

Sentencing of Drug Offenders: Legislators' Policy and the Practice of the Courts in South Eastern Europe

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Country Report Greece



Preface

As part of the activities of the project “Drug law reform in South East Europe” Diogenis presents in this publication the findings of the research “Sentencing of Drug Offenders: The Legislator’s Policy and the Practice of the Courts in South Eastern Europe”.

The research deals with an important issue which –in our opinion- needs to be addressed with evidence based data of the everyday practice. The unilateral choice of punishment and imprisonment as an effective response to the drug problem has been proven to be one of the major weaknesses of the current drug control system. Criminal law responses have been considered as the most effective means to tackle it. This fact has nourished the prevailing public opinion that the more severe penalties, the better. The interaction between severe repressive measures of the legislature and a large part of the public perception that tougher penalties are needed to eliminate drug use and dependence is particularly evident in South East Europe.

However, during the last twenty five years drug laws have been amended in nearly all the countries of South East Europe. Although the focus on the importance to provide public health-oriented assistance has increased steadily and the overall approach to drug use and addiction has improved, several drug law provisions remain problematic and need to be adapted to the current scientific insights and the changing social conditions.

The country reports of this research are a contribution to the search of legal provisions that are more consistent and will lead to greater efficiency. They contain valuable information about the current state of drug laws per country, summarize the problems concerning legislation and practice on sentencing of drug law offenders and suggest alternatives.

The current discussion about the shift in drug policy and drug legislation from repressive measures and actions to public health, social inclusion and respect for human rights is supported by the findings in this research. The identification of sanctioning practices on the state (macro) level and the analysis of the practice in drug offence cases on a county (micro) level, confirm facts that are generally shared. Most drug offenders are prosecuted for and convicted of possession of drugs for personal use. Statistics also show that a significantly

A small number of drug traffickers are convicted as compared with all the other groups of offenders.

A significant finding of the research is that judges are interpreting legislation in different ways. There is a small number of judges who impose sanctions which are harsher than those required by the legislator. Some of them see drug possession per definition as drug trafficking. The vast majority of the judges, however, is more lenient than the legislator, because they take into consideration all aspects of the situation of the offender (family, social and economic situation, previous convictions etc.) It is more and more common practice that the courts pronounce very often a suspended sentence by absence of prior conviction or other extenuating circumstances and see drug offenders primarily as persons in need of treatment. In this context we may say that the judiciary must be consulted and be taken seriously by the responsible politicians and the governments before proposing new legislation on drugs.

In several countries –and also in international level– an intense discussion is taking place about punishing or not drug possession for personal use and minor drug offences. Decriminalization of drug possession for personal use is introduced in some countries with success and positive results. At the United Nations meetings, several high rank officials express the opinion that the international drug control conventions do not impose on Member States obligations to criminalise drug use and possession for personal consumption. The recent UN General Assembly Special Session (UNGASS) calls Member States to “encourage the development, adoption and implementation, with due regard to national, constitutional, legal and administrative systems, of alternative or additional measures with regard to conviction or punishment in cases of an appropriate nature” and “Promote proportionate national sentencing policies, practices and guidelines for drug-related offences whereby the severity of penalties is proportionate to the gravity of offences and whereby both mitigating and aggravating factors are taken into account”. We hope that member states in the region of South East Europe will consider these calls as an encouragement to continue reforming their drug legislation in this direction.

This research is an example of co-operation between civil society organisations and the scientific community. Diogenes owes thanks to the researchers who have been willing to do this work with very scarce resources and great enthusiasm. Thanks also to the European Commission and the Open Society Foundations for their financial support.

Country Report Greece Sentencing of Drug Offenders: Legislators' Policy and the Practice of the

Courts by Athanasia Antonopoulou¹

1. National legislative policy on drugs

In Greece, the first fundamental legislative document on which much of contemporary legislation on the penal suppression of narcotics is based is Law No 1729/1987 (Government Gazette A' 144), entitled "Combating the Spread of Drugs, Protecting Young People and Other Provisions". That law represented an attempt to modernise drug suppression policy at a time when the drug problem in Greek society was taking on different characteristics and larger dimensions compared to the past². Many legislative amendments have taken place since, always around the axis of that law. In 2011, a scientific lawmaking committee that had worked for about one year and a half published a new bill of law, triggering a long public debate about the legislative proposal that lasted for another year and a half. The central point of reference of the new legislative initiative was treatment for addicted users. The bill introduced some real innovations into the Greek drug policy. Not all of them were finally approved by the Hellenic Parliament, which adopted the new Law on March 20th, 2013, including several changes to the initial proposal. Thenceforth the primary legislative instrument regulating the suppression of illicit drugs and the penal treatment of drug offenders is Law No 4139/2013 (Government Gazette A' 74), entitled "Law on Addictive Substances and other Provisions".

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² . See Paraskevopoulos, N. (2014), *The suppression of the spread of drugs in Greece*, 4th edition. Athens, Thessaloniki: Sakkoulas (in Greek), p. 59.

The Greek drug legislation has been in line with the international convention system. The country signed and ratified the 1961 UN Single Convention on Narcotic Drugs by virtue of the Legislative Decree No 1105/1972 (Government Gazette A' 36), the 1971 UN Convention on Psychotropic Substances by virtue of Law No 348/1976 (Government Gazette A' 146), the 1972 Protocol amending the Single Convention on Narcotic Drugs by virtue of Law No 1549/1985 (Government Gazette A' 93), as well as the 1988 UN Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances by virtue of Law No 1990/1991 (Government Gazette A' 193). Moreover, Greece ratified several international conventions on other important criminal justice matters, such as organised crime and terrorism, which include provisions concerning international co-operation for the suppression of drug trafficking. As a Member State of the European Union, Greece also signed the Schengen Convention, ratified by virtue of Law No 2514/1997 (Government Gazette A' 140), which provides for co-operation between the Contracting Parties in combatting drug trafficking within the Schengen zone, and it has aligned its national legislation with a number of relevant instruments of the European Union, e.g. the Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking³.

Generally speaking, the current law on drugs, just like the previous ones, is properly applied by the Greek courts, without any notable deviation, as Greece is a country clearly based on the continental law, the European legal tradition and the concepts of the classical school of penal law. The judgements of the Greek courts may have some impact on judicial practice, but they do not create law⁴. The criminal justice system is based upon a formalistic legal culture, given that the main source of law is the statutes which are codified in the Criminal Code (hereinafter CC), in the Code of Criminal Procedure (hereinafter CCP) and in Special Criminal Laws, such as Law No 4139/2013 which is currently applicable to drug offenders.

³. See Antonopoulou, A. & Chatzinikolaou, N. (2013), "Country Report Greece". In T. Apostolou (ed.), *Drug policy and drug legislation in South East Europe*. Athens: Nomiki Bibliothiki, p. 180.

⁴. See indicatively Langbein, J. & Weinber, L. (1978), "Continental Criminal Procedure: Myth and Reality", *Yale Law Journal* 87, p. 1549.

Furthermore, the Greek criminal legislation on drugs could be described as thorough and detailed. The latest legislative initiative that established the current framework for the penal treatment of drug offenders has come to cover certain issues that had generated controversy and criticism in the past.

The drug trafficking offences stipulated in Special Criminal Law No 4139/2013 are always applied in conjunction with the general provisions of the CC. The custodial penalties for various drug-related offences provided for in the aforementioned law are mitigated under certain circumstances, in accordance with the provisions of Article 42 CC concerning attempt, Article 47 CC concerning indirect aiding and abetting, and Article 84(2) CC concerning mitigating circumstances surrounding the offender and his/her conduct before or after the commission of the offence. Furthermore, the provisions of Articles 94 *et seq.* CC concerning aggregation of penalties for concurrent offences also apply to drug-related offences, as do the provisions concerning collateral sanctions, such as disenfranchisement (Articles 59 *et seq.* CC) and forfeiture (Article 76 CC)⁵.

In addition, the provisions of the CC concerning alternatives to prison, such as probation (Articles 99 *et seq.* CC) and conversion into pecuniary sanctions or community service (Article 82 CC), also apply to drug-related offences. Probation can be mandatory or discretionary, depending on the term of imprisonment imposed. The key prerequisite for probation is absence of a prior sentence of imprisonment exceeding one year. The judgment granting probation shall also specify a period of probation of no less than one and no more than three years; any conviction for a felony or misdemeanour during that period will amount to probation violation. Conversion of the custodial sentence into pecuniary sanctions is normally opted for by criminal courts in the absence of the necessary prerequisite for probation (i.e. absence of prior conviction). On the other hand, community service has rarely been used in actual practice. However, Article 82(10) CC forbids the conversion of a custodial sentence into pecuniary sanctions if the offender is convicted of a felony of trafficking under the drug law⁶.

At present, the provisions concerning conditional release from prison/parole are applied to convicted drug offenders either in accordance with Articles 105

⁵. Article 40 of Law No 4139/2013 also provides for forfeiture in case of conviction under Articles 20, 22 or 13 thereof.

⁶. See Antonopoulou & Chatzinikolaou 2013, “Country Report Greece”, p. 183 *f*.

et seq. CC or with Article 35 of Law No 4139/2013, as a result of harsh criticism against the stricter treatment of drug offenders and the departure from the general regulations of the CC concerning conditional release under the old Code of Laws on Drugs (i.e. Article 40 of Law No 4356/2006). The new relevant provisions of Law No 4139/2013 abolished such departure. The minimum time served in order to be eligible for parole varies according to the penalty imposed (2/5 for short-term imprisonment, 3/5 for long-term imprisonment, 20 years for life imprisonment). The sole factor to be evaluated by the judge in granting parole is the convict's conduct during the time served (Article 106 CC). Thus, the gravity of the offence or the convict's criminal record are not to be evaluated. In conjunction with the provisions concerning voluntary prison labour (which reduce the minimum time served before parole), a convict can be paroled after serving 1/3 of the sentence. In case of life imprisonment, the minimum time served before applying for parole can be chopped down to 16 years.⁷ Article 35 of Law No 4139/2013 –as amended recently with Article 10(7) of Law No 4322/2015– also provides for conditional release of convicted drug-addicted prisoners who attend a physical and psychological dependence treatment programme in prison, delivered by an approved organisation under Article 51 of the same law.

2. Criminal legislative policy on drug offenses

As mentioned above, the law currently in force regarding drug-related offences is Law No 4139/2013 entitled “Law on Addictive Substances and Other Provisions”, most notably Chapter D “Penal Provisions - Therapeutic and Security Measures” which includes Articles 20 to 41, and Chapter E “Criminal Procedure Provisions” which includes Articles 42 to 44. The relevant legal framework, just like the previous one, is structured around the polar concepts of drug use vs. drug supply, which lead to a distinction between drug-using and drug-trafficking offenders. Thus, drug trafficking offences are qualified as felonies and are dealt with in clearly more rigorous ways than drug use offences and their supporting acts (i.e. possession, supply for personal use), which are misdemeanours. The reason is that the distribution or possession of drugs in whatever manner with the intention of trafficking is considered to represent a high risk for public health and the lives of an indefinite number of people. Within the same logic, the influence of drug addiction that mitigates the perpetrator's guilt is taken into consideration by

⁷. *Idem*, p. 187 f.

the law: if the distribution of drugs takes place in order to serve the user's addiction needs only (i.e. if the necessity to satisfy their own needs involves them in a trafficking ring), this indicates limited choice and, consequently, reduced guilt which requires more lenient treatment.⁸

In the Greek criminal justice system, criminal offences/crimes are classified in three categories in accordance with the Criminal Code: a) felonies, b) misdemeanours, and c) transgressions. The classification of every offence depends on the penalty prescribed for it, notwithstanding any applicable mitigating circumstances. The penalties of deprivation of liberty are the following: a) confinement in a penitentiary, either for life (life imprisonment) or temporarily (long-term imprisonment) for a period between 5 and 20 years (Article 52 CC); in special cases, the maximum duration of temporary imprisonment can rise up to 25 years (Article 94(1) CC), while life imprisonment in accordance with the provisions on conditional release (Article 105 CC) actually ranges between 16 and 20 years; b) short-term imprisonment, involving deprivation of liberty for a minimum of 10 days and a maximum of 5 years (Article 53 CC) that may be suspended or converted into other non-custodial penalties (day fine or community service); in special cases, the maximum duration of imprisonment can rise up to ten years (Article 94(1) CC); c) detention, involving deprivation of liberty for a minimum of one day and a maximum of six months (Article 55 CC). Accordingly, under Article 18 CC, a felony is an unlawful act punishable with either confinement in a penitentiary for life (life imprisonment) or temporary confinement in a penitentiary (long-term imprisonment); a misdemeanour is an unlawful act punishable with short-term imprisonment, a fine of € 150 to 15,000 or juvenile detention; a transgression is an unlawful act punishable with one day's to one month's imprisonment (detention) or a fine of € 29 to 590. All crimes committed by minors are classified as misdemeanours regardless of the penalty prescribed or imposed. The above trisection of offences influences several aspects related to the application of other provisions of the CC, such as the ones concerning recidivism or probation, while it also entails the application of different criminal procedure provisions at each stage of the prosecution (pressing of charges, restraining orders, arraignment, referring the case to court, appellate procedure, etc.). Although custodial penalties are delimited, when certain mitigating or aggravating circumstances apply under the general provisions of the CC (i.e. Articles 42, 47, 84, 84 CC), there is a

⁸. *Idem*, p. 188-189.

“middle ground” ranging from two to ten years that could potentially correspond to either felonies or misdemeanours. Even in these cases, the qualification of an offence as a felony or misdemeanour does retain its significance in matters such as statutory limitations. On the other hand, the nature of the penalty imposed (long- or short-term imprisonment) is crucial in respect of the statutory limitation of crimes and conditional release from prison/parole (which may be granted after the convict has served a minimum time of 3/5 if sentenced to long-term imprisonment or 2/5 if sentenced to short-term imprisonment under Article 105 CC).⁹

In fact, the vast majority of criminal cases in the Greek criminal justice system are misdemeanours. According to data collected by the Hellenic Statistical Authority (Table 1), during the 2000’s, more than 96.4% of the criminal offences recorded by the police were misdemeanours, while felonies represented less than 3.6%.

Table 1
Criminal offences between 2001-2010

Year	All criminal offences* N	Misdemeanours N	Felonies N	Misdemeanours %	Felonies %
2001	240,123	235,256	4,867	98	2
2002	240,552	235,857	4,695	98.1	1.9
2003	245,543	240,412	5,131	97.9	2.1
2004	220,360	215,010	5,350	97.6	2.4
2005	249,059	243,387	5,672	97.7	2.3
2006	241,030	234,754	6,276	97.4	2.6
2007	242,833	236,630	6,203	97.5	2.5
2008	263,087	256,108	6,979	97.4	2.6
2009	252,979	244,429	8,550	96.6	3.4
2010	241,033	232,216	8,817	96.4	3.6

* For methodological reasons, transgressions (petty offences) and road traffic offences are excluded from the data analysed in this study.

Source: Hellenic Statistical Authority – *Statistics of Justice*.

⁹. Idem, p. 182-183.

With regard to drug-related offences, presented in Table 2, the situation is almost identical: drug-related misdemeanours represent between 78.9% and 86.5% of the total number of drug-related offences recorded by the police during the first decade of the twenty-first century.

Table 2
Drug-related offences between 2001-2010

Year	All drug-related offences N	Misdemeanours N	Felonies N	Misdemeanours %	Felonies %
2001	9,693	8,294	1,399	85.6	14.4
2002	9,990	8,497	1,493	85.4	14.9
2003	10,556	9,090	1,466	86.2	13.8
2004	7,761	6,340	1,422	86.5	13.5
2005	8,393	6,648	1,745	79.2	20.8
2006	8,152	6,629	1,723	78.9	21.1
2007	7,959	6,329	1,630	79.6	20.4
2008	9,868	8,068	1,800	81.8	18.2
2009	10,339	8,481	1,858	82.1	17.9
2010	8,688	6,963	1,725	80.2	19.8

Source: Hellenic Statistical Authority – Statistics of Justice.

The current legal framework, just like the previous one, includes four main categories of drug-related offences; a distinction is drawn between acts of trafficking and use committed by non-addicted or addicted offenders, as shown on Table 3 below¹⁰.

Table 3
Drug-related offences under Law No 4139/2013

	Drug trafficking offences	Drug use and other supporting acts

¹⁰. See Paraskevopoulos 2014, The suppression of the spread of drugs in Greece, p. 114.

<p>Non-addicted offenders</p>	<p>Article 20 (basic crime of trafficking): Felony carrying at least 8 years + fine up to € 300,000</p> <p>Article 21(1)b, (2) (less serious forms of trafficking): Misdemeanour carrying up to 3 years</p> <p>Article 22 (more serious forms of trafficking): Felony carrying at least 10 years + fine € 50,000-500,000 Article 23 (very serious forms of trafficking): In par. 1 Felony carrying at least 10 years or life imprisonment + fine € 50,000-600,000 - In par. 2 Felony carrying life imprisonment + fine € 50,000-1,000,000</p> <p>Article 24 (incitement and advertisement): In par. 1 Misdemeanour carrying at least six months + fine € 500-50,000 – In par. 2 Felony carrying up to 10 years</p>	<p>Article 29(1): Misdemeanour carrying up to 5 months</p> <p>Article 29 par. 2: Misdemeanour carrying up to 2 years</p> <p>Article 25 (driving under the influence): Misdemeanour carrying at least 5 months + fine</p>
<p>Drugaddicted offenders</p>	<p>Article 21(1)a (less serious forms of trafficking): Misdemeanour carrying up to 3 years</p> <p>Article 30(4)b, c, d: In par. 4b Misdemeanour carrying at least 1 year – In par. 4c Misdemeanour carrying up to 1 year – In par. 4d Felony carrying up to 10 years</p>	<p>Article 30(4)a: the offender remains unpunished</p>

In accordance with Article 20 of Law No 4139/2013, trafficking in illicit drugs is punishable with confinement in a penitentiary for at least eight (8) years and a cumulative fine up to € 300,000. Under the old law (Article 20 of Law No 3459/2006), the penalty framework was slightly different, as the minimum sentence was 10 years and the cumulative fine ranged between € 2,900 and 290,000. Trafficking constitutes the basic form of the specific crime of trafficking. In the framework of the legal definition of “trafficking in illicit drugs” any of the following acts may be included (the list is not exhaustive): import, export, transit, sale, purchase, supply, distribution, disposal, dispatch, delivery, storage, deposit, manufacture, possession, transportation, contamination, sale of adulterated articles from the list of controlled drugs, cultivation or harvesting any plant of the Indian hemp family, the opium poppy, any plant species of the Brazilwood family, or any other plant from which narcotic substances are derived, production and extraction of narcotics, administration of substitution substances in violation of the relevant provisions, managing a store in which systematic drug dealing takes place in the offender’s knowledge, financing, organising or managing drug trafficking activities, falsification or filling or presenting a forged medical prescription for the supply of drugs with the intention of trafficking in them, or acting as

an intermediary in the commission of any of these offences. If more than one of the above acts are associated to the same quantity of drugs, a single trafficking offence is deemed to have been committed. For sentencing purposes, the total number of individual acts, the total quantity and purity of the drug, as well as the severity of the health effects are taken into consideration.

In accordance with Article 21(1)a) of the same law (which did not exist in the old law), a drug-addicted offender who engages in trafficking in small quantities of drugs in order to meet his/her daily individual needs may be sentenced to prison for up to three years. The same sentence is imposed on whoever (non-addicted, unlike in the previous case) supplies drugs without profit to familiar persons in order to meet their immediate drug use needs (Article 21(1)b) or supplies part of the quantity of drugs that s/he possesses for personal use to a third party without profit. A more severe penalty of at least 10 years' confinement in a penitentiary and a cumulative fine from € 50,000 to 500,000 is prescribed by Article 22 in certain special cases of trafficking offences: a) if the offender is a public official whose duties include the safekeeping of drugs or drug law enforcement; b) if drug trafficking is committed in order to facilitate or conceal another felony; c) if drug trafficking is committed in military camps or other premises used by the armed forces, police detention centres, prisons, juvenile detention centres, schools at any level, educational establishments or other educational, training or practical instruction units, sports premises, camping grounds, tuition centres, premises intended for the provision of social services, or premises where pupils or students meet for educational activities or sports; d) if drug trafficking is committed within a criminal organisation; e) if the offender is a recidivist, i.e. has been convicted of a drug trafficking felony within the last ten years; f) if the offender mixes in any manner drugs with food products, drinks or other items intended for human consumption for the purpose of sale to third parties; g) if a doctor issues a prescription for the supply of drugs being aware that there is no real, precise medical indication, or a physician supplies medicines containing narcotics in one form or another, in the knowledge that they will be used for the purpose of preparing or trafficking in drugs; h) if a pharmacist or pharmaceutical trader, the manager or employee of a pharmacy or another person in the pharmacy supplies drugs without the legally required medical prescription or on the basis of an invalid prescription; i) if the offender illegally supplies substitutes in breach of the relevant provisions.

A more severe penalty framework is envisaged for the offences of Articles 20 and 22 under certain aggravating circumstances. In accordance with Article 23(1), confinement in a penitentiary for life or for at least 10 years and a cumulative fine between € 50,000 and 600,000 is envisaged: a) if the trafficking offence involves drugs that may cause serious bodily harm (Article 310(2) CC) and indeed caused either serious physical injury or death to a third party or grievous bodily harm to many people; b) if the offender is an adult who commits trafficking offences by way of an occupation and acts in a manner intended to encourage drug use by a minor or uses a minor for the purpose of trafficking in any manner. Moreover, Article 23(2) provides for confinement in a penitentiary for life and a cumulative fine between € 50,000 and 1,000,000:

a) if the offender finances the commission of any act of trafficking by way of an occupation or commits trafficking by way of an occupation and his/her expected benefit in the above cases exceeds € 75,000; b) if the offender uses weapons in committing the above-mentioned crimes or in order to escape.

In accordance with Article 24(1), if an offender encourages or induces others to illicit drug use or advertises drug use or provides information on the manufacture or supply of drugs for the purpose of trafficking or offers him/herself for drug trafficking within the meaning of Article 20(1) is punished with at least 6 months' imprisonment and a fine between € 500 and 50,000. The same act is a felony punishable with confinement in a penitentiary for up to 10 years when committed by way of an occupation or for the purpose of financial profit for the offender or a third party.

The old law also standardised a plethora of distinct crimes which carry even more severe criminal penalties, reaching as far as life imprisonment. Such crimes include, *inter alia*, the commission of acts under Article 20 by an employee, the commission of acts of distribution or trafficking on school premises, etc. (simply distinct forms, which carry the threat of criminal imprisonment for at least 15 years), as well as the habitual commission of the aforementioned acts or by way of an occupation, or even commission by a recidivist or in respect of large quantities of drugs or substances which cause the most harm to health or result in significant damage to the health of a number of persons, or aggravated cases for which the offender faces life imprisonment and higher pecuniary fines, in accordance with Articles 23 and 23A of Law No 3459/2006. Article 29(1) stipulates that an offender who procures or possesses drugs in quantities justified for personal use only or uses these quantities or cultivates cannabis plants in numbers and on areas justified

for personal use only, shall be punished with up to 5 months' imprisonment (the old Article 29 of Law No 3459/2006 envisaged an upper limit of one year). At present, no thresholds are provided for by law; instead, the kind, purity and quantity of the drug is taken into consideration, in combination with the frequency of use, the length of use, the daily dose and the particular drug use needs of the perpetrator. The perpetrator of such an act may not be punished if the court is satisfied that, based on the circumstances under which the act was committed and the personality of the offender, the offence was a one-off event and is not likely to be repeated in future. Sentences imposed under this article are not recorded on the offender's criminal record. In accordance with Article 29(2), whoever forges a medical prescription or falsifies or presents a forged medical prescription with intent to use the drugs for him/herself is punished with up to 2 years' imprisonment.

In accordance with Article 30(4)a), the perpetrators of acts under Article 29 who are addicted, within the meaning of this law, remain unpunished and no sentence is imposed on them by the court. The penal treatment of drug-addicted offenders is differentiated in regard of other forms of drug-related offences, too. It is more lenient compared to the penal treatment of non-addicted offenders. Thus, a drug-addicted perpetrator: (i) of acts of trafficking under Article 20 shall be punished with at least one year's imprisonment (Article 30(4)b); (ii) of acts under Article 21(1)b) and 21(2) shall be punished with up to one year's imprisonment (Article 30(4)c); (iii) of acts of trafficking under Article 22 shall be punished with up to ten years' temporary confinement in a penitentiary.

Finally, the provisions of Article 25 are also worth mentioning: whoever operates or drives a motor vehicle or operates an aircraft or a watercraft while under the influence of drugs is punished with at least 5 months' imprisonment and a fine of € 1,000 to 15,000, as well as with suspension of the driving license or the relevant diploma or degree or proof of knowledge from 2 to 5 years.

The penalty framework for drug trafficking crimes is among the harshest in the Greek legal order. Sanctions for the basic forms of trafficking start from temporary confinement in a penitentiary for at least 8 years and reach the harshest sanction which is deprivation of liberty for life. Moreover, taking into account the high pecuniary fines (up to € 300,000 for the basic form and up to € 600,000 for the special forms under Article 23), it could be said that the drug law provisions include draconian penalties. On the other hand, the treatment

towards drug users is significantly more lenient, as the combination of all the stipulations concerning the misdemeanour of drug use aims at ruling out the likelihood of imprisonment when the offender is only charged with possession or supply of drugs which are intended solely for personal use.¹¹

The Greek legislation on drugs has been characterised by a sustained trend of reform since the mid-1980s.¹² Within twenty years, from the first fundamental Law No 1729/1987 until the codification of the entire relevant legislation in 2006, 15 legislative amendments (introduced as provisions of several laws, almost yearly) often resulted in smaller or more extended reforms of the original framework. Notable amongst these are Law No 2161/1993 which toughened the penalties for drug trafficking and introduced significant innovations concerning the therapeutic measures for addicted drug offenders, as well as Law No 2408/1996 which diversified penalties and introduced more lenient ones for trafficking committed by drug-addicted offenders.¹³

With Law No 3459/2006 (Government Gazette A' 103), entitled "Code of Laws on Drugs", the entire legislation on drugs from the enactment of Law No 1729/1987 until 2006 was codified, in an attempt to achieve a more systematic legislative approach to all the regulated issues.

In the years that followed, until 2013 when the current law was enacted, an additional three legislative amendments took place. According to Chapter II of Law No 3227/2008 (Government Gazette A' 257), the Greek legislator attempted to harmonize national legislation with the Council Framework Decision 2004/757/JHA of 25 October 2004, laying down general principles and guidelines on minimum provisions on the constituent elements of criminal acts and penalties. This law stipulated, *inter alia*, that the penalties for aggravated circumstances are also imposed in cases of large quantities of drugs or drugs that cause the most harm to health, or when drug-related offences are committed within the framework of a criminal organisation. It established the liability of legal persons/entities for drug-related criminal offences and defined the threshold quantity that is presumed to be intended for personal use, unless the court decides otherwise, specifically for heroin, cocaine, processed and raw cannabis. Article 15 of Law No 3772/2009 (Government Gazette A'

¹¹ . See Antonopoulou & Chatzinikolaou 2013, "Country Report Greece", p. 195.

¹² . See Paraskevopoulos 2014, The suppression of the spread of drugs in Greece, p. 60.

¹³ . *Idem*.

112) amended slightly (in relation to Article 15 of Law No 3727/2008) the provisions on the threshold quantity of cannabis (from 20 to 50 grams for raw and from

2.5 to 5 grams for processed cannabis).¹⁴ Furthermore, Article 25 of Law No 3811/2009 (Government Gazette A' 231) stipulated that an offence committed by a drug-addicted perpetrator may be characterised as either misdemeanour or felony in regards to the penalty imposed. This law also amended the procedure for conditional release of those convicted of aggravating circumstances under Law No 3459/2009 and emphasised that the addiction of the accused must be taken into consideration when imposing pre-trial detention to them.

The new “Law on Addictive Substances” (Law No 4139/2013) is based upon the following pillars: a) severe suppression of the more serious and organised drug trafficking offences through a more careful separation from the less serious offences; b) an attempt to set more proportional penalties overall; c) facilitation of drugaddicted offenders’ effective efforts for dependence treatment and rehabilitation; d) non-abolition of the criminalisation of drug use and of the relevant supporting acts (possession, supply for personal use).¹⁵ The main terminology of the old “Code of Laws on Drugs” (Law No 3459/2006) is maintained and the recommendations of the EU Council Framework Decision 2004/757/JHA are taken on board. Drug use and the cultivation of cannabis for personal use still constitute misdemeanours punished with short-term imprisonment for up to 5 months –a more lenient penalty compared to the previous “Code of Laws on Drugs”. Trafficking in very small quantities of drugs and supply of small quantities to familiar persons for personal use are defined as mitigating circumstances of the basic offence of trafficking. Just like in the previous law, more severe penalties are set out for criminal offences committed by certain persons (e.g. doctors, pharmacists) or on certain premises (camps, detention facilities, schools, etc.) or against minors. Drug trafficking by employees, doctors, pharmacists and recidivists falls under the above category of aggravating circumstances. The most aggravated trafficking offences are punishable with confinement in a penitentiary for life or temporary confinement in a penitentiary for at least ten years and a fine up to € 600,000. In contrast to the previous “Code of Laws on

¹⁴ . However, none of these provisions concerning threshold quantities were finally included in the latest Law No 4139/2013, currently in effect.

¹⁵ . See Paraskevopoulos 2014, The suppression of the spread of drugs in Greece, p. 65.

Drugs”, the judges now have the discretion to avoid life imprisonment (which had been a one-way street under the previous legal provisions in some cases, e.g. repeat offenders) if less dangerous offenders are involved. The dangerousness of the offender is to be judged (besides commission by way of an occupation) based on the quantity of drugs, which must be determined in regards to the corresponding amount of economic benefit in order to avoid using vague concepts, such as “very large quantity”, that involve the risk of completely different interpretations by the courts. Furthermore, the new law provides for a multi-evidence base for the diagnosis of drug addiction by the judge, besides the medical report of the previous law. Such evidence may include documents concerning participation in and attendance of a counselling or therapeutic or substitution programme, other conditions associated with drug use (e.g. hepatitis, AIDS or pulmonary oedema), the offender’s psychological and social data (such as reports from social services and organisations), or findings of laboratory tests that reveal drug use over long periods of time.

3. Crime rates of drug-related offenses on state (macro) level

Based on the published statistics¹⁶ on offences committed in the country, as reported annually by the police, drug-related offences represented on average 3.7% of all criminal offences reported between 2000 and 2010, according to Table 4.

Table 4
Criminal offences between 2001-2010

Year	All criminal offences* N	Drug-related offences N	Drug-related offences %
2001	240,123	9,693	4
2002	240,552	9,990	4.1
2003	245,543	10,556	4.3
2004	220,360	7,761	3.5
2005	249,059	8,393	3.4

¹⁶. Published data about offences and offenders are available until 2010 on the website of the Hellenic Statistical Authority, whilst data about convicted offenders only start from the year 2006. The data presented and analysed in this study are the officially available ones. See <http://www.statistics.gr/portal/page/portal/ESYE>.

2006	241,030	8,152	3.4
2007	242,833	7,959	3.3
2008	263,087	9,868	3.7
2009	252,979	10,339	4.1
2010	241,033	8,688	3.6

* As mentioned above, for methodological reasons, transgressions (petty offences) and road traffic offences are excluded from the data analysed in this study. *Source: Hellenic Statistical Authority – Statistics of Justice.*

However, the above rate changes if only data on felonies are examined, excluding misdemeanours. Drug-related felonies make up about one quarter of the total number of felonies committed in Greece (Table 5). This significant percentage means that this form of crime is one of most common among other serious offences.

**Table 5 Felonies between
2001-2010**

Year	All felonies N	Drug-related felonies N	Drug-related felonies %
2001	4,867	1,399	28.7
2002	4,695	1,493	31.8
2003	5,131	1,466	28.6
2004	5,350	1,422	26.6
2005	5,672	1,745	30.8
2006	6,276	1,723	27.4
2007	6,203	1,630	26.3
2008	6,979	1,800	25.8
2009	8,550	1,858	21.7
2010	8,817	1,725	19.6

Source: Hellenic Statistical Authority – Statistics of Justice.

Drug use or possession/supply solely for personal use constitutes, as expected, the most common offence in this category of crimes. An average 67.4% of those convicted yearly of a drug-related offence is convicted of this specific misdemeanour. Almost one quarter of convicted offenders are sentenced for

an act of drug trafficking as drug-addicted offenders, while the proportion of those convicted of trafficking without being addicts is on average 4% and less than 1% for cultivation and/or production, according to data on Table 6.

Table 6
Convicted offenders by type of drug-related offence between 2006-2010

Year	All offenders convicted of drug-related offences N	Offenders convicted of use, possession, cultivation, etc. for personal use (misdemeanour) N - %		Offenders convicted of drug trafficking (excepting production/cultivation) N - %		Offenders convicted of drug production/cultivation N - %		Drug-addicted offenders convicted of drug trafficking N - %	
		N	%	N	%	N	%	N	%
2006	1,694	1,172	69.2	54	3.2	15	0.9	453	26.7
2007	1,690	1,071	63.4	86	5	13	0.8	520	30.8
2008	1,807	1,188	65.8	55	3	25	1.4	539	29.8
2009	1,794	1,198	66.8	61	3.4	15	0.8	520	29
2010	1,667	1,199	71.9	70	4.2	15	0.9	383	23

Source: Hellenic Statistical Authority – Statistics of Justice

Similarly, based on the above data, the most common penalty imposed is short-term imprisonment not exceeding one year (imposed on about 65.6% of convicted offenders). Short-term imprisonment exceeding one year (and up to 5 years) is the next most common penalty, whereas temporary confinement in a penitentiary is imposed on about 12% of those convicted, as shown in the following table. About 1.8% of convicted offenders receive life imprisonment.

Table 7
Sanctions for offenders convicted of drug-related offences between 2006-2010

Year	Total N	Fine N - %		Imprisonment up to 1 year N - %		Imprisonment for at least 1 year N - %		Temporary confinement in a penitentiary N - %		Confinement in a penitentiary for life N - %	
		N	%	N	%	N	%	N	%	N	%
2006	1,694	-	-	1,186	70	343	20.2	157	9.3	8	0.5
2007	1,690	3	0.2	1,080	63.9	378	22.4	221	13	8	0.5

2008	1,807	3	0.2	1,191	65.9	335	18.5	271	15	7	0.4
2009	1,794	-	-	1,208	67.3	341	19	240	13.4	5	0.3
2010	1,667	-	-	1,210	72.6	269	16.1	186	11.2	2	0.1

Source: Hellenic Statistical Authority – Statistics of Justice

However, as shown on Table 8, for about half of convicted offenders the sentence is suspended under the probation provisions, while for as many as 23.8% on average the custodial penalty is converted into day fine. As a result, of those convicted of drug-related offences annually, less than one quarter actually ends up in prison.

Table 8
Sanctions suspended or converted to day fine for drug-related offences between 2006-2010

Year	Total N	Suspended N - %		Converted to day fine N - %	
2006	1,694	967	57	372	22
2007	1,690	867	51.3	364	21.5
2008	1,807	916	50.7	401	22.2
2009	1,794	961	53.6	425	23.7
2010	1,667	851	51	496	29.8

Source: Hellenic Statistical Authority – Statistics of Justice

Based on the data presented above in Table 4, the proportion of offenders convicted of drug-related offences over all offenders is approximately 6%, as shown in the next Table. This is higher than the corresponding rate for drugrelated offences, given that a convicted offender may be sentenced for more than one criminal act. It is also worth noting that in Greece 16-17 persons out of 100,000 are convicted of a drug-related offence yearly.

Table 9
Convicted offenders between 2006-2010

Year	All convicted offenders* N	All convicted offenders* R**	Offenders convicted of drug-related offences N	Offenders convicted of drug-related offences %	Offenders convicted of drugrelated offences R**
2006	32,618	313	1,694	5.2	16
2007	28,348	271	1,690	6	16
2008	27,889	266	1,807	6.4	17

2009	27,894	265	1,794	6.4	17
2010	27,721	263	1,667	6	16

* For methodological reasons, road traffic offenders are excluded from the data analysed in this study.

** Rate of crime per 100,000 penally responsible population (over 7 years old).

Source: Hellenic Statistical Authority – Statistics of Justice

Table 10 shows the break-down of offenders by gender. Based on the data, the share of female drug offenders is smaller than the share of female offenders convicted of any category of crime yearly.

Table 10
Convicted male-female offenders between 2006-2010

Year	All convicted offenders N	All convicted male offenders N - %		All convicted female offenders N - %		Offenders convicted of drugrelated offences	Male offenders convicted of drug-related offences N - %			Female offenders convicted of drugrelated offences N - %	
		N	%	N	%		N	%	N	%	
2006	32,618	27,533	84.4	5,085	15.6	1,694	1,595	94.1	99	5.9	
2007	28,348	24,187	85.3	4,161	14.7	1,690	1,607	95	83	5	
2008	27,889	23,880	85.6	4,009	14.4	1,807	1,733	95.9	74	4.1	
2009	27,894	24,178	86.7	3,716	13.3	1,794	1,729	96.4	65	3.6	
2010	27,721	24,126	87	3,595	13	1,667	1,590	95.4	77	3.6	

Source: Hellenic Statistical Authority – Statistics of Justice

In spite of the above data, drug offenders are overrepresented in Greek prisons, according to Table 11. More than 4,000 prisoners in Greek penitentiaries are kept in custody for violation of the drug law, while their proportion exceeds even the corresponding one for felonies (Table 5). This raises questions both about the increased penalties imposed for drug-related offences in comparison with other felonies and about the number of remandees.

Table 11

Prisoners for drug-related offences in Greek penitentiary institutions between 2003-2012

Year	All prisoners* N	Prisoners for drugrelated offences N	Prisoners for drug-related offences %
2003	8,418	3,386	40.2
2004	8,727	3,562	40.8
2005	8,722	3,465	39.7
2006	9,964	4,346	43.6
2007	10,370	4,640	44.7
2008	11,645	4,912	42.2
2009	11,736	4,937	42.1
2010	11,364	4,345	38.2
2011	12,349	4,303	34.8
2012	12,479	4,136	33.1

*Both remandees and convicts

Source: Information from the Greek Ministry of Justice, Transparency and Human Rights
 Table 12 shows the number of offenders convicted of use, possession, cultivation etc. for personal use. As mentioned above, in their entirety, the sentences do not exceed one year, as this is the maximum penalty under the law for the specific misdemeanour.

Table 12
Sanctions for offenders convicted of use, possession, cultivation etc.
for personal use between 2006-2010

Year	Total N		Fine (only) N - %		Imprisonment up to 1 year N - %		Imprisonment for at least 1 year N - %		Temporary confine- ment in a penitentiary N - %		Confinement in a penitentiary for life N - %	
	N	%	N	%	N	%	N	%	N	%	N	%
2006	1,172	-	-	-	1,172	100	-	-	-	-	-	-
2007	1,071	3	0.3	0.3	1,068	99.7	-	-	-	-	-	-
2008	1,188	2	0.2	0.2	1,186	99.8	-	-	-	-	-	-
2009	1,198	-	-	-	1,198	100	-	-	-	-	-	-

2010	1,199	-	-	1,199	100	-	-	-	-	-	-
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Source: Hellenic Statistical Authority – Statistics of Justice

Of these, less than 0.7% ended up in prison, while the vast majority of the sentences were suspended or converted (Table 13).

Table 13
Sanctions suspended or converted to day fine for offenders convicted of use, possession, cultivation etc. for personal use between 2006-2010

Year	Total N	Suspended N - %		Converted to day fine N - %	
		N	%	N	%
2006	1,172	829	70.7	337	28.7
2007	1,071	748	69.8	322	30
2008	1,188	819	68.9	353	29.7
2009	1,198	861	71.9	328	27.8
2010	1,199	779	65	410	34.2

Source: Hellenic Statistical Authority – Statistics of Justice

Some 87.4% of those convicted of drug trafficking (excepting production/cultivation) were punished with temporary confinement in a penitentiary, and 9% with life imprisonment, based on the data on Table 14.

Table 14
Sanctions for offenders convicted of drug trafficking, excepting production / cultivation, between 2006-2010

Year	Total N	Fine (only) N - %		Imprisonment up to 1 year N - %		Imprisonment for at least 1 year N - %		Temporary confinement in a penitentiary N - %		Confinement in a penitentiary for life N - %	
		N	%	N	%	N	%	N	%	N	%
2006	54	-	-	-	-	5	9.3	41	75.9	8	14.8
2007	86	-	-	-	-	2	2.3	77	89.5	7	8.2
2008	55	-	-	-	-	1	1.8	47	85.4	7	12.7

2009	61	-	-	-	-	-	-	56	91.8	5	8.2
2010	70	-	-	-	-	3	4.3	66	94.3	1	1.4

Source: Hellenic Statistical Authority – Statistics of Justice

Among the small number of drug traffickers sentenced to short-term imprisonment (apparently due to mitigating circumstances), quite a few avoided actual imprisonment because of suspension or conversion to day fine.

Table 15
Sanctions suspended or converted to day fine for drug trafficking
between 2006-2010

Year	In total N	Suspended N - %		Converted to day fine N - %	
2006	54	3	5.5	1	1.2
2007	86	2	2.3	-	-
2008	55	2	3.6	2	3.6
2009	61	-	-	-	-
2010	70	1	1.4	1	1.4

Source: Hellenic Statistical Authority – Statistics of Justice

The figures about offenders convicted of drug production/cultivation, shown on Table 16, are quite similar.

Table 16
Sanctions for offenders convicted of drug production/cultivation
between 2006-2010

Year	Total N	Fine (only) N - %		Imprisonment up to 1 year N - %		Imprisonment for at least 1 year N - %		Temporary confinement in a penitentiary N - %		Confinement in a penitentiary for life N - %	
		2006	15	-	-	1	6.7	2	13.3	12	80
2007	13	-	-	-	-	1	7.7	11	84.6	1	6.7

2008	25	-	-	-	-	-	-	25	100	-	-
2009	15	-	-	-	-	-	-	15	100	-	-
2010	15	-	-	-	-	1	6.7	13	86.6	1	6.7

Source: Hellenic Statistical Authority – Statistics of Justice

Table 17
**Sanctions suspended or converted to day fine for drug production/
 cultivation between 2006-2010**

Year	Total N	Suspended N - %		Converted to day fine N - %	
2006	15	1	6.7	-	-
2007	13	-	-	1	7.6
2008	25	-	-	-	-
2009	15	-	-	-	-
2010	15	-	-	-	-

Source: Hellenic Statistical Authority – Statistics of Justice

On the other hand, offenders who are identified as drug addicts are treated differently by the courts, in accordance with the provisions of the law. Approximately 68.6% are punished with short-term imprisonment exceeding one year, whereas about 29% are punished with confinement in a penitentiary not exceeding 10 years.

Table 18
**Sanctions for drug-addicted offenders convicted of drug trafficking
 between 2006-2010**

Year	Total N	Fine (only) N - %		Imprisonment up to 1 year N - %		Imprisonment for at least 1 year N - %		Temporary confinement in a penitentiary N - %		Confinement in a penitentiary for life N - %	
2006	453	-	-	13	2.9	336	74.1	104	23	-	-
2007	520	-	-	12	2.3	375	72.1	133	25.6	-	-
2008	539	1	0.2	5	0.9	334	62	199	36,9	-	-

2009	520	-	-	10	1.9	341	65.6	169	32.5	-	-
2010	383	-	-	11	2.9	265	69.2	107	27.9	-	-

Source: Hellenic Statistical Authority – Statistics of Justice

However, some 65% of the drug-addicted offenders who are convicted of trafficking end up in prisons, as the sentence is neither suspended nor converted into day fine, according to data presented in Table 19.

Table 19
Sanctions suspended or converted to day fine for drug-addicted offenders convicted of drug trafficking between 2006-2010

Year	In total N	Suspended N - %		Converted to day fine N - %	
2006	453	134	29.8	34	7.5
2007	520	117	22.5	41	7.8
2008	539	95	17.6	46	8.5
2009	520	100	19.2	97	18.6
2010	383	71	18.5	85	22.2

Source: Hellenic Statistical Authority – Statistics of Justice

4. Crime rates of drug-related offenses on county court (micro) level

The survey was conducted in the records of the Assizes Court of Appeal of Thessaloniki for the period 2010-2012. The Court of Appeal of Thessaloniki is the second largest in Greece after its counterpart in Athens, out of a total of 13 Courts of Appeal across the country. It is estimated that it issues almost 20% of all decisions issued by all Courts of Appeal. More specifically, the survey included the decisions of the five-member Assizes Court of Appeals, which examines at second instance the decisions of the three-member Court of First Instance. With the exception of postponement decisions and decisions concerning procedural requests, the five-member Court of Appeal issued 1,740 final decisions between 2010 and 2012. Almost half of them (49.3%) were convictions for drug-related offences, as shown on Table 20.

Table 20
Court decisions of the five-member Assizes Court of Appeal
of Thessaloniki between 2010-2012

Year:	2010	2011	2012	Total N - %	
Total number of court decisions	537	626	577	1,740	100
Convictions for drug-related offences	256	294	306	856	49.3
Acquittals for drug-related offences	21	23	17	61	3.5
Cessation of criminal prosecution for drug-related offences because of statute of limitations	20	14	19	43	2.5
Cessation of criminal prosecution for drug-related offences because of death of the accused	9	8	10	27	1.6
Convictions for other offences	160	204	147	511	29.5
Acquittals for other offences	62	64	59	185	10.7
Cessation of criminal prosecution for other offences because of statute of limitations	4	6	10	20	1.3
Cessation of criminal prosecution for other offences because of death of the accused	5	13	9	27	1.6

Source: Data collected by the Court and analysed by the researcher

The sentences imposed vary widely from year to year, according to the breakdown in general categories presented in Table 21. In the majority of these convictions, the offenders were sentenced to short-term imprisonment for one to three years. The second most common category is confinement in a penitentiary for 5 to 10 years.

Table 21
Sentences imposed by the five-member Assizes Court of Appeal of
Thessaloniki between 2010-2012

Year:	2010		2011		2012		Total	
	N	%	N	%	N	%	N	%
Convictions for drug-related offences	256	100	294	100	306	100	856	100
Imprisonment up to 1 year	11	4.3	16	5.4	30	9.8	57	6.7

Imprisonment for 1-3 years	66	25.8	97	33	142	46.3	305	35.6
Imprisonment for more than 3 years	40	15.6	49	16.3	35	11.3	124	14.5
Confinement in a penitentiary for 5-10 years	73	28.5	92	31.3	69	22.3	234	27.3
Confinement in a penitentiary for more than 10 years	64	25	37	12.6	26	9	127	14.8
Confinement in a penitentiary for life	2	0.8	4	1.4	4	1.2	10	1.2

Source: Data collected by the Court and analysed by the researcher

The sample of the study, consisting of 50 convictions, makes up 5.8% of the total number of convictions for drug-related offences issued by the five-member Court of Appeal of Thessaloniki during the period 2010-2012. The selection was random but proportional per year, following a sorting in an effort to respect the break-down of penalties imposed, based on the data presented on Table 22. More specifically, for about half of the selected convictions, the sentence imposed was short-term imprisonment (52% of sample), whereas for the remaining half it was temporary or life confinement in a penitentiary (48% of sample). The allocation of the sample per year and sentence is shown in detail in Table 23 below.

Table 23

Sample chosen for drug-related offences in relation to sentences imposed

Year:	2010	2011	2012	Total N - %	
Sample of convictions chosen for the study	16	17	17	50	100
Imprisonment up to 1 year	1	1	-	2	4
Imprisonment for 1-3 years	4	6	9	19	38
Imprisonment for more than 3 years	2	2	1	5	10
Confinement in a penitentiary for 5-10 years	4	4	4	12	24
Confinement in a penitentiary for more than 10 years	4	3	2	9	18

Confinement in a penitentiary for life	1	1	1	3	6
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Source: Data collected by the Court and analysed by the researcher

In 48% of cases, more than one accused persons were involved, while 44% of the drug-related offences were “repeated” within the meaning of Article 98 CC, which stipulates that if more than one acts of the same person constitute a continuation of the same crime, the court may impose a single sentence, taking into consideration all of the acts when calculating the overall sentence. Furthermore, as detailed in Table 25, in 78% of the cases prosecuted for more than one separate offences (e.g. supply and possession, or supply and sale), a single penalty was imposed for all the acts, as all of them involved the same quantity of drugs. Only in 12% of the cases in the sample were there two or more sentences for different trafficking offences, which were then merged into a single sentence, in accordance with the provisions of Article 94 CC. Finally, in 10% of the sample, drug trafficking offences were committed in conjunction with other crimes, such as illegal possession of a weapon.

In 62% of the cases of the sample, a fine was also imposed cumulatively to the custodial sanction, ranging from € 590 to 300,000 (Table 24). In 10% of cases, the collateral penalty of judicial deportation after serving the sentence was also imposed, while in all cases the sentence of confinement in a penitentiary was accompanied by the collateral penalty of disenfranchisement.

Table 24
Sample chosen for drug-related offences in relation to sentences & fine imposed cumulatively

	Imprisonment up to 1 year: 4% N - %		Imprisonment for 1-3 years: 38% N - %		Imprisonment for more than 3 years: 10% N - %		Confinement in a penitentiary for 5-10 years: 24% N - %		Confinement in a penitentiary for more than 10 years: 18% N - %		Confinement in a penitentiary for life: 6% N - %	
Cumulative fine												
€ 590-1,000: 14%	-	-	6	12	1	2	-	-	-	-	-	-

€ 3,000-5,000: 14%	-		3	6	1	2	3	6	-	-	-	-
€ 6,000-7,000: 4%	-	-	-	-	-	-	2	4	-	-	-	-
€ 10,000-20,000: 12%	-	-	-	-	1	2	2	4	3	6	-	-
€ 25,000-40,000: 12%	-	-	-	-	-	-	1	2	4	8	1	2
€ 50,000-100,000: 4%	-	-	-	-	-	-	-	-	1	2	1	2
€ 300,000: 2%	-	-	-	-	-	-	-	-	-	-	1	2

Source: Data collected by the Court and analysed by the researcher

Table 25 presents in detail the statistical prevalence of various drug-related offences in relation to the sanctions imposed.

Table 25
Statistical prevalence of various drug-related offences in relation to the sentences imposed

	Imprisonment up to 1 year: 4% N - %	Imprisonment for 1-3 years: 38% N - %	Imprisonment for more than 3 years: 10% N - %	Confinement in a penitentiary for 5-10 years: 24% N - %	Confinement in a penitentiary for more than 10 years: 18% N - %	Confinement in penitentiary for life: 6% N - %
Drug trafficking offences						

Purchase/ supply, possession & sale/disposal: 48%	1	2	10	20	2	4	8	16	2	4	-	-
Purchase/ supply & possession: 20%	-	-	7	14	-	-	2	4	1	2	-	-
Purchase/ supply, possession or/& cultivation or/& sale & use: 10%	-	-	-	-	1	2	1	2	3	6	-	-
Importation in the country, transportation & possession: 6%	-	-	1	2	-	-	1	2	1	2	-	-
Cultivation, harvest & possession: 6%	-	-	1	2	1	2	-	-	-	-	1	2
Organisation & management of drug trafficking operations: 4%	-	-	-	-	-	-	-	-	-	-	2	4
Adulteration & possession: 2%	-	-	-	-	1	2	-	-	-	-	-	-

Supply without prescription: 2%	-	-	1	2	-	-	-	-	-	-	-	-
Supply between users: 2%	1	2	-	-	-	-	-	-	-	-	-	-

Source: Data collected by the Court and analysed by the researcher

The most commonly seized drug in the cases of the sample was, expectedly, heroin (38%), followed by the “two or more drugs” category (36%) which included for instance heroin and cannabis, heroin and cocaine, etc. Cannabis ranked third (16%). Other types of drugs were involved less frequently, as shown in Table 26 below.

Table 26
Statistical prevalence of different kinds of drugs in relation to the sentences imposed

Drug trafficking offences	Imprisonment up to 1 year: 4% N - %		Imprisonment for 1-3 years: 38% N - %		Imprisonment for more than 3 years: 10% N - %		Confinement in a penitentiary for 5-10 years: 24% N - %		Confinement in a penitentiary for more than 10 years: 18% N - %		Confinement in penitentiary for life: 6% N - %	
	1	2	6	12	2	4	4	8	5	10	1	2
Heroin: 38%	1	2	6	12	2	4	4	8	5	10	1	2
Two or more drugs: 36%	-	-	11	22	1	2	4	8	1	2	1	2
Cannabis: 16%	-	-	1	2	2	4	3	6	1	2	1	2
Cocaine: 6%	-	-	-	-	-	-	1	2	2	4	-	-

Ecstasy, LSD or other synthetic drugs: 4%	1	2	1	2	-	-	-	-	-	-	-	-
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Source: Data collected by the Court and analysed by the researcher

In accordance with the Criminal Code, a custodial sentence may be suspended and the convict may be granted probation or it may be converted into day fine. Probation can be mandatory or discretionary for the court, depending on the term of imprisonment imposed, in accordance with Article 100 CC (for a prison sentence up to 3 years it is mandatory). The key prerequisite for probation is the absence of a prior conviction to over one year's imprisonment. The judgment granting probation shall also specify a probation period of no less than one and no more than three years, during which the sentence is not served but suspended; any conviction for a felony or misdemeanour during that period will amount to probation violation. Conversion of the custodial sentence to a day fine is usually opted for by criminal courts in the absence of the necessary prerequisite for probation (i.e. absence of prior conviction) in accordance with Article 82 CC.

Suspension of the sentence was ordered in 22% of the cases in the sample, i.e. 11 cases. Only in one of them was suspension granted under Article 31(6) of Law No 3459/2006, for the purpose of completion of an approved dependence treatment programme by the convicted drug addict. In the remaining cases suspension was granted under Article 100 CC, since the sentence imposed in all 11 cases did not exceed three years and the offenders were not previously sentenced to a penalty exceeding one year. Only in one case in the entire sample was the court requested to suspend a four-year term of imprisonment (and it was at its discretion to grant suspension or not under Article 101 CC), but the request was rejected. Of a total of 11 sentences that were suspended, 3 involved non-addicted offenders, whereas 8 involved addicted offenders. Also, in 8 out of 11 cases, such mitigating circumstances as those referred to in Article 84(2) CC were accepted. Moreover, in the sample examined, only in 4% of cases was the penalty imposed (ranging between 1 and 3 years' imprisonment for drug-addicted offenders) converted into day fine under Article 82 CC.

Based on the sample, the overall sentencing was within the general penalty framework provided for by the law. Taken together, it could hardly be argued

that the majority of the sentences imposed penalties of the maximum severity, as the recognition of mitigating circumstances under the general provisions of the Criminal Code results in lower average penalties for each offence compared to the initial framework. In particular, in relation to non-addicted offenders, whereas the penalty framework of Law No 3459/2006 was confinement in a penitentiary for at least 10 years, in 17 out of 29 cases the offenders were sentenced to less than this minimum limit. More specifically, in 8 cases the offenders were sentenced to short-term imprisonment and in 9 cases to confinement in a penitentiary for up to 10 years. Thus, only in 18% of cases in the entire sample was the sentence imposed calculated within the rigorous legislative framework.

In 24 cases, representing 48% of the sample, mitigating circumstances within the meaning of the general provisions of the Criminal Code were accepted by the court. Of these, 13 identified as mitigating circumstance the good character/former honourable life of the offender under Article 84(2)a) CC, four the offender's remorse and sincere repentance under Article 84(2)d), five the offender's good conduct after the commission of the offence for a relatively long period time under Article 84(2)e) CC. In one case the offender's reduced legal responsibility under Article 36 CC was recognised, and in two cases the offender's young age under Article 133 CC (aged between 18 and 21 at the time of the offence). Moreover, in three cases more than one mitigating circumstances were recognised.

5. Individualisation of imposed sanctions

With regard to sentencing, all the decisions in the sample relied on Article 79 CC and stated that the court took into consideration both the severity of the crime and the personality of the offender. In assessing the gravity of the crime the court seeks to establish: a) the damage or the risk caused by the crime; b) the nature, type and object of the crime, as well as all the circumstances of time, place, manner and means surrounding the preparation or execution thereof; c) the intensity of fault or the degree of negligence of the offender. In assessing the personality of the offender the criminal court weighs in particular the degree of criminal intent that the offender manifested during the offence. In order to accurately establish that, it examines: a) the causes which led the offender to the execution of the crime, the opportunity given to him/her and the purpose sought; b) the nature and degree of development of the offender;

c) the offender's individual and social circumstances and his/her past life; d) his/her conduct during the commission of the offence and after it, in particular whether the offender demonstrated repentance and willingness to rectify the consequences of his/her act. In calculating the fine, the financial status of the defendant and the needs of his/her family members are taken into account.

As mentioned above, mitigating circumstances applied to 48% of the cases, whereas aggravating circumstances to 24% of the cases involving both addicted and non-addicted perpetrators, as shown in Table 26 below.

Table 27
Statistical prevalence of addicted/non-addicted offenders in relation to mitigating/aggravating circumstances

	Mitigating circumstances N - %		Aggravating circumstances – repeat drug-related offences N - %		Aggravating circumstances – by way of an occupation N - %	
Non-addicted offenders:	15	30	3	6	6	12
Drug-addicted offenders:	9	18	1	2	2	4

Source: Data collected by the Court and analysed by the researcher

However, based on the findings of the analysis of the sample, it is worth pointing out that in two cases in which the aggravating circumstance of commission of trafficking by way of an occupation was recognised, the mitigating circumstance of former honourable life was also accepted, while in two others the court accepted the mitigating circumstance of sincere repentance. Furthermore, in all three cases in which life imprisonment was imposed, the court had established that the offender had repeatedly breached the drug law.

Table 28
Statistical prevalence of mitigating/aggravating circumstances in relation to sentences imposed

	Mitigating circumstances N - %	Aggravating circumstances – repeat drug-related offences N - %	Aggravating circumstances – by way of an occupation N - %

Imprisonment up to 1 year	2	4	-	-	-	
Imprisonment for 1-3 years	10	20	-	-	1	2
Imprisonment for more than 3 years	3	6	-	-	-	-
Confinement in a penitentiary for 5-10 years	5	10	1	2	2	4
Confinement in a penitentiary for more than 10 years	3	6	-	-	4	8
Confinement in a penitentiary for life	-	-	3	6	1	2

Source: Data collected by the Court and analysed by the researcher

It is also worth mentioning that in 30% of the cases the defendants did not have their own lawyer and thus a lawyer was appointed *ex officio* by the court. In 10% of the sample the perpetrators were women and 30% were foreigners, of whom 86.7% of Albanian nationality.

Of those sentenced, 42% were identified as drug-addicted offenders and the provisions of Article 30 were applied in their case. For the majority (18 of 21 cases), the penalty imposed was short-term imprisonment, i.e. they were considered to have committed a misdemeanour, not a felony.

Table 29
Statistical prevalence of addicted/non-addicted offenders
in relation to sentences imposed

	Imprisonment up to 1 year N - %	Imprisonment for 1-3 years N - %	Imprisonment for more than 3 years N - %	Confinement in a penitentiary for 5-10 years N - %	Confinement in a penitentiary for more than 10 years N - %	Confinement in penitentiary for life N - %

Non-addicted offenders: 58%	-	-	5	10	3	6	9	18	9	18	3	6
Drugaddicted offenders: 42%	2	4	14	28	2	4	3	6	-	-	-	-

Source: Data collected by the Court and analysed by the researcher

Based on the data presented above in conjunction with the data in Table 29, of the 21 who were convicted as addicted offenders, 10 were not actually taken to prison after the pronouncement of the sentence due to suspension or conversion of the custodial sentence into day fine, while the remaining 11 had to serve their sentences, which were either short-term imprisonment (in 8 cases) or temporary confinement in a penitentiary for up to 10 years (in 3 cases). It is also worth noting that the analysis showed that 8 of the 21 drugaddicted offenders were sentenced for heroin trafficking, 11 for more than one kind of drugs, one for ecstasy and only one for cannabis.

Finally, in order to better understand how sentences for non-addicted offenders are calculated in relation to specific quantities and kinds of drugs, two tables with two types of drugs, heroin and cannabis, are presented below.

For cannabis, as shown in Table 30, it appears that the penalty imposed (either custodial or pecuniary) is proportional to the quantity seized.

Table 30
Quantity of cannabis in relation to sentences imposed for non-addicted offenders

Quantity of cannabis	Form	With one or more accomplice(s)	Nationality of the offender	Gender of the offender	Sentence Imposed
354 gr +14 small plants	Raw	-	Greek	Male	2 years & 6 months
368 gr + 5,398 gr not found	Raw	-	Greek	Male	4 years & 3 months
750 gr + 4 small plants	Raw	-	Cypriot	Male	4 years

4,500 gr	In 60 small packets	1	Greek	Male	7 years and two months + € 4,000
9,290 gr	Chocolate cannabis bars	3	Albanian	Male	7 years + € 5,000
13,200 gr	Chocolate cannabis bars	-	Greek	Male	14 years + € 30,000
16,186 gr + 780 small plants + 109,500 gr peaks of plants	Raw	3	Greek	Male	Life imprisonment + € 300,000

Source: Data collected by the Court and analysed by the researcher

Instead, as shown in Table 31, sentencing for heroin does not present the same even sequence. The reasoning of the court in relation to the final sentence appears to be influenced by other, rather more complex, factors and not just the quantity of the drug that was trafficked.

Table 31
Quantity of heroin in relation to sentences imposed
for non-addicted offenders

Quantity of heroin	Number of small packets	With one or more accomplice(s)	Nationality of the offender	Gender of the offender	Sentence imposed
72 gr	6	1	Greek	Female	4 years + € 1,000
28.7 gr	40	2	Greek	Female	5 years + € 3,000
5 gr + unspecified quantities	2	1	Greek	Female	7 years
12.7 gr	2	-	Albanian	Male	10 years + € 300
507 gr	2 compressed bars	3	Albanian	Male	10 years + € 30,000
824 gr	30	1	Albanian	Male	12 years + € 25,000

72.7 gr	2	1	Greek	Male	12 years + € 30,000
812 gr	5	7	Bulgarian	Male	15 years + € 40,000
519 gr	1	2	Albanian	Male	16 years + € 10,000
2,610 gr	12	-	Albanian	Male	16 years and 6 months + € 100,000
377.40	6	2	Albanian	Male	Life imprisonment + € 50,000

Source: Data collected by the Court and analysed by the researcher

6. Conclusions and Recommendations

As mentioned in the first part of this study, the recently enacted Law No 4139/2013 brought about some very significant changes in the legislation on drugs which move in the right direction. However, the boldness of the legislative body was not proportional to that of the legislative committee that had delivered the original bill. However, the recommendations of the original bill about certain critical issues should be useful in future, in view of improving the current sentencing policy in the country. Their primary focus is on the following three points:

1. The penalty framework of the basic offence of drug trafficking should be changed: the minimum penalty imposed should not be 10, but rather 5 years, so that the court has wider discretion in determining the sentencing policy.
2. The supply and possession of drugs in quantities intended for personal use only should no longer constitute a criminal offence. Only the cultivation of cannabis plants or use of the drug in public should perhaps remain as a misdemeanour with a penalty not exceeding six (6) months and a proportional fine.
3. Trafficking in small quantities of drugs and supply of small quantities to a familiar person for personal use should be accepted as a mitigating circumstance of the basic offence of trafficking, not just for drug-addicted offenders but also for regular users who commit these acts.

However, it must be recognised that, generally speaking, the reforms of the new law have adopted modern scientific concepts, which improve the existing legal framework and are in line with the relevant European drug policy trends. It remains to be seen in future –perhaps with a follow-up study– whether the new legislation will also profoundly affect court practice or not.

The Drug Law reform Project in South East Europe aims to promote policies based on respect for human rights, scientific evidence and best practices which would provide a framework for a more balanced approach and will result in a more effective policy and practice. A major aim of our activities is to encourage open debate on drug policy reform and raise public awareness regarding the current drug policies, their ineffectiveness and their adverse consequences for individuals and society.

Το Πρόγραμμα Μεταρρύθμιση της Νομοθεσίας για τα Ναρκωτικά στη Νοτιοανατολική Ευρώπη στοχεύει στην προώθηση πολιτικών που βασίζονται στο σεβασμό των ανθρωπίνων δικαιωμάτων, την επιστημονική τεκμηρίωση και τις βέλτιστες πρακτικές που θα προσφέρουν ένα πλαίσιο για μια περισσότερο ισορροπημένη προσέγγιση και θα οδηγήσουν σε αποτελεσματικότερες πολιτικές και πρακτικές. Ιδιαίτερα σημαντική επιδίωξή μας είναι να ενθαρρύνουμε την ανοιχτή συζήτηση για μεταρρύθμιση της πολιτικής των ναρκωτικών και να ευαισθητοποιήσουμε την κοινή γνώμη για τις δυσμενείς επιπτώσεις και την αναποτελεσματικότητα της ισχύουσας πολιτικής των ναρκωτικών για τα άτομα και την κοινωνία.

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05-05-299

ISBN: 978-960-568-451-8