



Pompidou Group statement on bringing human rights into drug policy development, implementation, monitoring and evaluation

Co-operation Group to Combat Drug Abuse
and illicit trafficking in Drugs
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INTRODUCTION

■ The Council of Europe is an international organisation with 47 member states. Its objective is to promote and protect human rights, democracy and the rule of law. The Council of Europe serves over 820 million people across Europe. **The Pompidou Group – or Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs – is the Council of Europe’s drug policy cooperation platform.** It is a Council of Europe enlarged partial agreement, open to voluntary membership of Council of Europe member states as well as other countries. It has 39 member states including three from outside Europe.¹

■ The Pompidou Group upholds the core values of the Council of Europe – **human rights, democracy and rule of law** – and promotes a **balanced approach to drug policy**, supporting both demand and supply reduction of illicit drugs. It offers a forum for open debate, exchange of experiences and, as a platform for science and evidence-based innovation, it links policy, research and practice.

■ In the Work Programme for 2015-2018 adopted at the 16th Ministerial Conference of the Pompidou Group, «Bringing Human Rights to the forefront of drug policy» is one of three main thematic priorities. As indicated in the Work Programme «Member States shall be supported in meeting their obligations under the Council of Europe and United Nations Conventions to protect fundamental rights and freedoms, in particular the right to life and human dignity, the right to protection of health, the right to equitable access to quality health care services for all, the prohibition of any type of discrimination as well as the right of children to be protected from narcotic drugs and psychoactive substances. Also, promoting gender equality will continue to be a transversal aspect to be observed in all Pompidou Group activities in a feasible manner in the context of the Council of Europe’s programme on gender equality”.

1. Austria, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Greece, Hungary, Iceland, Ireland, Israel, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Moldova, Monaco, Montenegro, Morocco, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovak Republic, Slovenia, Sweden, Switzerland, “the former Yugoslav Republic of Macedonia”, Turkey.

■ In its address to the United Nations General Assembly Special Session (UNGASS) on the world drug problem (New York, April 2016) the Pompidou Group noted that **all policy areas must comply with human rights**. This exigency applies equally to drug policy. Recent examples of how the Pompidou Group member states gave practical meaning to this requirement include the 2011 Policy paper on coherent policies for licit and illicit drugs, the 2013 Athens Declaration on protecting public health in drug policy under austerity budgets, the 2013 Policy paper on preventing risks and reducing harm and the 2016 Policy paper on government interaction with civil society.

■ This statement aims to promote protection of and respect for human rights and the dignity of all individuals in the context of drug programmes, strategies and policies.

■ ***At their 81st meeting on 21 and 22 November 2017 in Strasbourg, the Permanent Correspondents of the Pompidou Group, made the following statement on bringing human rights into drug policy development, implementation, monitoring and evaluation:***

■ States, as well as international and regional organisations, **should take full account of human rights when elaborating, implementing, monitoring and evaluating drug policies.**

■ There is a need to have processes in place for on-going assessment to ensure that human rights are and remain respected and safeguarded.

■ To pursue this objective, member states will:

- ▶ Promote the respect of the rule of law;
- ▶ Recall the constant and determined opposition to the death penalty, in all places and in all circumstances, and urge all States still applying this inhuman punishment to establish a moratorium for its definitive abolition;
- ▶ Condemn extrajudicial executions and all forms of arbitrary or extrajudicial arrest and detention, and the use of torture and other cruel, inhuman or degrading treatment or punishment in all circumstances;
- ▶ Adopt and implement comprehensive and balanced national drug policies in order to improve prevention, especially for juvenile audiences, and access to healthcare for drug dependent people, including those in detention;
- ▶ Contribute to reducing stigma and discrimination of drug users;
- ▶ Promote the mainstreaming of gender aspects in all areas of drug policy;
- ▶ Increase awareness of human rights instruments and the need to implement them.

■ Policy makers, policy implementers and policy evaluators must be aware and mindful of the human rights dimension that should inspire their choices and decisions. These processes should be underpinned by good governance arrangements, in accordance with international law.

■ Mechanisms in place should be capable of bringing to light not only evident human rights issues – such as the death penalty – but also offer an opportunity to redress more subtle consequences that are difficult to discern when focussing on bigger (e.g. societal) concerns.

■ It is not possible at present to give an authoritative and comprehensive view on the human rights dimension of drug policy in the absence of concrete guidance from the bodies entitled to interpret and construe international human rights law, including the European Court of Human Rights. Moreover, there is no simple or single answer and it is impracticable to carry out a one-off all-inclusive policy review. However, the difficulty does not exclude responsibility. Precaution is needed as regards measures that may affect the enjoyment of human rights, and the implications and consequences of the policy choices must be carefully assessed.

■ Within their respective roles, duties and responsibilities, under applicable international human rights instruments and drugs conventions, and also national laws and regulatory frameworks, **it is for each state and international organisation** to assess the intended and unintended effects of envisaged drug policy measures, taking into account potential impact on the enjoyment of human rights.

■ The Pompidou Group encourages member states to conduct a comprehensive human rights-based review in their country. The approach should take account of the circumstances and needs in each case, and a step-by-step or a **gradual approach** may be the only practical way forward, in line with the applicable policy cycle, and could serve to optimise results.

■ In doing so, they can **rely on a range of indicators**, available in various sources issued by and with the help of organs such as the World Health Organisation (WHO), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the UN Office on Drugs and Crime (UNODC), the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, or the UN High Commissioner for Human Rights, as well as guidance adopted by the Pompidou Group – e.g. the policy papers on coherence and on preventing risks and reducing harm.

■ The Permanent Correspondents also refer to the report of the Expert Group on the cost and unintended consequences of drug control policies (P-PG (2017) 3 final) as well as the guiding principles on the review of laws and regulations on opioid agonist treatment prepared by its experts (P-PG (2017) 15). Further, the Permanent Correspondents take note of the background paper “Drug Policy and Human Rights in Europe: Managing Tensions, Maximising Complementarities” (P-PG / HR (2016) 3).

■ **Valuable indicators** can also be found in international human rights case law, and judgements delivered by national – including constitutional – courts and other legal literature. Scientific publications and data from national and regional drugs observatories as well as from the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) can also be taken into account.

■ The results of the assessment of policies from a human rights perspective should, in turn, **feed back into the policy making process**.

■ Relevant **good democratic governance principles** – relying on science and evidence, inclusive dialogue and participation, transparency and accountability – should be incorporated into all stages of the process of elaboration, implementation, monitoring and evaluation of drug policy. Monitoring and reporting are fundamental governance tools, and should be underpinned by solid research around the drugs phenomenon.

■ **Within their respective roles, duties and responsibilities, all stakeholders** – government, non-governmental organisations, scientific, professional and academic communities, international or regional organisations or agencies, as well as organisations representing service users – **should contribute to the drug policy governance process**. They should raise their voices to signal and prompt rectification of policies that are ostensibly contrary to human rights exigencies.

■ Each stakeholder group should acknowledge its role and underpin action by empowering members through raising awareness about their role and through capacity building on the potential human rights impact of their actions.

■ Against this background,

■ **The Pompidou Group** reiterates their commitment to bringing human rights into drug policy development, implementation, monitoring and evaluation, and the **Permanent Correspondents** of the Group undertake:

- ▶ To disseminate broadly this statement,
- ▶ To promote action consistent with its provisions,
- ▶ To contribute to awareness raising and capacity building among relevant stakeholders of the human rights dimension of drug policy and its practical implications, and
- ▶ To pursue this reflection as mandated by the 2014 Ministerial Conference.

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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