

THE ENCOD BULLETIN

Nr. 1. JANUARY 2005

A DRUG WAR BATTLE WE HAVE WON

On Wednesday 15 December 2004, the European Parliament adopted a report on future EU drug policy that acknowledges the need for a fundamental change of course. For the first time in recent history, a parliament of such high reputation as the EP has expressed the need to include a non-prohibitionist concept of drug policy as a valuable alternative to the current state of affairs. This fact has opened a new window of opportunities for European Union citizens who dream of an end to the war on drugs. Dreams may come true, but there is nothing like a free lunch.

Since the end of the 1980s, the need to find a common approach to the drug issue has appeared several times on the political agenda of the Member States of the European Union. In the 1990s, Germany and France launched several proposals to harmonise drug policy in an effort whose principal aim was to force the Netherlands to change its liberal approach, but they never had much success. Until today, the decision-making on drug policy remains primarily a prerogative of national governments, and the European Union's institutions (the Parliament that makes the common laws and the Commission that implements them) have had little formal influence on Member State policy.

However, the European Union is an important intermediate level between national states and the United Nations Commission on Narcotic Drugs, where decisions are taken regarding the possible modification of international legislation on drugs. The ultimate goal of any effort to end the global war on drugs has to be the modification of the three UN Conventions on Drugs, either through a revision of their text or through the loss of their value that would occur if one or more countries would renounce the Conventions. And the EU is a place where coalitions could be built between these countries.

National governments tend to lack the courage to touch the political taboo of drug prohibition on their own. Even the Dutch authorities, who in the past have come under pressure from their own citizens to replace drug prohibition by a more effective and humane approach, refer to the fact that such a move would produce tensions with the country's neighbours. In fact, in the past 5 years several of these neighbours have made more progress in the road towards a different drug policy than has the Netherlands. Today, of all Europe, the climate for users of illicit drugs is the warmest in Spain, although expectations that the Socialist government that came into power in March 2004 would make important steps towards legalization of just cannabis have not been fulfilled. Also here, the government may be more concerned with its diplomatic relations than the wellbeing of its citizens.

Inside the United Nations Commission on Narcotic Drugs, the agenda is set by the United States and their "allies", real or purchased. Every effort to question the rightness of global prohibition of drugs is effectively neutralised even before it can be discussed. This is not the case with the debate inside the European Union, as we have seen in the past 8 months.

The ENCOD Action on the Action Plan

Every five years, the European Commission publishes an Action Plan to Combat Drugs, which could be considered as the common approach to drug policy among the EU Member States. Usually, these plans are efforts to keep everybody happy. They do not contain any concrete indication of a development of a common vision inside the European Union, as they refer both to the need to expand harm reduction as well as to the commitment to international agreements such as the one made at the UN in 1998, that calls for a drug-free world in 2008.

The current Action Plan expires on 31 December 2004. In October 2004, an evaluation of its impact was published by the European Monitoring Centre on Drugs and Drug Addiction, which is the EU's research institute dedicated to the drug issue. This evaluation clearly demonstrated that none of the results obtained for the objectives that had been established at the start of the plan in 1999 were positive. As is the case with all the annual reports that are published by the EMCDDA on the drug issue in Europe, the conclusion of the evaluation was that current policies are not capable of realising their goal, i.e. to reduce drug supply and demand. The logical question that should follow this conclusion, "what are the costs and benefits of current policies?" was not raised. Therewith, the EMCDDA carefully avoided a crucial debate that could upset countries with a rather dogmatic view on drug policy, such as Sweden, as well as the other main EU agency that deals with law enforcement co-operation, EUROPOL.

A problem is that EMCDDA is dependent on information that is delivered by Member State governments. And, as the Centre repeatedly recognises in its annual reports, the information it receives from the governments is not always complete and comparable. The results of national policies are different from the way authorities wish to present them. Some countries are reported to be reluctant to publish certain data, as they could be used as an argument against their policies.

The call for harmonising drug policies in Europe is based on the recognition that European integration and disappearing border control may have direct consequences for the expansion of the drug phenomenon. In order to harmonise, there needs to be an agreement on the positive and negative experiences of the policies carried out so far by the different countries. Therefore, there is a need to evaluate these policies, on the basis of reliable and objective information on the nature of the drug issue. Since authorities have difficulties in providing this information, it is up to other actors to intervene.

That is why ENCOD, as the umbrella organisation of approx. 100 organisations and individuals from 21 European countries, intended to break into the debate on the new EU Action Plan on Drugs that has to be designed in the first months of 2005.

An ENCOD delegation took part in a EU summit on future drug policies in Dublin in May 2004, where the first guidelines were established concerning the EU Strategy for the coming 8 years. The next Action Plan on Drugs should cover the first half of this strategy, from 2005 to 2008. In Dublin, we managed to provoke some feelings of discomfort among government delegates (civil servants of the ministries of Home and Foreign Affairs, Justice and Health and members of the European Commission, the EMCDDA and EUROPOL) as for the first time in such a forum, the call for radical changes in drug policy was prominently present. For the details, see www.encod.org/reportdublin.htm

The result was that in the subsequent meetings of the Horizontal Drug Group (a monthly meeting of key officials of the 25 EU Member States about drugs), the topic of "civil society participation in drug policy elaboration" became a sensitive issue. Countries like Sweden and Italy made no secret of the fact that they were annoyed by what had happened in Dublin. However, their problem is that in modern Europe, the concept of civil society involvement in policy-making has become, at least in words, a key element of the democracy that Europe pretends to be. For instance, the new European Constitution that will have to be ratified by the 25 Member States in the coming 2 years, mentions the need for authorities to "engage in an open and transparent dialogue with civil society, and conduct hearings with affected groups".

ENCOD reminded the Horizontal Drug Group of this engagement and proposed to organise a moment of constructive dialogue between authorities and civil society representatives in order to discuss current and future drug policies in the European Union. This proposal referred to one of the key recommendations of the mid-term evaluation of the current Action Plan in 2002, which had called for a conference to be organised in 2004 to involve civil society in the future development of EU Drug Policy. We never received a formal reply, but were told by individual officials to address our requests to our own elected representatives at the European Parliament. So we did.

Victory at the European Parliament

Most European citizens think the European Parliament has very little influence on decision-making processes inside the European Union. That is true as far as the top level of decision-making is concerned. The European Council of Ministers, whose decisions on drug issues are prepared by the Horizontal Drug Group, usually does not take into account the opinion of the European Parliament. However, the Parliament is supposed to have direct influence on the work of the European Commission, the executive power inside the EU structure. Among others, as has been seen in October this year, it has influence in the designation of EU Commissioners, whose position towards the European Parliament is like that of a national Minister towards a national parliament.

In late September, the European Parliament's Committee on Civil Liberties designated a 'rapporteur' to prepare a set of recommendations to the new EU Drug Strategy for 2005 - 2013. His name is Giusto Catania, an Italian member of the Group of United Left, a small fraction of small left wing parties of mostly Southern European countries.

Mr. Catania invited ENCOD Members as well as officials from the European Commission to a meeting on 30 September. We informed him of the lack of civil society participation in the official debate on drug policy, at EU and national level, and the need to organise the concrete moment of dialogue in the process towards the new strategy.

We also tried to obtain some media coverage on what was going on. But these efforts did not have much success. As with the UN meetings, there is hardly any public debate on EU drug policy. Most journalists and politicians unquestioningly adopt the official rhetoric according to which drugs (and their users) are a burden for society, without considering the implications of the fact that because illicit drug production and distribution are illegal, drug use and its repercussions are significantly and unnaturally skewed toward the negative. Nor does the official view recognise the fact that the costs of maintaining prohibition in the EU are approximately 15 million euros per day, and those of drug-related property crime are probably even higher.

However, the lack of media attention may have played a positive role as well. The first draft of the Catania report that was released in early November contained recommendations that moved in the direction of a complete change of course in EU drug policy. In the weeks to come, Catania and his staff made an excellent effort to obtain consensus with the other members in the Committee, on a text that would leave the original spirit of the report intact. Probably, the lack of media attention gave even conservative MEPs the feeling that they could treat this matter with a rational attitude instead of the usual emotional one. Besides, several parliamentarians as well as government delegates told ENCOD confidentially that our pressure for an end to prohibition actually helps to make a less radical reform strategy acceptable to prohibitionists.

The result was that on December 2, the Catania report was approved by the Committee of Civil Liberties, be it with only a tiny majority (one vote). The final version recommended, among other things, to "increase research into the use of plants that are currently illegal or in a grey zone, like hemp, opium or coca leaves, for medicinal applications, food security, sustainable agriculture, generation of alternative energy sources, substitution for tree- or oil[-] based products and other beneficial purposes."

The report also recommended to "increase the availability of harm reduction programmes among drug users" and "create a specific budget line in order to facilitate an ongoing process of consultation with affected civil society organisations and independent professional experts about the impact of drug policies at the level of citizens."

In these terms, the report sends a very clear message to the European Council of Ministers and the Commission that the conventional approach to drugs has to end. There is no doubt that independent research into the beneficial uses of the forbidden plants will point straightaway towards the need to make these available to human kind as soon as possible, as they can play a crucial role in the solution of problems like hunger, diseases and scarcity of energy around the world.

Likewise, harm reduction programmes are paving the way for legal regulation, as this is the most effective way to reduce the most avoidable harms; for example, those related to the use of contaminated drugs. And with the remark on the budget line, the report refers directly to the objection of the European Commission against the ENCOD proposal to organise the concrete moment of dialogue, which was that 'no money would be available to fund such an event'.

The Strasbourg Tea Party

On 15 December, the Catania report was approved by the plenary session of the European Parliament in Strasbourg, again with a tight majority of 13 votes. ENCOD had asked and obtained the permission of the president of the European Parliament, Josep Borrell Fontelles, to establish a small information stand in the corridors of the building. There, many MEPs passed, among others, to drink a cup of cocatea that was presented to them in co-operation with the Andean Council of Coca Producers, an umbrella organisation of 1,5 million peasants from Bolivia, Colombia and Peru. Cocatea, as all traditional derivatives of the coca leaf (except Coca-Cola), is an illegal product outside Bolivia and Peru, although there exists no scientific document that proves other than positive effects from its consumption.

From the visits - many of which were filmed - we understood that there is an increasing awareness among politicians of the necessity to address the drug issue in a different way. The attitude of those who embrace prohibition as the only solution to drug problems is losing credibility. The problem is that there is no easy way out of the drug prohibition dilemma. Not only have bureaucracies been established to maintain prohibition, they have done it in a way that no discussion is allowed to take place. From the approx. 50 visits we received from MEPs and their assistants, only one MEP told us openly she did not agree with our view, but unfortunately, she did not have time to discuss the matter.

Now that the Catania report has become the official opinion of the European Parliament, that is, the representation of 450 million people, it is very interesting to see what will come out of the European Commission's proposals for a new Action Plan on Drugs for 2005 - 2009. Normally, this Action Plan should reflect both the instructions from the European Council of Ministers, who adopted their 8 year strategy on 17 December, and from the European Parliament.

A crucial remaining issue is the question of whether the European Commission will accept the proposal of ENCOD to organise the moment of dialogue with civil society. Not as just another conference, which will bring an exchange of views but no proper dialogue, but as an example in democracy. Bringing both affected citizens, interest groups, independent experts, parliamentarians and officials together in one room and allowing them to speak as equals will not lead to the immediate legalisation of all drugs, but it will be a useful step towards more rational and effective alternatives to prohibition.

Meanwhile, nothing appears to be coming for free. The European Commission has already informed us that it "is considering organising some kind of dialogue moment" in the second half of 2005, that is, AFTER the major decisions on the coming 4 years have been taken.

It is evident that ENCOD will have to continue insisting on the right to be admitted even to the ante-chambers of European decision-making on drug policy, despite its mandate to do so by a large segment of European society. But the good news is that we can count on the support of the European Parliament.

Joep Oomen
www.encod.org