

Universal Periodic Review of Belgium (38th UPR session, May 2021)

Recommendations related to health and people who use drugs

1. Adopt a public health approach to drug use and drug addiction, and decriminalize people who use drugs:

The Belgian law¹ on the trafficking of poisonous, soporific, narcotic, psychotropic, disinfectant or antiseptic substances provides for prison terms of three months to five years and fines of one thousand to one hundred thousand euros. While this law does not punish consumption *per se*, drug users are nonetheless targeted through the criminalization of drug possession for personal use.

This law dates back to February 24, 1921, and urgently requires an in-depth revision. Despite a century of prohibition, the prevalence of drug use in Belgium has only increased (more than twofold in the last 20 years), as has drug trafficking². The differentiated enforcement of this law, based on ethnic and social profiling, has also given rise to serious inequalities and injustice³. But the biggest failure of criminalization lies in its inability to provide an adequate response in terms of public health, protection and empowerment of people who use drugs, and support to those with addictions and other use problems related to illegal drugs. It is therefore urgent to take into account the positive public health outcomes witnessed elsewhere as a result of the decriminalization of users⁴.

Countries that have decriminalized use and possession for personal use for at least some drugs include Argentina, Colombia, Costa Rica, Czechia, Germany, the Netherlands, Ghana, Italy, Portugal, Spain, South Africa, Switzerland, Uruguay.

The recommendation to decriminalize drug use and ancillary activities has already been made by a plethora of international human rights bodies, including the United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health⁵, the United Nations Committee on Economic, Social and Cultural Rights⁶, as well as the guidelines for action set out in the UN System Common Position on drug matters (2018)⁷. A recent analysis of over 100 peer-reviewed studies showed criminalization has a negative effect on access to HIV prevention and treatment.⁸

Recommendation: Amend the Law of February 24, 1921 in order to adopt a public health approach to drug use and drug addiction, including through the decriminalization of drug possession for personal use.

2. Provide legal certainty to drug consumption rooms

Drug consumption rooms (DCRs) are spaces in which illegal drugs can be used under the supervision of trained staff, with the aim of reducing the risks of disease transmission through unhygienic injecting, preventing drug-related overdose deaths, and connecting high-risk drug users with addiction treatment and other health and social services⁹. In 2018, a total of 78 DCRs operated across seven countries in the EU alone (including Denmark, France, Germany, Luxembourg, the Netherlands, Spain), as well as in other countries such as Canada, Switzerland and Australia¹⁰. As shown by the EU agency on drugs and drug addiction, there is a substantial body of evidence showing their effectiveness in reducing high-risk injecting behavior¹¹. The UN Special Rapporteur on the right to health has also encouraged the establishment of DCRs¹⁶.

A DCR reopened in Liège in 2018¹², and others are planned in Brussels¹³ and Charleroi¹⁴. However, the law of February 24, 1921, which had been adopted, among other reasons, to ban opium dens, formally prohibits "providing a premise" to facilitate the consumption of a controlled substance¹⁵. While city and regional authorities support and subsidize these projects, DCRs *de facto* remain in violation of the law, and exist in great legal uncertainty.

Recommendation: Amend the law of February 24, 1921 in order to provide legal certainty to health interventions such as drug consumption rooms (DCRs).

¹NDNOTES

- ¹Law of February 24, 1921, concerning the trafficking of poisonous, soporific, narcotic, psychotropic, disinfectant or antiseptic substances and substances which may be used for the illicit manufacture of narcotic and psychotropic substances (M.B. March 6, 1921), art. 2bis, §1.
- ²Stévenot, C., & Hogge, M., (2019). *Tableau de bord de l'usage de drogues et ses conséquences socio-sanitaires en Région de Bruxelles-Capitale*. Brussels: Eurotox asbl; https://eurotox.org/wp/wp-content/uploads/Eurotox-TB-2019-Bruxelles_2tma.pdf
- ³*Contrôler et Punir ? Étude exploratoire sur le profilage ethnique dans les contrôles de police : paroles de cibles*. Brussels, Ligue des Droits de l'Homme, 2017 ; https://www.liguedh.be/wp-content/uploads/2017/03/rapport_profilage_ethnique_ldh.pdf ; see also: "On ne sait jamais, avec des gens comme vous" – *Politiques policières de prévention du profilage ethnique en Belgique*. Brussels, Amnesty International, 2018 ; https://www.amnesty.be/IMG/pdf/rapport_profilage_ethnique.pdf
- ⁴Greenwald, G. (2009). *Drug Decriminalization in Portugal – Lessons for creating fair and successful drug policies*. Washington D.C.: Cato Institute; https://www.cato.org/sites/cato.org/files/pubs/pdf/greenwald_whitepaper.pdf
- ⁵Report of the United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2010), A/65/255, para. 62-69.
- ⁶United Nations Committee on Economic, Social and Cultural Rights (2020), *Concluding observations on the sixth periodic report of Norway*, UN Doc. E/C.12/NOR/CO/6, <https://undocs.org/sp/E/C.12/NOR/CO/6>, para. 42.
- ⁷UN Chief Executives Board (2019), *United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration*, UN Doc. CEB/2018/2, p. 14; https://digitallibrary.un.org/record/3792232/files/CEB_2018_2-EN.pdf.
- ⁸DeBeck, K. et al. (2017), 'HIV and the criminalization of drug use among people who inject drugs: a systematic review', *The Lancet* 4(8): e357-e374, <https://www.sciencedirect.com/science/article/abs/pii/S2352301817300735>
- ⁹*Perspectives on Drugs – Drug consumption rooms: an overview of provision and evidence*. Lisbon: European Monitoring Center for Drugs and Drug Addiction (EMCDDA) (2018), p.1; https://www.emcdda.europa.eu/system/files/publications/2734/POD_Drug%20consumption%20rooms.pdf
- ¹⁰Ibid, p. 2.
- ¹¹*Perspectives on Drugs – Drug consumption rooms: an overview of provision and evidence*. Lisbon: European Monitoring Center for Drugs and Drug Addiction (EMCDDA) (2018); https://www.emcdda.europa.eu/system/files/publications/2734/POD_Drug%20consumption%20rooms.pdf
- ¹⁶Report of the United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2010), A/65/255, para. 50.
- ¹²<https://www.liege.be/fr/actualites/une-salle-de-consommation-a-moindre-risque-ouvre-a-liege>
- ¹³https://www.rtf.be/info/regions/bruxelles/detail_le-parlement-francophone-bruxellois-adopte-le-principe-des-salles-de-shoots-pour-toxicomanes?id=10205856
- ¹⁴<https://www.dhnet.be/regions/charleroi/le-projet-de-salle-de-shoot-se-poursuit-5ddece4c9978e272f9386f4f>
- ¹⁵Law of February 24, 1921, concerning the trafficking of poisonous, soporific, narcotic, psychotropic, disinfectant or antiseptic substances and substances which may be used for the illicit manufacture of narcotic and psychotropic substances (M.B. March 6, 1921), art. 3, §2.