



## Drug offences — sentencing and other outcomes

### Online annex: Results by country

The selected issue ‘Drug offences: sentencing and other outcomes’ is based on data collected from 25 European Member States and Croatia, Turkey and Norway. In this online annex you can find a detailed explanation of how each country defines, records and collects data.

Readers of the results presented here should take into consideration the issues limiting simplistic comparisons of statistics; namely, the differences in definitions and terminology, in data collection systems, and in the statistical units and their counting rules, that are explained in the annex to the print version.

Results may refer to the principles of legality (all cases must be forwarded for a decision by a higher authority) or the principles of opportunity or discretion (there is the power to decide whether to forward the case for prosecution or to close it in some way).

In a number of countries, there are references to threshold quantities, summarised below in ‘doses’. This summary is necessary to maintain the focus of this paper on outcomes, as ‘quantities’ is a complex topic that has been the subject of a study in itself — see, for example, Annex 1 of the Thematic paper ‘Illicit drug use in the EU: Legislative approaches’. An updated study on this topic will be published by the EMCDDA by the end of 2009.

A number of countries refer to certain classes of substances. These are explained in detail in the European Legal Database on Drugs’ classifications Topic Overview.

**Belgium**  
**Bulgaria**  
**Czech Republic**  
**Denmark**  
**Germany**  
**Estonia**  
**Ireland**  
**France**  
**Italy**  
**Cyprus**  
**Latvia**  
**Lithuania**  
**Luxembourg**  
**Hungary**  
**Netherlands**  
**Austria**  
**Poland**  
**Portugal**  
**Romania**  
**Slovakia**  
**Finland**  
**Sweden**  
**United Kingdom**  
**Croatia**  
**Turkey**  
**Norway**

## **Belgium**

In Belgium, the law allows the police to issue a fine to an offender found in possession of a small amount of cannabis without aggravating circumstances, and to file a simplified report. A different drug, a larger amount, with or without aggravating circumstances will lead to a full report being passed to the prosecutor. Data on the number of these cannabis fines were not submitted.

Information was submitted from the College of Public Prosecutors' Database about narcotics cases. It was not possible to separate these cases into personal use and trafficking datasets, so the data are a mixture of the two. Data for 2007 showed (1) the results, and in detail (2) the reasons why narcotics cases were filed for 'no action'. Note that a 'case' may involve no, one, or several defendants. In terms of results, of the 38 368 cases analysed, 52 % were filed for no action, 16 % were for disposal (transfer to the jurisdiction of

another prosecutor), 11 % were joined to another case to be processed, and 9 % were sent for summons follow-up (usually this meant they were forwarded to the court for criminal prosecution).

The 20 097 cases filed for no (further) action (NFA) were classified as filing due to the principle of opportunity, technique, or other, with these three divided into 30 subcategories. A total of 79 % of these NFA cases were filed using the principle of opportunity. Although 12 named sub-categories are available under this principle (such as due to 'limited social repercussion', 'minor damage', 'absence of previous history', 'insufficient investigative capacity', etc), the category 'other priorities' was used for 64 % of the NFA cases, though 6 % were filed for NFA due to 'limited social repercussion'. In the technique category, 7 % were filed for NFA due to 'insufficient charges'. The remainder were spread amongst the various 30 subcategories. While the prosecutors have the power of filing a case for NFA following praetorian probation or an administrative fine, barely 2 % of the cases were filed for NFA for these reasons.

Those judged in narcotics cases (personal use and trafficking) were recorded by the unit of the person — thus a single defendant involved in several cases will be counted several times, and the number cannot be calculated against the cases described above. Of the 3 693 people judged in 2007, in total 81 % were sentenced, 8 % had the pronouncement suspended (for reasons not given), and 9 % were recorded as receiving an 'other' judgment; only 2 % were acquitted.

## Bulgaria

In Bulgaria, data were reported from the Ministry of Justice on the number of people sentenced in the courts in 2006 for various drug offences. No information was given about the systems of police or prosecutor disposals, so it is not clear how these figures were 'filtered' before arriving at court. Unfortunately it is also not clear which figures apply to this report's categories of personal use and trafficking — the competence of the Regional and District courts somewhat overlaps regarding prosecutions based on certain drug-related crimes — and the criteria for the data submitted includes offences regarding precursor substances and persuasion to use narcotics. Data were also available from the Courts Martial (Bulgaria was the only country to submit such data) but these shall not be discussed in this report.

In 2006 a total of 2 397 cases of drug crimes were closed in the Regional and District courts, the majority of which (2 211) were in the Regional courts. In the District courts, 51 % were discontinued, but of all the cases that were closed, 50 % were closed with a sentence, 37 % were closed by penal agreement according to Art. 381-384 Criminal Procedure Code, which may provide for various punishments (often suspended sentence), and 13 % were discontinued.

In 2006 there were 2 472 people sentenced in those courts, of whom 418 were acquitted. Various penalty data were available but there was no information on the counting rules (principal penalty or all penalties), thus the totals add up to more than 100 %. Of the 1 934 convicted (including 76 minors), 82 % received a sentence of imprisonment of up to three years, though 60 % of those convicted received suspended sentences; 51 % also received a penal agreement under Art. 381-384 CPC, as above; 7 % were given 'other penalties'. Fewer than 1 % were fined (seven people, all in the District courts). Percentages were not as easy to calculate for longer prison sentences, as the Regional courts submitted data for the ranges 3–10 years (142 offenders) and 10–30 years (21 offenders), while the District courts use the range 3–15 years (17 offenders). When estimating by the mean of grouped data, this gives an average immediate imprisonment sentence for a drug offence of 43 months.

## Czech Republic

In the Czech Republic, drug offences may be classified as administrative or criminal. In 2007 a total of 966 misdemeanours (possession of smaller amounts of any drug) were detected. According to the National

Drug Headquarters of the Police, 121 were still pending at time of reporting, 11 cases were referred to the law enforcement authorities, and 315 cases were suspended, dismissed, or referred to another authority. There were 519 cases discussed in administrative proceedings, with a reprimand being given in 54 cases and a fine imposed in 446 cases, to a total amount of CZK 543 583 (EUR 19 600). Forfeiture only was reported in 19 cases, though 383 cases were ordered forfeiture in conjunction with a fine or reprimand.

Ministry of Justice data for 2007 showed that 138 offenders were sentenced for the crime of possessing a large amount of drugs for personal use. Of these, 70 % received a prison sentence of some sort: 58 % received a suspended sentence, 9 % imprisonment for up to one year, and 3 % imprisonment for 1–5 years. A further 19 % were sentenced to community work, while 3 % were fined. Sentence was waived for 5 % and 3 % received a 'penal measure' (a summary term for various sentences imposed on juveniles).

In the same year, 1 134 offenders were sentenced for a trafficking offence under s187 of the Penal Code. Of these, 87 % received a prison sentence of some sort: 54 % suspended, 3 % up to one year, 25 % for 1–5 years, and 5 % for 5–15 years. A further 5 % received a penal measure, imposed on juveniles, 5 % were sentenced to community service, and 3 % had their sentence waived.

In terms of the drugs involved, the data show that most sentences were for offences involving pervitin (47 %), with fewer for cannabis (18 %) and even fewer for heroin (7 %). Nevertheless, where heroin was the drug recorded, 97 % of sentences were prison sentences of some sort, compared to 88 % for pervitin and 68 % for cannabis; yet Czech law draws no official distinction in sentencing for different drugs.

Treatment orders, and suspension of prosecution due to treatment, are possible but data are not clear. A compulsory treatment referral instead of a sentence is highly unlikely, but a voluntary decision by an addicted offender to undergo treatment could have a significant influence on the public prosecutor (e.g. in the decision to conditionally suspend prosecution) and the further actions of the court (e.g. in the decision about a sentence being replaced with supervision). In practice, a conditionally suspended sentence under supervision by a probation officer is most often conceivable in the case of an offender who is not in custody, has already started drug treatment during the course of prosecution, and continues the therapy after the sentence is handed down.

A different database reveals some information about sentencing people to treatment orders. In 2007 the Probation and Mediation Service of the Czech Republic recorded 692 cases of drug-related offences (which could include property crimes, etc), and 137 cases where the client was addicted to drugs were selected from the database for analysis. In 43 of these cases, drug treatment was imposed on the people sentenced, most typically in combination with community services sentences.

## Denmark

In Denmark, drug offences may be charged under the Act on Euphoriant Substances or the Criminal Code, usually depending on the quantity and type of drug involved.

Information on the sizes of fines given, and the different drugs involved, was not reported. Nevertheless, the Director of Public Prosecutions has issued precise guidelines on prosecutor requests for sentencing for the offences of personal use and sale, setting limits for quantities of each drug. In summary, fines for personal use offences range from 2 000–3 000 DKK (approximately EUR 270–400) for first-time possession of small amounts (e.g. less than 10 grams of cannabis, less than 1 grams of cocaine or heroin), to 10–16 000 DKK (approximately EUR 1 300–2 200) for a third offence of possession of larger amounts (e.g. up to 100 grams of cannabis, up to 5 grams of cocaine or heroin). In terms of sale offences, except for small quantities of cannabis, short and immediate jail sentences are requested. The prosecution will demand punishment for selling small quantities of heroin and cocaine (in 'deals', the established unit of retail sale), for a first-time offence, as follows.

- 1–2 deals: 10 days' imprisonment
- 3–4 deals: 14–20 days' imprisonment
- 5–10 deals: 30–60 days' imprisonment
- 11 deals or more: minimum three months' imprisonment

Amphetamine and ecstasy are considered to be two-thirds as dangerous as heroin, implying two-thirds of the above limits.

By contrast, charges under the Criminal Code will be brought for offences involving considerably higher quantities depending on the drug involved – for example, about 10 kilograms of cannabis, or 25 grams of heroin or cocaine.

Results were given based on Ministry of Justice research statistics. In 2006, out of 12 552 decisions on charges under the Act on Euphoriant Substances relating to personal possession offences, 89 % were for fines; 5 % were for prison sentences, with just over half of these being for immediate custody. This proportion of fines has greatly increased since the 2004 change that stated they should become the norm; in the few years before this, only 50–60 % were fined, while about 30 % received no charge.

Regarding the 1 926 decisions on trafficking offences (large quantities charged under the above Act, or the Penal Code), 63 % were for a prison sentence (two-thirds of these being immediate custody) and only 13 % were fined; indeed, almost all of these fines were for offences under the Act rather than the Penal Code. The average prison sentence handed down under the Act was just over one month for both immediate and suspended penalties for possession, and about two months for sale offences. Average suspended sentences handed down under the Penal Code were for 6–7 months, but sentences of immediate imprisonment averaged 20 months for trafficking and 30 months for aggravated trafficking.

## Germany

In Germany, the police have no discretionary power and must report all cases to the prosecutor, following the principle of legality.

When the quantity of drugs is insignificant and for personal use only, and if there is no public interest for a prosecution, the public prosecutor may abstain from referring the case to trial (§ 31 a, Section 1, BtMG) and has the discretion to dismiss the case (the principle of expediency). As the law does not specify substance type, such closure of proceedings could apply to all drug types, but in practice it is applied mainly to cases involving cannabis. In similar circumstances the prosecutor can dismiss the case provisionally, requesting fulfilment of injunctions and directives.

The data for all closed cases are sent to the Federal Statistics office. The information on convictions uses the person as the statistical unit. In 2006, of 280 877 drug-related offences, 36 % were dismissed unconditionally, 24 % were dismissed due to lack of evidence, 18 % went on to be charged, 8 % received a penal order, and 12 % had another outcome. Only 2 % were dismissed with conditions, which might include treatment obligations. However, in some federal states such discontinuation of proceedings is obligatory; whereas in others it is subject to a case-by-case approach, so describing an outcome based on national figures has certain limitations.

Regarding court decisions and penalties, information is only available for the former Western German states and all of Berlin. The following figures, for 2006, are not exhaustive as some 18- to 20-year-olds are tried under the Juvenile Law. The information on sanctions is counted according to the most severe sanction.

Of the 36 774 court decisions regarding adults charged with consumption-related offences, 90 % were convicted while for 7 % the proceedings were closed; only 2 % were acquitted. Of those convicted, 76 % were fined, while the remaining 24 % received a custodial sentence — though two-thirds of these (17 % of the total convicted) were suspended on probation.

Offences of personal possession of larger quantities of drugs are considered to be a felony punished with a minimum custodial sentence (§29 a, Section 1, No 2 of the BtMG). Of the 7 608 people charged with trafficking offences or possession of a larger amount, 96 % were convicted, 3 % were acquitted, while only 1 % had the proceedings closed. Suspended sentences on probation were given to 55 % of those convicted, while 46 % received some form of directive or injunction together with custody and (or) a fine. Only 1 % of those convicted were fined, avoiding a custodial sentence. For all the above, there was no information available on the sizes of the sentence.

With regard to addicted users and traffickers who have received an imprisonment conviction of up to two years, it is possible to implement a release on license (§ 56 StGB) or to suspend execution of punishment (§ 35 BtMG), when the offender is already attending a therapeutic programme or is prepared to enter treatment shortly (according to the principle of 'treatment instead of punishment'). Data regarding secondary sanctions for those convicted in 2006 show that 449 people (of the 43 063, or 1 %, convicted) were placed in a detoxification unit, and on closer examination the majority of those placed in detoxification were convicted of trafficking offences. Otherwise, there was no information about treatment as an alternative to punishment.

## Estonia

In Estonia, personal possession of drugs in small quantities (fewer than ten average doses) is classed as a 'misdemeanour' and attracts a fine of up to 200 fine units (approximately EUR 760) or detention of up to 30 days. The fine is imposed by the police, and detention is imposed by a court as proposed by the police. For a misdemeanour, the court can impose a fine or detention for up to 30 days.

Criminal proceedings for trafficking offences or possession of larger quantities of drugs are led by the prosecutor, who decides whether to take the case to court or to terminate the proceedings due to 'rational considerations' (such as lack of public interest, negligible guilt, inexpediency of the punishment). A criminal offence can be punished with a fine of 30 to 500 'daily rates' (a daily rate is the average daily income of the sentenced person, as established in court) or imprisonment of between 30 days and life.

Suspended imprisonment includes a probationary period from 18 months to three years and fixed supervision measures (Penal Code § 75). Among other things, an obligation to undergo treatment can be imposed on the sentenced person if he consents to it. A court can cancel the punishment partly or entirely on the condition of probation for three to five years. For a sentence of up to two years' imprisonment, the court can substitute it with community service if the sentenced person consents to it, and this also requires fixed supervision measures.

In 2007 a total of 5 991 drug-related misdemeanours were registered, as were 1 449 drug crimes. The prosecutor's office summoned to court 596 people accused of drug crimes. For six of them proceedings were terminated due to rational considerations. Those summoned to court had committed 981 drug crimes. The prosecutor's office terminated proceedings for 282 drug crimes: 20 for rational considerations, 83 because the offender remained unidentified and 198 due to precluding circumstances.

Data on punishments for drug crimes are available, but because some individuals are punished for several different categories of drug crimes, the precise number of individuals cannot be calculated at present. According to approximate data, about 400 people were sentenced for one or several drug crimes, more than 95 % of them being punished with imprisonment (including about one-third partly or entirely on

probation). The duration of imprisonment was predominantly less than three years (including both unconditional and conditional imprisonment).

## Ireland

In Ireland, the police have the options of confiscation and informal warning, caution, juvenile diversion, arrest referral or prosecuting, but no statistics were reported for these disposals.

Personal possession offences are prosecuted 'summarily' in the District Court, while trafficking offences may be prosecuted in the Circuit Criminal Court or disposed of summarily in the District Court. The court has a wide range of options at its disposal, but prison is not available for first or second offences of personal cannabis possession. Cases can also be permanently stayed, struck out, withdrawn, or taken into consideration (added to a sentence for a different offence). For trafficking, a mandatory minimum 10-year sentence is also available. Certain offenders can also be diverted to the Drug Treatment Court.

The Central Statistics Office (CSO), the Courts Service and the Irish Prison Service (IPS) provide statistical information in relation to sentencing in Ireland. These systems of data collection operate within different frameworks and are not linked to each other. In the CSO and the IPS, cases that are closed and assigned a status 'no further action required' are not reported. Prosecutions started and then suspended owing to the offender voluntarily starting treatment are also not reported.

In the CSO, the controlled drug offence category is broken down into importation of drugs, cultivation or manufacture of drugs, possession of drugs for sale or supply, and possession of drugs for personal use. Statistics are provided concerning the specific outcomes for offences recorded in these categories. The 'main offence' counting rule applies here and multiple sanctions are not addressed. In general, convictions were by far the most common outcome for possession of drugs for sale or supply and possession for personal use offences between 2003 and 2006. A few offenders were referred to the Drug Treatment Court; 22 of the 323 people referred to this court since January 2001 successfully graduated from the programme, and 32 remain in it, while 143 were found to be not eligible and a further 109 had their participation terminated.

In the annual Courts Service reports, a breakdown of drug offence categories was not provided. Outcomes were reported for both the number of offences and offenders, giving details recorded by the most serious offence and without addressing multiple sanctions. The Circuit Criminal Courts gave information on the number of sentences while the District Courts gave information on the number of cases.

In 2007, of 376 sentences for drug offences handed down at the Circuit Criminal Courts, 97 % were prison sentences, although 30 % of the total were suspended, and 1 % were fines. The ranges of prison sentences were reported; the majority (28 % of the total) were two to five years, and 9 % of the total were over 10 years.

The District Courts, which consist of one judge acting alone, disposed of 548 summary cases and 9 322 indictable cases of drug offences. Of all these 9 870 cases, 26 % received a fine, 23 % were struck out or dismissed, 19 % received some community service or probation, and 18 % were taken into consideration; 11 % were prison sentences (which included a handful of remand orders and juvenile detention orders). Other breakdowns from these reports imply that immediate custody will be handed down about twice as often as suspended custody, and community service orders are only given in 1–2 % of cases.

The Irish Prison Service annual reports present figures on committals for drug offences as one category. The outcomes are reported for the number of offenders; multiple sanctions are not addressed. The table illustrates drug offences classified by sentence length for all offenders in 2007.

## Drug offences classified by sentence length, 2007

<3 months	3 to <6 months	6 months to <1 year	1 to <2 years	2 to <3 years	3 to <5 years	5 to <10 years	10 years and over	Life	Total
78	70	119	49	47	67	78	22	0	530

Source: Irish Prison Service Annual Report 2007.

Of the 530 prison committals reported for 2007, a total of 267 received sentences of less than one year with 22 offenders receiving 10 years or more. Estimating by the mean of grouped data, and taking the mid-point of 10 years and over as 15 years, this gives an average prison sentence for a drug offence of 34 months.

## France

At a national level, France's public prosecutor's offices record the number of cases processed each year, but they are not recorded on an offence-by-offence basis so details of narcotics cases are not extractable. Nevertheless, a trial computerisation of the activity data from the public prosecutor's office (the Ministry of Justice's 'Infocentre' project) revealed detailed data on an offence-by-offence basis for narcotics cases from seven courts in the Paris area that process approximately 25 % of all criminal cases in France.

For convictions, the Ministry of Justice's statistical department uses the criminal record database to monitor the number of sentences for statistical purposes; it is exhaustive, and covers the whole of the country. This is most easily searched by main offence, which is generally (but not always) the most serious of the offences committed, but other counting units may also be used, such as sentences for drug use as part of a combined offence (in order to examine the most common combinations and the corresponding sentences). However, sentences should not be confused with the people being sentenced. A person sentenced twice during the year will be counted twice in the sentencing statistics.

Regarding the offence of drug use, 78 % of the 13 758 cases dealt with by the public prosecutor's office in the Paris region in 2007 resulted in an alternative to prosecution before the courts. Most of these, 71 % of all cases, involved a caution, though 21 % were for a drug testing order or a justice-referred treatment order. In total 18 % were forwarded to the court for prosecution. It was reported that, in 2007, a total of 2 290 court-ordered treatments were issued in France to drug users.

From the national Ministry of Justice statistics of all criminal records, in 2007 some 21 407 sentences were issued for the offence of drug use. It is chiefly punished by fines (53.9 %), suspended prison sentences (20 %) or immediate prison sentences (11.5 %); the average length of immediate prison sentences is 4.5 months. Some 3.7% are sentenced to community service, while 3 % are sentenced to educational measures.

Regarding trafficking offences, in 2007, the public prosecutor's offices of the Paris region processed some 11 000 cases classed as 'other drug law offences' (other than use). Alternative measures to prosecution were used for half of the cases. One-third of the trafficking cases were forwarded to the court for prosecution.

The national Ministry of Justice statistics of 2007 reveal that sentences for use-selling and trafficking were chiefly divided between the possession or acquisition of narcotics (12 153 sentences), the minor trafficking (trading, processing and transportation) of narcotics (7 666 sentences), and the import and export of narcotics (2 065 sentences). Most of these received prison sentences, though the proportions differ between immediate and suspended sentences. Possession or acquisition resulted in 44.8% receiving immediate prison sentences for an average period of 10.4 months, 36.7 % receiving suspended sentences, and 8.4 % receiving fines. Minor trafficking and importation and exportation offences tended to



receive heavier sentences. In the case of minor trafficking, 56.5 % of the sentences issued were immediate prison sentences, for an average period of 16.5 months, while 35 % were suspended. Drug offences concerning importation and exportation were almost invariably punished by prison sentences, with 76.2% immediate, for an average period of 27.5 months, and 21.3 % being suspended.

## Italy

In Italy, use and possession of a small amount of drugs may be punished by administrative sanctions — for a first offence, the Prefect may only issue a warning.

According to the Central Statistics Office of the Interior Ministry, a total of 27 352 interviews were conducted in the presence of Italian Prefects in 2007. Following these interviews, 16 623 individuals were formally warned to refrain from further use of narcotic substances. The counting units differ, with the result that the same individual may have been reported more than once in the course of a year.

Some 10 049 administrative penalties were imposed by Prefects under Paragraph 1 of Art. 75 modified by Law 49/2006, of which 78 % were imposed subsequent to interviews conducted by Drug Addiction Operating Units (NOT) of the Prefectures, while the remaining 22 % were imposed for failure to appear for such interviews.

Moreover, 2 384 individuals were invited to report to Drug Addiction Services for therapy treatment. Administrative proceedings against 4 453 individuals were dismissed upon conclusion of therapy treatment. Nevertheless, the situation has recently changed. Under previous regulations, if a repeat offender showed willingness during his or her interview to enter into a recovery programme, then administrative proceedings would be halted when the individual began to undergo such a recovery programme with the Public Drug Addiction Services (SerT), and the proceedings against the offender would be dismissed upon completion of that programme. Under the new regulations, however, with the exception of cases that fall under Paragraph 14 of Art. 75 regarding the formal invitation, individuals found to have been holding narcotic substances will have penalties imposed upon them before being invited to undergo a recovery programme with Public Drug Addiction Services (SerT).

Over the course of 2007, some 11 899 individuals were convicted, with judicial measures recorded by the Judicial and Criminal Records Office for crimes in violation of D.P.R. 309/90. In 97 % of cases, the convictions were for crimes related to production, trafficking and sales of narcotics (Art. 73) and, in the remaining 3 % of cases, were for other serious crimes relating to association for the purpose of production, trafficking and sales of illegal drugs. No information was reported regarding the actual sentences given to traffickers.

## Cyprus

Sentencing statistics for drug offences in Cyprus are kept by the Prison Department and courts, though the latter only keep records of convictions for serious cases. The Cyprus police register drug-related offences and offenders, but not the sentences imposed. In terms of cases not presented to court, these are classified as 'otherwise disposed of', and cases in which prosecution is terminated or suspended are classified as 'criminal prosecution suspended', but no information was reported on these numbers. The police do not possess data where an offender voluntarily begins treatment, because Law 57(1)/1992 is currently inactive.

Community work, being an alternative to imprisonment or fine, has only exceptionally been imposed by courts on drug users. There is, however, a special settlement between the police and the Attorney General in respect of young offenders. Upon consent of the Attorney General, young people up to 23 years old who

are charged for the first time for possession for personal use, and have no criminal record, can have their case pending for two years after which it will be classified as 'otherwise disposed of'.

Data on sentences passed were only available for those offenders sentenced to imprisonment in 2007. In total 40 people were sent to prison for the possession of Class A and Class B drugs; two were convicted for drug use offences in the same year, while 36 people were convicted for trafficking offences. For possession of Class B drugs, prison sentences ranged from two months to three years, with an average of 15 months, and for possession of Class A drugs, the sentences ranged from 15 days to 10 years, with an average of 30 months. The longest prison sentence given in 2007 for a drug offence was 20 years for importation of Class A drugs, followed by a trafficking conviction that received 18 years.

## Latvia

In Latvia, the Ministry of Interior Information Centre manages the Integrated Ministry of Interior System. This system was implemented in 2004, though all its subsystems are not yet fully integrated. Therefore, data extraction (representation) for any mutual link is not currently possible, though work is continuing to this end. The statistical data that follow have been prepared from the integrated Ministry of Interior Information System subsystems 'Persons who have committed criminal offences' and 'Persons who have committed administrative offences'. As a result, if several penalties are imposed on a person in respect of the same offence, information regarding all penalties imposed will be counted in the relevant information systems.

The laws regulating the staying of criminal and administrative proceedings do not anticipate the suspension of proceedings due to an offender voluntarily commencing treatment, or the inclusion of information in the criminal registration systems on treatment orders for drug use, so such data are not gathered and registered. Nevertheless, if the person has commenced voluntary treatment for addiction, prosecuting institutions take that into account in finalising criminal processes, relieving the person from criminal liability. But this practice is only applied if the prosecutor considers that the criminal offence committed has not resulted in 'harm sufficient to attract criminal punishment'.

Regarding use or possession offences, in 2007, under s.46 of the Administrative Violations Code (possession or use in small amounts), administrative penalties were imposed on 1 980 individuals; almost all of these were monetary fines, though administrative arrest was imposed on 5 %, warnings were given to 2 %, and the case was closed for 2 % of those sentenced.

Some 166 people were charged under Section 253 of the Criminal Law (possession, etc without purpose of sale). Of these, 27 % were sentenced to immediate imprisonment; 70 % received sentences of suspended imprisonment (with parole periods ranging between one and three years); 1 % were sentenced to enforced labour (a total of 80 hours); and 1 % were fined (LVL 840 and LVL 1200). As an additional penalty, police supervision was imposed on 20 % (for periods ranging between one and three years). Finally, 131 people were charged pursuant to Section 253.<sup>2</sup>(1) of the Criminal Law (possession, etc of small amounts without purpose of sale). Of these, 54 % of all people received immediate imprisonment and 29 % received suspended sentences. Community service (ranging from 60 to 280 hours) was given to 15 %, while 2 % were fined. As an additional penalty, police supervision (ranging between one and three years) was imposed on 11 % of those sentenced.

Regarding trafficking offences in 2007

- 10 people were charged under Section 190.<sup>1</sup> of the Criminal Law (import or export). Of these, three were sentenced to immediate imprisonment (ranging between two and four years); three were sentenced to a monetary fine (the amount imposed ranged from LVL 600 to LVL 1200); four were sentenced to community service.

- 82 people were charged under Section 253.<sup>1</sup> of the Criminal Law (possession, etc. with purpose of sale). Of these, 57 were sentenced to immediate imprisonment (for between one and two years), 23 received a suspended sentence ranging between one and three years; one received community service for a period of 120 hours; and one was fined LVL 720. As an additional penalty, police supervision was imposed on 21 people, or in 26 % of cases.
- Three people were charged under Section 253.<sup>2</sup>(2) of the Criminal Law (possession of small amounts with purpose of sale). Imprisonment was imposed as a basic penalty in all three cases, though one was also ordered parole for one year after release. Terms of imprisonment ranged between seven months and five years. As an additional penalty, police supervision was imposed on one person for a period of three years.

## Lithuania

In Lithuania, possession of a small amount of any drug is an offence against the Administrative Violations Code, as well as against the Criminal Code (CC). However, while 2 400 offences against the AVC were registered in 2007, no data for the outcomes of these misdemeanours were reported.

Data were provided from the National Administration of Courts. In 2007, the Lithuanian courts of first instance heard 926 cases of illegal possession of drugs and their precursors. Of these cases, 754 were for personal use offences under article 259 of the Criminal Code.

Some 182 cases related to supply offences (article 260 (1) of the CC), 59 cases were for offences involving large quantities (Article 260), five were for distribution of drugs to juveniles (article 261), and in nine cases charges were for the cultivation of poppies or cannabis (article 265). A few more were for theft of drugs (e.g. from pharmacies), pressuring someone to use drugs, and precursor offences. According to the same data source, only one person received an obligatory medical measure (data for the last few years shows about five obligatory medical measures per year).

Types of sentence given to offenders were not available according to the above offence definitions, only in terms of all drug possession offences as a group. In total 462 people received sentences of imprisonment, 396 were fined, 110 were sentenced to administrative arrest, 66 to restriction of liberty (mandated work or prohibition of visiting places or people, though this might also include treatment orders) and 18 to work in the community.

## Luxembourg

In Luxembourg, the Code of Criminal Investigation obliges the police to record all offences and report to the public prosecutor; the police have no option of further action than to confiscate the illicit substance(s).

The public prosecutor can decide to close the case, give a written warning, propose a therapy order, order a fine via the police court, or further prosecute the case in court. The case may be decriminalised and referred to the police courts, which can only impose a fine. As an addict is considered to be in need of help, a case of simple use of drugs would rarely be referred to courts. The court may order a fine, community service, or suspension of the case with the condition to follow a treatment. Prison is possible but rare.

For trafficking offences, a first-time offender might be sentenced to community service or a suspended prison sentence. A recidivist may receive a prison sentence of several years without the possibility of suspended sentence. In cases where the offenders are very young, the sentence may be a fine or community service.

At the prosecution level, no separate statistics by offence type are recorded. Reasons for closing cases are recorded, but not the reasons related to drugs; cases of voluntarily started treatment are not recorded (though they occur very rarely), and treatment orders for alcohol and drugs (therapeutic injunctions) are not recorded, as they are not compulsory, only proposed.

Since 2007 it has been possible to extract statistics on the total number of people convicted for possession or abuse of drugs, for drug trafficking and for 'mixed' convictions including possession, abuse and trafficking from the database on criminal records. Otherwise, national databases are not linked. The main reason for this is that although in the Grand Duchy of Luxembourg a series of links exist between the legislative and executive branches, the judiciary is completely independent.

In 2007 the national database of criminal records recorded 73 cases (convictions) related to abuse and possession of drugs (of which one-third are estimated to be cases of driving after taking drugs), 160 cases related to drug trafficking offences, and 161 'mixed' convictions concerning abuse or possession and drug trafficking. However, data on the different types of outcomes are not available, neither by type of offence (possession or trafficking) nor by type of substance.

Nevertheless, the public prosecutor's office of Luxembourg estimates that at the national level 60 % of all drug-related offences are not prosecuted (filed *ad acta*), 10 % consist of fines, 10 % of warnings, and 20 % are brought before the court. Some 10 % receive prison sentences (including 2 % receiving treatment orders), 5 % are fined and 5 % are sentenced to community service.

## Hungary

Based on data from Hungary's Public Prosecutor's Office, 2 366 people were sentenced for drug-related offences in 2007. They were sentenced for 2 956 offences, comprising 2 341 use offences, 188 trafficking offences, 127 offences of injuring or involving a minor by use or trafficking, 298 offences of use or trafficking by an addict, and two precursor offences.

Of those 2 366 people, 322 were punished by immediate imprisonment and 498 received suspended imprisonment; 183 were sentenced to community work; 786 were fined; and individual measures were given in 577 cases. These latter are a range of measures available to the judge including warnings, probation, compulsory treatment, confiscation, driving bans, etc. However, the details of the sentences by offence, and the sizes of the sentences, were not reported.

## Netherlands

Information was provided by the Research and Documentation Centre of the Ministry of Justice using the recently developed Criminal Data Warehouse, which aims to combine the databases of the police records, public prosecutions data, and judicial data. This report concentrates on the major sanctions, namely financial sanctions (financial transactions by the Public Prosecutor and fines imposed by the court), community service orders (which may consist of work, treatment, education or a combination of these) and prison sentences, primarily compiled from OMDATA (the prosecution services database). However, an unknown proportion of cases may have been filtered out, as the police only send cases with a reasonable chance of being prosecuted to the public prosecutor.

Most of the reported data concerns all cases of Drug Law offences enrolled in prosecution files, and offences against the Law against Abuse of Chemicals (WVMC). Each of these cases concerns one suspected or convicted person. The data collection systems of police and prosecutor or court are not linked, and different statistical units are used in the criminal justice chain. Moreover, it is not always possible to get an accurate picture of the outcomes where multiple offences are registered in one case.

Data are given by drug type (effectively, cannabis or other drugs), and two main offence types — personal possession, and supply offences. When multiple offences are classified, the more serious offence, and harder drug, takes priority, in that order (thus dealing ‘soft’ drugs takes priority over possession of ‘hard’ drugs).

The number of sentences imposed by the Public Prosecutors (transactions) and judges (other sentences) for 2007 for ‘Opium Act cases’ are as follows.

- 1 412 fines and transactions for possession;
- 952 community service orders for possession;
- 322 suspended prison sentences for possession;
- 704 immediate prison sentences for possession;
- 1 170 fines and transactions for dealing;
- 3 643 community service orders for dealing;
- 1 443 suspended prison sentences for dealing;
- 3 460 immediate prison sentences for dealing.

In a separate analysis of Opium Act cases of 2007, not separated into personal use and trafficking offences, 18 723 decisions were made by the Public Prosecutor in Opium Act cases: 66 % of these were brought to court, 21 % ended with a transaction (fine) imposed by the Public Prosecutor, 5 % were dismissed for policy reasons, and 5 % were dismissed for technical reasons. The median amount of money in financial transactions was EUR 250.

In the same year, some 12 343 cases were brought to court. The mean number of days of community service sentences was 106 days, the mean length of immediate prison sentences was 321 days, and the median amount of fines was EUR 400.

‘Hard’ drug offenders get more and longer prison sentences than ‘soft’ drug offenders. About 14 % of all immediate prison sentences concern ‘hard’ drug offences, whereas 2 % concern ‘soft’ drug offences.

## **Austria**

In Austria, the main drug law (SMG) changed on 1 January 2008 — these data refer to the version in force in 2007 and before.

The police have to report any drug possession to the public prosecutor because of suspicion of a punishable act under Sections 27 to 32 of the SMG. However, under s.35 SMG, if possession of only a small amount of drugs is involved the public prosecutors have to waive this report for a probationary period of two years. If necessary, the offender may be required to undergo one or several health-related measures: in this case, the district administration authorities are consulted, with the exception of cases relating to small quantities of cannabis for personal use. Under s.37 SMG the courts may also temporarily dismiss proceedings for a probationary period of two years — again, if necessary, subject to health-related measures. With no further offence, these would be dismissed.

If charges are brought, the court will have to give a judgment (acquittal, imposition of a fine or imprisonment). In the case of a conviction, the offender may apply for a suspension of sentence subject to the obligation to undergo one or several health-related measures under s.39 SMG; this will be granted particularly if addiction treatment is deemed preferable to the execution of the sentence. These options are also available, in limited circumstances, for trafficking offences.

In cases relating to trafficking, a distinction is made between misdemeanours (Section 27 of the SMG — trafficking, possession, etc of small quantities) and felonies (Section 28 of the SMG — trafficking, possession, etc of large quantities).

The Narcotic Substances Act provides that records of personal data be maintained at the Federal Ministry of Health, Family and Youth. Consequently, the police, public prosecutors and courts have to notify the Ministry of any reports relating to violations of the Narcotic Substances Act and the results of any criminal proceedings that may follow. Information on data in this central registry may be disclosed only to specific authorities on the basis of express approval for defined purposes. The corresponding personal data may be stored for a maximum of five years after entry, but must be deleted immediately in cases of an acquittal or permanent dismissal of proceedings. However, a study carried out on this data registry revealed considerable shortcomings in the quality and completeness of data.

In the court criminal statistics, maintained by Statistics Austria, all final convictions and their legal consequences (sanctions) resulting from decisions by Austrian criminal courts are registered, based on entries in the criminal records maintained at the Federal Ministry of the Interior. In the case of a conviction for multiple offences, the case is filed under the offence with the highest range of punishment; the entries thus relate to convictions per offender, and all other offences tried are not registered. Because of this, not all convictions relating to the Narcotic Drugs Act or Narcotic Substances Act are registered.

According to data held by the Federal Ministry of Health, Family and Youth, 10 175 proceedings were temporarily suspended in 2007 of which 9 008 were suspended by the prosecutor under s.35 (of which 20 % were for cannabis offences under s.35(4)), and the remainder were suspended by the court under s.37. Unfortunately, no data was reported as to whether these suspensions were accompanied by conditions such as health-related measures or probation. No data were reported to indicate implementation of the suspension of the sentence due to therapy under s.39 SMG.

According to the court statistics (and thus registering only the most serious offence) in the same year, 3 675 adults were convicted for misdemeanours under s.27 SMG, and 1 337 were convicted for felonies under s.28 SMG. Sentences for misdemeanours broke down as 40 % fines, 34 % suspended sentences, 24 % immediate imprisonment (all or partial). For felonies, the breakdown was 72 % immediate imprisonment, 24 % suspended sentence, and only 2 % fines.

The only data available for sentencing by substance were from those waivers featuring cannabis as defined in s.35(4).

## Poland

In Poland the police and prosecutor's office are usually obliged to file the court with an indictment according to the principle of legalism. There is a provision of the Penal Code that states that the punishable act whose extent of social harm is insignificant does not constitute a crime, but this is reportedly not used in drug-related cases. At most, the indictment contains a request for 'conviction without trial', when the evidence is clear and the defendant pleads guilty. In drug possession cases, especially regarding small amounts for private use, this is often applied.

Police (and prosecutor) and court records are not linked in any way and use different measurement units. Police records generally give the reason for discontinuance (e.g. that the act was not a crime), but do not identify if it was not a crime due to it causing minimum social harm. Court records include judgments (including acquittals and discontinuance) and sentences. Sentences always refer to an individual, not a case, but a sentence is not the same as a sentenced person; the application of a number of sanctions, even for one crime, is always included. Thus the statistics list all applications of each type of sanction, even if they were combined with others.

In 2006 a total of 12 853 penalties were handed down for the three types of offences of possession (lower importance, standard, gross) under Art.62, including 515 for the gross offence that would involve a 'substantial quantity' (undefined but interpreted by courts as several dozen doses, or kilograms of drugs). The majorities of sentences for standard (75 %) and gross (71 %) possession offences were suspended prison sentences, while the lower importance offences more commonly received sentences of fines (37 %) or community work (40 %) — yet this lower importance offence still saw a suspended prison sentence in 20 % of sentences. Fines and community work each featured in 10 % of sentences for the standard offence, which also saw 5 % of sentences for immediate custody; almost the opposite was true for the gross offence, which saw a combination of those two non-custodial sanctions in 5 % of sentences, compared to 23 % for immediate custody.

Data on the duration of the penalties for immediate and suspended prison sentences for possession in 2006 were available, though not broken down by the three types of offence. The average periods of imprisonment, both immediate and suspended, were eight months as estimated by the mean of grouped data. For sentences of up to two years, 93 % were suspended, whereas for those of over two years, only 19 % were suspended.

In Polish legislation, the crime of supplying narcotic drugs could be regardless of intention, as defined in Article 58 of the Act; or with intention to gaining some benefit, under Article 59 of the Act. Results were only reported for sentences that were given for 'supply for gain'. In 2006 some 3 463 penalties were handed down for the three types of offence of supply for gain (lower importance, standard, gross). Fines and community service were only really used for the lower importance offence type, for 7 % and 12 % of sentences respectively. Suspended imprisonment was the commonest penalty for every offence type — even for the gross type, in which 57 % of sentences were suspended, compared to 42 % for immediate imprisonment. As this offence is considered a felony (attracting a sentence of at least three years' imprisonment), courts must frequently resort to the option of extraordinary reduction of penalty in order to impose a penalty below the range of the Act. Indeed, estimating the mean of grouped data, the average penalty of suspended imprisonment for trafficking for gain was 16 months, and the average penalty of immediate imprisonment was 22 months. Considering the durations of all prison sentences for the different types of trafficking offence, 80 % of the sentences of up to two years were suspended, while only 9 % of the sentences for longer than two years were suspended. In fact, 74 % of sentences for trafficking for gain offences were suspended prison sentences of two years or fewer.

In terms of treatment, the legal options for referring offenders to treatment early in the proceedings are not used in practice, and it is reported that, even when it is compulsory on conditional suspension of penalty, courts do not oblige the offender to enter treatment in most cases.

## Portugal

In Portugal, users found with no more than ten daily doses are sent to special tribunals, known as 'commissions for dissuasion of drug abuse' (CDTs). The central register for the processes of the CDTs holds information for each process, which corresponds to one individual — though each individual can receive more than one sanction. In 2007, by the time of reporting, the CDTs had ruled on 3 338 processes (about half of those instated in that year). The majority of rulings (60 %) were for provisional suspension of

the process, for users who were not considered addicted. A further 19 % of rulings to provisionally suspend the process were for drug users who agreed to undergo treatment. Some 17 % were punitive rulings, comprising 15 % fines and 2 % non-pecuniary sanctions (mainly requiring periodical attendance in a place selected by the CDT).

In total, 64 % of these processes involved only cannabis, 17 % heroin, and 8 % cocaine; the remaining 10 % were polydrug users, predominantly combining heroin and cocaine.

Regarding drug trafficking offences, 1 871 individuals appeared in court in 2007, of whom 1 420 (76 %) were convicted; the rest were acquitted. Some 97 % of these were convicted for traffic, 2 % for traffic-use and 1 % for use (cultivation). These convictions involved mainly suspended prison sentences (57 %) and immediate prison sentences (37 %), with 5 % fined as the main sanction and 1 % sentenced to community work. It should be noted that sanctions may involve more than one crime; in the case of multiple offences, all offences are registered but only the most serious is considered a drug crime. However, in the case of multiple sanctions, the final penalty recorded here is the most serious penalty.

Due to a change in the Code of Criminal Procedure that was effective from September 2007, supported by jurisprudence of the Supreme Court in 2008, offenders who possessed slightly more than the defined 10 daily doses will now still be prosecuted in court for a criminal consumption offence, rather than being transferred back to the CDTs for administrative process, as was the case for the six years previously.

## Romania

In 2007, the Romanian prosecutor's offices settled 2 960 penal cases on drug and precursor law offences. Of these, 12 % were referred to the court, 53 % were settled by a decision not to pursue the prosecution or to suspend the prosecution, and for 36 % it was decided to suspend the penal investigation in line with Art. 18<sup>1</sup> of the Penal Code ('the offender does not represent a social threat').

According to the Superior Council of Magistracy, in 2007 the courts sentenced 521 people (503 adults and 18 minors) for committing drug and precursor law offences. Some 468 (including 14 minors) were involved in drug trafficking, and 53 (including four minors) were users. In total 514 offenders received prison sentences, and seven (of whom one was a minor) were fined. Of those sentenced, 63 % were sentenced to immediate imprisonment, while 17% received a suspended sentence on parole and 19% received a suspended sentence on probation (the latter implying conditions such as drug-testing, treatment, job-seeking). In terms of recidivism, 86 were repeat offenders (83 for trafficking offences, three for personal use).

No information was given on the counting methods, the possibility of discretion at the police stage, or any treatment options, other than that the latter might be included in some probation orders.

## Slovakia

In Slovakia, data on sentencing and other outcomes are available at the police, prosecutor and court stages, from the Ministry of Interior, General Prosecutors' Office yearbook, and Ministry of Justice respectively. As the law changed during 2007, data submitted included charges under the old sections of the Criminal Code as well as under the new sections; here, for clarity, we will only address sentences for the new sections, thus excluding 0.1 % of the police penalties, 15 % of the prosecutor penalties and 19 % of the court penalties recorded in 2007.

Regarding the penalties recorded for personal possession offences (s171 of the Criminal Code) in 2007, out of 805 outcomes recorded at the police stage, 69 % were proposed for indictment, 20 % were recommended for conditionally suspending proceedings and 4 % were adjourned (no grounds for



prosecution). Of the 1 088 penalties recorded at the prosecutors' offices, 44 % were indictments, 35 % were conditionally suspended, 11 % were for an agreement on guilt and punishment, and 11 % received another conclusion. The courts gave 414 penalties for personal possession offences, of which 64 % were suspended imprisonment, 20 % were for a fine, and 12 % were for immediate imprisonment; 3 % were waived.

Regarding the 311 outcomes recorded for drug trafficking offences (under s172), the police proposed indictment for 70 % and reached an agreement on guilt and punishment for 25 %. Of the 452 outcomes recorded by prosecutors, 47 % were indictment and 44 % were for an agreement on guilt and punishment; 8 % reached another conclusion. In the courts, 209 penalties were given for these offences, of which 65 % were for suspended imprisonment and 35 % for immediate imprisonment.

No information is available for the size of these sentences (fines or prison sentences). However, the specific drug type is now recorded for those offences under the new Criminal Code — though as this is a pilot statistic, the numbers should not be compared with the numbers above. Of 654 convictions, cannabis products accounted for the majority (59 %), and other significant drugs were heroin (17 %), pervitin (methamphetamine) (12 %), and other amphetamines (5 %).

## Finland

While statistics from the police, prosecutors and courts are kept in different systems and are not directly comparable; nevertheless, data on outcomes were presented as derived from figures published by Statistics Finland. These described the sanctions for each offence that was recorded as the principal offence.

The use of drugs and the possession of a minor amount for private use is considered and punished as unlawful use of narcotics under Chapter 50:2a of the Penal Code. For minor offences, the police may waive pre-trial investigation and issue a caution to the offender, but this happens in only a small percentage of all narcotic offences. In practice, the sanction is nearly always a fine; 89 % of sanctions for this offence in 2006 were police fines imposed in summary penal proceedings, and a further 8 % were court fines. The average fine imposed in summary penal proceedings in 2006 was 15 day-fines (a fine based on the offender's income), while that imposed by district courts was 20 day-fines. Imprisonment, while possible, is only likely if the drug user is unable to pay the fine imposed, whence the unpaid fine can be converted to imprisonment in a separate trial.

A prosecutor may waive a prosecution, and courts may waive punishment, if the offender seeks treatment, but this occurs very rarely.

A narcotics offence, under Chapter 50:1 of the Penal Code, may be for small-scale personal use offences up to large-scale trafficking. The most common sentence for a narcotics offence is a fine; 60 % of sanctions for this offence in 2006 were court fines, which averaged 36 day-fines. The second most common sanction is imprisonment, split fairly evenly between suspended and immediate imprisonment (16 % and 15 %). The average length of both suspended and immediate imprisonment in 2006 was four months. About a quarter of the sentences of immediate imprisonment (4 % of the total) were converted into community service, while a waiver of punishment occurred in a few dozen cases.

An offence is classed as an aggravated narcotics offence when it reaches threshold quantities for different drugs established by judicial practice, generally in the region of 100–200 doses. In 2006, some 68 % of sanctions for this offence were for immediate imprisonment, the average length of which was 38 months; 23 % of sanctions were for suspended imprisonment, with an average length of 15 months; and 9 % of sanctions for aggravated narcotics offences were waivers of prosecution when the offender has already been sentenced to a considerable term of imprisonment for another offence.

## Sweden

In Sweden, drug possession and consumption offences are classified in the main law as petty, standard or aggravated. There is no clear distinction between personal possession and trafficking offences, though guidelines suggest that no offence with evidence of trafficking could ever be prosecuted as a petty offence. No information was given as to quantity guidelines which might help distinguish between petty and standard offences. Data on the majority of sentences for drug offences are kept by the National Council on Crime Prevention, though there is no information on confiscation and informal warning, caution, charge, pay costs, driving license suspension or detailed information on treatment options.

Resolution decisions, describing offences cleared up by the police, also include decisions not to prosecute, but the prosecution that is started and then suspended due to the offender voluntarily starting treatment is not recorded in any special way other than by a resolution decision; one cannot identify the reason for suspending the prosecution. Non-resolution decisions may be recorded if the investigation cannot be continued due to a lack of leads, or if the investigation does not produce any results. Decisions not to prosecute due to the suspect being a minor or due to the action not being an offence are not included in the figure of people suspected of offences.

The statistics of those people found guilty include sentences in courts of first instance, summary fines imposed by a prosecutor, waivers of prosecution and on-the-spot fines (often presented separately). Attempts, preparation, conspiracy and participation in a crime are counted as consummated crimes. The statistics are presented by principal offence (which contains the maximum penalty) and principal sanction (the most severe). The treatment orders for alcohol and drugs are not recorded separately.

In 2007, a total of 15 179 sentences were recorded for crimes against the Narcotic Drugs Punishments Act, including all court sentences, prosecutor fines and waivers of prosecution. Of these, 76 % were for petty offences, 22 % were for standard offences and 2 % were for aggravated offences.

With regard to the petty offences, 67 % received fines from the prosecutor or the court, while 29 % received waivers of prosecution; only 50 out of the over 11 000 individuals received immediate prison sentences. Of those guilty of a standard drug offence, 26 % received a waiver of prosecution, 39 % received immediate prison sentences and a further 21 % were given probation, with a suspended sentence handed down to only 5 % of individuals. Community service in combination with probation or suspended sentence was given to 6 %, while for 4 % probation was to be combined with an order for treatment. For the aggravated offences, 97 % of the 314 sentences were for immediate imprisonment; of the remainder, five sentences included a treatment combined with probation and one was for psychiatric care.

In total, 1670 prison sentences were given for drugs offences, with an average of 16 months and including 149 sentences being for longer than four years. No life sentences were given.

No information was available on the drugs involved.

## United Kingdom

In the United Kingdom, the data collection and recording systems, as well as the outcomes of police, prosecutor and court decisions, differ according to the three different jurisdictions and systems of England and Wales, Scotland, and Northern Ireland. In England and Wales, and Northern Ireland, cautions are issued by police forces, based on the most serious offence if necessary, while no outcomes are effectively possible at the prosecution stage for the purposes of this report. In Scotland, police and prosecutor outcomes are recorded, and data on disposals and reasons for no further action are published on an aggregated level for all offences. In all three jurisdictions, court data reports are usually extracted on the principal (most serious) offence basis and use the offender as the statistical unit; however, as court data

are recorded by the police service in Northern Ireland, coverage is restricted to those proceedings where the police are involved.

In England and Wales, police can issue cannabis warnings, and in Northern Ireland they can issue informed warnings. In Scotland, the Procurator Fiscal has a range of measures including warning, fine, treatment or work in the community. Courts in all jurisdictions have the usual options of prison (immediate or suspended), fine, and community sentences — these latter may include various requirements, including attending treatment (with the consent of the offender).

In England and Wales, the latest year of complete data is 2006, presented on a principal offence basis — the sentence shown is the most severe sentence or order given; data on secondary sentences are not included.

In 2006 there were 62 561 people sentenced or cautioned for drug possession offences: Just over half of these were for cannabis (52 %). Cocaine powder possession offences (15 %) and heroin possession offences (9 %) were the next most common. On top of this, 80 500 cannabis warnings were issued. Therefore, 71 % of all recorded cannabis possession offences were dealt with by issuing a cannabis warning, and a further 18 % received a police caution.

The most common disposal for drug possession offences handed down by a court was a fine (45 % of court actions), followed by a community sentence (24 % of court actions) and no further action or discharge (23 % of court actions). When including cannabis warnings and police cautions, the fines account for 9 % of all recorded disposals for drug possession offences, while warnings and cautions account for 80 % of all disposals. Regarding 'problem' drugs, 7 % of heroin possession offences, and 6 % of crack cocaine possession offences received immediate custody, compared to 1 % of all drug possession offences. Heroin and crack possession offences were also more likely to receive a community sentence, 22 % and 20 % respectively (compared to 5 % of all drug offences), and, conversely, less likely to receive a police caution.

Regarding custodial sentences, the average sentence length in 2006 for possession was about three months for cannabis, five months for cocaine (crack or powder), seven months for ecstasy and 10 months for heroin.

Data for Scotland do not include out-of-court disposals, as described for the Procurator Fiscal above. At court in 2006/07 there were 7 001 offenders found guilty of drug possession offences. Of these, 75 % received a fine, 3 % received a community sentence, and 4 % were sentenced to immediate custody. Where a drug was recorded, cannabis and heroin were the most common, 19 % for each drug. However, in 38 % of reports, no drug type was recorded. No information was available for average sentence length.

Data for Northern Ireland are available by class of drug only. In 2006, a total of 1 354 offenders were either cautioned or found guilty at court of drug possession offences, the majority (81 %) for Class C offences. Some 58 % of all drug possession offenders were dealt with by a caution in 2006. Only 1 % of offenders were sentenced to immediate custody. Penalties were proportionately harsher for drugs in higher drug classes, with only 27 % of Class A offences given a caution compared to 65 % of Class C offences. Class A offenders were six times more likely to receive an immediate custodial sentence than Class C offenders. Average custodial sentence lengths for possession offences in 2006 were seven months for Class A, two months for Class B and three months for Class C.

In England and Wales in 2006 there were 12 764 offenders cautioned or sentenced at court for drug trafficking offences. The most common substance involved in a trafficking offence was cannabis, for 35 % of offenders, followed by heroin for 18 % of offenders. The most common disposal for drug trafficking offences was immediate custody (43 %), followed by a caution (20 %) and community sentence (18 %). Only 4 % of all drug trafficking offences received a fine as the main sentence, usually for cannabis.

Cannabis and the few LSD offences were the only trafficking offences where immediate custody was not the most common disposal; these were most frequently disposed of with cautions. There was little difference between cocaine powder, crack cocaine and heroin trafficking sentence types, all receiving immediate custody in about 70 % of cases.

Average custodial sentence lengths in 2006 for trafficking in England and Wales were approximately 15 months for cannabis, 29 months for ecstasy, 36 and 38 months for crack and powder cocaine respectively, and 37 months for heroin. Seven people were sentenced to a minimum of seven years for a third trafficking offence of a Class A substance (though which Class A substance is not recorded).

These trafficking offences do not include the offenders sentenced in 2006 for unlawful importation or exportation of drugs, as they can only be broken down by drug class, not by individual drug type. There were 856 offenders sentenced at court or cautioned for importation of drugs, of whom 92 % received immediate custody. Some 55 offenders were sentenced for exportation of drugs; 53 % received immediate custody and 44 % received a caution.

In Scotland in 2006/07 there were 1 813 people found guilty of drug trafficking offences at court. Of these, 27 % were for heroin offences, 22 % were for cannabis offences and 7 % were for cocaine powder offences. In terms of sentencing, 48 % were given immediate custody, with a further 19 % given a community sentence and 16 % receiving a fine. As the individual drug is not known in one-third of the trafficking cases, it is difficult to comment on the use of available disposals by individual drug, and no information is available on sentencing sizes.

In 2006 in Northern Ireland there were 178 offenders cautioned or found guilty at court of drug trafficking. Of these, 54 % were guilty of a Class C drug offence, 28 % of a Class A offence and 17 % of a Class B offence. Some 45 % of all offenders were sentenced to immediate custody in 2006. Custodial sentences were given to 61 % of those convicted of Class A offences, 73 % of those convicted of Class B offences, and 29 % of those convicted of a Class C offence. The use of cautions increased as the severity of the offence decreased, and fines were used almost exclusively for Class C offences. Regarding sentencing sizes, the average sentence in 2006 for trafficking offences was 31 months for Class A, 26 months for Class B and 22 months for Class C.

## Croatia

In Croatia, Article 20 of the Disturbance of the Public Peace Act penalises the use of drugs in public with a fine (addicts will be sentenced to obligatory addiction treatment). According to the Law on Combating Narcotic Drugs Abuse, it is an offence to cross the country's border while carrying medications containing narcotic drugs obtained without a doctor's prescription; offenders will be fined. No figures for these two misdemeanours were reported.

Details of sentences for felonies are kept by the General Attorney's Office and the Ministry of Justice. In terms of crimes, in 2007, there were 2 813 people convicted for narcotic drug possession: 145 were immediately imprisoned, 1 513 people received a suspended sentence, 969 people were fined, 149 people received a court citation, while 37 younger adults (18 to 21 years of age) received juvenile educational measures according to the Juvenile Court Act. Obligatory addiction treatment accompanied sanctions for 76 adults. Charges were withdrawn by the General Attorney from 448 offenders due to their entering addiction treatment, and charges were withdrawn from 1 951 people due to the lack of reasonable doubt in committing a felony. Eight people had the investigation terminated due to insufficient evidence.

In the same year, 819 people were convicted for the basic form of narcotic drug sale and production. Of those convicted, 89 % received an immediate prison sentence and 3 % received a suspended sentence. The 7 % who were younger adults (aged 18 to 21) received sentences of juvenile educational measures,

according to the Juvenile Court Act. Some 25 % of those convicted were sentenced to obligatory addiction treatment together with another sanction. Criminal charges were withdrawn from 23 people due to the lack of reasonable doubt in committing a felony, while the investigation was terminated for 94 people due to insufficient evidence.

Finally, in that year, 46 people were convicted for the organized form of narcotic drug sale and production; 45 of these (98 %) received sentences of immediate imprisonment, while one was given a suspended sentence; seven received obligatory addiction treatment measures together with a sanction. Meanwhile, four saw their investigation terminated due to a lack of evidence.

## Turkey

No information was given for the actual sentences handed out to those convicted of drug offences in Turkey, but in contrast to most other countries, detailed information was available regarding those prosecutions or convictions suspended due to treatment. A total of 13 720 treatment and probation measures were decreed by courts in 2007 with regard to individuals using narcotic or stimulant drugs. In the same year, 1 164 suspects and convicts successfully completed their treatment, which was followed by a minimum one year's probation and counselling. Aside from these, courts decreed 2 227 probation measures that had no treatment programme, with regard to individuals using narcotic or stimulant drugs, and 231 offenders successfully completed their minimum one-year probations.

## Norway

Use or personal possession cases are charged under the Medicines Act if involving smaller amounts, for example up to two user doses of heroin, amphetamine and cocaine or 15 grams of cannabis (following detailed amounts established in a circular from the Director General of Public Prosecutions), having a maximum penalty of two years' imprisonment. Any evidence of trafficking, or possession of larger amounts, would be charged as a drug crime under the Penal Code; and possession of particularly large amounts (again specifically defined in the above circular, but generally being more than as more than 15 grams of heroin, 50 grams of cocaine or amphetamine or one kilo of cannabis) would be charged as an aggravated drug crime under the Penal Code.

In cases that involve drug crimes, it can be set as a condition for both a waiver of prosecution and a suspended sentence that the offender in question refrains from using narcotic substances, or undergoes treatment to combat the use of such substances in an institution if necessary, though the latter condition is rarely used.

According to Statistics Norway, in 2007 14 194 sanctions were imposed where a drug offence was the primary offence. The following details relate to the principal sanctions. Of the 3 937 sanctions handed down for use of drugs, 89 % were a writ with the option of a fine (a fine by prosecutors rather than court), as were 95 % of the 2 643 sanctions for personal possession. Some 4 % of users received an immediate prison sentence. In total, 6 960 sanctions were given for drug crimes, including 64 % writ with the option of a fine, 17 % suspended prison, 12 % immediate prison, and 5 % community sentences. For aggravated drug crimes, 648 sentences were given, of which 87 % were immediate prison sentences, 3 % were suspended prison sentences, and 10 % were community sentences. No details were reported as to the size of the sentences.

In 2007 in Norway, 42 059 days were served in institutions for treatment or care by 457 people, under a provision for alternative serving of unconditional prison sentences. In the same year, in a trial scheme for a drug programme under court control in Oslo and Bergen, 56 assessments were carried out, of which 28 were found to be suitable for the programme.