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# **Legal issues significant from the point of view of prevention in the area of drug policies**

Supporting the prevention  
of addiction in Georgia



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# **Types of legal issues related to drug policies**

- Legal issues related to legislation;
- Legal issues related to legal practice (dependent on the provisions adopted in legislation);
- Legal issues outside of the criminal justice process;
- Legal issues typical for the criminal justice process;

**Legal issues of  
significance outside of  
the criminal justice  
process**

# Duty to report drug offences to the police

- Duty for teachers and similar professions;
- Duty for doctors;
- Duty for owners of pubs, discos, restaurants and similar establishments;

# Right to privacy in case of minors

- Drug testing in schools;
- Other forms of controlling students;
- Searches and seizures;

# Legality of needle exchange programs

- Do international conventions require here something?
- Criminalization of encouraging or aiding consumption;
- Availability in prisons;

# Legality of substitution treatment programs

- Do international conventions require here something (prohibit such treatment)?
- Conditions for participation in programs;

# Other legal issues related to substitution treatment

- Administration ,on the spot' or ,take-away'?
- Obtaining larger dosages for longer periods of time;
- How to control compliance with conditions (urine tests);
- Consequences of breaking the rules and conditions;
- Availability of methadone in prisons;

**Legal issues of  
significance from the  
point of view of criminal  
process**

# Constitutional issues

- Is there right to use drugs, to alternate someone's consciousness?
- How about right to privacy?
- Justification of criminalization of drug use: harm principle – does harm to self justify criminalization (e.g. suicide)?
- Prohibition to criminalize harm to self in Germany;
- Protected good: individual health or public health?
- If individual one does it imply duty to be in good health, to care about own health?

# Constitutional issues

- Offences of causing an abstract danger for protected good – how far criminalization may go here?
- The issue of proportionality: what kind of intervention is justified in case of drug consumption and harm to self? – judgement of the German Constitutional Court of 1994;

# Waiver of criminal responsibility

- Depenalization or decriminalization?
- What is better?
- What are requirements of international law: UN conventions.
- How to define cases deserving decriminalization or depenalization?
- Small quantity for own consumption – how to define it?
  - Leaving decision to the police/prosecutor/court?
  - Quantitative definition of small quantity (tables).

# Waiver of criminal responsibility

- The notion of own consumption – what if a person engages in small scale drug dealing (common situation)?
- What to do with possessed substances?

# Treatment alternatives

- What preconditions?
- Kind of offences – how to define them to exclude serious offences?
- Duration of treatment and suspension of proceedings;
- How to treat ,recidivists’?

# Treatment alternatives

- How to enter treatment: initiative by the suspect/accused or by prosecutor/police?
- Who has to find appropriate institution: criminal justice or suspect?
- Issues related to cooperation between treatment institutions and criminal justice agencies – voluntariness, duty to report on progress

# Treatment alternatives

- How to motivate criminal justice functionaries to apply alternatives – it is often against their professional interests and prolongs proceedings.

# Issues related to road traffic safety

- Consequences of drug consumption for ability to drive a car etc.;
- Ascertaining presence of psychoactive substances in blood – threshold of responsibility?
- Conviction for drug offences and withdrawal of driving licence under administrative law;

# Issues related to prisons

- Rights of prisoners in case of drug using offenders;
- Do drug users require special treatment;
- Right to appropriate treatment equal with standards outside of prison;

**Thank you for your  
attention!**

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