

**Framework and
instruments of the
European Union
in the field of drugs**

A great deal of additional information on the European Union is available on the Internet. It can be accessed through the Europa server (<http://europa.eu.int>).

Cataloguing data can be found at the end of this publication.

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Introduction

The European institutions pay great attention to the problems of drugs. In this they reflect the general concern expressed at all levels, from the general public to specialised international organisations. To supply effective solutions to this scourge, the institutions have opted for a comprehensive multidisciplinary approach tackling the question from every angle: demand reduction, supply reduction, repression of illicit trafficking and international action. This strategy obviously integrates at various complementary levels: within the framework of Community powers (public health, precursor control, money laundering, development aid for non-member countries), within the framework of close cooperation between Member States (foreign policy, justice and home affairs), or within the framework of partnership with numerous international organisations.

I. The legal framework

A. The European sources

The 1957 Treaty of Rome (as amended by the Single European Act) already made it possible to tackle the question of drugs within the framework of Community powers. Certain articles of the Treaty provided the EC (then, the EEC) with a legal basis for action in the context of, for example, public health protection (Article 152), the common commercial policy as regards chemical precursors (Article 133) and development cooperation (Article 179).

But the Union's commitment to closer, structured cooperation in combating drug abuse found its expression in the Treaty on European Union, the entry into force of which created new significant opportunities for the implementation of effective overall strategies. The Union Treaty was the first instrument allowing the drugs problem to be addressed in an overall fashion at European level. The point is no longer to implement specific projects concerning specific policies (public health, commercial policy, development aid) but to approach the phenomenon in a much broader and more comprehensive way, in particular under the common foreign and security policy and by way of cooperation in justice and home affairs. Here we see the beginning of institutionalised cooperation in the fight against drugs — the Maastricht Treaty introduced complementarity between Community and intergovernmental projects in the Union context. The legal framework of the Union Treaty gave the Cannes European Council a basis for adopting the European Union action plan for the control of drug abuse for 1995–99. The 2000–04 drug action plan was adopted by the Feira European Council in June 2000.

Today, the provisions implemented by the Maastricht Treaty represent an undeniable asset which the new Treaty of Amsterdam (outlined below) seeks to extend and deepen. The Amsterdam Treaty amends certain aspects of the Union Treaty to redistribute powers to pursue new objectives. Establishment of the area of freedom, safety and justice enjoys extremely high priority in the Union. It remains to be seen what fields will be brought within Community jurisdiction and what fields will be confined to intergovernmental cooperation. The interest of the Treaty of Amsterdam, in its approach to drugs, is that it seeks to reconcile an integrated and coordinated approach for the attainment of objectives which primarily affect sovereignty and the domain reserved for action by States.

Regarding the protection and improvement of public health, Article 152 of the EC Treaty, as amended at Amsterdam, stipulates that 'The Community shall complement the Member States' action in reducing drugs-related health damage, including information and prevention.' The subsidiarity principle is fully applicable and there is no scope for harmonising the Member States' health policies. But the new Treaty generally strengthens the possibilities for Community projects in the field by adding improvement to the public health prevention aspect. That opens up the possibility of Community action under the risk reduction approach.

The Treaty of Amsterdam and drugs

	First pillar	Second pillar	Third pillar
Fields covered	Public health, commercial cooperation Drug addiction, precursor trade and money laundering Development cooperation Aid for the developing country General information on drugs EMCDDA	Common foreign and security policy	Area of freedom, security and justice
Priority objectives	— Prevent drug addiction and reduce the harmful effects of drugs on health — Include the prevention of the use of drugs in the priorities of development aid — Monitor the situation and policies as regards drugs and trade in legal drugs		Judicial, police and customs cooperation to fight drug trafficking
Legal basis	EC Treaty Article 95 and Article 14 Article 133 Article 152 Article 179	EU Treaty Title V	EU Treaty Title VI, Articles 29 and 30
Instruments	Regulation Decision Directives Recommendations Declarations Conclusions Resolutions	Common positions Joint actions	Common positions Framework decisions Decisions Conventions Resolutions Declarations Recommendations
Initiative	Commission	Member States Commission	Member States Commission
Decision-making	Qualified majority Qualified majority and co-decision	Unanimity unless decided otherwise	Unanimity unless decided otherwise

B. The international sources

These sources are of two very different legal natures. First, there are those based on mandatory United Nations instruments. These include the Single Convention on Narcotics, 1961, as amended by the 1972 protocol, the Vienna Convention on Psychotropic Substances, 1971, and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. These three instruments impose numerous obligations on States, within the limits provided for by law, including the control of lawful drug-related activities, criminalisation of the various phases of trafficking and criminalisation of money laundering. The United Nations has also encouraged the approval of multilateral measures that were not convention-based — and legally not mandatory — which have had the merit of reminding the Member States of the obligations they have accepted and setting new priorities for action (measures to be taken to combat the effects of money generated by illicit drug trafficking, strengthening of judicial and legal cooperation, etc.) as the drugs phenomenon has intensified.

The 1987 Vienna Conference saw the signing of the comprehensive multi-disciplinary outline of future activities (CMO), and in 1990 the UN General Assembly adopted the world action programme, along with a policy statement by the Member States that they intended to sustain their efforts to prevent drug abuse and combat illicit trafficking and its side effects.

II. The institutional framework

Coordination both at Union level and at international level is an essential component of the policy of combating drug abuse. In addition, under successive Treaties, the Community institutions have seen their powers developing as drugs problems have taken on new dimensions. All this interinstitutional activity, both international and Community, is what we propose to describe here, though of course the Commission's role will be highlighted.

A. The distribution of powers in the Union institutional set-up

(a) General

In institutional terms, it was in the 1990s that the EU truly manifested its wish to get involved in drugs problems, including prevention, projects to reduce illicit trafficking and international development cooperation. In addition to the three traditional institutions – Council, Commission, Parliament – which have powers to address this question, new bodies were set up to respond to specific needs. They are the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and Europol. And it should not be forgotten that beside the Union, the Council of Europe has also been concerned with these issues, particularly drug abuse. The **Pompidou Group**, set up informally in 1971 and institutionalised in the Council of Europe from 1980 onwards, was the first basis for European cooperation. The Commission is a member of its group of permanent correspondents.

The **Dublin Group**, as an informal framework for coordinating international assistance in drug abuse control, is another body within which the Commission is active. It takes part in meetings of the Group, which are held in Brussels every six months. The Dublin Group, set up in 1990 on the initiative of the United States, regularly reviews the main developments in production, consumption and trafficking in the various producing and transit regions. It is structured as a set of regional formations known as 'Dublin mini-groups'. Its members, alongside the 15 Member States and the Commission, are Canada, the United States, Japan, Australia and Norway. The UNDCP attends the Dublin Group as an observer.

(b) Commission

Numerous Commission directorates-general have to deal with the problems of drugs (justice and home affairs, health and consumer protection, external relations, development, the EuropaAid Cooperation Office, enlargement, internal market, enterprise, taxation and customs union, OLAF, employment and social affairs, energy and transport, research, education and culture, Eurostat). To coordinate their activities, a drugs coordination unit has been set up in the Directorate-General for Justice

and Home Affairs. This unit is supported by the **interdepartmental working party on drugs**, involving representatives of the various directorates-general affected by the drugs phenomenon.

The jurisdiction of the various directorates-general as regards drug abuse control is outlined below.

Justice and home affairs

Under Title VI of the Union Treaty, cooperation between police and judicial authorities is an essential element in preventing and combating drug trafficking. The Directorate-General for Justice and Home Affairs accordingly operates the Falcone, OISIN and Grotius programmes on the fight against organised crime, police and customs cooperation and judicial cooperation respectively. Beside its purely third-pillar activities, the Directorate-General for Justice and Home Affairs houses the drug coordination unit.

Health

One of the functions of Directorate G of the Directorate-General for Health and Consumer Protection is to support the action taken by the Member States to reduce the harmful effects of drugs on health (Article 152(1)). It is responsible for implementing the drug addiction prevention programme soon to be incorporated in the public health programme. This programme aims to contribute to the fight against drug addiction by, in particular, encouraging cooperation between Member States, supporting their action and promoting the coordination of their policies and programmes with a view to preventing the addiction associated with the use of narcotics and psychotropic substances, and the related use of other products.

The family of external relations directorates-general

Directorates-General for External Relations, for Development and for Enlargement are responsible for the external relations aspects of drugs policy.

In this context, Directorates-General for External Relations and for Development are responsible for programming Community aid for third countries not applying for membership. The EuropAid Cooperation Office is responsible for identifying, implementing and evaluating these Community programmes.

The Directorate-General for Enlargement is in charge of relations with the applicant countries and consequently has responsibility for evaluating implementation of the *acquis communautaire* by the applicant countries and the management of technical assistance programmes for these countries.

The European Commission Delegation to the United Nations in Vienna devotes much of its activity to providing information and analyses and facilitating contacts between Commission departments and the main Vienna-based authorities with powers in matters of drugs (UNDCP, INCB, Commission on Narcotic Drugs).

The external aspects of European drugs policy are coordinated by an Inter-Relex coordinator, who chairs the monthly meetings of an inter-departmental coordination group.

Drug abuse control is a topic included in all cooperation agreements with third countries. In addition, various regional areas have been identified as priorities for cooperation on drugs control — the Caribbean and Latin America, central Asia, southern Africa and west Africa. One of the aims of the regional agreements is to boost intra-territorial cooperation between the various relevant national agencies on drugs control by supporting development and setting up national outline plans based on identified needs and a political commitment by the relevant regions and countries.

Enterprise

The Directorate-General for Enterprise has specific responsibility for the implementation by the Community of Council Directive 92/109/EEC on precursor control. This internal market directive adopted under Article 95 of the EEC Treaty complements Regulation (EEC) No 3677/90 concerning the control of international trade in precursors. Measures to control new precursors (not in the annexes to the 1992 directive but used in the production of synthetic drugs) are being studied by the Commission.

Taxation and customs union

The Directorate-General for Taxation and the Customs Union is responsible for controls in international trade in precursors under Council Regulation EEC No 3677/90. It is also responsible for implementation of the international precursor control agreements concluded by the Community with eight countries of the Organisation of American States (Bolivia, Colombia, Ecuador, Peru, Venezuela — 1995; Mexico, United States — 1997; Chile — 1998).

OLAF

The European Anti-Fraud Office (OLAF) exercises all the powers conferred on the Commission by Community legislation and agreements with third countries to conduct investigations to reinforce the fight against fraud, corruption and any other illegal activity to the detriment of the Union's financial interests.

Employment and social affairs

The Directorate-General for Employment and Social Affairs, acting under its EQUAL programme of measures to combat discrimination and inequalities in employment, supports projects to rehabilitate drug addicts.

Internal market

The Directorate-General for the Internal Market is in particular responsible for the questions concerning money laundering. A report on integration into the national legislation of the principles of Council Directive 91/308/EEC on money laundering is written at least every three years. And in these times of new technologies, web-based financial and commercial transactions and the resultant questions of security of dealings and data flows (encryption), it is necessary to strike a balance between security, confidentiality and maintenance of law and order. Directorate E

(Free Movement of Information, Intellectual Property, Media and Data Protection) deals with these questions.

Education and culture

The Directorate-General for Education and Culture is responsible for the fight against doping. On 16 November 1999 the Commission issued a communication on a Community support plan to combat doping in sport, designed to present projects carried out or planned by the Commission to meet requests formulated by other institutions regarding the fight against doping. In addition, by means of its education, training and youth programmes and activities (in particular Socrates, Leonardo da Vinci and Youth), the Directorate-General for Education and Culture has financed a number of drug-related projects focusing on access to employment for young handicapped people or on social rehabilitation and the training of young people leaving the prison system, or on the fight against drug addiction as an educational topic.

Research

The Directorate-General for Research aims to strengthen the scientific and technological bases of the Community industry, to encourage the development of its international competitiveness and to promote research projects considered necessary to support the development of Community policies. Under the fifth framework programme (1998–2002), two specific budget headings are available for drug-abuse control. They concern the 'quality of life' and 'competitive and sustainable growth' programmes.

Transport

The Directorate-General for Energy and Transport is responsible in particular for the problems associated with the use of vehicles under the influence of narcotics. In 1997 the Commission adopted the second action plan on road safety for the period 1997–2001, with specific priority placed on the development of roadside checks.

Eurostat

The Statistical Office of the European Communities is also concerned with drugs in the context of its general remit, which is to provide the European Union with statistics of high quality. Cooperation between the EMCDDA and Eurostat (with the aid of the Member States) concerns two main fields: first, the collection of statistics on the causes of drug-related deaths, and second, the gathering of health data on drug abuse.

(c) Council

Two Council working groups deal specifically with drug questions. The purpose of the **horizontal working group on drugs**, set up in 1997, is to assure multidisciplinary cross-pillar coordination of Council activities related to drug-abuse control. Its remit was extended in 1999 to the coordination of cooperation with third countries as regards drug abuse control. The **illicit trafficking working group**, set up in 1999, deals with police cooperation in the fight against drug trafficking under the third pillar. Several other working groups are involved where necessary in drug-related activities. For

instance, there is the **multidisciplinary group** in charge of the fight against organised crime, the **working group on public health**, responsible for implementation of the drug-addiction prevention programme, the **working group on economic questions**, which discusses questions connected with chemical precursor control, the **generalised system of preferences (GSP) working group**, which is in charge of implementation of the system of preferences connected with alternative development aids, and the **customs cooperation working group**, the **police cooperation working group**, the **working group on mutual assistance in criminal matters**, the **telecommunications working group** and the **working group on financial services — money laundering**.

(d) Parliament

Drug-related questions are within the remit of several Parliamentary committees. They include the committee on citizens' freedoms and rights, justice and home affairs, the committee on culture, youth, education, the media and sport, the committee on the environment, public health and consumer policy, the committee on employment and social affairs, the committee on foreign affairs, human rights, common security and defence policy, the committee on development and cooperation, the committee on agriculture and rural development, the committee on economic and monetary affairs and the committee on industry, external trade, research and energy.

(e) European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)

The European Monitoring Centre for Drugs and Drug Addiction, set up by Council Regulation (EEC) No 302/93 of 8 February 1993, is a Community agency, i.e. a European public-law entity with legal personality, not provided for by the Treaties but created by an instrument of secondary legislation to fulfil a specific task defined there.

The role of the EMCDDA is to provide the Community and its Member States with information that is objective, reliable and comparable at European level on the phenomena of drugs and drug addiction and their consequences. It operates on the basis of the European network of information on drugs and drug addiction (Reitox), which consists of a focal point for each Member State and one for the Commission.

Norway has been a member of the EMCDDA since 1 January 2001, and the Commission has a negotiating brief to associate the applicant countries in its work. In addition, the EMCDDA has organised partnerships with various international organisations, in particular the Pompidou Group, UNDCP, WHO, IDAC, Interpol and Europol, by means of memoranda of understanding.

(f) Europol

Europol is an intergovernmental body which aims to improve police cooperation between Member States for the purposes of combating terrorism, illicit drug trafficking and other serious forms of international crime. Within this framework its function is to facilitate the exchange of information between Member States, gather and analyse information and

data, communicate to the relevant services of the Member States the information concerning them and notify them immediately of links ascertained between criminal acts, facilitate investigations in the Member States and manage computerised databases.

B. The European Union's partners

The European Union has many partners of different kinds. Some belong to the United Nations family (the Commission on Narcotic Drugs (CND), the International Narcotics Control Board (INCB) and the Office for Drug Control and Crime Prevention (ODCCP)). Others have the status of specialised international organisation (World Health Organisation (WHO), Interpol, World Customs Organisation (WCO)) or have a structure which is not formally institutionalised as such (Financial Action Task Force on Money Laundering (FATF)). Finally, there are regional organisations such as the Inter-American Drug Abuse Commission (IDAC).

(a) Commission on Narcotic Drugs

Set up in 1946, this is one of the six technical subcommittees of the Economic and Social Council of the United Nations and consists of representatives of 53 Member States. As specified in its statutes, it is the central policy-making body within the United Nations system for dealing with all drug-related matters. It assists the Economic and Social Committee in supervising the application of the international conventions and agreements dealing with narcotic drugs and psychotropic substances, considers the changes that may be required in the existing machinery for the international control of drugs and drafts new international conventions and instruments. It can also take decisions, on the recommendation of the World Health Organisation (WHO), on the substances that should be brought under international control.

(b) International Narcotics Control Board (INCB)

Since the 1961 Single Convention on Narcotic Drugs, international legislation has been strengthened by the 1971 Convention on Psychotropic Substances and the 1988 Convention against Illicit Traffic in these substances, which impose numerous obligations on States. Among other things, they are required to reserve the use of drugs for medical and scientific purposes and to refer to a criminal court all activities connected with illicit trafficking. Accordingly, it is the responsibility of the International Narcotics Control Board (INCB) 'to promote government compliance with the provisions of the drug control treaties. The Board's tasks are laid down in the Treaties. Broadly speaking the Board deals with two aspects of drug control: With regard to licit manufacture, commerce and sale of drugs, the Board endeavours to ensure that adequate supplies are available for medical and scientific uses (prevention of diversion) [...] With respect to illicit manufacture and trafficking of drugs, the Board identifies where weaknesses exist in the national and international control systems and contributes to correcting the situation'.

The Board consists of 13 members of recognised independence and impartiality. They do not exercise their functions as representatives of their country of origin. Three of them are elected directly by WHO from

a list of 10 people proposed by the Member States of the UN or Parties to the 1961 convention. The Board can be seen as exercising quasi-judicial functions, since the conventions require it to supervise compliance with the conventions, assess the performance of States and undertake such procedures as may be necessary to secure compliance. But requests for explanations, injunctions and recommendations for embargoes have never been used.

(c) Office for Drug Control and Crime Prevention (ODCCP)

In 1997 the United Nations, noting that it was difficult to dissociate illicit trafficking in drugs from organised crime, decided to combine the United Nations Drug Control Programme (UNDCP) and the Commission on Crime Prevention within the same structure (the ODCCP).

The UNDCP was set up in 1991 under United Nations General Assembly Resolution 45/179 to replace the Fund for the United Nations International Drug Control Programme. Its main task is to orient and coordinate all the UN's drug control activities (information, legal assistance, technical assistance and international cooperation). The Commission for Crime Prevention deals with criminal matters in the broadest sense: international drug trafficking, but also corruption, crimes against minors, international prostitution networks, etc.

(d) World Health Organisation (WHO)

The WHO's major objective is to contribute to attaining the highest possible level of health for all. With regard more specifically to WHO drug-related activities, it must be stressed that this is the only organisation having the authority to determine what substances must be placed under international control so that they can be used only for medical and scientific purposes. The WHO is therefore actively involved in the classification of substances in the tables provided for by the conventions, since it must be able to evaluate 'the substance, including the likelihood of abuse, the degree of seriousness of the public health and social problems and the degree of usefulness of the substance in medical therapy'.

(e) International Criminal Police Organisation (ICPO) — Interpol

The ICPO-Interpol aims to ensure and develop the broadest mutual assistance of all the criminal police force authorities under the laws existing in the various countries and in the spirit of the Universal Declaration of Human Rights, and to establish and develop all the institutions able to contribute effectively to the prevention and repression of breaches of law. This organisation was created officially in 1923 and since then the questions concerning illicit trafficking in narcotic and psychotropic substances mobilise an important share of its activity and its manpower.

Accordingly, the Drugs Sub-Directorate acts as a clearing-house for the collection, collation, analysis and dissemination of drug-related information, coordinating requests for assistance from the National Central Bureaux (NCB) and helping the specialised State services by coordinating joint

operations. For several years the Sub-Directorate has also been developing specific programmes geared to extremely specific problems such as:

- the census of organisations of African traffickers;
- the collection of tactical and strategic information on road-based heroin trafficking from the Balkans;
- the programme on the marks and logos on cocaine packages.

(f) World Customs Organisation (WCO)

Known as the Customs Cooperation Council until 1994, the World Customs Organisation (WCO) today has 145 members. As its name indicates, it is an international organisation with powers to deal with all matters concerning customs cooperation between Member States. The statutes of the institution require States to tighten their technical assistance so as coordinate the action of the relevant customs services. The organisation is responsible, *inter alia*, for disseminating information on drug seizures and on the means used by traffickers to mask illicit transport. The WCO attends meetings of the Commission on Narcotic Drugs with observer status.

(g) Financial Action Task Force on Money Laundering (FATF)

Set up by the Paris G7 Summit in 1989, the FATF is defined as an 'inter-governmental body whose purpose is the development and promotion of strategies [...] to combat money laundering', meaning the process of concealing the illegal origin of the proceeds of crime. Consisting of 26 Member States and two organisations, it holds several meetings each year at which it '(1) monitors members' progress in implementing anti-money-laundering measures, thanks to a dual procedure of annual self-evaluation and more detailed mutual evaluation; (2) reviews money-laundering techniques and counter-measures; and (3) promotes the adoption and implementation of anti-money laundering measures globally.'

(h) Inter-American Drug Abuse Control Commission (IDAC)

On 17 November 1984 the General Assembly of the Organisation of American States decided to convene a regional conference relating to drugs-related problems in the American continent. This conference took place in Rio in April 1986, when the Inter-American Programme of Action against the illicit use and production of narcotic drugs and psychotropic substances and traffic therein was adopted. The next conference, which was held in Guatemala in November 1986, marked the formal establishment of the IDAC.

This Commission of 34 member States aims to promote and facilitate multilateral cooperation between member States in the control of drugs and the fight against illicit trafficking, production and use.

Annex: Acronyms

- CATF:** Chemical Action Task Force.
- CFSP:** common foreign and security policy.
- CIS:** customs information system.
- CMO:** comprehensive multidisciplinary outline of future activities (UN).
- CND:** Commission on Narcotic Drugs (UN family).
- DEA:** Drug Enforcement Administration (United States).
- EDF:** European Development Fund.
- EMCDDA:** European Monitoring Centre for Drugs and Drug Addiction.
- ERDF:** European Regional Development Fund.
- EU:** European Union.
- Europol:** European Police Office.
- FATF:** Financial Action Task Force on Money Laundering.
- FBI:** Federal Bureau of Investigation (United States).
- GHD:** horizontal working group on drugs (Council).
- GID:** interdepartmental working party on drugs (European Commission).
- GSP:** generalised system of preferences.
- Honlea:** Heads of National Drug Law Enforcement Agencies (subsidiary body of the Commission on Narcotic Drugs).
- ICPO/Interpol:** International Criminal Police Organisation.
- IDAC:** Inter-American Drug Abuse Control Commission.
- ILO:** International Labour Organisation.
- INCB:** International Narcotics Control Board (UN family).
- NDLEA:** National Drug Law Enforcement Administration (Nigeria).
- Honeycomb: National Institute on Drug Abuse (United States).
- OAS:** Organisation of American States.
- ODCCP:** Office for Drug Control and Crime Prevention (UN family).
- OECD:** Organisation for Economic Cooperation and Development.
- OFDT:** French Monitoring Centre for Drugs and Drug Addiction.
- OLAF:** European Anti-fraud Office.
- ONDCP:** White House Office of National Drug Control Policy (United States).
- Reitox:** European information network on drugs and drug addiction.
- SADC:** Southern Africa Development Cooperation.
- SIS:** Schengen information system.
- UNDCP:** United Nations International Drugs Control Programme.
- UNDP:** United Nations Development Programme.
- Ungass:** United Nations General Assembly Special Session on Drugs.

WCO: World Customs Organisation.

WHO: World Health Organisation.

WTO: World Trade Organisation.

European Commission

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