000 and 25 000.

The above described types of use predetermine different consequences for different groups as related to the ban of the personal use dose. As has been mentioned previously, the analysis in this text will be limited to the heroin injection drug users (IDU). However, national studies have established that heroin drug users are usually users of more than one psychoactive substance; hence part of the conclusions would also be valid for the other two drug user groups.

The research revealed that the ban on the „single dose“, and its negative implications, are only part of a larger nationwide problem caused not only by the legislative framework, but also by the inadequate institutional response. Many related issues remain unresolved: unsatisfactory prospects for treatment and rehabilitation of the dependents, the treatment of uninsured dependents (who are the majority of the group under consideration), lack of state policy and commitment to the development of preventative programs, lack of procedures for adequate attention to convicted dependents. In this context, it is clear how

hasty and inappropriate was the legislative amendment, with its emphasis on repression instead of care for those concerned. It is no coincidence that among the criticisms Bulgaria had to take in the latest European Commission report³ looking at its preparation for accession, were drugs, and more specifically the absence of government participation in programs for the reduction of the demand for drugs. In this light the proposed analysis is making an attempt to bring up for a discussion a broader set of issues pertaining to the topic of drugs in Bulgaria.

Although the new regulation has been in effect for a relatively short period, the research data give grounds for the following findings:

▪ Instead of anticipated reduction of the drug use, significant increase has been observed. The average number of injections per user per day has doubled in 2005 as compared to 2003.

▪ Despite enhanced representativeness of the law, the number of new IDU has not gone down. According to our research the number of new starters in 2005 is the same as in 2003.

▪ Injection use has become more cautious. Drop has been registered of use in public places. Conversely, injecting in abandoned houses and areas has grown.

▪ Risky injecting is on the increase. Research in 2005 has demonstrated that for fear of violating the existing law IDU inject themselves with used needles and syringes.

▪ The number of cases of drug overdosing has grown.

▪ The amendment has not brought about a reduction of IDU participation in the drugs distribution. Data give evidence that the

law has not curbed drug distribution. The price for a dose of heroin has remained the same, still the quality has improved.

▪ Change is observable in the sales practices. The dealers selling via mobile phones have become fewer as compared to 2003, yet more dealers have started selling from their homes. In other words, they are getting less precautious because the law makes them feel less threatened.

▪ After ruling out the personal use dose the judges make attempts, going beyond the law prescriptions, to differentiate users from dealers, to look for legal possibilities for a more humane treatment of the former. The practice typically is to give short suspended convictions. Yet, due to lacking conditions for the treatment of addictions in the country, those with suspended convictions within a short term get captured again, the law this time requiring a harsher sentence and longer imprisonment.

▪ The research data confirmed the absence of adequate possibilities for the treatment of addictions. Notably in the past 2-3 years various private organizations have emerged, offering treatment. Their services, however, are paid and require financial resources unavailable to most drug users.

▪ Prison is viewed as the life-saving route for the drug addicts both by some parents, and some magistrates alike. However, the present survey data give evidence that in penitentiary facilities the number of heroin dependents is growing, access to drugs there is already becoming mass practice, and utter risks are taken when injecting.

² Ecstasy use proper in Bulgaria has been recorded very rarely as per the chemical analyses of seized drugs. Experts say that some users seem to be calling the amphetamines ecstasy.

³ Bulgaria. 2005 Comprehensive Monitoring Report, Brussels, 2005

DESIGN, METHODOLOGY AND FOCUS OF THE RESEARCH

The proposed analysis is focused predominantly on heroin users, the main reason being that this is the most risky and vulnerable group. Medical statistics data have shown that in the past 12-15 years 90% of the heroin users should be counted as the so-called *problem* users⁴. What should be added here is that among the heroin dependents in Bulgaria the death rate is very high, as far up as 3% annually in the late 90-ies. On the other hand, this is the drug users group that constitutes a very easy target for the police, and they are the ones most commonly getting into prisons.

The analysis itself faced several major difficulties. In the **first place**, the specificity of the group of heroin drug users. They represent a marginalized, and due to incrimination by law, very hermetic community. In certain respects the heroin drug users have conspiracy behaviour, trying to keep their addiction secret from the world outside. This is the reason why traditional social research methods are inapplicable. It is not possible to implement neither representative sample methods, nor to carry out interviews with regular interviewers. **The second** problem stemmed from the unwillingness to openly discuss the issue on the part of representatives of institutions like the police, investigation, prosecution, court, health care establishments. In approximately half of the cases the representatives of institutions chose to respond more or less formally to the questions during the in-depth interviews, following suit

with the official policy of their respective institution.

The project team opted for an approach to use as basis a 2003⁵ survey among the attendants of needles and syringes exchange programs (NEP)⁶ in four of country's cities – Sofia, Plovdiv, Bourgas and Pleven⁷. This was chosen so that the comparison is made possible of the social profile, patterns of drug use and risk behaviour in 2003 and in 2005 – one year before and one year after the enforcement of the PC amendment. The survey was administered implementing nearly the same tools again in Sofia, Plovdiv and Bourgas, replacing Pleven with Veliko Tarnovo⁸ – another medium-sized city. Interviewers for the research were workers on the needles and syringes exchange programs, as trusted by the injection drug users. Under the research 498 respondents were interviewed, divided into 4 quotas – 198 in Sofia, 110 in each – Plovdiv and Bourgas, and 80 in Veliko Tarnovo. Key in the recruitment of research participants was the preservation of their anonymity and confidentiality to guarantee their readiness to take part in the present survey. This in mind, a unique personal identification code was used over the recruitment and interviewing, thus allowing to preserve the anonymity of the participant, still excluding the possibility of repetition of respondents. The identification code in question consisted of the date of birth, a letter from parent's name, and a letter from the respondent's name, as used in NEP programs

on a daily basis to report their routine field contacts. In principle, interviewing among this group, especially regarding risk behaviour, presupposes deeper specific knowledge, typically beyond the unprepared interviewer. This necessitated the use as interviewers of the social workers on NEP programs.

The administered questionnaire consists of eight 8 blocks – demographic data, history of use, purchasing drugs, incomes of drug users, contacts with police and the judicial system, health and treatment, risk injection practices and drug use in prison. All these blocks are the same as those used in the 2003 research, with only adding some questions as regards the treatment and contacts with the police and the judicial system for the purpose of casting more light on the whole picture in the country in 2005.

Parallel to the research among heroin drug users, two focus groups with drug addicts and 48 in-depth interviews were held with police officers, investigators, prosecutors, judges and doctors working with drug dependents (16 police officers, including inquestors, 5 investigators, 8 prosecutors, 12 judges, 2 heads of prisons and 5 doctors). Carrying out the in-depth interviews the semi-structured approach was opted for, allowing for the gathering of more comprehensive information without losing the focus of the research per se. With the doctors the main areas of concern covered by the in-depth interviews were the drug users looking for treatment, the existing capacity

⁴ Injection/chronic use of opiates or cocaine and amphetamines. This working definition excludes the use of cannabis and ecstasy, as well as the irregular use of any other drug.

⁵ „Injecting drug users in Bulgaria. Profile and risks”, Tihomir Bezlov, Cas Barendregt, 2004

⁶ Needles and syringes exchange programs (alias harm reduction programs) are being implemented in Bulgaria since 1998. Next to a hundred percent of the attendants of these programs are injecting heroin users.

⁷ 501 injecting drug users were respondents under the survey.

⁸ In Veliko Tarnovo Open Society Club was used, as well experienced into working with drug addicts in the Therapeutic Community „Hope”.

and possibilities for treatment in the country, doctors' participation in court trials as forensic experts on narcotics, attitudes to compulsory treatment and overall opinion on the PC amendment. With the police officers the problem areas under discussion included the changes in police work as regards drug addicts, tendencies with drug-related arrests, the change in the PC and the capturing of drug dealers, the change and the

corruption pressure on the MI officers, attitude to the PC change. With the representatives of the judiciary the areas of concern touched upon changes in their work, whether distinction is made between dependents and dealers in the court process, whether the PC change facilitates the work of the judicial system, the change and the corruption pressure, tendencies in terms of number of lawsuits and convictions related to

drugs possession, overall view on the change in the PC.

In addition log-books were used of outreach workers taking part in the needles and syringes exchange programs.

Besides, media information for the interval January 2004 – October 2005 was analyzed as publicised and pertaining to the present subject matter.

DEMOGRAPHIC PROFILE OF THE INJECTION DRUG USERS

Despite heated debates on drug policies in the past dozen of years not all speakers on the subject seem to always have an idea what the victims themselves are like, i.e. the drug dependents – what age they are, how much and what are the drugs they use, have they overdosed, have they been treated, have they been to prison, etc. Commentary struck as abstract and far-fetched during the dispute over the prohibition of the personal use dose. It remains unclear, though, how can a law be made, or changed, in case it has not been previously looked into how many and who would be affected, what social, health and/or corrective programs would have to be implemented, what are the risks and benefits involved. This in mind, prior to discussing the consequences of the disallowed personal use dose and the current situation, here come several points to give a rough idea of the demographic and socio-economic profile of the heroin drug users. The analysis draws on the data comparison of the two quantitative surveys of years 2003 and 2005 respectively.

Probably among the most neutral findings is the correlation of injection drug users' data by **gender** (tabl. 1). In 2003 the proportion registered is 4:1 in favor of the men, the distribution remaining similar in the research done by the National Centre for Addictions of those seeking treatment in Sofia in the past 6 years. The percentage growth of males in 2005 may be explicable by statistical error and can hardly be traced as related to the fear from the changed law. The European countries data enlisted show that there is no connection between the repressiveness of the law and the male/female distribution. According to experts this distribution reflects cultural specifics, and Bulgaria takes its anticipated place among the southern countries' group.

Juxtaposition by **ethnicity** in 2005 shows certain change. As against 2003 an abrupt rise is observable in the representation of the Turkish ethnic group, versus the Roma one (chart 1.). City comparison explains why. We can see that the main reason for this change is Plovdiv, where instead

Table 1. Cross-country comparison of heroin drug users by gender

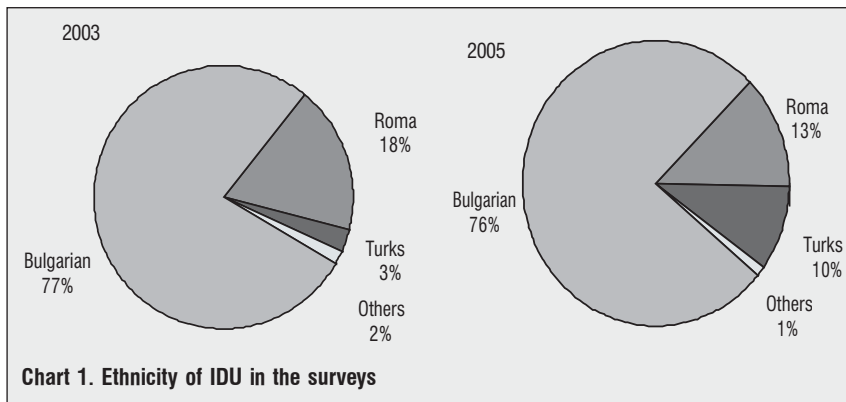
| | Male | Female |
|-----------------|------|--------|
| Sweden | 64 | 36 |
| Austria | 72 | 28 |
| Finland | 73 | 27 |
| Denmark | 77 | 23 |
| Ireland | 77 | 23 |
| Germany | 80 | 20 |
| France | 80 | 20 |
| Holland | 80 | 20 |
| Bulgaria - 2003 | 80 | 20 |
| Bulgaria - 2005 | 83 | 17 |
| Portugal | 83 | 17 |
| Spain | 85 | 15 |
| Greece | 86 | 15 |
| Italy | 87 | 13 |

Source: EMCDDA, Annual report 2003
<http://annualreport.emcdda.eu.int/en/page109-en.html>

of 32% Roma users (and 3% Turks), as per 2003 data, now in 2005 they represent 4% versus 40% users identifying themselves as Turks⁹.

A variable crucial for the understanding of the trends in the use of drugs in Bulgaria is the **age** of drug users. In 2003 **the average age (mean) of the heroin drug users is 24,2, the median being 23,0. In 2005 the average value is 25,1 and the median –**

⁹ The major reason for this abrupt change of ethnic distribution appears to be the changed trends in the self-identification of the Roma population in Plovdiv's „Stolipinovo“ neighborhood as compared to 2003



The two surveys' data, along with the annual registrations of NCA demonstrate that the heroin drug users have been „growing older“. The comparison between years 2003 and 2005 manifests that the age structure is nearly the same, only shifted almost symmetrically back by two years as against 2003 (chart 3).

The question arises whether the new data on growing heroin users' age can be interpreted as reflecting the legislative changes towards more repressiveness, in other words, whether or not new young people do not get hooked because of the law in action, thus reducing the heroin user population.

Many facts counter such a hypothesis. The users growing older trend is itself old in the first place, registered with the new NCA patients as early as since 1999. Their average age goes up from 21,5 to 23,3 in 2003. Similar is the situation with injection drug users in other Sofia surveys. The 1998 research¹¹ done by „Initiative for Health“ demonstrates that the average age of IDU then was 21,5, in 2003 the age increased to 26,0, to go up to 27,0 in 2005 on average. The average age juxtaposition makes the analysis of another country trend possible. If we compare the four cities, we can see the age in Sofia is by almost three years higher than in Plovdiv, where that is 24,3, and Bourgas, where it is 24,0. The difference with Veliko Tarnovo, where it is 22,9, is nearly four years. One widely accepted explanation for the lower average age in the cities outside of Sofia lies in the heroin epidemic reaching the smaller cities later.

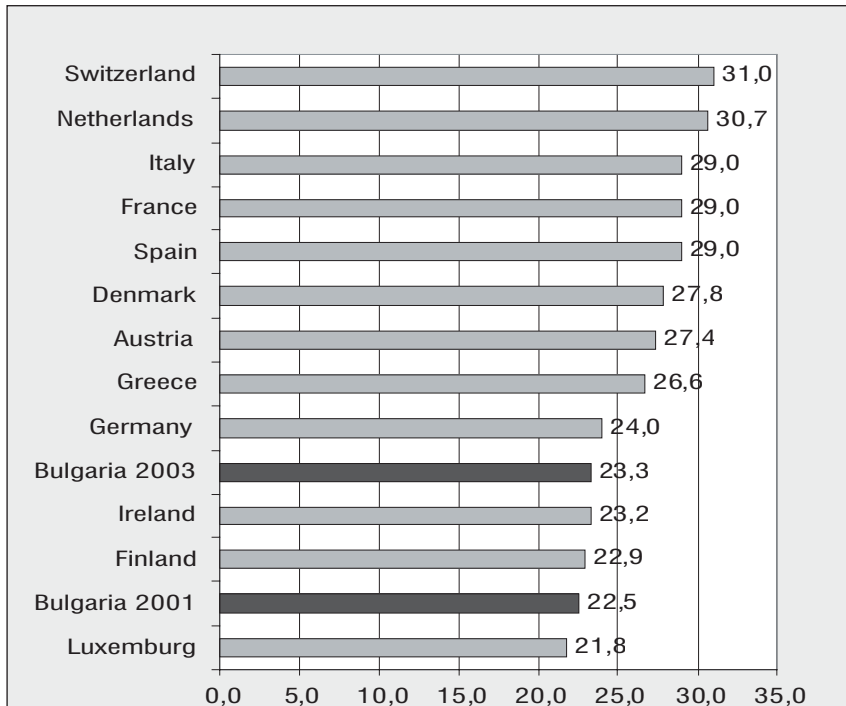
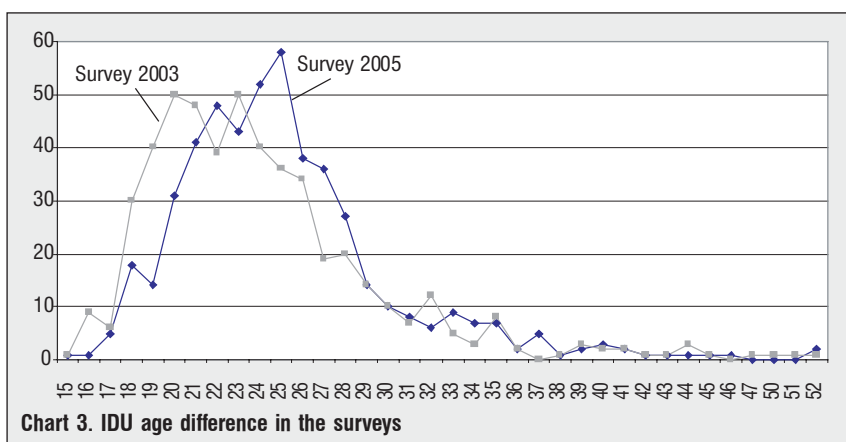


Chart 2. Age of those seeking treatment for the first time



24,0. It is noteworthy here that a cross-country comparison reveals Bulgarian drug dependents among the youngest in Europe (see Chart 2).

This young average age of the heroin drug users is explicable not only in terms of early starting, but mainly as reflecting the late entrance of heroin in Bulgaria¹⁰.

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Evidence to the truthfulness of this assumption give the answers to the question „When did you first

¹⁰ See „The Drug Market in Bulgaria“, Center for the Study of Democracy, 2003, Sofia

¹¹ „Injection drug use: situation, trends and risks“, „Initiative for Health“ Foundation, Sofia 1998

use heroin?“ In Sofia most new IDU were hooked in 1998, in Bourgas – in 2000, and in Plovdiv and Pleven – in 2001 (see Chart 4). In accord with police statistics data and interviews with experts, it can be stated that, if in country’s largest cities this peak was reached by 2001, in the smaller ones heroin continues spreading increasingly. A confirmation of this hypothesis we get from the Veliko Tarnovo data.

Regrettably, the availability of just two studies among a total of approximately 1000 IDU does not enable us to make sufficiently reliable generalizations, still we can see reasons to point to some tendencies. Firstly, the average age with heroin drug users goes 1 year up in two years (2003-2005), in other words, the research participants grow 1 year older. Hence, it is plausible to think that the IDU group gets filled by new younger users, who „pull back the growing old“. Secondly, as based on the 2003 research, we assumed that the number of new users has slashed since 2001. The latest survey data, however manifest, despite a decrease in the number of new IDU, a level still not lower than back in the mid-90ies.¹² (see Chart 5). Hence, newcomers enter the population of heroin drug users every year. A closer analysis of the data shows no change between the number of those „hooked“ in the first half of 2003 and the first six months of 2005.¹³ (see Chart 5). Along these lines it can be claimed that **the change in the legal framework has not brought about any reduction of the number of new heroin users** and the population of heroin drug users gets filled by the same rate as in 2003.

Among the most interesting

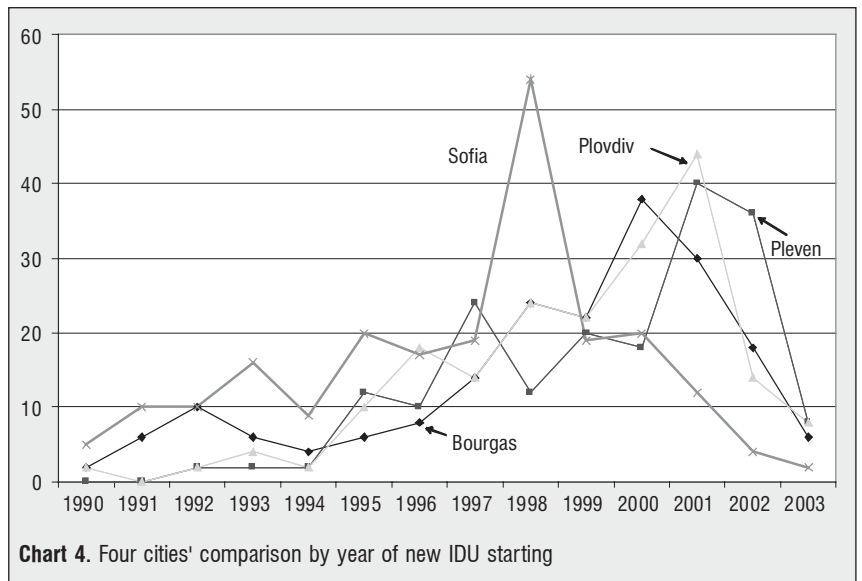


Chart 4. Four cities' comparison by year of new IDU starting

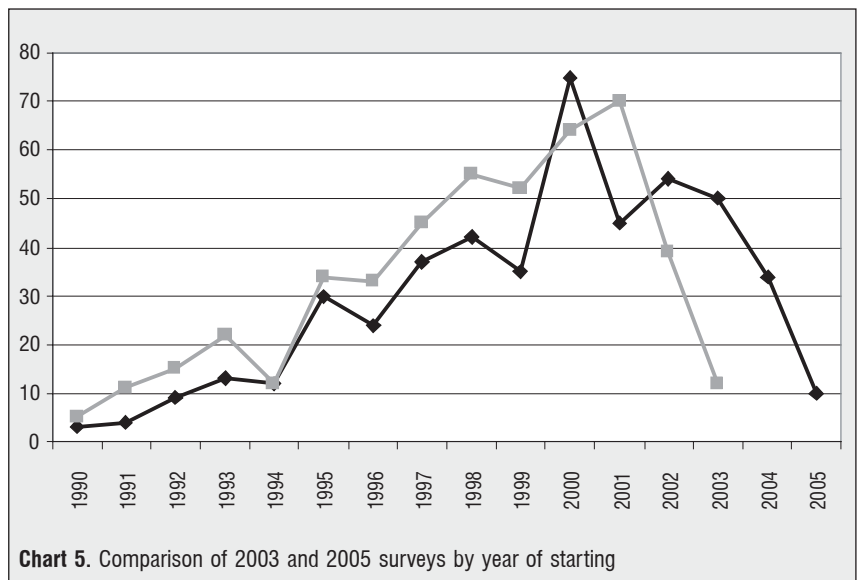


Chart 5. Comparison of 2003 and 2005 surveys by year of starting

lines in the focus of the current research was the cross-section data on country’s IDU incomes, which can either confirm, or refute the hypothesis, that the law change has led to the reduction of the number of drug dealers. Suitable for this comparison are 3 out of 15 possible sources of income the respondents were asked about, namely those related to selling psychoactive substances. The data supply evidence that on the „work for dealer...“ category there is a drop from 4% to 1%, but „selling drugs for

their own account“ grows from 5% to 7%. There is no change in the sales of medical drugs and methadone, which in Bulgaria should also be considered illicit. Therefore, the registered change of behaviour patterns rather proves **the presence of change from one type of dealer’s behaviour to another, still no reduction is there of drug distribution as source of income for the injection drug users.**

¹² The survey of the summer of 2005 gave grounds to set it that the new IDU need an average of two years to get to the harm reduction programs, themselves responsible for the recruitment under this survey. Thus new light is cast on the lesser number of new attendants.

¹³ Conducting the surveys in the summer season renders available data identical in respect of time.

PATTERNS OF USE

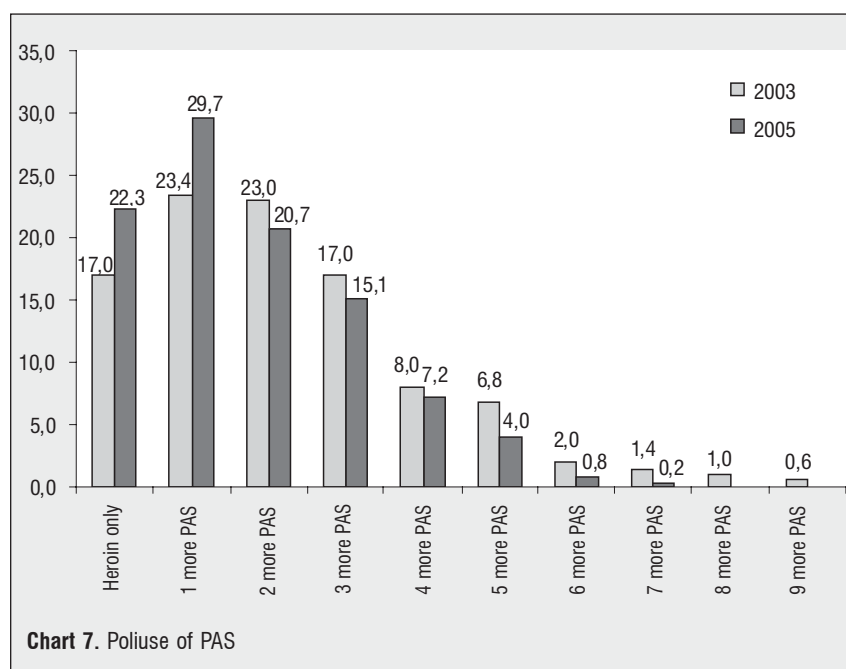
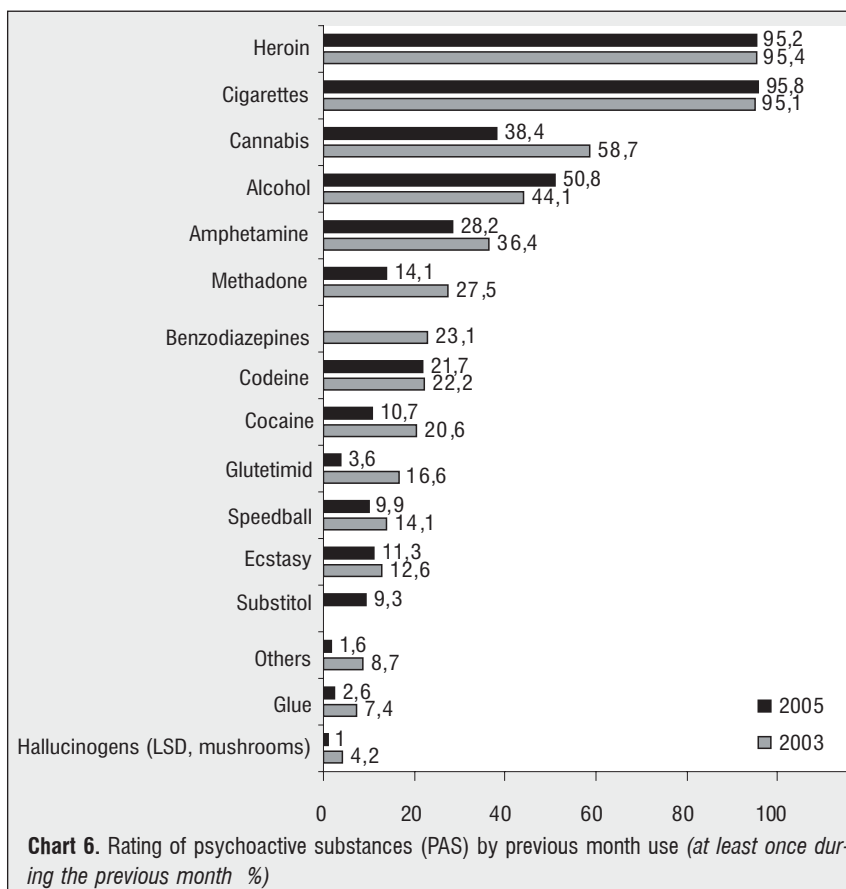
Juxtaposing the **choice of narcotic substance** in 2003 and 2005, we can see that the major narcotic substance – heroin – continues to be preferred most (see Chart 6).

As against 2003, however, for almost all PAS, starting with amphetamine, itself marking a record high use, through methadone and cocaine, to cannabis, and all the others, lesser use is observable. The main explanation attained over the in-depth interviews and the focus groups is that the quality of heroin has improved to eliminate the need for „substitutes“. The sole exception here is substitol, offering good quality/price ratio and relatively easily available, thus increasingly becoming an option.

This trend of heroin coming back is also visible in the **patterns of PAS use** (chart 7). Both in 2003, and in 2005 there is multi-use (poliuse). An average of 2,7 PAS are being used by IDU (median 2,00) in 2005 versus an average 3,2 PAS with median 3,00 in 2003.

Due to no differentiation in the Bulgarian Penal Code of the type of drug used, and the punishment provisioned being the same, it can be presumed that **the changes in the legal framework do not affect the structure of use of PAS**.

The exclusion of the personal use dose, however, should have an effect on the **frequency** of use of psychoactive substances. Presumably with the risk growing drug users should be seeking to use less. In order to prove or refute this hypothesis the average use was put side by side before and after the introduction of the law change. The research of the summer of 2005 demonstrated



that actually **the use has stepped up** (see table 2).

As seen from the table, **an increased number of injections is observable in 2005 as against**

2003 over all time spans in question. Therefore, the conclusion can be made that the legislative change has not led to a drop in the injection use.

Table 2. Average number of injections

| | 2003 Number injections yesterday | 2005 Number injections yesterday | 2003 Number injections in the last week | 2005 Number injections in the last week | 2003 Number injections in the last month | 2005 Number injections in the last month |
|--|--|--|--|--|---|---|
| Average (Mean) | 1,46 | 1,72 | 9,95 | 11,04 | 44,42 | 54,75 |
| Median | 1,46 | 2,00 | 7,00 | 10,00 | 28,00 | 35,00 |
| Recalculated average injections (Mean) per day | | | 1,42 | 1,58 | 1,48 | 1,80 |
| Recalculated average injections per day (Median) | | | 1,00 | 1,43 | 0,93 | 1,15 |

RISKY BEHAVIOUR

The upsurge of injection use sustains a serious risk. Intravenous injecting is the most dangerous way to administer drugs, which causes serious harm to both the health of the individual user, and to the public health. Due to difficult conditions for the daily injecting of drugs, it typically lacks any sterility or hygiene, and is often performed the wrong ways. This soon leads to damaging the blood vessels of unpredictable consequences. The transmission of blood infections in turn constitutes a serious risk, to go beyond the single individual in meaning, posing threats to the public health. Here is why it is so relevant to evaluate the risks involved in the injection use per se. First in importance among them is **the use of somebody else's needles and syringes**, the use of somebody else's accessories for preparing and injecting the heroin (caps, filters, water, etc.), sharing PAS (mainly heroin) in the same syringe, and other similar practices related to use, describable as risk behaviour.

To establish what portion of IDU have risky behaviour and what its intensity is in 2003 two questions were used, that have turned into standard in surveys across

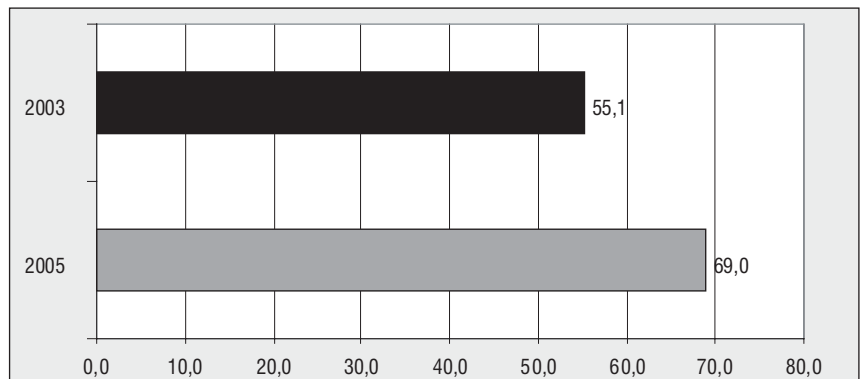


Chart 8. Have you injected yourself with a needle or syringe used by somebody else since 1980.

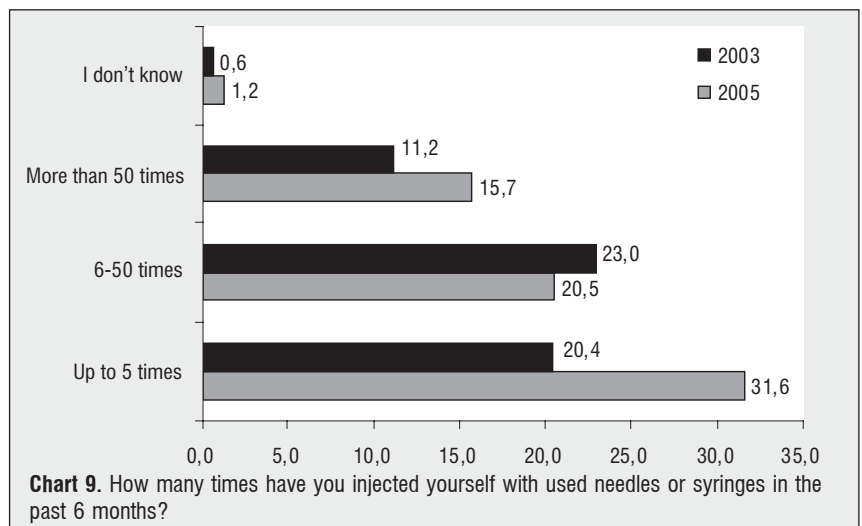


Chart 9. How many times have you injected yourself with used needles or syringes in the past 6 months?

Western Europe and the USA. The first is how many times since 1980 they have used somebody else's needles and syringes, and the second one – how many times in the past 6 months they have done so¹⁴. Now the two questions

make it possible to see whether there is a change in the risk behaviour of the drug users.

Although asking about a very long period of time (25 years), two years being a very short part of it, the data manifest a **conspicuous**

¹⁴ The first question is „Ever since 1980 have you injected yourself with a needle or syringe that had been used by somebody else?“ The second one, „In the past 6 months how many times have you injected yourself with a needle or syringe used by somebody else?“

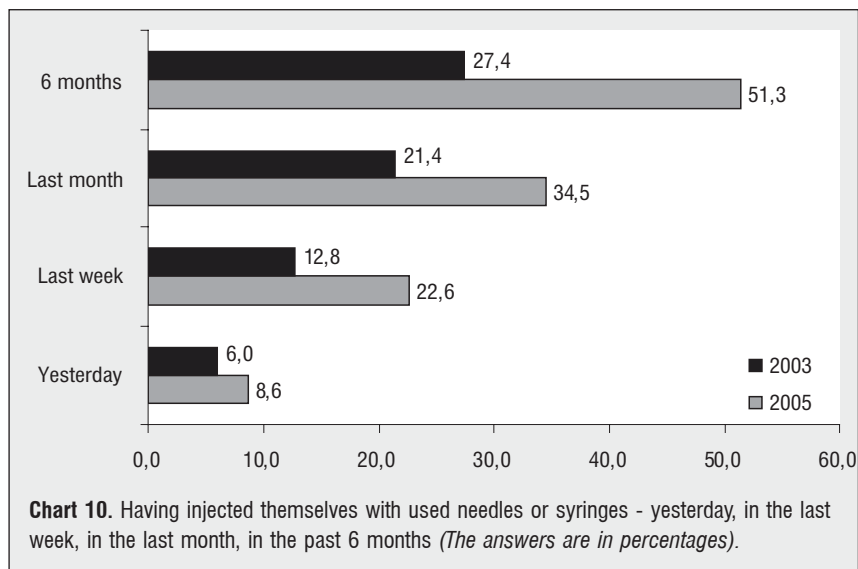


Chart 10. Having injected themselves with used needles or syringes - yesterday, in the last week, in the last month, in the past 6 months (The answers are in percentages).

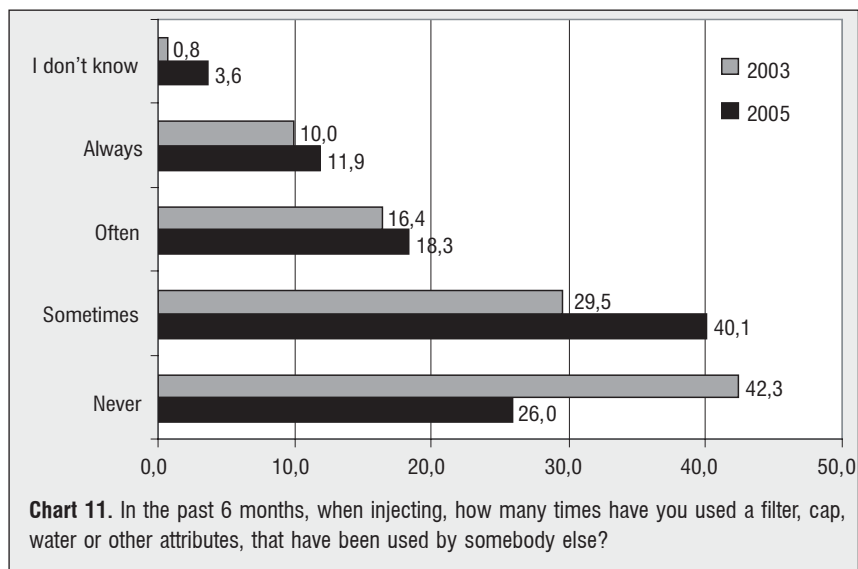


Chart 11. In the past 6 months, when injecting, how many times have you used a filter, cap, water or other attributes, that have been used by somebody else?

rise in the injecting with somebody else's needles and syringes in 2005 z. (see Chart 8).

A closer look at the answers shows growth both with the „low risk“ IDU (the ones that have injected themselves in the last six months under 5 times with used needles/syringes) - from 20% to 32%, and the „high risk“ ones (those who have injected themselves over 50 times with used needles/syringes) - from 11% to 16% (chart 9).

The second question, setting the time lines in the past 6 months, makes it possible to answer the question whether change has taken place in the daily behaviour after ruling out the personal use dose (chart 10).

The conclusion that can be drawn is that **the behaviour of the drug users in 2005 was considerably more risky if compared with 2003**. What is more, looking at the 6-month period, we can see, that now **almost twice more IDU have used somebody else's needles and syringes as against in 2003**.

Another indicator of risk behaviour, which as per analysis in 2003 is actually the most risky, is the shared use of attributes for the preparation and injecting heroin (caps, filters, water, etc.). This indicator shows an even more abrupt deterioration in 2005 (see Chart 11).

The analysis of outreach workers' log-books, focus-groups with

drug dependents and interviews with experts pointed to a main reason for the growing risk of behaviour – the fear of police repression. Resultant from that **the injection use has become more cautious**. Drug users start getting high in closed circles, hide in abandoned buildings, cellars and attics. The data of the research in the summer of 2005 backed up these assumptions (see Table 3).

According to interviewees, IDU have started using drugs at public places half less frequently. Reversely – they use twice more often at their homes, at the homes of their friends, but most significant is the rise of use in abandoned buildings. Some may argue that reduced drug use in public places can be interpreted as less-

Table 3. Typically where they have used drugs in the past month.

| | 2005 | 2003 |
|--------------------------|------|------|
| At home | 49 | 47 |
| At friends' homes | 16 | 11 |
| At a dealer's home | 2 | 2 |
| In an abandoned building | 12 | 6 |
| Outside | 16 | 30 |

er risk for the public, still arguments are there in support of the opposite view, too. The risk grows since hiding away in abandoned buildings, areas, cellars, attics, and the like, the injection drug users more commonly use others' needles and syringes, hygiene is lower and on the whole the risk is higher of getting contaminated with blood transmitted infections. Having restricted their contacts with the external world, their indifference grows as regards the risk, and their access shrinks to sterile injecting sets – both buying them from the pharmacies, and sustaining contacts with the specialized services for needle exchange and for medical care. Many drug

users share that they are afraid to carry around needles and syringes, because they may have trouble when stopped by the police. That is why, instead of getting timely supplied, and always having with them enough clean sets, they prefer to look for ones at the last moment before injecting, which not always works for them and they resort to using somebody else's.

One indicator for risk is the overt correlation between the use of used needles and syringes and the **hepatitis C** contamination. The more intensive the use of used needles and syringes, the more likely it is for the person to have hepatitis C (see Chart 12).

The fact that the public *does not see* the injection drug users, does not mean they are not among us, and that their behaviour and contacts with environment is not pregnant with risks. Available data are there for the spread of blood transmitted infections among IDU, tested by „Initiative for Health“ Foundation, which reveal the following:

During the interval August 2003 – June 2005 (coinciding with the interval covered by the present analysis) 573 out of 776 tested IDU have hepatitis C (74%), 18 out of 313 tested have syphilis (5.75%), 6 out of 776 have HIV. Notably one of the six HIV cases was registered within a 10 months interval (August 2003 – May 2004), while the remaining five – within a seven months interval (June 2004 – December 2004). The latest cases were registered within a relatively closed group, who for a certain period of time used to visit a certain place for injecting (a private house where many IDU got together finding shelter to inject themselves). Such behaviour is commonly

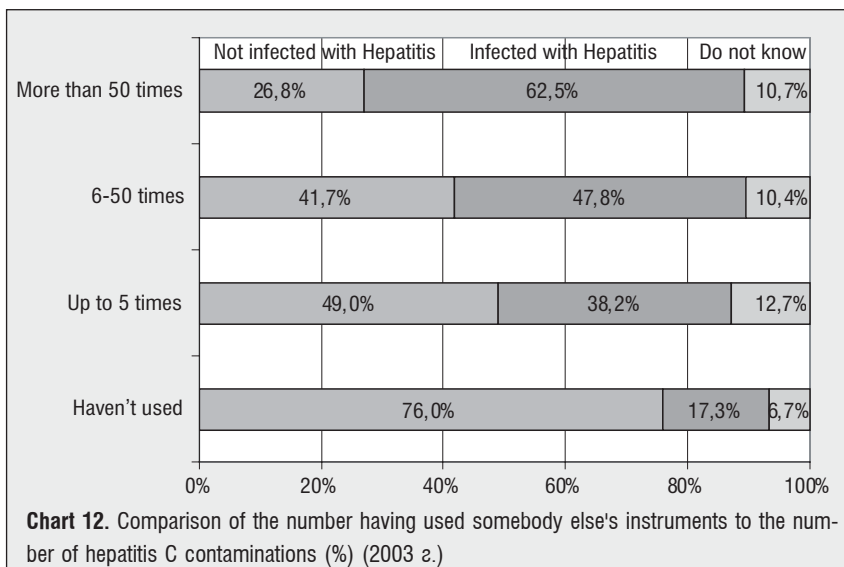


Table 4. Overdosing numbers

| Number of times | 2003 | | 2005 | |
|-----------------|-----------------|-------|--------------|-------|
| | Number of cases | % | Number cases | % |
| 1 | 48 | 9,6 | 63 | 12,7 |
| 2 | 16 | 3,2 | 14 | 2,8 |
| 3 | 6 | 1,2 | 6 | 1,2 |
| 4 | 6 | 1,2 | 5 | 1,0 |
| 5 | 1 | ,2 | 2 | 0,4 |
| 8 | 4 | ,8 | 3 | 0,6 |
| 9 | 1 | ,2 | 10 | 2,0 |
| 10 | 1 | ,2 | 1 | 0,2 |
| Total | 501 | 100,0 | 498 | 100,0 |

observed among the group after the amendment to the PC was enforced – for fear of repression.

It is noteworthy to ring a bell here about the experience countries like Ukraine and Russia have, where subsequent to the enforcement of their very repressive legislations pertaining to drug users, they heavily marginalized and hermitized their IDU and as a result an HIV/AIDS epidemic was triggered.

Along with the application of used needles and syringes, another direct risk posed by the injection behaviour is **overdosing**. It has been named as the single most important cause for death with the IDU, which, as per expert evaluation takes between 1/3 and 1/2 of the death toll among them

in Bulgaria¹⁵. Unfortunately the problems of overdosing in Bulgaria are an area utterly difficult to study, and the statistics come quite contradictory¹⁶. Admittedly it is a pity not to have reliable official data to compare PAS overdosing before and after the introduction of the personal use dose. Yet the overdosing question on both surveys among IDU provides good basis for analysis (the question concerns cases of overdosing when external intervention was needed to save human life).

Juxtaposing the surveys before and after the ban on the personal use dose it is visible that the number of the respondents who have overdosed at least once in the past 6 months has grown from

¹⁵ It is arguable whether or not the added impurities when injecting PAS, are not more significant in the country's IDU death toll.

¹⁶ The National Statistical Institute cannot provide true statistics on the drug-related death rate. The main reason is that the relatives of the deceased would prefer not to have the actual cause of death written in the death certificate. According to the press center of the Ministry of the Interior in 1999 in Bulgaria 57 died of a drug overdose (11 - aged 14 to 18, 44 - 19 to 30 years of age, and 2 -- above 30). In 2000 102 died of overdose in Bulgaria. In 2001, 75 died of either overdose, or low-quality of drug, as stated by a study of the Center for Social Research. From year 2002 on, there is no government institution to have announced overdosing death tolls.

9,6% to 12,7%. Along similar lines is the increase of overdosing more than once - from 7,0% to 8,2%. The average overdosing in 2003 is 0,36, while in 2005 – 0,50.

The worsening situation with overdosing should not be explained solely as based on the more risky behaviour of the IDU after the elimination of the per-

sonal use dose. Significantly more direct is the impact on overdosing of the better quality of heroin.

When establishing increase in overdosing, we must go back to one of the most circulated arguments back in 2004 for the change of the law — „kids dead because of drugs“. Although, as has been said, there are no reli-

able data on the death rate among drug users in Bulgaria – the politicians announced that within the year 300 children have died of overdose¹⁷.

HEROIN USERS AND THE CRIMINAL PROCESS

In order to look at what has changed after the spring of 2004, we must make a scheme of the structure of the process of what a person detained with a dose of drug, **before and after the ban of the personal use dose**¹⁸ (chart 13).

Before the prohibition of personal use dose the steps to go through for a person detained with psychoactive substance(s) used to be: detention and registration by the police, handing him over to an investigator (inquestor). The investigator or the inquestor, for their part, as law required, had to ascertain through forensic expert opinion whether the person was addicted, and whether the quantity found could be for personal use. If the detective decided that the quantity found was a personal use dose, the detained person was released. If it was decided that this was a dealer, or somebody involved in drug distribution, investigation process was initiated, and in the presence of sufficient evidence, the investigation handed over the person to prosecution. The prosecutor for his part had to decide whether to take legal action. If the prosecutor decided that he has enough evidence, and that person sells, or is involved in the distribution of drugs, the case was brought before the court to trial. The court,

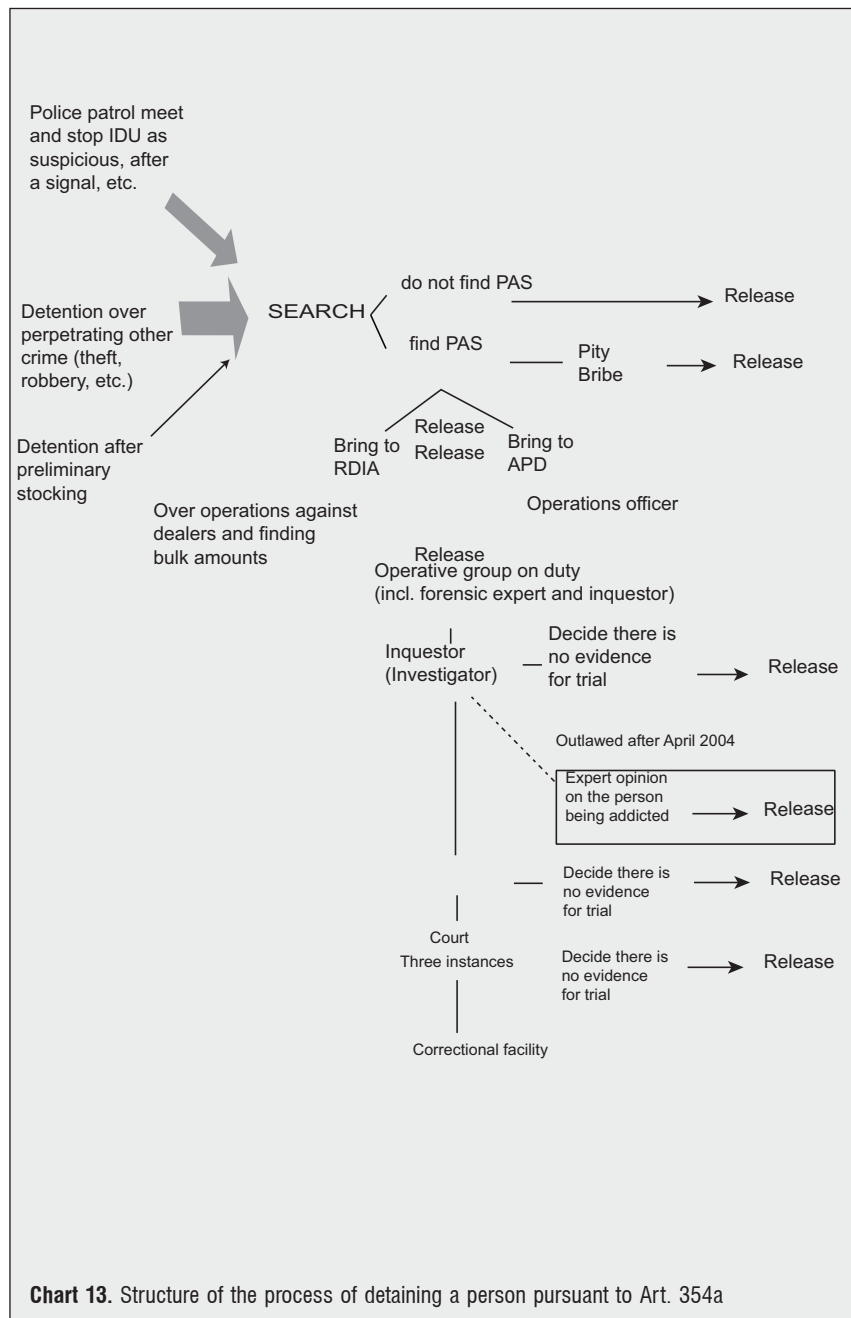


Chart 13. Structure of the process of detaining a person pursuant to Art. 354a

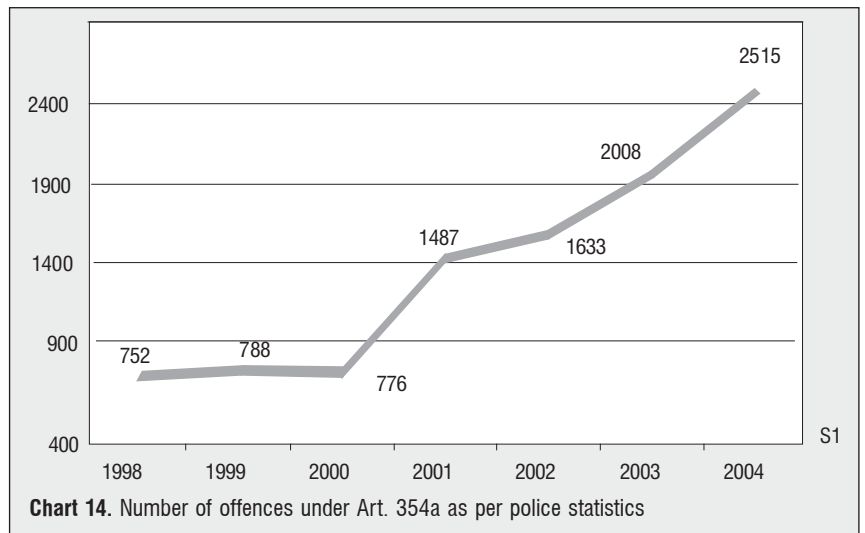
¹⁷ See Miroslav Sevlievski's article „We are killing our children with indifference“, Trud daily - 25 March 2004.

¹⁸ Carrying out in-depth interviews unveiled opinions with varying degrees of being critical. Opinions showed discrepancies as far apart as full loyalty to the represented institution, formal responses; and severe criticism to all the institutions involved. The author has attempted to present both positions in balance as much as possible.

in turn, had to decide whether the person was guilty, and what is the sentence he should serve. The conviction could be appealed on two higher instances. If the conviction provided placing under confinement, the person was duly handed over to the respective detention facilities.

After the change the whole sequence of steps described above was retained except for the possibility to release the one arrested with drugs as based on the expert opinion that he is dependent, and the amount of PAS recovered corresponds to the next dose for his personal use (see Chart 13). As a result, if following the logic of the current legal tenet, the process should be linear, and upon presence of sufficient proof, the end of the flow chart is to be the person arrested with some psychoactive substance serving a minimum of 10 years imprisonment. Let us use police statistics data for the past year 2004 on reporting materials and see how this abstract scheme works. Let us take it for given that for the total of 2558 offenders registered there is enough evidence, i.e. some psychoactive substance has been found in their possession. After going through all the steps of the criminal process, at the end we should be having 2558 prisoners. Did this happen, and what is it that is not taking place?

Much to our regret, the sequence of steps starting with the police detention and ending with serving convictions in prisons, is a process reflected in much too little comparable statistics. This is the reason why prevailing below would be the descriptive evaluations coming from the expert interviews, as well



as comparative data obtained from the IDU research¹⁹.

THE POLICE

The first step in the criminal process is the detention of drug users by the police. The starting point here can be the data from the operative police statistics, or the so-called statistics of reporting materials (see Chart 14).

As seen from the data, after 2000 there is a visible increase of registered crime. It must be made clear here, that with the drug-related crimes, the discovery rate according to police statistics is 97-98%, that is, registered offences mean proven offender(s)²⁰. Looking at the 2004 data we can see for 2515 offences logged pursuant to Art. 354a a total of 2558 officially recorded offenders. Naturally the question arises what are the reasons for such a steady increase with this group of crimes? For comparison's sake, the total number of criminal offences as per police statistics goes steadily down by 1-3% annually for the past five years. The surveys among drug dependents, general victimization surveys²¹, interviews with police officers and

magistrates reveal that there are two major preconditions for this growth. The first one is definitely the rise in the use of psychoactive substances overall. Surveys give evidence, however, that this increase is mainly observable with the use of marijuana²² and amphetamines. The second is related to the increased activity on the part of the police. Along these lines notably during the heroin epidemic 1998 – 2000, despite the exponential growth in drug use (see Chart 4), the number of registered drug-related crimes remains more or less the same (see Chart 14). In 2001, however, an abrupt change is visible, which can logically be explained in terms of changes in the MoI behaviour. The explanation behind this reversal is the pressure exerted by the public via the media and the politicians on the services of the interior ministry. Acting after „political approval“²³, unlike the registration of criminal offences, where more crimes means the responsible structures do not do their jobs well, logging more drug-related crimes is viewed as performance of more activity and professionalism.

Because of the chosen focus

¹⁹ Carrying out in-depth interviews unveiled opinions with varying degrees of being critical. Opinions showed discrepancies as far apart as full loyalty to the represented institution, formal responses; and severe criticism to all the institutions involved. The author has attempted to present both positions in balance as much as possible.

²⁰ In this regard this type of crime stands very much apart from traditional criminal offences, where the discovery rate for the recent years is between 50-60%.

²¹ See „Crime Trends in Bulgaria: police statistics and victimization surveys“, Sofia 2001, Center for the Study of Democracy.

²² See Annual Report on the problems related to drugs and addictions in Bulgaria, National Council on Narcotic Substances and National Focal Point, Sofia, 2004.

²³ By „political approval“ we mean the approval of MoI leaderships on local and central levels.

of analysis, let us „slice“ the police stage into several parts more or less unknown to the general public, and worthy of comment. What are the most typical cases when the police carry out detentions²⁴? Provisionally detentions may fall into three groups. The first one concerns dealers – they are the ones most commonly caught after a long preliminary preparation mainly accomplished by the Regional Services for Combating Organized Crime (RSCOC) and the Regional Directorates of the Interior, still there are district police departments (DPD) around the country who work well and have the capacity to conduct such operations. Upon success operations in such cases usually bulk amounts of drugs are seized. The second group of detentions most frequently concerns drug dependents – when they get caught over committing a criminal offence - theft, burglary, or when transporting and trying to sell what has been stolen. In such cases upon search some drug may be found and the person is typically also held responsible pursuant to Art. 354a. The third type of detentions comprises stopping and searching of public places, or acting upon a signal. This text does not have as its aim to analyze police activity, but it must be mentioned here that above 95% of drug-related detentions belong under the second and third groups.

None other than the police detentions leave the most contradictory impressions, and complicate to the utmost the possibility for objective evaluation of the change after outlawing the personal use dose. According to the drug users, their lawyers and doctors working with drug addicts, the practice is sustained of constant

stopping and searching, also periodically police hunts are undertaken. Both approaches most frequently end up capturing „ordinary“ addicts, who are much easier „targets“ than the drug dealers. The in-depth interviews and the focus groups yielded a key finding and statement against the current police model – an average number of apprehensions is expected, and accordingly made up in the past few years mainly on „ordinary“ drug dependents, not on dealers. This in mind, the law changes additionally facilitate the detentions of drug dependents, and further lift the pressure off the drug dealers.

It is worth noting that within the police itself criticism is heard of the existing practices of reporting. As critics see it, the police pointlessly wastes resources (human, technological and financial), for as little as detaining street drug users instead of focusing on the dealership networks. Over interviews with specializing officers and investigators at DPD opinions prevailed that they were under constant time pressure to check

huge scores of false signals and busy working on alleged drug possession cases.

Blames laid to the police detaining mainly users were responded in terms of „in most cases the drug users are also distributors, at least because in this way they can secure the substance amounts they need for themselves“. As per an annual report of the national information-analytical unit on narcotic substances,²⁵ the sellers to users ratio vacillates around 1 to 3,3 for all drugs overall, and 1 to 4 with heroin.

According to surveys, nearly half of the long-term drug dependents have had some experience in drug dealing. For us it was important to establish whether the amendment to the PC has changed this practice, and for the purpose we studied how far selling drugs is a source of incomes for the IDU

As seen from the data, in the past 6 months 9-10% of the drug users have received income from selling PAS (tabl 5). Juxtaposing 2005 and 2003 demonstrates a

Table 5. Sources of incomes in the past 6 months, arranged per importance by IDU²⁶.

| | | |
|--|----|----|
| Parents | 70 | 77 |
| Employment without contract („grey employment“) | 32 | 33 |
| Employment under contract („white employment“) | 19 | 22 |
| Crimes against property: thefts | 26 | 23 |
| Other | 21 | 13 |
| Selling sex services (for themselves) | 6 | 4 |
| Dealing in illicit drugs (for their own account) | 5 | 7 |
| Selling sex services (through others) | 2 | 3 |
| Rents | 4 | 5 |
| Employment for dealer as shipping, racketeering, intermediating, selling, etc. | 4 | 1 |
| Begging | 4 | 5 |
| Social benefits | 2 | 5 |
| Crimes involving violence (burglary, assault, extortion, etc.) | 3 | 1 |
| Dealing in medical drugs or methadone | 1 | 1 |
| Scholarship | 1 | 1 |

²⁴ Beside the focus of the current analysis are all detentions related to drug trafficking uncovered by the customs, and NSCOC activities against big dealers.

²⁵ See Annual situation report 2004, ON DRUG TRAFFICKING AND DISTRIBUTION OF NARCOTIC SUBSTANCES ON THE TERRITORY OF THE REPUBLIC OF BULGARIA OF THE National information-analytical unit on narcotic substances, January 2004.

²⁶ The sum total of the percentages adds up to more than 100, since interviewees were allowed to point more than one response. .

significant **change in the share structure**, with the total drop of 1% falling within the statistical error. Hence, data give grounds to assert, that **the law has not led to shrinking drug dealing**.

Changes in the structure of the professional drug dealers' network come also in confirmation of this assertion. The number of dealers selling over mobile phone went down from 69% in 2003 to 59% in 2005. Conversely, the number has increased of those dealing at their homes – from 9.5% to 21% (see Table 6).

Needless to say those selling drugs from home are considerably more vulnerable than those selling over pre-paid mobile phone cards. The world experience has proven the capturing of mobile phone dealers very complicated, and in Bulgaria it is additionally made more difficult because of the anonymity over buying the pre-paid cards. Let us put it explicitly that using home for selling, the dealer faces a higher risk of his eventual detention – making it possible for the police to easily learn the address from either drug users, or neighbors. **The increased occurrence of this model reveals that the new law does not pose additional threats on those selling drugs, on the contrary.** The question arises why this has happened, in view of expectations that the exclusion of the personal use dose would make it easier to catch the drug dealers.

The other visible **change in the drug distribution organization** is the growing range of PAS the dealers offer for sale. The findings of the 2005 research manifest that decline is observable only with marijuana of the percentage of dealers selling it. With amphetamines the percentage of those selling has doubled,

Table 6. Types of dealers supplying IDU with drugs

| | 2003 | 2005 |
|--|-------------|-------------|
| Dealer you contact over the phone | 69,0 | 59,2 |
| Dealer you meet in the street | 44,0 | 43,2 |
| Dealer you visit at his home | 9,5 | 21,3 |
| Dealer at a cafe, bar or restaurant | 10,7 | 8,0 |
| From friends | 12,4 | 19,1 |

Table 7. Range of PAS offered by heroin dealers

| | 2003 | 2005 |
|--------------|------|------|
| Cocaine | 14,3 | 22,2 |
| Amphetamines | 16,7 | 34,1 |
| Marijuana | 23,5 | 18,1 |

and the growth is significant with cocaine, too (See table 7).

Such diversification of supply can again be interpreted as increased risk for those selling drugs. Selling a broad range of drugs implies that the heroin dealers no longer supply heroin users only²⁷, but also a different type of drug users, many of whom just incidental. In other words – the new broader client base, who is not hermetic like the one of heroin users, adds further risk for the dealers. The explanation of this phenomenon probably lies in the fact that the networks distributing heroin, who are the most organized and professional ones, are trying to take over the remaining sub-markets of drugs. This however, would hardly be possible without loosening up the police counteraction.

The last argument worthy of considering in this part of the analysis, and as related to the elimination of the personal use dose, touches upon the quality and price of heroin. The logic goes that assuming the law is better, and is implemented efficiently, the quality of the drug should be deteriorating, while its price – rising. At the time when the first IDU survey was conducted (in the summer of 2003) the police seizures of street doses heroin

contained between 10 and 12% diacetylmorphine (heroin). The price per dose of 0,130 -0,160 grams (purity 10-12%) in Sofia was 6 leva, while around the country the average was 5 leva. Two years later, despite changes in dose packaging, the price for smallest amount in Sofia continues to be 6 leva, and in the country – to oscillate between 4 and 5 leva. Quality, however, has improved – for Sofia it fluctuates between 15% and 20%, while in some Plovdiv areas, like Stolipinovo neighborhood, it goes as far up as 30-35%. Hence, the conclusion may be drawn that **the elimination of the personal use dose has not been an obstruction before heroin distribution – the price has remained the same, while the quality has improved.**

INVESTIGATION (INQUEST), PROSECUTION AND COURT

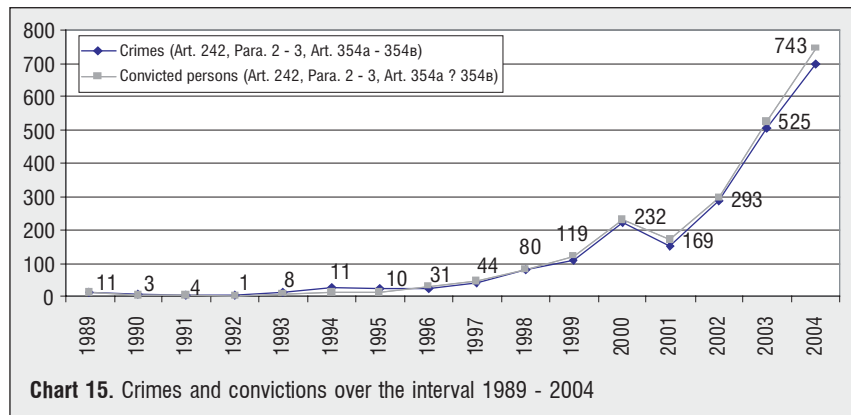
The second step after police registration – **investigation** – was extremely difficult to analyze. Because apart from outlawing the personal use dose, a change in the Penal Process Code (PPC) was effected, and as of 1 April 2005 all drugs possession and distribution cases, apart from those against juveniles and other

²⁷ As has been proven before, IDU preferences have shifted in the course of two years reverting to heroin. Therefore IDU cannot be the factor contributing for the more diversified supply.

nationals, were transferred under Mol inquest. Investigation work thus strongly limited, and awaiting further radical changes, the investigators were acutely critical to whatever was happening in the criminal process. As they saw it, in the short interval since the ban on the personal use dose and the enforcing of PPC changes, they had been trying to „soften“ the implementation of the law. According to what they have observed, „after the prohibition of Para. 3 of Art. 354a, no willingness was demonstrated on the part of those under investigation“. Under the law as it is now, any drug user, or person, having decided to cooperate in the investigation and name wherefrom he supplied drugs, automatically admits that is using, and naturally becomes an accused party not just witness. Thus the qualification dealer becomes harder to prove.

As regards the rejected option to set apart the dependent users and the dealers via expert opinion, the investigators and inquestors alike shared the view that thus the system gets additionally overburdened. Now each single person has to be investigated and handed over to a prosecutor. At the same time, when doubts are there that the person is addicted – now, like before, a doctor is sought for an expert opinion. When the offender is established as dependent, the prosecutor and the court in most cases take the condition into account.

With the next step in the criminal process – **the prosecution** – it must be borne in mind that due to a technicality after the changes to the Criminal Code the drug-related cases get directly transferred to Regional Court (passing District Court) due to the harsher punishment envisioned. This change, among other things,



brought to more detainees holding the so-called „personal use dose“ to have to go to the prosecution, increasing its workload accordingly at that. The research established two very different positions among the prosecutors. The first one was that „the prosecution does not distinguish a drug user (dependent) and a dealer – it is obligated to press charges in both cases as per law, and in 90% of the cases they stand accused“. The second position saw the prosecution as the institution to screen the cases, and those caught holding „a personal use dose“ (interpreting „personal use“, as single/one-time use, not daily use) are not to be handed over to court, pursuant to Art. 9 Para. 2 of the PC – insubstantiality of the act. When this is the first time somebody is charged, another „loophole“ is applied – that of Art. 55, and the trial is postponed on probation terms.

Lawsuits started against drug dependents, the prosecutors typically refer to „salvage loopholes“ in the law, or to the measures for compulsory medical treatment. That, however, can be provisioned along with the conviction, and constitute part of serving the sentence. Thus, as a result of the change in question, the law expanded its framework, and transferred the responsibility for filtering the harsh offences over to the prosecution. This, according to critically-minded prosecutors,

creates preconditions for more work, and at times more subjectivism in the prosecution activity. It also raises the question: has the change in the PC helped in coping with „the contradictory court practice“, which was among the motives of its proponents?

On the other hand, both the police and the judges spoke about the time after the ban on the personal use dose coinciding with „a lot of turbulence taking place“, when the prosecution is being upset as institution. Hence, in the past six months, in many places countrywide the prosecutors prefer not to take career risks and all cases, accused under Art. 354a go to court, regardless of whether the person is addicted, or whether he has been previously sued.

The analysis of **the court phase** was lucky to be able to use as its starting point the data provided by the NSI in its annual publications – „Crimes and convictions“ (see Chart 15).

This Chart represents quite well the perturbations the law enforcement system in Bulgaria went through as regards drug-related crimes – from one conviction in 1992 to 743 convictions in 2004. Juxtaposing the total number of convictions with the convictions for drug-related crimes, it is also visible that in the past three years this ratio goes abruptly up (see Table 8).

Notably, in 2004, when the

Table 8. Ratio of total number of convictions to convictions pursuant to Art. 242, Para. 2 - 3, Art. 354a - 354in for the interval 1994-2004.

| | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|--|-------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Convicted persons (Art. 242, Para. 2 - 3, Art. 354a - 354in) | 11 | 10 | 31 | 44 | 80 | 119 | 232 | 169 | 293 | 525 | 743 |
| Total convicted persons | 9 474 | 11 765 | 16 376 | 21 868 | 28 074 | 29 391 | 30 405 | 28 729 | 27 771 | 28 617 | 29 646 |
| Ratio between total convicted and convicted under (Art. 242, Para. 2 - 3, Art. 354a - 354in) | 0,12 | 0,08 | 0,19 | 0,20 | 0,28 | 0,40 | 0,76 | 0,59 | 1,06 | 1,83 | 2,51 |

Table 9. Convictions pursuant to Art.354a-354c

| | Total convictions | Convictions | % | Probations | % | Acquittals | Discharges | Exemption from punishment |
|------|-------------------|-------------|-------|------------|-------|------------|------------|------------------------------|
| 2002 | 286 | 88 | 30,77 | 177 | 61,89 | 12 | 1 | 8 |
| 2003 | 561 | 172 | 30,66 | 323 | 57,58 | 43 | 1 | 22 |
| 2004 | 787 | 235 | 29,86 | 463 | 58,83 | 65 | 3 | 21 |

changes to PC were already enforced, there is no visible change in the growing trend as against the three previous years. In 2004 the number of convicted has grown by 41,5% versus the previous year, and is lower than 2002 and 2003, when the upsurge is 73,4% and 79,2% respectively. It may be presumed, however, that the time span since the enforcement of the change to PC in mid-2004 till the first court decisions is not sufficient to register a significant slash in the statistics²⁸. For instance, out of 698 convictions pursuant to Art. 354a-354 in only 115 are for crimes committed in 2004, 228 – in 2003, and the best part of the convictions – 295 – are for crimes taken place in 2002 and before. Along these lines it can be assumed that „the multitude of cases“, referred to by inquestors, investigators and prosecutors, will wait until registered by court statistics.

Commonly in the in-depth interviews it was held that the ban of immunity from punishment for the possession of single dose of drug has rendered more numerous court cases, and that most standing accused are drug-dependents²⁹. Overall the judges are unanimous that a sanction of

a minimum of 10 years imprisonment plus an absolutely uncollectible fine of 100 000 to 200 000 leva, is inapplicable to ordinary drug users. The judges however, shared various personal experience, and expressed diverse attitudes to the drug users. Some predominantly uphold that the prosecution and the judges manage „to soften“ the absurdity of the changes to the PC. The judges belonging in this group shared two different kinds of experiences. One – as a result of the prosecution being flexible, many of the cases do not end up in the court room over insignificance of the act, or some other possibility provided in the PC. In these cases the prosecution acts as a filter screening drug users from drug dealers. Still a small number of cases get court trial. The second kind of experience concerned court judges who have to deal with anything the prosecutors present pursuant to Art.354a, and „in such cases the judges cannot but „make it up“ by „bending“ the law and looking for extraordinary and numerous extenuations“.

The second group of judges said that „no change has taken place after the introduction of the

changes to PC, so it is all too relative „before and after the changes“; and that „one cannot but take into account in a drug possession case whether the accused is dependent or not“.

A third and minority group of judges is worth mentioning, who stand out not so much with their court experience, but more with their understanding of drug dependence. In their view the conviction of a dependent person to serve a sentence in prison „gives this person a chance to get cured“. Their interviews struck as having particularly fuzzy ideas about the differences between different PAS and the consequences of their use. It remains ambiguous what is the percentage among Bulgarian judges who fall under this group.

With the judges, just like all along the previous stages from police custody to prosecution, the complexity of the heroin drug user cases reaching court was emphasized. Most common are the cases when drug use „comes together with drug dealing“ and other crimes. Over such cases the court is generally more sympathetic and takes into account the extenuating addiction circumstances.

²⁸ If we take it that a case under Art. 354a typically takes the inquest/investigation an average of 2 months waiting for chemical analyses, the prosecution - another month or so, then the first lawsuits have taken place towards the end of 2004.

²⁹ See newspaper „Catch 22“ 27/8/2005 Sotir Tsatsarov, Chairperson of the Plovdiv Regional Court: „The outlawing of personal use dose is populist“

Interviewee judges stated that themselves, and their colleagues likewise, when convicting drug dependents, they try giving up to 3 years suspended convictions. The court statistics data confirm that approximately 2/3 of the convictions are suspended (see table 9).

On the other hand, the judges agreed that the probation convictions were actually a longer-term trap. Typically as early as while the trial is under way, the drug dependent stands a fair chance to get caught holding one of many regular drug doses he needs on a daily basis (the heroin addiction is much stronger than that with other types of drugs). Despite the experience the dependents gain in avoiding detentions and the criminal process, they still rarely manage to do without another locking up in the course of 1-2 years. In such cases, with already pending suspended conviction, the law requires a stronger punishment, and the judge cannot help ruling that. So a „vicious spiral“ is at work: out of custody the dependent starts to use again and his capturing is a matter of time. The convictions data about persons with a history of convictions do confirm that the „professional prisoner service“ has started becoming a regular job for many (see Table 10).

In conclusion it can be summarized that the data collected clearly reveal the inconsistency of one of the key motives of those proposing the change to the PC – the elimination of contradictory court practices. What is more, the introduction of the amendment in question boosted subjectivity – all through the investigation, prosecution pressing charges and resolving the lawsuits pursuant to Art. 354a.

DETENTION FACILITIES

According to the Annual report

Table 10. Comparison of numbers of convicted - unconvicted pursuant to Art.354a-354in

| | Total | First convictions | Convicted before | % convictions |
|------|-------|-------------------|------------------|---------------|
| 2000 | 253 | 220 | 33 | 13,04 |
| 2003 | 516 | 426 | 90 | 17,44 |
| 2004 | 743 | 608 | 135 | 18,17 |

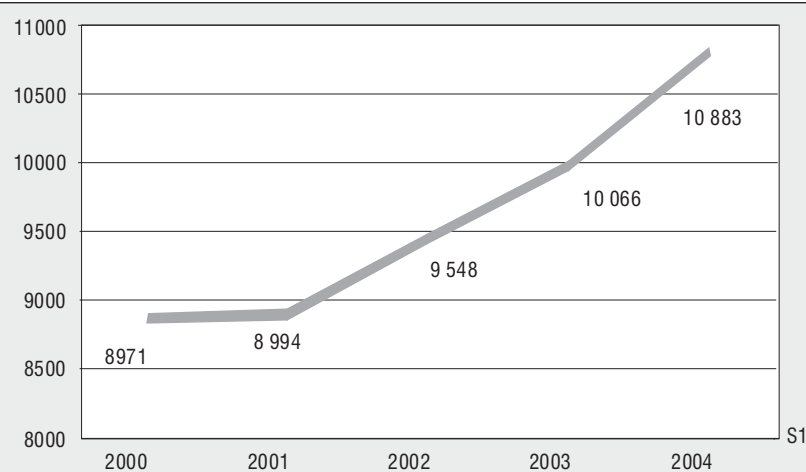


Chart 16. Serving prison convictions

Table 11. Capacity of detention facilities

| | capacity | in-mates | % capacity in use |
|--------------|--------------|---------------|-------------------|
| Belene | 567 | 628 | 110,8 |
| Bobov Dol | 526 | 534 | 101,5 |
| Bourgas | 442 | 979 | 221,5 |
| Varna | 700 | 954 | 136,3 |
| Vratsa | 607 | 788 | 129,8 |
| Lovech | 964 | 1411 | 146,4 |
| Pazardjik | 730 | 798 | 109,3 |
| Pleven | 416 | 787 | 189,2 |
| Plovdiv | 578 | 1224 | 211,8 |
| Sliven | 542 | 381 | 70,3 |
| Sofia | 1418 | 1765 | 124,5 |
| Stara Zagora | 890 | 1007 | 113,1 |
| Boychinovtsi | 358 | 141 | 39,4 |
| Total | 8 738 | 11 397 | 130,4 |

of the National Council on Narcotic Substances and the National Focal Point the prisons and correctional facilities in September 2004 housed 565 inmates on whom available data prove that they are drug dependent³⁰. Although the earlier practice before April 2004 as regards dependents was to release them in the pre-court phase if captured with small doses of drugs, within 2 years the number of drug dependents in prisons has increased by 200. This trend is

explicable in view of the above stated data evidential of growing percentage of recidivism, along with an increasing total number of persons, convicted to prison for drug-related crimes. However, the sustainable upsurge of the number of crimes under this group has to be seen against the critical condition of the detention facilities. According to Ministry of Justice data, the number of convictions being served in prisons grows steadily (see Chart 16) to considerably surpass the deten-

³⁰ Annual report on drug-related and addictions problems in Bulgaria, National Council on Narcotic Substances and National Focal Point, Sofia, 2004

tion facilities' capacity (Table 11)

As seen from the data, the prisons' capacity has been exceeded by over 30%, in case the evaluation is accepted that our penitentiary facilities can take up to 9 thousand inmates. As some expert estimations go, however, the real capacity of Bulgarian prisons is about 3 thousand. If we match the drug dependents data to the total number of prisoners, it will become evident that they represent some 5% of the inmate population, which is twice the percentage of those convicted for drug-related crimes versus total convictions (see table 9). The main problem looming as early as before disallowing the personal use dose – due to accumulating recidivism with detained drug users – their number in prisons goes up very rapidly. It may be argued that the changes to the PC and PPC would bring about a dramatic upsurge of the convictions for drug-related crimes. We are refraining from speculations here as regards **what would happen, if just like that 20% or 30% (between 3000 and 4500 as per minimum estimations) of the country's heroin users became inmates.**

In this light a question seems plausible: what is the fate of the convicted drug dependents finding their way to the penitentiary facilities in Bulgaria? The research under way we were surprised to see how widely upheld is the view, that „prison is the sole chance for addicts in Bulgaria. They are unable to get supplies of heroin there, and in 6 months to a year spent in prison, they get rid of their dependence.“ Thinking along similar lines, as we have witnessed, parents turned over their

children to the police, by setting them up with a dose, or securing a witness, so that they get into prison³¹. As it was mentioned above, we met even judges sharing that they had convicted „a certain number of addicts³² to prison in order to get cured“. The world experience has proved prisons among the places where risk behaviour over injection drug use is observable very frequently. In this respect Bulgaria is beginning to get close to the world trend. If surveys available before 1999³³ manifest that injection drug use is practically missing in prisons, the latest data register a significant change. As per surveys among IDU, between 2003 and 2005 there is no difference - **15% of them have already been to prison, the difference lies in the number of times. In 2003 3,9% had been there more than once, while in 2005 they represent 5%.** Although officially drug use in prisons has not been admitted by the respective administration, data speak otherwise. According to interviewees in 2003 during their stay in prison **36,8% did not only use drugs, but actually injected themselves. In 2005 those injecting themselves were already 40,5%** And, as revealed in a focus group of former inmates, who had been detained in the past 3 years, in prison there are more than one channel for supplying drugs. The price of two doses of heroin, costing outside 20-24 leva, have a prison price of 100 to 200 leva. For years a well-gearred system has been in operation for supplying with all sorts of goods, and as one of the discussion participants said, „they could have taken even „Titanic“ in, had there been water“. According to former inmates, missing needles

and syringes lead to absurd practices. For instance a byro is often used in place of a syringe, needle attached to it. Needles are used until they get so blunt as not to be able to cut through the skin.

Certain indications about the growing risk in Bulgarian prisons gave a survey of hepatitis B and C, HIV and syphilis of the summer of 2005 among 111 inmates. The outcome was as follows: 3 cases confirmed HIV-positive, 22 hepatitis C cases, 9 hepatitis B cases, and 11 syphilis cases. Focusing on the HIV-positive ones – three constitute 2,7% of those tested, given that among the IDU in Sofia in 2004 this percentage was 0,77%³⁴, i.e. hypothetically generalizing, the risk of contamination in prison appears to be three times higher. Besides, it should be borne in mind that, despite stronger preventative measures against this infection among various sensitive groups in Bulgaria in recent years, yet no such programs are being implemented in prisons.

Considering the topic of inmate drug dependents, the question suggests itself whether there is treatment they could be offered there. As per Ministry of Justice data in 2003 the sole place such specialized treatment is offered is the psychiatric division in the prison in Lovech to house 30. Treatment there in 2003 received 30 patients, 17 of whom – heroin dependent, and 13 alcoholics. Early in 2004 the same ward housed four with alcoholic dependence and four with heroin dependence.

³¹ The press circulated the story of a mother who on several occasions called the police for her son, but he managed to avoid detention more than once by bribing the police

³² A judge in a small city shared that he had convicted kids of people he knew for the same reason

³³ Drug users in Bulgarian prisons, Sofia 1999, Eleonora Nesheva and Philip Lazarov

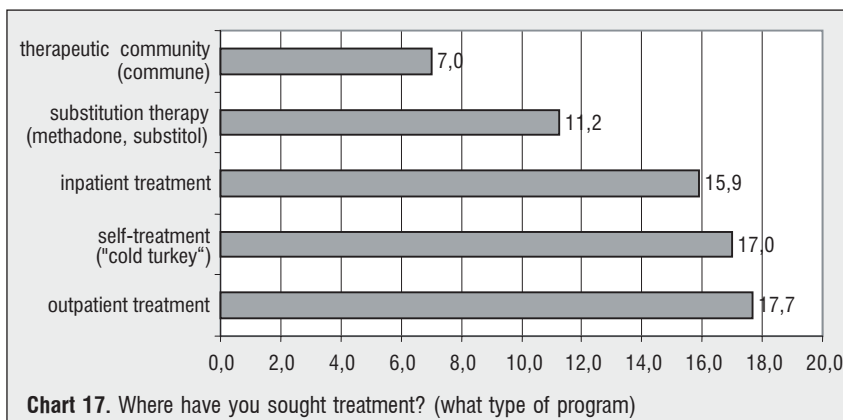
³⁴ As per blood tests among IDU taken by „Initiative for Health“ Foundation

HEROIN USE AND POSSIBILITIES FOR TREATMENT

The description of the situation of the criminal process gives rise to the question **whether there exists an alternative to the cycle „drug use – arrest – investigation – conviction – prison – drug use – arrest and so on“?** The answer should be: „YES – treatment“. Moreover, a popular public expectation of the PC amendment said that drug use being prosecuted „with all the stringency of the law“ would increase the number of those who would wish to get cured and get rid of drugs for good. The issue, yet, of the possibilities for treatment in Bulgaria, is very controversial and abound in personality and institutional disparity. It is a fact that in recent years various treatment and rehabilitation practices are at work, some of whom are pursuing certain models of proven efficiency worldwide. How far, yet, they are part of a sustainable national policy in this regard? In reality the best part of whatever is out there is offered by either private medical doctors, or by non-government organizations and other structures delivering services against payment. The accessible treatment and rehabilitation under the existing health care system, free of charge, or via the health insurance system, is absolutely inadequate.

The survey carried out in 2005 made it possible to consider the treatment issue in a narrower context – the behaviour of IDU. Research data among IDU in 2005 are in many respects very intriguing since respondents under the survey were people using drugs daily at the time of study³⁵.

The research showed that **in the past 5 years 59% of IDU have already looked for treatment,**



and 47% have done so in the past 18 months. It seems that the access to treatment in the country is not a problem for the drug dependents. A closer analysis, however, proves that **the average number of attempts, as pointed by interviewees, made in the interval January 2004 – the summer of 2005 is 3,6, median 3 attempts.**

The types of treatment in the past year (2005) fall into 5 provisional groups (see Chart 17), with 34% of those attempting during the past half-year simultaneously participating in more than one program.

The question arises exactly what is taking place during a drug addict treatment, so that we are having such diversity (apart from self-treatment). Even more serious is the question why would interviewee addicts currently under treatment continue to intensively use drugs. **Only some 20% of the participants say that they did not inject heroin yesterday. What is more – as per the research, those saying that they have been, or are being under treatment, use drugs more intensively than those saying that they have not undertaken treatment in the past 5 years.**

Probably there is no one single way to account for the established

fact, still several problems may be outlined, as recorded by the research. One of them is the treatment financing. The survey uncovered that in the past 18 months around 33% have afforded to take part in paid programs, 4% – in more than one. Another common thing is the doubt in the quality of the programs. The in-depth interviews with doctors were the source of a hypothesis that the free and cheap programs (in other words – those offered by the state) do not offer enough quality of treatment, and as a result it is no surprise that a drug dependent can annually do 2-3 programs.

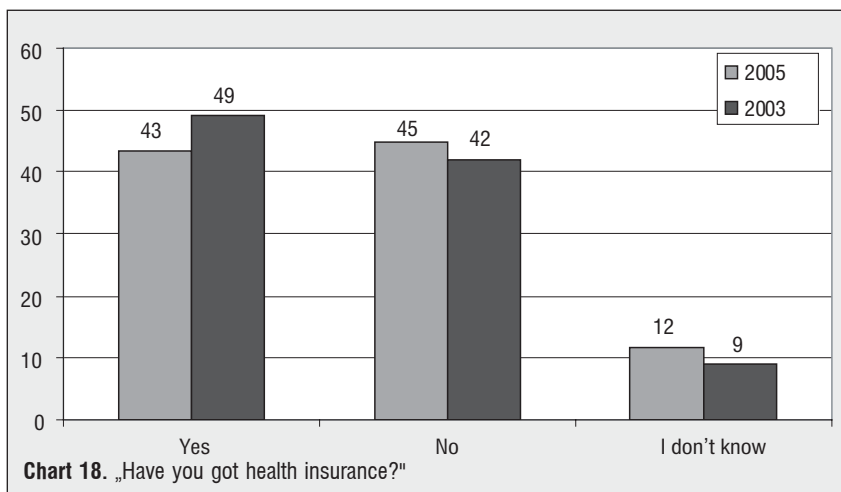
Besides the trite statement that in this country there is no quality treatment, which is actually a conclusion relevant for every average Bulgarian citizen, the IDU research proved that **43,5% have no health insurance.** The comparison with 2003 manifests a worsened situation (see Chart 18). If we assume that the country's injection drug users number 15-25 thousand, then 7-12 thousand of them have no health insurance. **Apart from posing an unpredictable health risk, these people have actually been dropped out of the system. They should not be expecting not just addiction treatment, but any**

³⁵ For comparison sake, all quoted drug addict treatment surveys in the country are administered among those who have already looked for treatment.

medical care whatsoever.

This is the group of drug dependents who have hit **the social rock bottom**. Some 20% of them do not even have identification papers.

Thus we go as far as the question what happens with 2/3 of the drug dependents, who do not have sufficient means to pay for treatment? As per official data the country's only specialized state hospital is the one in Souhodol, which has 24 beds! At the same time since 1996, when the country's first methadone program was launched in Sofia, until 2004 the number of its attendants increased from 200 to 300, whereas the estimations of those willing to participate in the program are between 2000 and 3000 for Sofia only. As late as in 2004 the first free municipal program was set up in Varna for 150, and in



2005 - in Plovdiv to cover 50. Notably, too, up until now the health insurance fund does not pay for drug addiction treatment, that is, even if an addict is health-insured, his treatment would not actually have been covered.

The big picture thus outlined of the general situation with regard

to addictions treatment on offer gives a more or less clear idea why the research does not register any advance in the demand for treatment after the ban on the personal use dose. The finding that there is no expansion in the demand is further confirmed by doctors working in the field³⁶.

CONCLUSION, AND SEVERAL POSSIBLE SCENARIOS

The analysis of the data obtained through surveys before and after outlawing the personal use dose in Bulgaria has provided evidence as to the following:

- Instead of decreasing, the use of heroin has upsurged;
- The number of new injection drug users has not declined;
- The use of heroin has become more undercover, and that has led to a sharp rise in the risk use (with used needles and syringes);
- The number of those overdosing has increased;
- The offering of drugs has not been reduced, and has become more open;
- The price of a dose of heroin has remained the same, yet the quality has improved;

▪ In the prisons the number of heroin dependents has soared; as a rule, inmates have access to drugs, and injecting is highly risky.

All the above findings are well-known world experience, and fairly predictable. At the same time, interviews with the police and the magistrates revealed that many of the expected catastrophic effects of the amendment, for instance an annual influx of 2500 drug users in prisons for at least 10 years ahead, have been evaded so far. This is taking place thanks to 'softer' interpretation of the law by prosecutors and judges. After the ban on the personal use dose the prosecutors have been avoiding to press charges against „ordinary“ drug dependents, and the judges, despite the stringency of

the law, do differentiate drug users from drug dealers, looking for legal possibilities for a more humane treatment of the former. The typical practice is short probation convictions.

Anyway, it must be made explicit, that the law on drugs currently in force, is unique in its repressiveness within the EU³⁷. Such an approach is exceptionally expensive among other things – due to the fact that any repressive legislation estranges the injection users from the institutions who could have helped them, thus further aggravating the problem. With the heroin users, the gravest harms for the individual and the society alike are the direct losses incurred by reduced labour efficiency, criminal behaviour and costs for the treatment of dis-

³⁶ See newspaper „Monitor“, 17.02.2005 interview with Emil Grashnov - Director of the Addictions Clinic in Souhodol: „Since the text was repealed of Art. 354a of the Penal Code relieving the responsibility off the drug addicts caught with a dose for personal use, what is observed is mainly stronger fear on the part of parents of children dependent on drugs. They worry that their kids will get convicted and go to prison. That is why they are more persistent in trying to get them in for treatment. On the part of drug users, the addicts themselves, there seems to be little reaction after the rejection of this text.“

³⁷ In Asia the parallels are many, and many developed countries have similar history in their past.

eases transmitted via infected syringes. Here the most severe threat remains the imminent fast spread of HIV-infection among this group.

It must be added that the confinement of more heroin users and dealers in prisons – if the law shall be consistently implemented – cannot but lead to setting up a market and facilitating the access to drugs in prisons, with all due consequences. British studies give evidence that the dependents who quit using drugs owing to their stay in prison are very few (approximately 10% of the dependent inmates), while it is in the prison that 25% of the heroin users in England have started. Parallel studies in the former USSR produced surprisingly similar results. In the light of these data it is obvious that in the long run prisons generate more new dependents than they manage to cure.

Besides the indirect costs, in countries like Bulgaria the direct costs for the repressive systems are extremely high. Unfortunately at present their calculation appears to be very difficult due to the fact that even the number of police officers involved is classified, and relevant itemized spending information is hard to acquire even by the country's government.

What could possibly happen from now on?

As we see it, three scenarios seem possible.

1. Preserving the status quo. This would mean, despite acute domestic and international criticism – like with many other regulatory acts – that the law does not change. A change in the status quo would upset powerful public attitudes. Before the amendment was passed, its the most ardent supporters, besides politicians

seeking demonstration of muscle, were also various organizations of the mothers of drug dependents. It is clear how difficult would be to annul the amendment. It may be presumed that the processes registered under way in the present analysis will gain momentum. Probably this version would be somewhat refined after and via interpretive decisions of the Supreme Court of Cassation (SCC) on concrete cases. In order for that to take place, however, a certain number of cases must reach third instance court (SCC), which will be most likely to take between 3 and 5 years. Until that happens, yet, the number of drug dependents ending up in prison should be up, even with „the softening filters“ of the court system. The gravest risk faced in this respect will be the possible start of an AIDS epidemic among injection drug users, much like in Russia, China, Ukraine, Moldova, Vietnam, and other Asian countries.

2. Changes to the Criminal Code. These would not be a mere return of the „single dose“. The term „single dose for the dependent's use“ is a genuine Bulgarian invention, practically having no analogue in the EU countries. The years while this law was being implemented have cast some light on the issues arising from this atypical and improper concept.

In the case of Bulgaria, the attempted employment of European law practices of 1999 remained unaccomplished and open to interpretations. Resultant from that, the need for expert estimations of the dose, and of whether the accused is dependent, complicated the trial process and created opportunities for ill meaning manipulations on the part of some forensic experts, and corruption.

On the other hand, real steps to change the law into differentiating the punishments look unavoidable. A clear specification of the quantity of drug for personal use, and prosecution only in the cases when that has been exceeded – if there are no aggravating circumstances – seems the most rational approach at this point. In either a manifest, or tentative form, this is the approach adopted in most EU countries (see *Decriminalization in Europe, Prosecution of drug users in EU, ed. EMCDDA*), and in many ways it will be easy for the Bulgarian legislator to make choices. It is another question whether the influence of the Bulgarian expert communities will be sufficient so that the lawmakers thinking about Europe carry out the change quickly enough.

3. Change of the approach and the structure of public spending. As of now the prevailing approach chosen by the state to combat drugs, is curbing the supply. This approach allocates public spending primarily to financing repressive measures, the ratio of repression to treatment being more than 90% in favor of repression. A possible alternative is to cut the expenditure on combating drugs and increase the funds for social spending and treatment, in other words – to shift the emphasis from suppressing the supply to cutting down the demand. This is the most effective approach for limiting drug use, and a spending scheme opted for by all developed countries. This line is precisely what the European Commission Monitoring Report recommendations highlight with a view to Bulgaria's progress on its way to accession. This scenario is the most optimistic one, but still not quite realistic given the current situation in the country.

CONTENTS:

| | |
|--|----|
| 1. Introduction | 3 |
| 2. Design, methodology and focus of the research | 5 |
| 3. Demographic profile of injection drug users | 6 |
| 4. Patterns of use | 9 |
| 5. Risky behaviour | 10 |
| 6. Heroin drug users and the criminal process | 13 |
| 7. Heroin use and possibilities of treatment | 21 |
| 8. Conclusion, and several possible scenarios | 22 |