



Third Study Commission  
Criminal law and procedure

Meeting in Perugia (Italy), 8-12 September 1986

Conclusions

THE PENAL JUDGE AND DRUG ADDICTION REPRESSION AND/OR TREATMENT

The third Study Commission, on the basis of the general report established by the President Raymond Screvens, taking into consideration the reports of representatives of the judges' associations of Belgium, Austria, Brazil, Denmark, Scotland, Spain, Luxembourg, Finland, France, Ireland, Israel, Italy, Liechtenstein, Morocco, Norway, the Netherlands, Portugal, Federal Republic of Germany, United Kingdom, Sweden and Switzerland, as well as the verbal report of the delegate of Senegal, with the collaboration of the participants in the 33rd Course of the "International Centre of Judges 'Luigi Severini'",

Notes :

- 1) that concerning drug trafficking, even in the countries where the law is considered as adequate, the present penal systems are not sufficiently efficacious in tracking down the traffickers nor in combating trafficking;
- 2) that the present penal systems are ineffective concerning drug abuse and do not have a persuasive effect.

Adopts the following resolutions:

A) CONCERNING DRUG TRAFFICKING

Repression remains indispensable with regard to traffickers, and the sentences must be very harsh.

An active international collaboration is necessary both at police and judiciary levels in order to improve prosecution and its results. It is therefore necessary to reach, as soon as possible, not only the object of trafficking but also those involved in it and the resulting profits.

A harmonization of the national legislations and the establishment of adequate international agreements should therefore be desirable. This collaboration should also call for a more efficient fight against drugs suppliers on the part of developing countries, in order to allow, on one hand, the producing countries to confront directly the suppliers and on the other, to train better the operators to fight against drug traffickers.

The problems of procedure in the area of drug trafficking were raised in the report of the Danish delegation which was presented at the 15th Conference of the European Ministries of Justice, held at Oslo from 17 to 19 June 1986, on the "Penal aspects of drug abuse and the fight against drugs".

It deals with:

- the practices of infiltrated agents and non provocateurs;
- the problem of complete body search;
- the reversal of the burden of proof when a person is found with a small quantity of drugs when there is not enough evidence that he traffics in drugs.

## B) CONCERNING DRUG ABUSE

If often the penal measures are not justified in the case of drug consumers, the opinion that meets the widest consensus is for the inclusion of the drug addict: in the penal system, with the possibility of treatment, and without excluding the possibility of alternative measures .

Combating drug abuse should include general preventive measures, especially for juveniles, or at least a certain type of juvenile: lazy, in desperation or in revolt. An improved juvenile education and more complete information on the subject are also indispensable.

The treatment of drug addicts should consider social reintegration as imperative, bearing in mind, according to the views of the majority of participants, the dangers of treatment by drug replacement.

Health services and specialized institutions should be developed.

Due to the difference of the judicial systems, there was not full agreement as to the need to control the treatment of drug addicts. Although some are of the opinion that this control does not fall under the competence of the judiciary, the majority considers that it would be advisable and necessary that the competent judicial authority had the control of the addict and his treatment.

According to the majority, the favor, that the so-called "Light drugs" meet, should be abolished and its trade and use prohibited.

The serious problems related to alcoholism, especially in Europe, were not discussed but they should not be ignored.