



PUBLIC INTEREST LAW INITIATIVE
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**HARM REDUCTION, THE EU ACCESSION PROCESS AND EU
DRUG POLICY:
AN OVERVIEW**

This document is intended to provide general information about the EU accession process and EU drug policy for NGOs in Central and Eastern Europe (CEE) and the former Soviet Union (FSU) working the field of harm reduction. It is intended that after reading this document and referencing some of the sources cited, such NGOs will be more able to negotiate effectively with their governments and on an equal footing. That is, they will be able to understand the vocabulary of the accession process and the EU and apply the principles of EU drug policy to their own countries in order to craft arguments for satisfactory drug policies in their own countries. Familiarity with these concepts and arguments may also be useful when applying to foundations, international organizations and governments for funding. The first part of this document provides an overview of the EU accession process, highlighting areas of relevance to drug policy. The second part of this document outlines current EU drug policy, highlighting areas of relevance to countries of CEE and FSU.

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THE EU ACCESSION PROCESS

This guide is intended to provide general background information about the EU accession process to NGOs involved in harm reduction in candidate countries; it is not intended to be a comprehensive explanation.

Currently there are fifteen member countries in the European Union and thirteen candidate countries who are in the middle of the accession process.

In general, the EU strives to balance national sovereignty with effective, cohesive international policies. This is achieved through the promulgation of general guidelines with allowances for

variations among individual states. The accession process is no different. The general process described below is the same for all the candidate countries, however each candidate country has different policy areas to address depending upon the strengths of its infrastructure. The goal of the accession process is to bring the governments and economies of the candidate countries in line with the *acquis communautaire* (*acquis*) of the EU. The *acquis* is not precisely defined nor is it explicated in a document. It is the unwritten law of the EU as applied to laws, regulations, economies and governments of the EU itself and its member states. In the accession process, candidate countries attempt to harmonize their laws, regulations, and economic and government structures with those of the member states. The goal is not to draft

laws identical to the member states, but to draft and implement laws that are appropriate to the candidate state, and are in harmony with the *acquis* of the member states. The *acquis* consists of 29 “chapters” (or topics) ranging from company law to agriculture; science and research to culture and audio-visual policy among others. Drug policy is addressed in Chapter 24, “Cooperation

in the Field of Justice and Home Affairs.”

There are four documents published by the EU and candidate countries that may be useful to NGOs in order to determine the current policies and goals of

their governments, and evaluate the progress in implementation. They are all publicly available.

Europe Agreements are developed through negotiations between government officials of the candidate countries and ministers of the EU. They are signed by the member states and the candidate country. Each candidate country has its own agreement which provides the framework to prepare the country for entry to the EU. The Europe Agreement provides for gradual opening of markets as well as social and legal aspects of integration. These Agreements tend to be around 75 pages long. All of the Europe Agreements are available on the Internet. Drugs have their own article under Title VI, “Economic Cooperation.” This is usually a general statement about how member states will work with candidates to

RELEVANT INTERNET SITES

EU homepage:

http://europa.eu.int/index_en.htm

Overview of the enlargement process:

<http://europa.eu.int/comm/enlargement/overview.htm>

Europe Agreements:

http://europa.eu.int/comm/enlargement/pas/europe_agr.htm

Accession Partnerships:

http://europa.eu.int/comm/enlargement/report_10_99/acc_partn.htm

Regular Reports for the year 2000:

http://europa.eu.int/comm/enlargement/report_11_00/index.htm

EU Drug Strategy:

http://www.emcdda.org/policy_law/eu/eu_actionplan.shtml

EMCDDA:

<http://www.emcdda.org/>

THE IMPORTANCE OF THE DRUG POLICY OF CANDIDATE COUNTRIES TO THE EU

The EU has included the EU candidate countries in its drug strategy. The 2001 Report on the State of Drug Use in the EU devotes a chapter entirely to CEE and the EU Commission has stated it, "considers stepping up the fight against drugs in the applicant countries as a priority."² Furthermore, National Drug Coordinators of member states and candidate countries met May 21, 2002, and "stressed the need for political support in the candidate countries to keep drugs on the agenda."³

Ensuring that candidate states address illicit drugs is based in part upon concern that illegal drugs are entering the EU through the countries of CEE/FSU.⁴ The 2001 Annual Report on the state of the drugs problem in the European Union reports drug seizures which indicate that some candidate countries including: Turkey, Romania, Hungary, the Czech Republic and the Balkans serve as transit routes for drugs such as cocaine, heroin and marijuana which are destined form EU Member states.⁵ Furthermore, illegal laboratories producing synthetic drugs have been dismantled throughout the region, particularly in the Baltic states, Poland, the Czech Republic and Bulgaria.⁶ More labs are suspected to exist.⁷ By addressing the demand for these drugs in Eastern Europe, EU countries may be able to decrease the flow of these drugs to Western Europe.

Further examples of the emphasis the EU is putting on drug policy in candidate countries can be found in the EMCDDA and the Phare programme. (For more information about these, see the text boxes.) Candidate states are invited to participate in the EMCDDA before the accession process is complete. For nearly ten years the EU provided financial and technical support to counter the drugs problem to countries of CEE/FSU in the form of the Phare Multi-Beneficiary Drugs Programme.

control supply and reduce demand.

Drugs are mentioned again in Protocol 6¹, Mutual Assistance in Customs Matters, stating that information gathered by customs authorities concerning drugs should be reported to authorities combating illicit drug use.

Accession Partnerships concisely outline the priorities for each candidate

country and set targets for each candidate country to achieve. Accession Partnerships are updated periodically and cover all aspects of the *acquis*. Proposals made by the Commission to the applicant states are decided upon by the Council. The Council determines EU assistance to candidate states based upon progress in implementing the Accession Partnerships. Specific information on drug policy can be found

under the heading "Justice and Home Affairs." Health policy, of relevance to those active in harm reduction programs, is often referred to under the heading "Social Policy and Employment."

National Programs for the Adoption of the Acquis (NPAA) are developed by each candidate country. They are detailed plans for the implementation of the Accession Partnership. They usually include information on funding and timetables. Though public record, they are not available on a centralized Internet site. Each country publishes them independently, often available on the government's webpage. Information on drug policy can usually be found in

¹ A protocol is an amendment to a treaty.

² "Communication from the Commission to the Council and The European Parliament on the Implementation of the EU Action Plan on Drugs (2000-2004) COM(2001) 301 final.

³ "Drug Co-ordinators Meet Under Spanish Presidency," Drugnet Europe, No. 36, July-August 2002 p. 1.

⁴ See "EU-Action Plan on Drugs 2000-2004" 9283/00 CORDROGUE 32, 7 June 2002, page 3 Available at:

<http://www.emcdda.org/multimedia/actionplan/cordrogue32en.pdf>.

⁵ EMCDDA, "2001 Annual Report on the State of the Drugs Problem in the European Union," page 48, available at: <http://annualreport.emcdda.org/> see also Communication from the Commission to the Council and the European Parliament on the Implementation of the EU Action Plan on Drugs (2000-2004), COM(2000) 301 Final, page 7.

⁶ *id.*

⁷ *id.*

the "Justice and Home Affairs" discussion.

Regular Reports are yearly reports published by the EU each September that examine how close each candidate country is to complying with the NPAA. It examines each chapter of the *acquis* in turn. In evaluating the progress of the candidate countries, they emphasize

that passing legislation alone is not adequate for compliance: the legislation should be enforced. Reports evaluating the progress of candidate countries in 2001, will be available in September 2002. In Chapter 24, "Justice and Home Affairs," information on drug policy can be found.

THE DRUG POLICY OF THE EU

GENERAL PRINCIPLES

In December 1999 the EU developed the European Union Drug Strategy (2000-2004). The strategy includes six Main Targets and eleven General Aims. These are listed in the later in this document, and the full Drug Strategy is available on the Internet. The Action Plan on Drugs (2000-2004) implements the Drug Strategy. Following is a summary of aspects of current EU drug policy of particular relevance to CEE and

FSU countries in the accession process. This summary is based upon the Drug Strategy as well as other EU documents

EMCDDA

In 1993 the EU established the European Monitoring Center for Drugs and Drug Addiction. EMCDDA does not develop policy, rather it gathers and analyzes data about drug use and treatment in Europe and related issues such as infectious diseases. The EMCDDA focuses on 4 main priorities: 1) monitoring the situation of drug use, 2) monitoring the responses to drug use, 3) implementing the EU action plan on new synthetic drugs, and 4) monitoring national and Community strategies and their impact.

EMCDDA also publishes Drugnet, a bi-monthly newsletter and Drugs in Focus, a bimonthly briefing on specific policy issues. Both are available on the Internet. EMCDDA also publishes periodical reports describing and evaluating the effectiveness of demand reduction strategies employed by EU countries. Current initiatives include examining pill testing and safe drug consumption rooms.

Justice and Home Affairs

The structure of the EU is based upon the three pillars of the European Economic Community, Common Foreign and Security Policy, and Justice and Home Affairs. In response to opening international borders to the free movement of persons, the EU has established mechanisms for ensuring peace and freedom within its borders. These mechanisms and policies form the third "pillar" of the EU: Justice and Home Affairs. Policies concerning organized crime, including drug trafficking, are coordinated under this pillar.

including publications of the European Monitoring Center for Drugs and Drug Addiction (EMCDDA).

First, it should be noted that the EU considers addressing drug problems a high priority for both internal and external action. This is the first General Aim of the Drug Strategy. The importance to the EU of addressing the drug problem is also highlighted in the treaties establishing the European Economic Community and the European Union which mention drugs as an issue that requires international cooperation to be dealt with effectively. Drug abuse is mentioned in the field of public health⁸

⁸ Treaty Establishing the European Community, Article 152.

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and drug trafficking is mentioned in the context of public safety.⁹

Second, the EU sees that supply control and demand reduction are mutually reinforcing and thus drug related problems should be addressed

Phare

Phare provides funding and technical assistance to candidate countries to assist them in fulfilling their Accession Partnerships. The programmes may be designed for one particular country or many. A key component of many programs is pairing member states with candidate countries otherwise known as "twinning." The Phare Drugs Program expired in December 2001.

with an interdisciplinary approach. This perspective is based upon the 1998 UN General Assembly Resolution, Declaration on the Guiding Principles of Drug Demand Reduction which states, "The most effective approach to the drug problem consists of a comprehensive, balanced and coordinated approach, by which supply control and demand reduction reinforce each other, together with appropriate application of the principle of shared responsibility."¹⁰ This approach is reflected in Justice and Home Affairs (JHA) policy which recognizes that law enforcement cannot effectively address the problem alone and that education, treatment and reintegration into the community are fundamental. Thus, though drug policy is often addressed under the heading JHA in the

accession documents discussed above, demand reduction is still considered a key component. The Public Health strategy for dealing with drug related problems also calls for a "multi-disciplinary" approach.¹¹ Finally, The

Action Plan approves of Phare's encouragement of a balanced approach by supporting a multi-sectoral approach to demand reduction.

EU'S CONCERNS

There are four reoccurring concerns that appear in the EU's literature on drug policy and are of particular relevance to CEE and FSU countries preparing to accede to the EU: the public health aspects of drug use, the involvement of civil society in addressing drug problems, the collection of accurate data about drug use and its effects, and ensuring that the needs of vulnerable groups are addressed.

1. The E.U. is concerned with the public health aspects of drug use

E.U. drug policy recognizes that drug abuse poses public health problems. This is evident even in the treaty establishing the European Community (a precursor to the European Union) which recognizes that coordinated action between nations is necessary to address illnesses, diseases

AREAS OF CONCERN FOR EU DRUG POLICY

- Public Health
- Civil Society
- Data Collection
- Vulnerable Groups

and scourges.¹² Drug related health damage is specifically mentioned, highlighting the high priority being placed upon it. Moreover, the EU has established a "Community action programme for the prevention of drug dependence within the framework for action in the field of public health." In addition to striving to prevent drug addiction, the Programme, seeks to

⁹ Treaty of Amsterdam, Article 29.

¹⁰ "Declaration on the Guiding Principles of Demand Reduction," A/RES/S-20/3. I.4

¹¹ Decision No 102/97/EC Of the European Parliament and of the Council of 16 December 1996 adopting a programme of Community action

on the prevention of drug dependence within the framework for action in the field of public health (1996-2000), Para. 11.

¹² Treaty Establishing the European Community, Article 152

mitigate the risks incurred by injecting drug users such as: HIV, Hepatitis B, Hepatitis C, Tuberculosis, abscesses, endocarditis, and overdoses. Other EU documents indicate that the primary risk referred to is the transmission of infectious diseases such as Hepatitis B and C and HIV. For example 50-80% of injecting drug users have Hepatitis C, "underlining that containing the spread of infectious diseases among (and from) drug injectors remains a priority."¹³ The concern of the EU with the public health consequences of drug abuse is further supported by the focus on HIV/AIDS in its press release on the Day Against Drugs.¹⁴ Finally, the second target of the EU Drug Strategy is to "reduce drug related health damage (particularly HIV) and drug related deaths."

Relevance to Candidate Countries

Public health consequences of injection drug use are of vital concern to countries in FSU and CEE where HIV is spreading faster than anywhere else in the world.¹⁵ Injecting drug users make up 88% of all HIV/AIDS cases in the FSU.¹⁶ Some countries of CEE have low rates of HIV infection, however the increase in the use of injection drugs indicates that there may be a rise. This makes the need for harm reduction programs all the more urgent. For example, needle exchange programs are most effective when needles are provided to a large portion of the population. Because in some CEE countries there are relatively few addicts, it is logistically easier and less expensive for harm reduction programs to provide needles to a larger portion of addicts. EU reports have suggested that

had more needle exchange programs been available, more HIV/AIDS cases could have been prevented.¹⁷ Thus in Central European countries where there are few cases of HIV among intravenous drug users, an increase in HIV infections can be prevented through needle exchanges. On the other hand, the drastic increases in HIV infection be stemmed through needle exchanges in the countries of the FSU.

2. Civil society should be involved in addressing drug problems

The EU recognizes that the involvement of civil society is necessary in addressing drug problems. This is implicit in the calls for a multi-disciplinary approach to drug policy and in the goal of data collection. NGOs, particularly low threshold services, are essential in collecting accurate data from drug users, who often do not trust government officials. The involvement of civil society is explicitly called for in the sixth General Aim of the Drug Strategy.

Relevance to candidate countries

Strengthening civil society in CEE is also a goal of the EU accession process. The "European Parliament, the Economic and Social Committee and the Committee of Regions have called for the closer involvement of civil society in the process."¹⁸ Also, one of objectives of Phare's Drugs Programme was to enhance the basis of civil society by including NGOs in prevention activities,¹⁹

¹³ Richard Hartnoll, "Feature: Current Trends in Drug Use and Challenges for Public-Health Policy," *Drugnet Europe*, No. 35, May-June 2002, Page 4.

¹⁴ "HIV/AIDS 'Still a Big Problem' Among EU Drug Users, Says Drug Agency," 26 June 2002, *available at*: <http://www.emcdda.org/data/docs/33en.pdf>

¹⁵ UNAIDS, "Report on the Global HIV/AIDS Epidemic 2002" page 32, *available at*: <http://www.unaids.org/barcelona/presskit/barcelona%20report/chapter2.pdf>

¹⁶ Central and Eastern Europe Harm Reduction Network, "Injecting Drug Users, HIV/AIDS Treatment and Primary Care in Central and Eastern Europe and the Former Soviet Union" page 3

¹⁷ "Overall the EMCDDA is concerned that if control measures such as prevention including needle exchange and condom availability had been sufficient, the problem of HIV/AIDS among IDUs should have been slowly diminishing in the most-affected areas." *HIV/AIDS 'Still a Big Problem' Among EU Drug Users, Says Drug Agency*, News Release No. 5/2002 – 26 June 2002.

¹⁸ "Making a Success of Enlargement: Strategy Paper and Report of the European Commission on the Progress Towards Accession by each of the candidate Countries" page 14, *available at*: <http://europa.eu.int/comm/enlargement/report2001/index.htm#Strategy Paper 2001>

¹⁹ Phare Multi-Beneficiary Programme, *Drugs Programme, Programme Description, Specific Objective 6*, *available at*:

and, partnership between governments and NGOs is important for CEE strategy plans.²⁰

3. Addressing drug problems requires the collection of accurate data about drug abuse

Accurate data collection about drug use patterns and the health of drug users is necessary for evaluating drug policies, assisting law enforcement efforts and addressing public health concerns. General Aim of the Action Plan is “to ensure collection, analysis and dissemination of objective, reliable and comparable data on the drugs phenomenon in the EU with the support of EMCDDA and Europol.” Thus, the EU established the EMCDDA and the Reitox network of national focal points to coordinate data collection from individual nations.

Relevance to candidate countries

Since 1993, candidate countries have received EU assistance in developing data collection strategies in harmony with the member states. Candidate countries are permitted to become members of the EMCDDA before the accession process is completed.

4. EU Drug Policy targets vulnerable groups.

The EU is concerned that the drug abuse of vulnerable groups be addressed. Vulnerable groups include youth,²¹ parents²², minorities,²³ and prisoners²⁴.

Relevance to Candidate Countries

<http://europa.eu.int/comm/enlargement/pas/phar e/programmes/multi-bene/drugs.pdf>

²⁰ EMCDDA, “2001 Annual Report on the State of the Drugs Problem in the European Union,” page 50, *available at*: <http://annualreport.emcdda.org/>.

²¹ See General Aim 8 of EU Drug Strategy

²² Communication from the Commission to the Council and the European Parliament on a European Action Plan to Combat Drugs (2000-2004) COM (1999) 239 final, p. 37 *available at*: http://www.emcdda.org/multimedia/actionplan/action_en.pdf.

²³ *id.*

²⁴ *id.*

Youth, parents and prisoners are just as vulnerable to drug abuse and its negative effects in candidate countries as they are in the EU. Furthermore there are some minority groups in candidate countries that are particularly vulnerable. For example, Roma are at particular risk of drug use and HIV infection due to their poverty and lack of access to health services.²⁵

²⁵ “Drugs, AIDS, and Harm Reduction: How to Slow the HIV Epidemic in Eastern Europe and the Former Soviet Union,” International Harm Reduction Development, Open Society Institute, p. 15

ELEVEN GENERAL AIMS OF EU ACTION PLAN

1. To ensure that the issue of drugs is kept a major priority for EU internal and external action.
2. To ensure that actions against drugs are evaluated
3. To continue the EU global, multidisciplinary, integrated and balanced strategy, in which supply and demand reduction are seen as mutually reinforcing elements, as underlined by the United Nations General Assembly Special Session on Drugs (UNGASS).
4. To give greater priority to drug prevention and demand reduction, particularly new recruitment to drug use, as well as the reduction of the adverse consequences of drug use.
5. To reinforce the fight against organized crime, illicit drug trafficking and related organized crime as well as other drug-related crime, and to step up police, customs and judicial co-operation between Member States.
6. To encourage multi-agency cooperation and the involvement of civil society.
7. To fully utilize the new possibilities offered by the Treaty of Amsterdam, particularly the articles on health protection and drug control...[police stuff]
8. To ensure collection, analysis and dissemination of objective, reliable and comparable data on the drugs phenomenon in the EU with the support of EMCDDA and Europol
9. To progressively integrate candidate countries and to intensify international cooperation with other countries and international organizations.
10. To promote international cooperation, integration of drug control into EU development co-operation and to support the efforts of the United Nations and of UNDCP in particular to develop international co-operation, based on the principles adopted at the UNGASS in June 1988.
11. To emphasise that the successful implementation of the strategy and actions mentioned in this Strategy will necessitate appropriate resources.

SIX TARGETS OF EU ACTION PLAN

1. Reduce prevalence of drug use
2. Reduce drug related health damage (particularly HIV) and drug-related deaths
3. Increase number of successfully treated addicts
4. Reduce availability of illicit drugs
5. Reduce drug related crime
6. Reduce money laundering and illicit trafficking of precursors.