Expert Seminar – Where next for Europe on drug policy reform?

Lisbon, Portugal, 20th to 21st June 2013

Executive Summary

The expert seminar on "Where next for Europe on drug policy reform?", organised by the International Drug Policy Consortium (IDPC) and the General Directorate for intervention on Addictive Behaviours and Dependencies (SICAD)[1], took place in Lisbon, Portugal, gathering over 40 NGO representatives, academics, policy makers and practitioners. The seminar comprised four major sessions on drug policy and a keynote speech by the former President of Portugal, Jorge Sampaio.

The first session focused on the public health implications of the new European Union (EU) Drugs Strategy for 2013-2020 and its Action Plan for 2013-2016. The Strategy includes many positive elements, such as the promotion of a balanced, evidenced, human rights-based and harm reduction-oriented approach towards drugs. However, the document retains some gaps and weaknesses and its implementation through the Action Plan will need adjustment if EU policies are to reach their targets in reducing health-related harms, considering the recent rise in HIV and hepatitis C epidemics in Eastern Europe and the continuously high level of preventable drug-related deaths in Europe. The importance of civil society involvement in the EU policy making process and the necessary improvements of existing European structures for civil society engagement were also discussed.

During the second session, participants discussed the implications of the EU Drugs Strategy and 2013-2016 Action Plan for law enforcement activities. Participants gave a historic overview of the progressive and evidence-based approach that the EU has increasingly adopted for the last 20 years. Within its objective of "contribut[ing] to a measurable reduction of the availability and supply of illicit drugs", the Strategy has made a welcome call for the "development of policy relevant and scientifically sound indicators on supply reduction". However, the effectiveness of EU supply reduction measures in achieving its policy objective was questioned, as the EU failed to adopt innovative alternative policies in the 2013-2016 Action Plan. In addition, strong concerns were expressed about the evaluation process and the preliminary list of indicators in the Action Plan as proposed by the EU institutions.

The third session focused on the challenging phenomenon of new psychoactive substances (NPS). Participants discussed the European policy on this issue, the running of the European Early Warning System and the current consultations at the level of the European Commission (EC) to improve the European response to the growing challenge posed by NPS. The Romanian experience in dealing with NPS issues and the results of a survey conducted in 5 EU countries were presented. This study highlighted the major motivations for the use of NPS and the different patterns of use. Some

[1] http://www.idt.pt/EN/Paginas/HomePage.aspx

participants considered the NPS issue as a missed opportunity for governments to effectively manage the illicit drug market. Instead of regulating it, governments went on criminalising and implementing law enforcement measures which led, in most cases, to mixed outcomes and problematic situations, where consumers moved to new, usually more dangerous substances. Moreover, they believed that repressive policies, and the current EU-level reform that is currently being discussed, will continue to lag behind drug designers and the changing nature of the NPS market.

The final session of the seminar focused on how civil society and the EU more generally can effectively influence the 2016 UN General Assembly Special Session on Drugs (UNGASS) preparations and directions. Globally, there is a growing sense that there is a need to reform current drug policies and explore alternative strategies. Several significant changes in the drug policy landscape occurred in the last decade, such as the global trend of decriminalisation. These changes are laying out a positive groundwork for the preparation of the 2016 UNGASS. Europe is probably the region with the most diverse experience, expertise and evidence around drug policy reform. It should therefore play a significant role in this debate to push the reform agenda and promote existing alternative and progressive policies. Participants discussed strategies and actions that civil society organisations should carry out in order to significantly influence UNGASS debates and outcomes.

Introduction

The expert seminar on "Where next for Europe on drug policy reform?" took place in Lisbon, Portugal, from 20th to 21st June 2013. This seminar is part of an ongoing project funded by the European Commission Drug Prevention and Information Programme, called "New approaches in drug policy and Interventions".[2] This project, implemented by IDPC, the Transnational Institute (TNI)[3], Diogenis[4] and Forum Droghe[5], aims to widen the evidence base of European drug policy making by expanding the knowledge base and exchanging best practices on key policy issues related to demand reduction, prevention and harm reduction strategies. This project is carried out through the organisation of expert seminars, drug policy dialogues and policy briefings, through discussions and collaboration between government authorities, policy makers and civil society actors.

Thanks are due to João Goulão, Director of SICAD and to his team, for their valuable support in organising and co-hosting the event, as well as to Jorge Sampaio, former President of Portugal, for his inspiring keynote speech.

As per tradition, the meeting was held under Chatham House rule to ensure confidentiality and allow participants a free exchange of ideas. Over 40 participants attended the meeting, including European and national policy makers, practitioners, academics and representatives from non-governmental and governmental organisations. Four themes were discussed:

- the EU Drugs Strategy and Action Plan and its public health implications
- the EU Drugs Strategy and Action Plan and its law enforcement implications
- regional challenges and the issue of new psychoactive substances
- the role of Europe in global drug policy and the European voice in preparation for the 2016 UNGASS.

Each session started with introductory remarks from key experts, followed by discussions. This report

[2] Learn more about the project by visiting: http://idpc.net/policy-advocacy/special-projects/new-approaches-in-drug-policy-and-interventions
[3] www.tni.org
[4] http://www.diogenis.info/
[5] http://www.fuoriluogo.it/sito/home/forum_droghe/

highlights the main issues covered during the seminar. The ideas expressed in the report are those of the participants in their capacity as experts in the drug policy field, and should not be interpreted as reflecting consensus among the group, or endorsement by the organisers.

Session I: The EU Drugs Strategy and Action Plan: Public health implications

1. Overview of the EU Drugs Strategy for 2013-2020 and its Action Plan for 2013-2016

The EU Drugs Strategy for 2013-2020[6] was developed under the Cypriot Presidency and was adopted in December 2012. It provides the European general policy framework on drugs issues. An external evaluation[7] was conducted prior to the drafting of the new Strategy, which showed that the Strategy did have an impact on national policies, as a tool to bring member states together to discuss common drug policies and strategies. The aim of the EU is to provide convergence, coherence and consistency among the drug policies of member states that are adopting and implementing independently their own national policies.

Some elements were strengthened in the 2013-2020 Strategy compared to previous strategies, such as the prominence of harm reduction, the concept of unintended consequences of drug policy and the need for a balanced approach. This Strategy is composed of five different chapters: two substantive chapters about demand and supply reduction and 3 cross-cutting chapters on coordination, international cooperation and information.

The first Action Plan for the 2013-2020[8] Strategy was negotiated through the Irish Presidency (January to June 2013), and covers the period 2013-2016, at which point a mid-term evaluation will be conducted, and a second Action Plan developed.

The EU adopted the 2013-2016 Action Plan in May 2013. Its aim is to break down the Strategy's objectives into concrete steps and detailed actions for EU member states and the EU itself to implement. Each action is attached to indicators to facilitate monitoring and evaluation. The Action Plan is a comprehensive and balanced document that mirrors the structure of the Strategy. It lays out 54 specific actions to be undertaken by European institutions, member states and civil society.

The Strategy and Action Plan were the results of necessary compromises between the positions of civil society and all EU member states, including some countries that have fairly conservative views on drug policy. Nevertheless, these documents allow the EU to speak with one voice and contribute to develop evidence-based policies. They also constitute key guidance for other countries, and contribute to promote best practices on drug policy.

In relation to demand reduction, the Strategy and Action Plan promote best practices, including harm reduction measures, and include responses to new trends that were not in the previous Action Plan, in particular as it relates to the NPS issue. In the field of drug prevention, the Strategy aims to improve the effectiveness of public interventions, especially for particularly vulnerable people facing the highest risk

[6] EU Drugs Strategy (2013-2020), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:402:0001:0010:en:PDF
[7] Rand (2012), assessment of the implementation of the EU Drugs Strategy 2005—2012 and its Action Plans, http://idpc.net/publications/2012/04/rand-assessment-of-the-implementation-of-the-eu-drugs-strategy-2005-2012-and-its-action-plans
[8] UE Action plan on drugs (2013-2016), http://register.consilium.europa.eu/pdf/en/13/st09/st09963.en13.pdf

factors (environmental, situational and individual), and aims to delay the age of the first use of drugs. The Strategy also calls for enhancing the effectiveness and social reintegration aspects of drug policies. In this respect, during the negotiations on the document, Italy insisted on adding the new idea of "social risks" as an important cause for initiation of drug use. Through this new Strategy, member states also sought to develop EU quality standards for drug dependence treatment, prevention and harm reduction measures. It was therefore decided that a process of long-term studies be launched in order to define and improve those standards.

The International Cooperation section is important *per se* as it considers the global nature of drug issues. EU cooperation with the most relevant countries is addressed in the Action Plan. The current EU Strategy and 2013-2016 Action Plan aim to provide coherence both within the EU and in international drug policy. The EU Strategy is a particularly good model to be followed by the candidate countries and can be replicated there. The Action Plan considers providing funding to third countries for capacity building, to provide support against drug trafficking and organised crime, and to develop harm reduction and demand reduction measures.

Civil society expressed some concerns about the absence of specific actions in the Action Plan related to the HIV outbreak in Eastern European countries and Greece since the document makes no mention of key countries of concern. This was done intentionally: during negotiations, EU member states decided that it was better to insist on general principles and to avoid specification of countries in order to keep flexibility as situations in consumption, production and trafficking trends changed.

Action 36 in the Action Plan was devised to help countries in need – once again without naming them specifically – "to support third countries (...) to develop and implement risk and harm reduction initiatives particularly where there is a growing threat of transmission of drug-related blood borne viruses associated with drug use"[9]. Those general statements were deemed as insufficient by civil society organisations (CSOs).

2. Public health challenges in Europe and the 2013-2016 Action Plan

Drug-related health challenges in the EU

There is a continuing prevalence of drug-related deaths across Europe. Overdose and drug-related deaths remain a major challenge for public health policies in Europe. Indeed, drug use is one of the major causes of mortality among young people in Europe, both directly through overdose and indirectly through drug-related diseases, violence and suicide. People who use drugs are facing an excess mortality rate of 10 to 20 per cent compared to their non-drug using peers. People who inject drugs are among those at highest risk of experiencing health problems from their drug use, such as blood-borne infections or drug overdoses. While opiate use has declined and Europe has enjoyed an impressive track record in keeping HIV rates low across much of the region, recent spikes in HIV in Greece and Romania[10] are examples of the need to continue to invest in evidence-based HIV prevention interventions (in particular needle and syringe programmes (NSP) and opioid substitution therapy (OST)). The EU may have one of the highest coverage in the world of these interventions but scale up is still necessary. Finally, viral hepatitis constitutes one of the main public health challenge presently facing the EU. In 2010-2-11, injecting drug use accounted for 58% of all hepatitis C diagnoses in the EU.[11]

[9] UE Action plan on drugs 2013-2016, http://register.consilium.europa.eu/pdf/en/13/st09/st09963.en13.pdf

[10] Malliori, M., Terzidou, M., Paraskevis, D. & Hatzakis, A. (2012), *HIV/AIDS among IDUs in Greece: Report of a recent outbreak and initial response policies*, http://idpc.net/publications/2012/07/greek-report-on-the-hiv-outbreak-in-drug-injectors; European Monitoring Centre for Drugs and Drug Addiction & European Centre for Disease Prevention and Control (2012), *Joint EMCDDA and ECDC rapid risk assessment – HIV in injecting drug users in the EU/EEA, following a reported increase of cases in Greece and Romania*, http://idpc.net/publications/2012/01/hiv-iud-increase-of-cases-greece-romania

[11] New EMCDDA report as well as the GSHR 2012

Harm reduction in the Strategy and Action Plan

In order to respond to these public health challenges, the first objective of the five overarching objectives of the Strategy is to "contribute to a measurable reduction of the demand for drugs, of drug dependence and of drug-related health and social risks and harms"[12] (para. 9). The Action Plan goes into more details around how member states should implement the Strategy and how areas of priority will be measured in terms of progress. The Strategy and Action Plan rightly focus on new drug markets and the rise in the use of NPS. However, the public health implications of these new trends in drug use are not fully understood yet. Policy and practice will need adjustment if they are to remain on target in reducing health related harms and fit for purpose.

Several participants concluded that harm reduction and other evidence-based health-related interventions were insufficiently addressed within the main text of the Action Plan. While the Strategy has a clear focus on reducing health related harms, the Action Plan contains only one objective (objective 2[13]), which specifically references harm reduction, and even then, it subsumes harm reduction within treatment and rehabilitation services. This is concerning since, although it is accepted as a best practice that harm reduction interventions are most effective when part of a comprehensive drug treatment system, they should also operate as stand-alone low-threshold services specifically aimed at reducing drug related infections, overdoses and drug-related deaths. The previous Action Plan itself separated harm reduction into a separate objective. It is critical that future action plans do the same.

Finally, although the Strategy and Action Plan both refer to commitments to reducing overdose incidence and drug-related deaths, the indicators focus instead on abstinence-based services, rehabilitation and social reintegration. The implementation of safer injecting facilities, which showed a real impact on the incidence of overdose deaths, were not referred to within the current action plan.

Considering the public health crises Europe is facing, it was felt that the 2013-2016 Action Plan should have given more prominence to harm reduction measures. The procedural difficulty for the Horizontal Drugs Group (HDG –a sub-committee of the European Council, which consists of representatives of the 27 member states and relevant EU agencies such as Europol and the EMCDDA and which aims at initiating and coordinating all programmes on EU drug policy) to deal with the concept of harm reduction was discussed at length by the participants. It seems difficult for the HDG and member states in general to find a consensus on harm reduction, as well as to strike a balance between harm reduction and treatment measures because some of the member states are still reluctant to implement those programmes. This continues to be a highly political and sensitive issue on which the 27 EU countries have difficulties in reaching consensus[14], even though all member states do express their willingness to tackle drug-related health issues. This sensitivity inhibits good policy making on health issues, as well as the implementation of cost-effective measures, which should have been mentioned in the Action Plan.

Health and drugs in European prisons

Prisoners across the EU reported higher overall rates of drug use than the general population and more harmful patterns of use (between 5 and 31 per cent of prisoners have ever injected drugs in the EU[15]). Many countries within the EU offer healthcare services within prisons and upon release, including OST. However, the provision of drug services in prison continues to lag behind that available in the wider community. Only six countries in the EU offer NSP in prisons[16].

[12] EU Drugs Strategy 2013-2020, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:402:0001:0010:en:PDF

[13] UE Action plan on drugs (2013-2016), http://register.consilium.europa.eu/pdf/en/13/st09/st09963.en13.pdf

[14] When the expert seminar took place in June 2013, EU had 27 members states. Croatia joined in July 2013 and became the 28th EU member

[15] EMCDDA (2011), *European Drug Report 2013, trends and development,* http://www.emcdda.europa.eu/edr2013

[16] Those countries are: Germany, Luxembourg, Portugal, Romania, Spain, Switzerland. See EMCDDA (2010), *Harm reduction: evidence, impacts and challenges,* http://www.emcdda.europa.eu/publications/monographs/harm-reduction,

The inclusion of a specific indicator around reductions in drug-related deaths among prisoners in the Action Plan was welcomed by the participants given the heightened risk of overdose ex-prisoners face, especially in the period following release from prison. However, harm reduction interventions are not mentioned explicitly with regards to this indicator. Further promotion of these services is required at European level.

The continuing need for funding

Funding was mentioned as the biggest challenge for public health and harm reduction programmes in the EU. Without appropriate funding, public health interventions cannot be scaled up and may end up being ineffective. In particular, in countries facing disinvestment from the Global Fund such as Romania and Moldova[17], national-level funding is critical. Nevertheless, both the Strategy and the Action Plan make very little reference to the crucial issue of financial resources. For instance, the EU could have an impact when investing in multilateral organisations to make sure that funding is being directed to ensure maximum impact.

Another concern expressed during the seminar regarded the budget austerity measures being implemented across Europe. These measures are endangering many harm reduction programmes, particularly in Eastern European countries, with most NGOs facing budget cuts and suffering from huge lack of resources and human capital.

Finally, if one considers the European and national spending on supply and demand reduction, it would feel as if the EU were still fighting a "war on drugs". One necessary solution expressed during the seminar was to reverse the budget balance and adopt a drug policy were more funding would be allocated on harm reduction and treatment measures, and less on supply reduction measures.

3. Civil Society involvement in the EU drug policy making process

Civil society is best placed to advocate for, and serve the interests of, vulnerable and marginalised groups, and to ensure that representatives of these groups are directly involved in the drug policy making process. Civil society can add value in helping to formulate drug policy at the national and European level. CSOs have specialised knowledge, access to information and experiences that can enrich the political debate. Moreover, civil society involvement could increase the legitimacy of the EU and enhance democracy and transparency in its policy making process. Finally, civil society can play a significant role in independent monitoring and audit programmes, in implementing innovative solutions and in mobilising communities.

The Lisbon Treaty[18] and a White Paper of the European Commission[19] (2007) both addressed the importance of civil society involvement. In the EU 2005 – 2006 Action Plan on drugs, the EC was asked to strengthen the involvement of civil society in drug policies. The European Parliament also recommended more active participation of civil society in this area.

With this purpose, the Civil Society Forum (CSF) on drugs was established in 2007 at the Directorate General for Justice (DG Justice). European CSOs were invited to join through an application process. 40

[17] For more information, see: Eurasian harm reduction network (2012), *Quitting while not ahead, the global fund's retrenchment and the looming crisis for harm reduction in Eastern Europe and Central Asia*, http://www.harm-reduction.org/images/stories/library/quitting_while_not_ahead.pdf

[18] Treaty of Lisbon, http://europa.eu/lisbon_treaty/full_text/index_en.htm

[19] European Commission, 2007 WHITE PAPER Together for Health: A Strategic Approach for the EU 2008-2013, http://ec.europa.eu/health/ph_overview/Documents/strategy_wp_en.pdf

organisations are now part of the CSF on drugs.[20] Its aim is to support policy formulation and implementation through practical advice, to ensure an effective two-way information flow and to stimulate networking among civil society organisations in Europe. The CSF was set as a mechanism for structuring formal engagement between interested civil society groups and networks, and the various government and EU actors.

The 2013-2020 Drugs Strategy contains a very clear objective on this matter: "to promote and encourage the active and meaningful participation and involvement of civil society, including non-governmental organisations as well as young people, drug users and clients of drug- related services, in the development and implementation of drug policies, at national, EU and international level"[21] (para.24.5).

Meanwhile, the 2013-2016 Action Plan has a commitment to[22] (Action 30):

- ensure timely dialogues between the CSF and the HDG during each Presidency period
- engage the CSF in reviewing the implementation of the Action Plan
- increase the level of involvement of civil society in national and EU drug policy development and implementation with particular regard to the involvement of people who use drugs, clients of drug services and young people.

Even if the current Drugs Strategy states that a balanced approach to the drug problem requires constant consultations with CSOs, and that HDG members ensure their commitment to the 'meaningful participation and involvement of civil society', CSF representatives considered that their experience in trying to engage in the drafting process of the EU 2013-2020 Drug Strategy and 2013-2016 Action Plan was disappointing.

CSF members were invited to submit their recommendations during the drafting process of the new EU Drugs Strategy. The CSF proposal was sent out to the EU member states and the EC, with specific suggestions to amend the draft Strategy.[23] The writing of this proposal was challenging because the CSF is composed of a variety of CSOs with a broad range of different opinions and because a first draft of the Strategy was not yet made available to the CSF. It was therefore highly disappointing that the CSF recommendations were never formally tabled for discussion at any HDG meeting or taken into account in the Strategy drafting process.

Unfortunately, the second experience of involvement of the CSF in the drafting of the Action Plan was not better, even if a procedure for CSF input into the drafting process had been discussed between the EC, the Presidency and the Chair of the CSF in January 2013. In March 2013, the CSF proposed a set of recommendations and amendments to almost all of the objectives included in the Action Plan and identified indicators to monitor its implementation.[24] However, no response was given to CSF members to explain the extent to which its recommendations had been incorporated into the developing Action Plan text. Several major amendments from the CSF were not incorporated nor taken into account in the revised Action Plan. The final version of the Action Plan was adopted in May 2013 with no further discussion on the CSF recommendations.

This unfortunate experience was explained by the fact that the final text of the Action Plan is a compromise. The EC and the Presidency had to collate and take into account positions from all 27 Member states, EU agencies and the CSF. This is why the CSF recommendations were not completely

[20] For more information about the CSF on drugs, please visit: http://ec.europa.eu/justice/anti-drugs/civil-society/index_en.htm
[21] EU Drugs Strategy (2013-2020), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:402:0001:0010:en:PDF
[22] UE Action plan on drugs (2013-2016), http://register.consilium.europa.eu/pdf/en/13/st09/st09963.en13.pdf
[23] The recommendations of the CSF on drugs on the draft Strategy are available here: Available at: http://efus.eu/files/2012/05/CSF-drugs_recommendations_final_March2012-1.pdf
[24] To access the CSF recommendations, see: http://idpc.net/alerts/2013/03/civil-society-forum-comments-on-eu-draft-action-plan-for-2013-2016

followed in the adopted version of the Action Plan. As for holding discussions with the CSF on submitted recommendations, no opportunity to discuss the proposals was given by the Commission because of procedural and timing constraints: all the member states had already given their national comments and the Commission did not have time to reopen the debate.

Despite these disappointing circumstances, there has been clear positive progress in the creation of a meaningful structure for civil society engagement with EU policy making procedures. The fact that the CSF has become a large network and has been able to send proposals to EU entities is a very positive and welcome step. CSOs have indeed been able to debate and produce very constructive and high-quality recommendations. However, CSF members showed some regret that they were not taken more into consideration by EU institutions and that there is no real process for framing civil society inclusion in EU policy making.

There is a clear need for EU procedures and structures to be reviewed in order to achieve more meaningful, timely and transparent civil society involvement in the decision making process. EU member states should also be encouraged to develop civil society involvement at the national level.

A procedural reform may, from now on, facilitate civil society involvement in the drafting of the EU Drugs Strategy. The EU strategies and action plans are no longer based on EC proposals but are drafted by the European Presidency. This gives much more power to member states than was the case before to put proposals on the table. CSOs should take advantage of this procedural change in order to better influence member states' positions in the early stages of EU policy drafting processes. In fact, many member state representatives at the HDG are civil servants whose opinions are unformed in many aspects of drug policy. CSOs should therefore seek to influence them.

Finally, the effective and meaningful involvement of civil society in the European process will not be possible without adequate funding to NGOs. Without these financial resources, NGOs will not be able to significantly take part in the European debate and reflections.

Box 1. Keynote Speech by Jorge Sampaio, former President of Portugal and member of the Global Commission on Drug Policy

"Ladies and Gentlemen,

Thank you for this opportunity to address this important seminar, with its ambitious aim of stimulating fresh thinking about drug policy reform in Europe. I am grateful to have been invited to offer you an outsider's perspective on this topical issue we are all now confronting.

I should say at the outset that I am very aware that you are the experts and I am the outsider. I am also aware that nothing is quite as irritating as an outsider teaching the experts how to suck eggs, as it were, and I hope that I can avoid that pitfall.

But I will have a few suggestions for you to think about. Should you feel that some of them cross the line, I will throw myself on your mercy by informing you that anything I say is premised on my longstanding interest in this topic and on my personal past commitment to supporting critical changes on drug policy in Portugal when I was in office, firstly, as Mayor of Lisbon and, later, as President of the Republic.

So I beg your indulgence and rely on my ability – if I may be so immodest - to make the case for the

urgent need to make headway in drug policy reforms not only in the EU but also worldwide.

Because I strongly believe there is enough evidence indicating that change is possible and necessary, I decided to accept the invitation that President Fernando Henrique Cardoso, chairman of the Global Commission on Drug Policy, kindly extended to me to become a member of this taskforce and combine our acts.

Ladies and gentlemen, let me share with you a few facts before I make the suggestion of a few points for you to reflect on.

Let me start by saying a few words about globalization. I know that as little as 15 to 20 years ago, this term was hardly used and that nowadays it has become so popular that its meaning covers almost anything and everything.

However, let's assume here that globalization means that now, we live in one world where everything is interconnected and interdependent in many respects. And this is true of economic, but also of political, technological, social and cultural facts, processes and systems.

This means at least three things: as we live for the first time in human history in a cosmopolitan society, we have a unique power to influence and generate global changes by shifting local behavior and acting locally no matter where we happen to be; as nation-states are losing traction and power to propel change, they need to use more multilateral collective decision-making mechanisms to build consensus and drive change otherwise we risk being thrown into haphazard, chaotic order; as a complex set of processes that sometimes operate in a contradictory or oppositional fashion, globalization needs some kind of regulation to "achieve greater control over our runaway world" as Giddens once put it.

Against this backdrop, let me go back to our topic and stress that "the drugs phenomenon is a national and international issue that needs to be addressed in a global context" as, in fact, the new EU Drugs Strategy (2013-2020) clearly recognizes.

Let me also hail a number of extra steps incorporated into this new Strategy, namely the "reduction of the health and social risks and harms caused by drugs" as a policy objective, alongside the two traditional drug policy aims of reducing supply and demand".

In my view, this new policy objective combined with the more balanced, integrated and holistic approach to all drugs activities that underpins this new EU Strategy is a timely and promising turning point.

Furthermore, it paves the way for the EU to reinforce the role it has had for the past two decades as a world policy leader.

However, more must be done to keep this topic high on the EU agenda, to make it attract more public attention and to prevent the current economic and social crisis in Europe from producing a backlash.

In my view we still lack in Europe a champion government or prominent leaders - MPs or Commissioners - that will be ready to speak out on drug policy issues. We still also lack strong scientific evidence, based on metrics, indicators and goals to measure success in the drug policy field that will allow less ideological debates about drug policies and cost-effective actions.

In any case, Ladies and Gentlemen, things are on the right track here in Europe, I must say. We need to

build upon the previous achievements. We need to reflect upon the best practices, compare the results and outcomes of the various policies, we need to use the Forum provided by the new Strategy to stimulate an open debate about the effectiveness of demand reduction measures and increasingly supply reduction measures, and also to raise public awareness. What are you trying to say with increasingly?

I am a strong believer in the role that civil society and social media can play in reducing consumption, preventing and reducing the harms related to drug use. More has to be done at this level which complements public policies and initiatives. This is my first recommendation.

My second recommendation focuses on the role Europe can play at international level as a global player - namely in the UN, the G8 and in other regional organizations. Europe can speak with one voice in the international arena and with its partner countries and help break the taboo.

Europe can make a difference because of the principles underpinning its external relations in the field of drugs based on shared responsibility and multilateralism; because of its integrated, comprehensive, balanced and evidence-based approach, the mainstreaming of development, respect for human rights and human dignity and respect for international conventions.

With a view to making the UN Special Session on drugs, due to take place in 2016, a breakthrough, the European Union should make headway and be the champion of global change. This is the challenge that I would like you to address as a last recommendation. Do not miss this chance to make history.

Many thanks"

Session II: The EU Drugs Strategy and Action Plan: Law enforcement implications

1. Evolution of EU law enforcement and evaluation measures since 1990

Since the first EU drugs Strategy was adopted in the 1990s, very positive long-term evolutions of EU law enforcement efforts can be identified.

Terminology and approach of the successive EU Drugs Strategies

In the first EU strategies, the vocabulary used was militarised and warlike – from 1990 to 1999, these strategies were called "European plans to combat drugs"[25]. From the 2000 Plan onwards, those military terms were progressively dropped and the approach behind this terminology also shifted progressively. More recently, European terminology moved from discussing the "drug problem" (2005-2012 Strategy[26]) to focusing on the "drug phenomenon" (2013-2020 Strategy[27]).

Law enforcement policy in the EU Strategies from the 1990s until now

In 1990, EU law enforcement approaches only covered police, justice and custom activities. In the 2000s,

[25] Such as the EU Action plan to combat drugs for 1995-1999, http://europa.eu/legislation_summaries/justice_freedom_security/combating_drugs/c11524_en.htm

[26] EU Drugs Strategy for 2005-2012, http://europa.eu/legislation_summaries/justice_freedom_security/combating_drugs/c22569_en.htm

[27] EU Drugs Strategy for 2013-2020, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:402:0001:0010:en:PDF

the EU integration in the Department for Justice and Home Affairs led to the creation of new JHA agencies (to which Europol) to which member states delegated part of their competence. In the 2000s, the "intelligence-led approach" emerged in EU drug policies. Law enforcement objectives evolved significantly in successive EU Action Plans. The 2000-2004 Action Plan[28] aimed "to reinforce the fight against organised crime, illicit drug trafficking and related organised crime" whereas in the 2005-2008[29] and 2009-2012[30] Action Plans, there was a strong focus on the principles of effectiveness and efficiency of law enforcement interventions. In addition, whereas previous strategies and action plans sought to fully "eradicate" the illicit drug market, the 2013-2016 Action Plan has revised its objective into the more realistic one of "contribut[ing] to a *measurable reduction* of the availability and supply of illicit drugs" (emphasis added).

Information, research, monitoring and evaluation

The 2005-2012 Drugs Strategy[31] was seeking an "improvement in the knowledge base and knowledge infrastructure" in the field of law enforcement. The 2009-2012 Action Plan extended this objective to "expand the knowledge base, exchange of information and develop instruments, evaluate policy". A significant step has been undertaken in the current Strategy since it no longer focuses on the knowledge and data structure but instead promotes an evaluation of evidence-based policies and of their implementation "to contribute to a better dissemination of monitoring, research and evaluation results and a better understanding of all aspects of the drugs phenomenon and of the impact of interventions in order to provide sound and comprehensive evidence-base for policies and actions"[32].

New concepts introduced in the present Drugs Strategy

The two objectives of the 2005-2012 Strategy[33] were to increase health protection and security. The 2013-2020 Strategy includes three key policy objectives – reduction of supply, demand and risks and harms. Harm reduction was therefore given more significance since it is now equally important as demand and supply reduction as an objective.

The EU approach was defined as being "integrated, multidisciplinary and balanced" in the 2005-2012 Strategy whereas in the present one, it is also described as "evidence based". The EU Strategy is the only regional strategy in the world to possess the "evidence based" characteristic as a key policy approach.

Finally, new concepts were introduced in the 2013-2020 Strategy such as human rights, unintended negative consequences, intelligence-led policing, proportionality of sentencing and alternatives to imprisonment.

2. Effectiveness of EU supply reduction measures

Drug control policy has focused on actions aimed at preventing the illicit cultivation, production and distribution of drugs based on the assumption that doing so would eventually reduce the availability of these substances and would therefore lead to a reduction in levels of use.

A number of flaws in this logical framework have become apparent over the years. For example, in the

[28] EU Action Plan for 2000-2004, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/misc/09283.en0.html
[29] EU Drugs Action Plan for 2005-2008, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2005:168:0001:0018:EN:PDF
[30] EU Drugs Action Plan for 2009-2012, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:326:0007:0025:EN:PDF
[31] EU Drugs Strategy for 2005-2012, http://register.consilium.europa.eu/pdf/en/04/st15/st15074.en04.pdf
[32] Paragraph 9, EU Drugs Strategy (2013-2020), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:402:0001:0010:en:PDF
[33] EU Drugs Strategy (2005-2012), http://register.consilium.europa.eu/pdf/en/04/st15/st15074.en04.pdf

1970s and 1980s, behind the Iron Curtain, people who use drugs started producing methamphetamine, not because of financial incentives but rather to respond to a demand that was not satisfied by existing supply networks. This demonstrates that supply will seek to meet demand – this economic theory applies to drugs as it does to other types of markets.

The 2013-2020 Drugs Strategy clearly articulates the following objective around supply reduction: "to contribute to a disruption of the illicit drug market and a measurable reduction of the availability of illicit drugs"[34] (para. 9). Paragraph 32.4 of the Strategy makes a specific call for the "development of policy relevant and scientifically sound indicators on supply reduction". This seems to be a positive step forward. However, in the Action Plan for 2013-2016, twelve actions among 54 actions are still aiming at improving what the EU and member states have been doing for the past 20 years – Intelligence sharing, training, improvement of border security or judicial cooperation for example – rather than drawing lessons from the weaknesses of the current supply reduction system to re-focus activities towards smarter, more pragmatic law enforcement strategies that aim at reducing violence and the health and social harms associated with illicit drug markets.

In Europe, law enforcement and judicial teams have been working increasingly efficiently and have been significantly improving their operational skills for many years. Still, the availability of illicit drugs has not been reduced – the overall trend is for an increasing number of substances being more easily available on the market. In addition, supply reduction measures have sometimes led to serious negative consequences. For example, fluctuations in the purity or components of illicit drugs, arising from supply reduction operations, can lead to an increase in overdose deaths. Great progress was made in the current EU Drugs Strategy with the introduction of the concept of "unintended negative consequences". However, the following logical step – that of defining the negative consequences related to supply reduction interventions – has not yet been undertaken.

Another failure of the new Strategy is that supply reduction field continues to be considered as pertaining to the realm of the police, judges and border control activities, acting within a repressive approach. Participants stressed that supply reduction efforts could be reviewed to include the adoption of alternative approaches aiming more specifically at reducing the harms created by illicit markets. The EU Strategy has missed the opportunity of looking into how law enforcement could use its unique position as an intelligence-oriented force to build partnerships and shape the illicit market by identifying and targeting those groups or individuals causing the most harms (such as violence) to communities. In this regard, it is important to broaden the debate around wider harms in order to identify which harms related to drug supply should be prioritised by law enforcement authorities. In turn, this implies that less harmful illicit drug markets will be tolerated. Based on these political choices, national and European data systems and indicators would need to be re-designed.

3. Supply reduction indicators in the 2013-2016 Action Plan

One very positive aspect of the new Strategy is the fact that its objectives are clearly stated (contrary to previous strategies). The Action Plan also sets out a mechanism for robust evaluation in order to assess whether these objectives have been achieved. The 2013-2016 Drugs Strategy puts more emphasis on high-level intelligence-led enforcement and a willingness to create an evidence base for law enforcement effectiveness.

The Action Plan now includes an annex listing indicators, referred to as 'Overarching indicators for the EU Action Plan on Drugs 2013-2016' and by which the success and the impact of the Action Plan will be

[34] EU Drugs Strategy (2013-2020), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:402:0001:0010:en:PDF

assessed. This shows the commitment of EU to a solid monitoring and evaluation of its policy. Nevertheless, there are concerns that this set of indicators will fail to adequately measure the effectiveness of EU and national supply reduction activities in achieving the policy objectives. Indeed, according to the Action Plan, the availability of illicit drugs in Europe would be measured by indicators focusing on numbers of arrests and seizures, prices and purity. Whereas the last two indicators may be interesting to provide information about the European drug market, the first two ones seem irrelevant and dangerous. The level of arrests and seizures may be a relevant *process* indicator of law enforcement operational activity. Indicators of seizures and arrests, disruption of drug laboratories, treatment, etc. may also be important for the EU to understand and analyse trends in the illicit drug market, such as shifts in trafficking routes or changing patterns of drug use. However, these indicators are unsuitable to measure *policy effectiveness* in reducing the scale of the market, the availability of drugs to EU citizens, or the harms associated with drug markets and use.

In practical terms, there seems to be a real mismatch between objective and indicator, not only in terms of logical framework but also in terms of the consequences it may lead to, such as increases in arrests of easily detectable (and easily replaceable) low-level dealers, rather than prioritising dangerous and violent criminals. The past 20 years' experience has clearly shown that such a practice has not led to a reduction in illicit drug supply.

In practice, these supply reduction indicators seem to be the only areas where data can effectively be collected through existing mechanisms. The European monitoring system also depends on member states for data collection, often leading to information that can be incoherent or of varying quality. There is no financial resource available today in Europe to improve the quality and scope of the collected data.

Nevertheless, the EU should not shy away from reviewing these monitoring mechanisms and indicators if they are deemed inadequate. As such, urgent action is needed to review the supply reduction indicators used in the Action Plan and to come up with a process for articulating and reporting on indicators that truly address the relevant EU Strategy objectives and help to measure the cost-effectiveness of the EU supply reduction measures implemented in member states.

Session III: Regional challenges and the issue of new psychoactive substances

Box 2. The Pompidou Group's working programme

The Pompidou Group is an inter-governmental body incorporated into the institutional framework of the Council of Europe. Its core mission is to contribute to the development of multidisciplinary, innovative, effective and evidence-based drug policies in its member states.

- In May 2013, the new "Guiding principles for developing regulations concerning substitution treatments and driving" was adopted. Its adoption at political level is a step forward since it supports the fact that people under substitution treatment need to be able to drive to ensure their social and professional reintegration.

- For the past two years, the Pompidou Group has negotiated a policy paper intended to promote and rehabilitate harm reduction, and to broaden the political debate around it. The paper is now on the final stage of development and should be adopted in November 2013.

- Since 2010, the Pompidou Group has been providing trainings for drug policy managers. Its main objective is to facilitate know-how.

1. EU policy on the NPS issue : background and perspectives

Although EU governments are aware of a growing number of NPS being used in their country, national policies have remained focused on plant based drugs (heroin, cocaine and cannabis) during the 1990s and early 2000s.

The first formal European action to respond to this growing problem was the creation of the EU "Early Warning System" in 2005, through which member states could register new substances of concern. Their risks were then assessed by EU institutions, principally the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), a decision made on whether or not to recommend the substance for control measures, either through EU legislation or recommendation to national governments.

This process was only fully used for a small number of substances. In most cases, it took a lot of time and resources to produce a recommendation. This led to concerns as to how the system could effectively respond to the growing number of substances that were coming on to the market from 2009 onwards. As a result, as part of the EU Action Plan for 2009-2012, the EC proposed that the functioning of the warning system would be evaluated. There was a feeling that some important features in this process were missing, such as, for example, a proactive monitoring of new psychoactive substances. At the beginning of 2010, the Commission started preparatory work and in July 2011, the report was published[35]. Its key conclusion was the system had three major shortcomings:

- It is not able to tackle the large increase in the number of NPS onto the market, because it addresses substances one by one through a lengthy process.

- It is reactive; substances submitted to control measures are quickly replaced with new ones with similar effects, often through small modifications of their chemical composition.

- It lacks options for control measures (i.e. the criminal law should only be one option)

Also in July, the Informal Council in Justice and Home Affairs discussed the possible development of a drugs legislative package, including a revision of EU legislation in the field of NPS. In November 2011, taking on ideas from the Informal Council, the EC published a communication 'Towards a stronger response to drugs'[36], in which it announced that the Council Decision 2005/387/JHA on the information exchange, risk-assessment and control of new psychoactive substances[37] was to be revised.

Since the beginning of 2012, the EC has been conducting consultations with a wide range of technical and legal experts and government authorities, to analyse the feasibility of drafting new EU legislation in

[35] Report from the Commission on the assessment of the functioning of Council Decision 2005/387/JHA on the information exchange, risk assessment and control of NPS, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0430:FIN:en:PDF, and Commission Staff Working Paper on the assessment of the functioning of Council Decision 2005/387/JHA on the information exchange, risk assessment and control of NPS, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2011:0912:FIN:en:PDF

[36] Communication from the Commission to the European Parliament and the Council (2011), *Towards a stronger European response to drugs*, COM(2011) 689/2, http://ec.europa.eu/justice/anti-drugs/files/com2011-6892_en.pdf

[37] Council Decision 2005/387/JHA on the information exchange, risk-assessment and control of new psychoactive substances, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:127:0032:0037:EN:PDF

this area. This has raised a wide range of difficulties, including how to conduct rapid risk assessments, how to control supply without criminalising users, how to educate potential users on the real contents and risks of the substances, and how any EU legislation will fit within national policies and legal systems. The aim was initially to produce a legislative proposal by the end of the Irish Presidency. The consultations are still being held and the Commission's objective is to discuss the proposal under the Lithuanian presidency[38]. This is going to be the starting point of a long process involving the consultation of member states. The election of the European Parliament in May 2014 may lengthen the adoption of this reform.

The European Commission intends to prepare an innovative model composed of a combination of legislative instruments allowing a flexible approach in order to meaningfully strengthen the ability of member states to tackle the phenomenon. This proposal will highlight several key principles: the reaction and mechanisms of risk assessment should be quicker, the actions must be proportionate to the risk, and the restriction measures should be differentiated in order to avoid inhibiting economic activity. One of the Commission's most important concerns is to cope with the challenging phenomenon of NPS while not endangering the free circulation of legal products and substances across the EU.

The discussion process on EU legislation in this area has been running for 2 years and is likely to be concluded at the end of this year. Meanwhile, new substances and methods of distribution have continued to come in and out of fashion with bewildering speed. This illustrates the contrast between the speed at which statutory authorities can move to adopt new relevant policies and implement legislation, and the ability of producers and suppliers to quickly move between different substances and methods of distribution (during the period of discussions on this legislative proposal, more than 100 new substances have appeared on the market)[39].

Participants stressed that a European reform might be powerless. It is likely that EU institutions and national governments will again lag behind drug designers and the changing nature of the NPS market. It is therefore critical that EU institutions include people who use drugs, CSOs and even drug designers in their preparatory consultations in order not to adopt another monitoring and warning system that can be one step ahead of the NPS market.

2. European survey on the NPS issue

The European Drug Policy Initiative organised a survey[40] in five European countries (Romania, Hungary, Portugal, Serbia and Poland) in February 2013 in order to assess how professionals and affected communities perceived the trends in NPS use and related harms, as well as the impact of existing policy responses to the NPS phenomenon.

The study highlights that the major motivations for the use of new psychoactive substances are their price and availability, their legal status (no fear of criminalisation) and smart marketing around those substances (such as, for instance, synthetic cannabis advertised in Hungary as "herbal cannabis"). Additional incentives detected by the survey include free and sensationalistic advertisements provided by media coverage, the intense psychoactive effects of NPS, the myth of non-dependence when consuming NPS and their non-detectability (especially for OST clients).

[38] The Lithuanian presidency of the Council of the European Union is from the 01/07/2013 to the 31/12/2013

[39] When the expert seminar took place in June 2013, the European Comission was still working on its legislative proposal. This proposal has been released in September 2013. For more information, see: http://europa.eu/rapid/press-release_IP-13-837_en.htm

[40] Hungarian Civil Liberties Union (2013), *New psychoactive substances - policy responses and unintended consequences*, to be published in october/november 2013 on http://drogriporter.hu/en

In the countries surveyed, two major drug use patterns were noticed. In Serbia, Portugal and in Western countries, NPS are mostly used recreational and experimental. Users are young, educated, urban males with access to the internet. They are mostly smoking or snorting NPS and the risks they are facing mostly include psychotic episodes, overdose, aggressive behaviour, unprotected sex, and HCV. In Romania, Poland and Hungary, the most common consumers of NPS are young or middle aged men, uneducated, unemployed or marginalised that already used heroin, amphetamine or methadone. Many of them end up being dependent on NPS. They mostly inject NPS – these substances are usually injected much more frequently than traditional drugs (an average 10 times a day compared with 3 times a day for heroin use). Needle sharing, rapidly deteriorating health conditions, aggressive behaviour, paranoia and psychosis are common consequences for these NPS users.

In Eastern European countries, the growing use of NPS coincided with the economic crisis. This has caused a severe public health crisis because the budgets allocated with harm reduction programmes have been dramatically cut, while the risks and harms associated with the injection of NPS have been growing. There is a rising risk of HIV outbreak, especially in Romania and Hungary, because of those two simultaneous phenomena.

Experts have linked these two trends to several factors that are having a significant role in shaping the patterns of NPS use in each country – the criminalisation of people who use drugs (which is much stronger in Eastern European countries than in Portugal for instance), access to evidence-based treatment (which is very low in Eastern Europe), and the stigma associated with drug use. In Romania and Hungary for example, the most significant group of people who inject drugs are people issued from marginalised Roma communities living in ghettos.

In the studied countries, different approaches were adopted to address the NPS problem such as the closing down of smart shops, the registration of products or banning substances/groups of substances. However, experts consider that these policies are always one step behind drug traffickers/designers and have created serious negative consequences. People who use drugs have been driven underground, away from the harm reduction and other healthcare services they need, and have started to use new substances which are potentially more dangerous for their health.

Governments have missed a key opportunity to regulate this new market. By banning NPS, they contributed to the creation of a black market and increased criminalisation of people who use drugs. This has also led to less information being made available on consumption and trafficking trends.

The survey raises strong concerns on the fact that these policies are neither evidence-based, nor balanced – they are mostly focused on controlling demand and supply through law enforcement measures. No prevention programme was created and only a few public health interventions were implemented – although most harm reduction and treatment systems failed to adapt to the needs of NPS users. Finally, there are currently no monitoring and evaluation mechanisms in place for these policies. For example, in the Eastern European countries surveyed, mass media campaigns funded by governments were developed, conveying concerning slogan such as the “legal high will burn you” campaign in Poland. The question of the campaign’s effectiveness was at best questionable, and the media coverage around the campaign generated a boomerang effect which raised fear and stigma around NPS users, while at the same time boosting consumption through “free advertisement” for these NPS through the media.

The policy recommendations given in the survey included:

- To reallocate available resources on education, prevention, public health programmes and

research on NPS

- Advocate for the decriminalisation of drug use in Eastern European countries
- Adopt new legislative approaches and implement regulatory alternatives such as the New Zealand model[41].

3. The Romanian experience

NPS use in Romania emerged in 2008 and has increased alarmingly since then, mostly among young people. NPS has become the main drugs used in Romania, with a NPS use lifetime prevalence estimated at 2 per cent of the population[42].

In 2008, smart shops sold these substances under various brand names, the chemical composition of the substances being virtually unknown. A common practice among shop owners was to purchase various substances and to mix them under the same brand name, which made the determination of the main substance impossible. NPS were available in smart shops (street corner shops opened mostly at nights and weekends). They could also be purchased online. Opening a NPS business was easy and cheap and the profits were almost immediate. As they were legal, NPS were initially perceived by young people as being less dangerous than classic illicit drugs.

A rapid increase in medical emergency cases followed the explosion of NPS use. Most of the emergency cases were due to panic attacks, chest pains, psychotic episodes and tachycardia, but severe physical and psychiatric disorders were soon recorded. In four years, the national drug market almost tripled[43]: lifetime prevalence of drug use increased from 1.7 per cent in 2007 to 4.3 per cent in 2010. Young people have been the most affected group.

Due to NPS availability, price and legal status, people who injected drugs switched from heroin to injectable NPS. Consequently, daily injection rates and syringe sharing increased significantly. According to OST providers in Bucharest, treatment demand decreased. NPS penetrated prisons, thus increasing the HIV/hepatitis C transmission risks among people injecting drugs in prison.

Service providers from both community and prison services reported difficulties in dealing with the change in use patterns. As harm reduction and treatment services were tailored for opiate users, the needs of NPS users could not be addressed properly. NGOs and the National Forensic Institute reported dramatic negative health consequences in the country. Physical and mental degradation accelerated, while the social marginalisation of people who used NPS became more problematic. The connection between the spread of HIV and NPS use in Romania became clear. HIV transmission increased dramatically: during the 2007-2010 period, a total of 28 new HIV cases were recorded, whereas between 2011 and 2012, there were 361 new HIV cases among people injecting drugs.

Due to a decrease in international funding, the access to NSPs became more limited. The European Structural Fund programme which allowed the continuation of NSPs and partially of OST was expected to stop by the end of June 2013. The NSP is likely to continue at least by half capacity for several months

[41] For more information on the New Zealand regulatory model, please see: McCullough, C., Wood, J. & Zorn, R. (September 2013), *IDPC/NZDF Briefing Paper – New Zealand's psychoactive substances legislation* (London: International Drug Policy Consortium), http://dl.dropboxusercontent.com/u/64663568/library/IDPC-NZDF-briefing-paper_New-psuchoactive-substances-in-New-Zealand.pdf

[42] According to the Romanian General Population Survey conducted in 2010

[43] National Report on Drugs, 2008-2011, Romanian Anti-drug Agency

after June. Although national health departments purchased around 1 million syringes, the need for syringes is estimated at 8 million to meet demand.

In terms of national policies adopted to tackle NPS, the Romanian authorities decided in February 2010 to ban 36 substances. The list was later expanded to 8 additional substances. A new regulation targeting products liable to have psychoactive effects and their retailers was passed in November 2011. Law enforcement teams could then shut down NPS shops as well as Romanian websites selling NPS.

This repressive policy had severe negative consequences. Following the banning of the 44 substances mentioned above in 2010, new products (generally more harmful than the previous ones) emerged onto the market. In addition, after the closing down of smart shops, the trade moved online. Even though Romanian websites were shut down, retailers moved their domains to servers located in countries with less strict regulations, leaving NPS as accessible as they were before the ban. Romanian civil society has been calling for a public response that would be more focused on education, prevention, health and social services and less so on law enforcement and criminalisation. For now, there is a general lack of understanding among Romanian policy makers about the importance of education, health and social services in the reduction of drug-related harms.

4. **Discussion**

The failure of traditional law enforcement approaches towards NPS

In the EU, several member states have implemented legislative measures such as closing shops and websites or banning substances in order to deal with the proliferation of NPS within their borders. These measures have had mixed results since they did not sustainably disrupt distribution routes and mostly led to substance replacement. In order to give public opinion a feeling of being in control, many European governments adopted a repressive approach that in fact worsened the situation. Those policies have driven the market in a more harmful direction. These policies led users to turn to new, often more harmful, substances, they have increased the stigma associated with NPS use, and have pushed the open market to an underground un-regulated market. This has contributed to increased risks of HIV/hepatitis C infections with users adopting more harmful patterns of behaviour, at the same time as budgets for harm reduction programmes were cut.

The traditional “cat and mouse game” between authorities and drug producers/dealers increased significantly with the NPS phenomenon – it seems impossible for governments respond quickly and effectively to the rapidly changing NPS market with traditional law enforcement measures. The only way governments can adequately respond to the phenomenon is by adopting active, flexible and creative, alternative policies.

Innovative policies to tackle health-related harms

Several proposals were discussed by the participants. On the demand side, some impactful and cost-effective prevention measures could be implemented in schools, universities and communities to raise awareness on the harms associated with NPS. These are missing in the EU Action Plan. In the field, many medical experts and even police officers have been advising NPS users to switch back to “traditional” drugs because they are much more manageable than NPS. The legal regulation of some traditional drugs as a means to address the NPS challenge should be discussed thoroughly to ensure a proper regulation the market and to limit the increasing health harms of NPS. In many countries, service providers were taken by surprise by the growing NPS use. In order to ensure that harm reduction and treatment services adequately respond to the needs of new users, trainings should be provided to healthcare providers. This is what has been happening, for example, in Romania.

Another proposal was made in order to address the lack of comprehensive data available in Europe on the chemical compounds of NPS and their evolution. Unfortunately, much of the existing information available so far has come directly from emergency rooms. Participants stressed the importance of carrying out research projects in order to collect data and knowledge on changes in the drug market, the chemicals composing NPS and evolutions drug use patterns. The Swiss programme under which scientific teams go to parties to test the pills used by consumers was found particularly interesting by the participants. This programme provides a high quality harm reduction service to NPS users who can know exactly which substances they are going to use and which risks they are facing. At the same time, it also allows Swiss health departments to collect data on drug consumption patterns and the emergence of new substances. Swiss services have therefore been able to analyse throughout the years how pills have changed and adapted according to the reactions of the users, and they have been able to develop prevention and harm reduction campaigns that fitted with the NPS used locally.

In France, people usually buy NPS on the internet. They also use website to share their knowledge and experience of drug use (description of the process of consumption, of the physical effects and of risk factors). A website[44] was developed in France for people to share information anonymously about their drug use, thus helping their peers in using drugs safely and giving precious knowledge to professionals. The various means through which it is possible to develop e-health systems in order to reach drug users via information and telecommunication technology were also discussed during the seminar.

The New Zealand regulated model for NPS

Finally, the New Zealand experience was found particularly useful to study for the EU in terms of creating a regulatory model for NPS. This year, New Zealand adopted an innovative approach towards NPS, by creating a regulated market in which NPS producers will have to prove that their products are low risk for the health of the users. Participants stressed that, depending on the implementation of this reform, it may itself become a repressive policy. Indeed, political pressure will be important in New Zealand to ban any psychoactive substance that presents the slightest risk. However, this new approach to tackling NPS is innovative and deserves thorough study.

Session IV: The role of Europe in global drug policy – The European Voice in preparations for the 2016 UN General Assembly Special Session on Drugs

1. Background of the 2016 UNGASS and historic overview

The UNGASS in 1998 was launched thanks to a Latin American initiative. Latin America and Europe both played a significant role in the positive outcomes of the 1998 UNGASS, such as a better emphasis on a more balanced approach between 'Northern' and 'Southern' responsibilities and between supply and demand measures, introducing the need for "reducing adverse consequences" of drug use (a first acceptance of the harm reduction principle) and for alternative development measures for small farmers involved in illicit cultivation. However, some of the 1998 UNGASS outcomes were highly controversial and harmful such as in particular the politicised propaganda around the event calling for a "drug-free world" and its political declaration explicitly setting as a major objective the elimination of the illicit cultivation of coca, cannabis and opium poppy by 2008[45]. This unrealistic target resulted in no substantial results in terms of reducing the illicit supply and demand for drugs globally, and generated instead an increased level of repression in national drug policies, mass incarceration and the resulting prisons overcrowding, and an explosion of blood-borne diseases among people who use drugs. This

[44] http://www.psychoactif.fr/forum/index.php
[45] See the UNGASS political declaration in 1998, http://www.un.org/ga/20special/poldecla.htm

"war on drugs" approach also led to severe human rights violations, increased crime and corruption and an explosion of violence in Latin America in recent years, particularly in Mexico and Central America.

The Commission on Narcotic Drugs (CND) review process in 2009 led to very little progress in terms of outcomes compared with the 1998 UNGASS. The meeting still targeted the elimination or 'significant reduction' of coca, opium poppy and cannabis production by 2019. Even though the EU did manage to stand with one voice and played a strong role in promoting harm reduction and alternative development measures, the outcome[46] was frustrating.

Today, there is an increasingly intense global debate on the consequences of the "war on drugs" and a growing sense that there is a need to reform current policies and explore alternative policies. There have also been significant changes in the drug policy landscape during the last decade. Firstly, civil society involvement is much more active and significant than ever before. For instance, the Latin American and subsequent Global Commission on Drug Policy had a huge impact globally, for example with the Global Commission's first report calling for the end of the "war on drugs"[47]. Secondly, harm reduction has progressed significantly in Europe. OST and NSP are being carried out in every EU country, even though some weaknesses and problems remain. And finally, a "quiet revolution"[48] has taken place globally, with several countries having turned to the decriminalisation of personal drug use (even if all decriminalisation models adopted are not necessarily satisfactory).

Moreover, three important breakthroughs have recently occurred. First, after Bolivia denounced the 1961 UN Single Convention on Narcotic Drugs, it formally re-accessed the treaty in January 2013 with a reservation allowing for coca leaf chewing. Bolivia hence successfully reconciled its international treaty obligations with its 2009 Constitution. This can be considered the first challenge to the supposed integrity of the treaty system. The second breakthrough happened in the USA. There, for the first time, a majority of the population in some states is now in favour of a regulated market for cannabis. This irreversible trend is growing across the country. Colorado and Washington already approved the legal regulation of cannabis for recreational use by referendum and in several states, similar reforms are currently under discussion. Finally, the Uruguayan parliament is debating a bill that will legally regulate its domestic cannabis market, this time, at national level. The US States and Uruguayan examples have inspired several initiatives to discuss reforms around decriminalisation or/and regulated cannabis markets across the American continent, such as for example in Mexico, Ecuador, Chile, Belize and Jamaica.

In the Western Hemisphere, debates on drug policy reform are well underway. During the Cartagena summit in April 2012, several Latin American leaders expressed their frustration with the ineffectiveness and high costs of current drug control policies and tasked the Organisation of American States (OAS) with producing a report designed to stimulate debate on options for improving policies. Under this mandate, the OAS published an analytical report of the current drug situation in the region, as well as a Scenarios report[49] that considers various options for reform. Both reports were discussed during the June 2013 OAS General Assembly, which for the first time, focused on drug control issues. The declaration of Antigua "For a comprehensive policy against the drug problem in the Americas"[50], adopted at the General Assembly, encouraged the consideration of new approaches to the world drug

[46] High-level segment Commission on Narcotic Drugs (2009), *Political Declaration and Plan of action on international cooperation towards an integrated and balanced strategy to counter the world drug problem,* http://www.unodc.org/documents/commissions/CND-Uploads/CND-52-RelatedFiles/V0984963-English.pdf

[47] Global Commission on Drug Policy (2011), *War on Drugs - Report of the Global Commission*, http://www.globalcommissionondrugs.org/wp-content/themes/gcdp_v1/pdf/Global_Commission_Report_English.pdf

[48] Release (2012), *A Quiet Revolution: Drug Decriminalisation Policies in Practice Across the Globe,* http://www.release.org.uk/publications/drug-decriminalisation-policies-in-practice-across-the-globe

[49] http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-194/13

[50] http://www.oas.org/en/media_center/press_release.asp?sCodigo=S-010

problem in the Americas based on scientific knowledge and evidence.

These positive trends are irreversible and are laying a very good groundwork for the preparation of the 2016 UNGASS. It is important to make use of this political opportunity at the national, regional and international levels.

2. Challenges and strategies regarding the preparation for the 2016 UNGASS

Main challenges to be addressed at the 2016 UNGASS

There are several challenges to the global drug control regime that should be addressed at the UNGASS:

- The international classification mechanism based on the division between narcotic and psychotropic substances is not evidence based and needs to be changed.

- A more rational scale of harms should be adopted. Alcohol and tobacco are among the drugs that are causing the most severe harms but they are currently outside the scope of the treaty, while other drugs that are causing less harm are tightly controlled under the treaties.

- Non-medical use of very powerful pharmaceuticals is a serious global issue that needs to be addressed (opioid painkillers or stimulants like Ritalin for instance).

- NPS present a real threat to citizens' health and wellbeing, and a new challenge to the process of creating and implementing drug control strategies. These should be discussed within a wider treaty reform debate

- The growing use of the internet is potentially going to undermine the implementation of supply reduction measures. Not only NPS are sold on the internet but so are more traditional drugs such as ecstasy, cocaine, etc.

- The growing number of national or state-level authorities starting to initiate reforms that are breaking with the so-called "Vienna consensus" on drug control. The 2016 UNGASS may represent an opportunity to bring to the table whether more flexibility should be established in the global treaty regime in order to give countries more space for national or regional differentiation and experimentation.

The role of the EU at the 2016 UNGASS

The 42nd Action of the EU Action Plan for 2013-2016 is to "contribute to shaping the agenda on international drugs policy, including through preparation, co-ordination and adoption of EU common positions and joint resolutions in the UN General Assembly and the CND and ensuring that the EU speaks with one strong voice in these and other international fora"[51]. Europe can boast a reputation for being a leader in terms of implementing evidence-based policy and measures to reduce health-related harms. Documents such as the European Drugs Strategy and Action Plan have an impact at the international level. It is critical that the European voice builds on the substantial gains already made in terms of public health and continues to be a strong voice for promoting human rights, harm reduction, proportionality of sentences and alternative development principles at the 2016 UNGASS.

It is critical that member states reach a common position in order for the EU to speak with "one strong voice" and to get a stronger impact at the UN level. However, the institutional and political difficulties

[51] UE Action plan on drugs (2013-2016), http://register.consilium.europa.eu/pdf/en/13/st09/st09963.en13.pdf

for getting this common and strong EU voice and leadership are problematic. Neither the Parliament, nor the Commission or the Council may be able to provide the necessary progressive leadership that is needed. In addition, there is little consensus among EU member states on what alternative policies could be (e.g. debates around cannabis regulation).

Despite these internal divisions, the EU can play a key role in bridging discussions with other strategic regions such as Latin America. As such, the EU should start discussions now to find common ground with key partners. Both in Europe and Latin America, however, there are internal divisions and political pressures to reach regional common positions that would strongly support a momentum for reform, especially when operating at the international level. But there are some reform-minded countries on both sides that could join hands to explore collaborative actions. The ideas of creating informal coalitions between some European and Latin American reform-minded countries – and of creating a "group of friends" – were considered as critical to move a reform agenda forward at UN level. Networking and developing partnerships was also deemed necessary in order to identify representatives and politicians who could be influential in the EU and who could become allies in the UN process.

The next institutional opportunity to shape the agenda and the political declaration of the 2016 UNGASS appears to be the mid-term high level review at the CND in March 2014. The EU should push for the principles of human rights and harm reduction at CND-level, perhaps through a resolution that could be presented by the Lithuanian presidency and put on the CND agenda.

<u>The role of civil society in the UNGASS process</u>

Civil society should create a task force to share expertise, knowledge, influence, and human and financial resources. Sending a statement to the Secretary General of the 2016 UNGASS or organising a global petition could be tools used by civil society to express their views and influence the agenda.

The model for civil society involvement developed by the EU with the CSF can also be useful to promote NGO participation at the UNGASS debates Civil society should strive to obtain the maximum level of involvement in 2016 UNGASS proceedings. It is critical that a network of reform-minded organisations (representatives, governments, NGOs, Global Commission) manage to influence the proceedings at the UNGASS so that civil society obtain the maximum level of involvement in the UNGASS and its preparation; and amend the drafts when they are designed and discussed at national and international levels.

The creation of a centre of excellence, an independent institution attached to the EU system, was also discussed. This centre would be composed of a pool of experts on a wide range of issues such as scientists, politicians, activists, social workers, policy makers. Its role would be to advocate for rational and cost-effective policies.

A strong combination of actors (media, experts on drug issues, scientists, governments, activists, drug users) will be necessary to influence the drafting of the UNGASS outcomes and to develop national, regional and international debates on drug issues. It is critical that civil society use the media, by developing contacts with journalists and editors, in order to create a broad and constructive national and European debate on drug issues. This will help to make people move from their ideological stance. This may also help politicians to adopt more progressive approaches – it was stressed by the participants that some politicians may not implement progressive drug policies because they fear hostile reactions from media and public opinion. Finally, it would be useful to use famous people who are reform-minded in order to mobilise public more broadly and raise awareness around the consequences of the "war on drugs". The HIV crisis was always much more publicised that other diseases thanks to its representative famous figures.

Finally, some actions should be undertaken to influence the positions of International Narcotics Control Board (INCB) or to change its member composition. For instance, a call could be made to ask the INCB to integrate human rights in its scope of work and to clearly support the UNODC, UNAIDS and WHO Technical Guide on HIV prevention and treatment for people who inject drugs.[52]

Final recommendations in the lead up to the 2016 UNGASS

Some pragmatic ideas could be used in order to raise awareness and influence the debate and the 2016 UNGASS directions:

- The ineffectiveness of scaling down the market and historic evidence of strong market resilience
- The critical global challenges that traditional drug policies have failed to tackle, such as NPS
- The significant harms related to the illicit drug market and problematic drug use, but which are also exacerbated by the implementation of harmful drug policies
- Drug-related crime undermines the stability of states. Repressive policies did not stop the market from growing and causing major threats to security and general wellbeing with an explosion of violence
- Because of the financial and economic crisis, budget cuts have put pressure on harm reduction measures, reversing the trends in HIV and leading to HIV breakthroughs particularly in Eastern Europe
- The financial crisis can also be an opportunity for governments to turn to more progressive, cost-effective alternative policies that would reduce public spending and would even bring tax revenues from regulated markets, such as for cannabis
- The terms of the debate are shifting and alternative policies are being adopted all around the world while the treaty system remains unchanged. The risk of a collapse of the system is growing. The global treaty regime should somehow show more flexibility in order to allow this irreversible dynamic of reform to influence, adapt and modernise the system. That will be the main challenge for the 2016 UNGASS.

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[52] WHO, UNODC, UNAIDS (2012), *Technical guide for countries to set target for universal access to HIV prevention, treatment and care for injecting drug users*, http://apps.who.int/iris/bitstream/10665/77969/1/9789241504379_eng.pdf