

THE EFFECTS OF THE 2006 ITALIAN DRUG LEGISLATION (“Fini-Giovanardi law”) ON THE PENAL AND PRISONS SYSTEM (2006-2010)

SECOND “WHITE BOOK” - Executive Summary

Key points of the 2006 drug legislation

- **Personal use of drugs.** Possession of drugs is punished by administrative sanctions, providing the amount is below a given threshold, which is meant to distinguish between use and dealing (“maximum quantity allowed”). The maximum amounts were determined in 500 mg (active psychoactive principle) for cannabis: 250 mg for heroin; 750 mg for cocaine).
- **Administrative sanctions for personal use.** Harsher sanctions are provided for users than in the previous legislation (such as a prohibition to leave their place of residence during some hours, prohibition to drive cars, mandatory checking in at the local police at least twice a week). They may be inflicted for longer periods. Therapeutic alternatives to sanctions are no longer provided and drug users may attend a therapeutic program *in addition* to sanctions only.
- **Penalties for production, dealing, trafficking** (art.73/74). The penalties set for possession above the threshold (supposedly for dealing and trafficking) range from 6 to 20 years of imprisonment for all substances.
- **Cannabis upgrading and rise in penalties for cannabis offences.** The 2006 law, by upgrading cannabis to Schedule I, leads to a substantial rise in penalties (from 6 to 20 years, compared to 1 to 6 years in the previous law).
- **Penalties for drug crimes of “minor relevance”** (art.73, par.5). Less severe penalties may be sentenced for drug crimes of “minor relevance”, when the person is found in possession of quantities slightly above the threshold (with penalties ranging from 1 to 6 years of imprisonment).
- **Alternatives to imprisonment.** Drug addicts sentenced to less than 6 years imprisonment (or with remaining 6 years to spend in prison) may be sent to alternative therapeutic programs.

Evaluating the 2006 drug law (2006-2010)- Main results

The first “White Book” was released in 2009 to evaluate the newly approved drug legislation as for its impact on the penal and prisons system over a three years period (2006-2008). The second White Book is a follow up of the previous study and confirms the trend of higher rates in offences and in imprisonment, particularly for minor drug crimes and cannabis crimes

- **Overall drug offences.** Offences against art.73/74 of the drug legislation reported by the police rose from 33.127 in 2006 to 39.053 in 2010.
- **Cannabis offences.** Most of the police activity is against cannabis offenders (40% of all the offences), in steady increase. (12.805 cannabis offences in 2008, 16.030 in 2010)

- **Imprisonment for drug crimes.** In 2006, people imprisoned for drug crimes were 28% on the overall imprisoned citizens, 31% in 2010.
- **Imprisonment of addicts.** In 2006, the rate of addicts imprisoned was 27% on the overall figure, in 2010 the rate was up to 28,4%.
- **Police operations.** In 2006, 20.775 anti drug police operations were reported; in 2010, 22.064, with a top figure in 2009, 23.262 (the highest in the last ten years).
- **Seizures.** While police operations are increasing, the amount of drug seizures (in kilos) is substantially stable, apart from a boom in 2008. Cannabis seizures are far the most of overall seizures and in sharp increase. In 2006, cannabis seizures summed up to 24.672 kilos (74% of overall seizures); in 2010, 25.487 kilos (82,2%).
- **Sanctions for personal use.** In 2006, 8.180 sanctions were inflicted; the double in 2010, 16.154.
- **Therapeutic programs for users.** While for sanctions the rate of increase jumps up to 100%, in the same period there is a drop in the therapeutic programs attended by sanctioned users (6.173, in 2006; 518, in 2010).
- **Therapeutic alternatives to imprisonment.** In the years 2006-2010 an overall decrease in alternative therapeutic measures is registered. On January 1st 2006, 3850 drug offenders (diagnosed as addicts) were in a therapeutic program; on December 31st 2010, the figure dropped to 1871.
- **Therapeutic alternatives for imprisoned/ free users.** Before 2006, most addicts were directly sentenced to therapeutic programs (without spending any time in jail). After 2006, the opposite trend is registered, as people released from prison to undergo treatments outnumber directly sentenced to treatments addicts: for example, on January 1st 2009, 719 prisoners were released for treatment versus 500 free persons; on January 1st 2010, 1150 inmates were sent to treatment versus 721 free persons.
- **Drug crimes of “minor relevance”** (art.73, par.5). No official data are available about the prevalence of drug crimes of “minor relevance” at national level, as paragraph 5 is not an autonomous provision but a mitigating circumstance only. Nevertheless this information are crucial to realize the focus of law enforcement (either on major or minor drug crimes). An in depth qualitative research shows a rate of prisoners (sentenced or charged) for drug crimes of “minor relevance” up to 40% of the overall drug crimes (suggesting that law enforcement is mainly focused on punishment of users/small dealers). *(All data have been collected from the National Department of Prisons, the Anti drug Police Department, the annual National Government Reports on Drug Addiction).*

Conclusions and recommendations

- The impact of the 2006 anti drug law on the overall rates of imprisonment is *the main reason for the present overcrowding of Italian prisons*. Minor drug crimes seem to be the favourite target of law enforcement and punishment is focused on cannabis crimes.
- As punishment is on the rise, *therapeutic alternatives are on the fall*. There is a dramatic drop in therapeutic programs for sanctioned users as well as in alternative treatments to imprisonment.

- *These results call for a change in the drug law.* Among the most pressing innovations: drug crimes of “minor relevance” are to be established as an autonomous provision with milder penalties (instead of a mitigating circumstance); different schedules according to different harms are to be reinstated and cannabis is to be downgraded; new provisions to develop therapeutic alternatives are to be introduced.