

Courts in the Republic of Moldova choose to punish instead of rehabilitate drug users



Middle-aged, with unfinished studies, unmarried, without a permanent workplace and in trouble with the law—this

is the typical profile of those accused of crimes related to the illegal circulation of drugs without the intent to sell. Usually, these people are punished with fines or suspended prison sentences, implying the existence of punitive practices for drug consumers and few resources directed toward supporting and rehabilitating them. These are some of the findings of the study “Judicial Practices when Examining Violations and Contraventions of the Illegal Circulation of Drugs without the Intent to Sell”, carried out by the Promo-LEX Association at the initiative of the Public Health Program of the Soros-Moldova Foundation.

The study is focused on legal practices for contraventions related to the illegal procurement and possession or

consumption of drugs without a medical prescription (art. 85 of the Contraventional Code) and crimes related to the illegal circulation of drugs, psychotropic substances or analogues thereof without the intent to sell (art. 217 of the Criminal Code). The criminal and contraventional cases from all first-level courts in the Republic of Moldova that heard such cases in 2015 were studied.

The authors of the study appreciate that legal practices in this area conform to international standards and guarantees regarding the right to a fair trial. However, there are certain shortcomings, both at the legislative level and at the practical and institutional level, in the processes of criminal investigation and judicial examination in cases related to illegal circulation without the intent to sell.

One of these problems relates to the small amounts established by the *"The List of Narcotic, Psychotropic Substances or Plants Containing Such Substances Identified in Illegal Trafficking and their Quantities"*. The list is overwhelmingly predisposed toward imposing criminal liability on drug consumers, thereby reducing the effectiveness of the fight against drug trafficking and traffickers.

Another finding was that a large number of criminal cases are initiated because of the illegal circulation of drugs in insignificant quantities. This has the effect of increasing the volume of work for law enforcement agencies and courts. It would be possible to reduce this number if the quantities of narcotic substances were revised.

In addition, there were gaps in demonstrating defendants' intentions and guilt in cases of cultivating, growing or keeping plants containing narcotics. The accused plead guilty officially, but they state that they were unaware that those plants grew on their land, that they did not know that the plants contained narcotic substances, or that they were grown for other purposes. So far, no additional research or testing

methods have been established to confirm or indicate guilt in these cases.

According to information furnished by the Ministry of Internal Affairs of the Republic of Moldova, during the period 2015-2016 there was a total of 3265 contraventions on the basis of CC art. 85 (*the illegal procurement or possession of narcotic substances, precursors, psychotropic substances and analogues thereof in small amounts or consumption of such substances without a doctor's prescription*). During the same period, 1672 criminal cases on the basis of CP art. 217 (*the illegal circulation of narcotics, psychotropic substances or analogues thereof without the intent to sell*) were recorded.

The drug problem remains serious, a fact supported by figures at the international level. According to the World Drug Report, about 27 million people (*interval: 15,700,00-39,000,000*), or 0.6% of the global population between 15 and 64 years of age, suffer from drug consumption and the many health problems related to it.

The electronic version in Romanian language is available [here](#).

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