

## APPENDIX 2: THE FIGHT AGAINST DRUGS IN BULGARIA: LEGISLATIVE, INSTITUTIONAL AND POLITICAL ENVIRONMENT

### 1. LEGISLATIVE FRAMEWORK

A number of legislative acts regulating the various aspects of narcotic drugs control have been adopted in Bulgaria since the late 1990s.

#### *1.1. Narcotic drugs control and the applicable Bulgarian legislation*

1. LAW on Drugs and Precursors Control  
(Promulgated in State Gazette No. 30 of 2.04.1999, effective as of 3.10.1999, amended SG No. 63 of 1.08.2000, No. 74 of 30.07.2002, No. 75 of 2.08.2002, effective as of 2.08.2002, amended and supplemented, No. 120 of 29.12.2002, effective as of 29.12.2002, No. 56 of 20.06.2003)
2. ORDINANCE № 7 of 26.01.2001 on the terms and conditions of issuing permits for import and export of drugs and their chemicals.  
(Issued by the Minister of Health, promulgated in State Gazette, No. 11 of 6.02.2001)
3. ORDINANCE № 9 of 15.02.2001 on the terms of granting permission to perform the activities under Art. 73 of the Law on Drugs and Precursors Control  
(Issued by the Minister of Health, promulgated in State Gazette, No. 17 of 23.02.2001, supplemented, No. 42 of 9.05.2003, effective as of 9.05.2003)
4. ORDINANCE № 20 of 10.05.2001 on the terms and conditions under which chemicals containing drugs and precursors may be relieved from certain control measures  
(Issued by the Minister of Health, promulgated in State Gazette, No. 49 of 29.05.2001).
5. ORDINANCE № 21 of 12.10.2000 on the requirements to the documents and accountability for conducting activities with narcotic drugs and their chemicals  
(Issued by the Minister of Health, promulgated in State Gazette, No. 86 of 20.10.2000, effective as of 20.10.2000).
6. ORDINANCE № 24 of 31.10.2000 on the terms and conditions for implementing substitution and maintenance harm reduction programs for persons dependent on narcotic drugs  
(Issued by the Minister of Health, promulgated in State Gazette, No. 91 of 7.11.2000).
7. ORDINANCE on precursors control  
(Adopted with Council of Ministers Decree № 104 of 6.06.2000, promulgated in State Gazette, No. 48 of 13.06.2000, amended, No. 4 of 12.01.2001)

8. ORDINANCE on the terms and conditions for expert testing of confiscated drugs and precursors  
(Adopted with Council of Ministers Decree № 142 of 25.07.2000, promulgated in State Gazette, No. 63 of 1.08.2000, effective as of 1.08.2000, amended, No. 4 of 12.01.2001)
9. ORDINANCE on the terms and conditions for issuing licenses for activities with drugs for medical and veterinary purposes under appendices № 2 and 3 to Art. 3, Par. 2 of the Law on Drugs and Precursors Control  
(Adopted with Council of Ministers Decree № 199 of 27.09.2000, promulgated in State Gazette, No. 81 of 6.10.2000, effective as of 7.01.2001, amended and supplemented, No. 24 of 14.03.2003 )
10. ORDINANCE on the terms and conditions for confiscation, storage, destruction and referral for scientific research of narcotic drugs and plants and extraction of demonstrative samples from these  
(Adopted with Council of Ministers Decree № 37 of 24.03.2000 г., promulgated in State Gazette, No. 26 of 29.03.2000, amended, No. 4 of 12.01.2001)
11. INSTRUCTION № 2 of 17.05.2001 on the storage procedure for narcotic drugs and precursors under appendices № 2, 3 and 4 of the Law on Drugs and Precursors Control in case of termination of activities, revocation or expiration of licenses  
(Issued by the Minister of Finance, promulgated in State Gazette, No. 60 of 6.07.2001).
12. RULES on the organization and activities of the National Drugs Council  
(Adopted with Council of Ministers Decree № 10/17.01.2001, promulgated in State Gazette, No. 8 of 26.01.2001)
13. ORDINANCE № 3 of 10 January 2001 on the destruction of legally produced, acquired and stored drugs and their chemicals which are unfit for use  
(Issued by the Minister of Health, promulgated in State Gazette, No. 6 of 19.01.2001, amended and supplemented, No. 11 of 5.02.2003)
14. RULES on the functions, tasks and organizational structure of the National Center for Addictions  
(Appendix to Art. 2 of Council of Ministers Decree № 69 of 19.03.2001, promulgated in State Gazette, No. 29 of 27.03.2001)

## **1.2. International Anti-Drug Instruments of which Bulgaria Is a Party**

Bulgaria is a party to all basic international and EU anti-drug instruments/acts, namely:

1. SINGLE CONVENTION on Narcotic Drugs of 1961, and the Protocol of 1972 amending the Single Convention on Narcotic Drugs  
(Ratified by Decree № 634 of the Presidium of the National Assembly of the Republic of Bulgaria of 22.08.1968 – State Gazette, No. 67 of 1968, effective for the Republic of Bulgaria as of 24.11.1968. Law of the National Assembly of 12.01.1994 on the withdrawal of the reservation under Art. 48, Item 2 – No. 8 of

27.01.1994. The Reservation was withdrawn on 6.05.1994. Issued by the Ministry of Foreign Affairs, promulgated in State Gazette, No. 87 of 15.10.1996. Effective for the Republic of Bulgaria as of 17.08.1996 – date of coming in force of the Protocol of 1972 – State Gazette, No. 86 of 1996)

2. United Nations CONVENTION against Illicit Traffic in Narcotic Drugs and Psychotropic Substances  
(Adopted by the conference on its 6<sup>th</sup> plenary session on 19 December 1988. Ratified by a Law of the National Assembly of 15.07.1992 – State Gazette, No. 60 of 24.07.1992. Issued by the Ministry of Foreign Affairs, promulgated in State Gazette, No. 89 of 19.10.1993, effective for Bulgaria as of 23.12.1992, amended, No. 58 of 29.06.2001)
3. EUROPEAN ASSOCIATION AGREEMENT between the European Communities and their Member States of the one part, and the Republic of Bulgaria, of the other part  
(Ratified by a law adopted by the 36<sup>th</sup> National Assembly on 15.04.1993 – State Gazette, No. 33 of 20.04.1993, effective as of 1.02.1995. The text of the Agreement was published as a supplement of State Gazette on 25.05.1995 – State Gazette, No. 61 of 7.07.1995)

### **1.3. Criminal Aspects of Curbing Drug Abuse**

The Bulgarian Criminal Code contains a number of provisions that have been altered in significant ways since 1975, especially via the latest amendments in 2000 and 2002, incriminating acts that violate regulations on narcotic drugs, their analogues or precursors, including participation in crime groups.

#### CRIMINAL CODE (excerpt)

Art. 93. The words and expressions indicated below shall be construed for the purpose of this Code to mean the following:

...

16. (New – SG, No. 21/ 2000) “Narcotic drugs” are all narcotic and psychotropic substances - high-risk and risk under the provisions of the Law on Drugs and Precursors Control.

17. (New – SG, No. 21/2000, supplemented., No. 92/2002) “Precursor” is any substance under the provisions of the Law on Drugs and Precursors Control and any substance under the Law on the Prohibition of Chemical Weapons and Control of Toxic Chemicals and Their Precursors.

18. (New – SG, No. 21/2000, supplemented, No. 92/ 2002) “Illegal trafficking” is any illegal activity or acts related to plants containing narcotic substances and precursors, to biological, chemical or radiological weapons, to explosives, radioactive materials, toxic and chemical substances and their precursors, or to biological agents and toxins.

19. (New – SG, No. 21/2000) “Analogue” is any substance not included in the Law on Drugs and Precursors Control but having similar chemical structure to that of a narcotic drug and inducing analogous effects in the human body.

20. (New – SG, No. 92/ 2002) “Organized crime group” is a structured permanent association of three or more people with the purpose of jointly perpetrating a

crime within the country or abroad which is punished by deprivation of liberty for more than three years and which purports material gains. The association is also structured without the existence of formal division of functions between members, length of participation or a developed structure.

\* \* \* \* \*

Art. 321. (1) (As amended – SG, No. 92/2002) A person who forms or leads an organized crime group, shall be punished by deprivation of liberty for three to ten years.

(2) (As amended – SG, No. 92/2002) A person who takes part in such a group shall be punished by deprivation of liberty for one to six years.

(3) (New – SG, No. 62/1997, as amended, No. 21/2000, No. 92/2002) Where the group is armed or organised with a view to committing crimes under Art. 243, 244, 253, 280, 337, Art. 339, Par. 1–4, Art. 354a, Par. 1 and 2, Art. 354b, Par. 1–4 and Art. 354c, Par. 1, or an official takes part in it, the punishment shall be:

1. under Par. (1) – deprivation of liberty from five to fifteen years;
2. under Par. (2) – deprivation of liberty from three to ten years.

(4) (New – SG, No. 62/997) A member of the group shall not be punished , provided he surrenders voluntarily to the authorities and discloses everything that may be of his knowledge about the group, before the commitment of a crime by such person or by the group.

(5) (New – SG, No. 62/1997) A member of the group who surrenders voluntarily to the authorities and discloses everything of his knowledge about the group, thus facilitating the detection and proof of crimes committed by the group, shall be punished pursuant to Article 55.

(6) (New – SG, No. 92/2002) A person who conspires with one or more other persons to perpetrate a within the country or abroad crime which is punished by deprivation of liberty for more than three years and which is aimed at achieving material gains or illegal influence over an authority or a local self-government body shall be punished by deprivation of liberty for up to six years.

\* \* \* \* \*

Art. 354a. (New - SG, No. 95/1975) (1) (As amended – SG, No. 10/1993, No. 62/1997, No. 21/2000) A person who without due permission produces, processes, acquires, spreads, stores, holds, transports or transfers narcotic drugs or analogues thereof, shall be punished for high-risk narcotic drugs by deprivation of liberty for ten to fifteen years and a fine of one hundred thousand to two hundred thousand Bulgarian Leva, and for risk narcotic drugs by deprivation of liberty for three to fifteen years and a fine of fifty thousand to one hundred and fifty thousand Bulgarian Leva.

(2) (As amended – SG, No. 28/1982, No. 10 /1993, No. 62 /1997, No. 21/2000) Should the crime under paragraph (1) be committed:

1. with regard to sizeable amounts of substances;
2. by two or more persons who have conspired in advance;
3. with regard to substances spread among more than two persons or in a public place or in proximity to a school, dormitory or barracks within 250 meters of their premises;
4. by a medical doctor, pharmacist, tutor, teacher, school principal or an official at a penitentiary institution;

5. for a second time, the punishment shall be deprivation of liberty for fifteen to twenty years and a fine of two hundred thousand to three hundred thousand Bulgarian Leva for high-risk narcotic drugs, and deprivation of liberty for ten to twenty years and a fine of fifty thousand to one hundred and fifty thousand Bulgarian Leva for risk narcotic drugs.

(3) (As amended – SG, No. 21/2000) A person dependent on narcotic drugs or analogues thereof shall not be punished in case the amount this person acquires, stores, keeps, transports or carries is intended for one-time use.

(4) (Repealed – SG, No. 21/2000).

(5) (As amended – SG, No. 62/1997) A person who violates the rules established for the production, acquisition, safekeeping, accounting, prescribing, transporting or carrying of narcotic substances, shall be punished by deprivation of liberty for up to five years and a fine of one thousand to five thousand Bulgarian Leva, and the court may also rule deprivation of rights under Art. 37, items 6 and 7.

(6) (As amended – SG, No. 21 от 2000 г.) In the cases under paragraphs (1) through (3) the object of the crime shall be confiscated in favour of the state.

Art. 354b. (New – SG, No. 95/1975) (1) (As amended – SG, No. 62/1997, No. 21/2000) A person who persuades or helps another to use narcotic substances and/or analogues thereof shall be punished by deprivation of liberty for one to ten years and a fine of one thousand to five thousand Bulgarian Leva.

(2) (As amended – SG, No. 62/1997, No. 21/2000) Where the act under Par. (1) has been committed:

1. with regard to minors, underage or unanswerable persons;
2. with regard to more than one person;
3. by a medical doctor, pharmacist, tutor, teacher, school principal or an official at a penitentiary institution;
4. by an owner or leaseholder of a hotel, restaurant, discotheque or another public establishment;
5. through the mass media or in any other similar manner in a public place;
6. for a second time, the punishment shall be deprivation of liberty for five to fifteen years and a fine of fifty thousand to one hundred thousand Bulgarian Leva, and with sub-paragraphs 3 and 4 the court may also rule deprivation of rights under Article 37, sub-paragraphs 6 and 7.

(3) (New – SG, No. 21/2000) A person who provides another with a narcotic drug and/or analogue thereof in quantities likely to cause death and death actually occurs shall be punished by deprivation of liberty from ten to thirty years and a fine of three hundred thousand to five hundred thousand Bulgarian Leva.

(4) (As amended – SG, No. 10/1993, No. 62 /1997, former -paragraph 3, No. 21 /2000) A person who systematically places premises at the disposal of different people for taking of narcotic drugs or organises the use of suchdrugs, shall be punished by deprivation of liberty from five to twelve years and a fine of five thousand to twenty thousand Bulgarian Leva.

(5) (As amended – SG, No. 10/1993, No. 62 /1997, former Par. 4, No. 21/2000) A medical doctor who, without being necessary, consciously prescribes to another person narcotic drugs or medicines containing suchdrugs, shall be punished by deprivation of liberty for up to five years and by a fine of up to three thousand Bulgarian Leva, and the court may also rule deprivation of rights under Article 37, sub-paragraphs 6 and 7.

(6) (Former Par. 5 – SG, No. 21/2000) If the act under the preceding paragraph has been repeated, the punishment shall be deprivation of liberty for up to three

years and deprivation of rights under Article 37, items 6 and 7.

Art. 354c. (New – SG, No. 95/1975, As amended, No. 62/1997, No. 21/2000) (1) A person who in violation of the rules established in the Law on Drugs and Precursors Control sows or cultivates opium poppy, coca plant or any variety of the hemp plant shall be punished by deprivation of liberty for three to five years and a fine of five thousand to ten thousand Bulgarian Leva.

(2) A person who organizes, runs and/or funds a crime group for cultivation of plants under the above paragraph or a group for the extraction, production, preparation, making or processing of narcotic substances shall be punished by deprivation of liberty for twenty to thirty years or life imprisonment and a fine of three hundred thousand to five hundred thousand Bulgarian Leva.

(3) A person who participates in a crime group under the above paragraph shall be punished by deprivation of liberty for three to ten years and a fine of five thousand to ten thousand Bulgarian Leva.

(4) A member of a crime group shall not be punished provided he voluntarily discloses to the authorities all facts and circumstances of his knowledge concerning the crime group's activities.

(5) In minor cases under Par. (1) the punishment shall be deprivation of liberty for up to one year and a fine of up to one thousand Bulgarian Leva.

## 2. INSTITUTIONAL FRAMEWORK

The legislation on narcotic drugs control has served as a foundation of the relevant institutions and structures.

### 2.1. National Drugs Council

This is a body with the Council of Ministers implementing the national policy against drug abuse and drugs trafficking. Its chairman is the Minister of Health, the deputies are Mol's Secretary General and the Deputy Minister of Justice; the Council also has a Secretary and regular members.

The membership comprises representatives of the Presidency, the Supreme Court of Cassation, the Supreme Administrative Court, the Supreme Prosecution Office of Cassation, the National Investigation Service and other interested ministries and institutions (the deputy ministers of finance, of education and science, of economy, of labor and social policy, of foreign affairs, of defense, of agriculture and forestry, of transport and communications, the Director of the Customs Agency, the Head of the National Service for Combating Organized Crime, the Director of the National Police Service, the Chairman of the State Agency for Youth and Sports, the Head of the National Center for Addictions, the Executive Director of the Bulgarian Drug Agency, the Head of the National Drugs Service.)

Depending in the issues to be discussed, NGOs and other organizations can also participate at NDC's sittings.

NDC is a permanent body convening at least four times per year. It has a functioning board of experts that makes scientific and medical assessments of proposals to include new plants and substances in the Law on Drugs and Precursors Control or exclude or transfer them from one of its annexes to another. It has 7 members contributing with their expertise in medicine, pharmacology and chemistry; members are selected upon proposal from Council members and after a decision of the Council.

NDC's Chairman represents the Council, chairs its sessions and is in charge of its overall operation, submits to the Council of Ministers various proposals and inquiries related to the Council's activities, signs the minutes of the Council's sittings, appoints the Secretary and the Secretariat members.

The NDC Secretariat prepares the sittings, coordinates the implementation of decisions, and supervises the work of the expert groups under Art. 14, Par. 1 of the Law on Drugs and Precursors Control, coordinates the activities of the Municipal Drugs Councils.

The Council Secretary is assisted by a Secretariat.

Drug Councils are established in the municipalities, developing and implementing programs for curbing drug abuse and drugs trafficking in compliance with the national programs under Art. 11, sub-paragraph 2 of the Law on Drugs and Precursors Control and propose to municipal councils the budget for the municipal policy in that area. They are accountable to the National Drugs Council.

### *2.2. Interdepartmental Precursor Control Commission*

Its creation was envisaged in the last amendments to the Law on Drugs and Precursors Control (of 2003) and was established with the Ministry of Economy, the minister being its chairman and officials from the ministries of health, finance, interior and justice – its members.

The Commission exercises control over the production, processing, use in other industries, storage, trading, import, export, re-export and transit of the precursors and over the implementation of Art. 12 of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Precursors control functions are assigned to the regional administrations. The particular officials in charge of these functions locally are appointed by an order of the regional governor.

### **2.3. National Center for Addictions**

NCA is a legal entity attached to the Minister of Health with its headquarters in Sofia, which coordinates and provides methodological support for drug abuse prevention and treatment, harm reduction and rehabilitation of drug addicted or dependent persons, specialized control over the treatment process, scientific and applied research activities and post-graduate training of medical and non-medical staff.

NCA is run by a Director approving its structure and the positions of the payroll personnel, following the approval of the Minister of Health.

NCA exercises the following functions: coordination and methodological guidance on drug abuse and addiction-related problems, including preventive actions, treatment and rehabilitation of drug abusing or dependent persons; specialized control over the treatment process of drug abusing or dependent persons; provision of expertise on drug addiction.

NCA applies the above through programs for prevention and prophylaxis of drug abuse among various groups of the population, on a national, regional and municipal level in pursuance to the national Strategy for Combating Drug Abuse and Illicit Trafficking in Drugs and Precursors under Art. 11, sub-paragraph. 1 of the Law on Drugs and Precursors Control; development and application of preventive, treatment, educational and rehabilitation methods and techniques; delivery of prophylactic, diagnostic, treatment and rehabilitation services to drug abusing and dependent persons; maintenance of a register of treatment facilities offering

substitution and maintenance programs to drug addicted persons; maintenance of a national register of patients enlisted in such programs; issuance of documents relevant to the fulfillment of its obligations under the legislation concerning narcotic drugs and precursors; drafting of drugs and precursors-related legislative acts; scientific and applied research in the field of drug addiction; clinical testing of medication and medical equipment to check compliance with national legal provisions; collection, processing, analysis and dissemination of information on drug addiction; post-graduate addiction-related training of medical and non-medical staff; student training on the basis of contracts with universities; international cooperation on drug-related issues; organization of national and international scientific events on the problem of drug addiction.

### **3. NATIONAL ANTI-DRUG POLICY**

Despite the adoption of a number of regulations, the institutions of bodies to control and curb drugs distribution and the accomplishment of certain anti-drug initiatives, a global, consistent and well-coordinated national drug policy is yet to be formulated. The fight against drugs was placed on a long-term strategic basis no earlier than 2003.

#### **3.1. *The National Program for Prevention, Treatment and Rehabilitation of Drug Addictions in the Republic of Bulgaria, 2001 – 2005.***

The program was adopted in March 2001. It was based on the experience of the developed countries in Europe and North America in such activities and was in full compliance with the adopted Drugs Strategy and Program of the European Community (2000 – 2004).

Its main goal is to curb drug abuse and diffusion as well as their adverse health and social effects on Bulgarian youth.

The Program is jointly implemented by interested governmental and non-governmental institutions such as the ministries of health, of education and science, of labor and social policy, of defense, the State Agency for Youth and Sports, the National Center for Addictions, medical universities, institutes and colleges and NGOs.

The Program is managed by the National Drugs Council and its Secretariat.

#### **3.2. *National Anti-Drug Strategy – 2003–2008***

(Adopted by the Council of Ministers on 20.02.2003)

This is the first document to establish a comprehensive and consistent policy since the Bulgarian Law on Drugs and Precursors Control came into effect in 1999.

Among other goals, it aims to curtail drug use through an effective treatment and prevention system, to downsize drugs supply and diffusion, to reduce illicit trade in chemicals (precursors) used in drugs production and to toughen border control.

Through concrete measures it seeks to improve coordination and exchange



between relevant institutions, to promote the policy in local terms and strengthen Municipal Drugs Councils. A national unit on drug-related operative information will be set up to support national and international bodies in their efforts against drugs trafficking.

### **3.3. Action Plan to Implement the National Anti-Drug Strategy – 2003–2008**

(Adopted by the Council of Ministers on 24.04. 2003)

The action Plan will be implemented via the concerted efforts of all ministries and will be supported by the Central Commission for Combating the Anti-Social Behavior of the Under-age and Minor Persons and the State Agency for Child Protection.

The Plan's number one strategic goal is to preclude the association of more people into drug abuse. In order to restrict the number of drug-induced incidents and deaths, information about safe injection and drug use practices will be provided to those already addicted. Intravenous addicts will be trained in first aid delivery. The number of people in effective drug addiction treatment programs will be increased twice.

Another measure targeting drug addicts completing treatment and rehabilitation will be to enhance their job placement rate.

In terms of updating drug-related legislation acts such as the Law on MoI, the Criminal Code and the Code of Criminal Procedure regulating "under cover operations" and "witness protection program" and the like, will be amended and supplemented by 2005. Another step that should be undertaken is a speedy procedure to penalize small-scale drug dealers. A coordination and analysis unit will be set up with the MoI no later than the end of the year to steer the Strategy's implementation and provide early trend analysis.

By 2005 a total of 28 local prevention and information centers will be established with the Municipal Councils.

The Action Plan's implementation will be reported and updated on an annual basis and reports will be submitted to the Council of Ministers every six months.