

A2.2 Treatment associated with the criminal justice system

Afghanistan

Legislation: Law On Combating Drugs, 1991.

Note: This Law repeals the following:

- the Opium Regulations of 1956;
- Regulation concerning cultivation, trade, export, import and use of opium in Afghanistan, dated 1957;
- the Anti-drug-smuggling Law and its amendments;
- other provisions in conflict with this Law.

Note: One of the seven objectives of combating drugs specified in the Law is the establishment of detoxification/treatment and rehabilitation centres for drug addicts in order to reintegrate them into society.

1. *Grounds:* Drug addict.

Note: "Drug addict" is not defined.

"Drugs" are substances which cause addiction, confusion of mind, alter human behaviour, and cause complicated diseases and other social and health problems. Such substances are:

- opium and its derivatives;
- cannabis and its derivatives;
- all other drugs and their chemical derivatives defined in the 1988 Convention as psychotropic substances.

2. *Application:* Not stated,
3. *Decision-making authority:* The court.
4. *Medical examination:* Not stated.
5. *Treatment programme:* A drug addict can receive treatment in two ways, as follows: 1. A person who uses drugs will be punished in accordance with the provisions of this Law and of Article 1 of the Penal Code. However, instead of sentencing the drug addict to imprisonment, the court may order that the addict

be detained in a health centre for treatment purposes for a period which must not exceed two years.

Notes:

- (a) If a drug addict has been sentenced more than once by the court for using drugs, the court in addition to the main punishment, can impose a ban on the addict's movements, thereby preventing him from going to certain places. The duration of this ban cannot exceed three years.
- (b) If a person uses drugs but is not an addict, depending on the circumstances, the person will be sentenced to short-term imprisonment or will be fined from 3000 to 36 000 Afghanis.
- (c) A drug addict who is sentenced to imprisonment for committing a felony or misdemeanour can be ordered by the court, in addition to the punishment for the crime, to undergo treatment whenever proposed by the health organization concerned, prosecutor, or police or at the request of his relatives. The Ministry of Public Health is obliged to make the necessary arrangements for the treatment of drug addicts.

- 6. *Length of stay*: Not more than two years. See paragraph 5 above.
- 7. *Appeal*: Not stated.
- 8. *Periodic review*: The health organization concerned must report to the authorized court through the office of the prosecutor every 15 days on the health status of the addict sentenced to detention. On the basis of the report received the court can abrogate or extend the detention of the drug addict. For the purposes of this provision, the authorized court is the court that took the final decision.
- 9. *Discharge procedure(s)*: Not stated.
- 10. *Harm reduction*: Not stated.
- 11. *Non-discrimination*: Not stated.

Argentina

Note: Joint Resolution No. 160 of the Ministry of Health and Social Action and No. 3 of the Secretariat for Planning Drug Addiction Prevention and Narcotic Traffic Control of 11 May 1995 (Preventive Care Establishments in the Field of Drug Dependence Authorization and Operation Requirements) provides for the creation of a category of preventive care establishments, and requirements to be met by the establishments.

Legislation: Section 9 of Law No. 20.771 of 9 October 1974.

1. *Grounds:* When a person sentenced for any offence is physically or psychologically dependent on drugs.
2. *Application:* Not stated.
3. *Decision-making authority:* The judge must impose, in addition to the sentence, "curative safety" measure (see below).
4. *Medical examination:* Not stated.
5. *Treatment programme:* The "curative safety" measure consists of an adequate detoxification treatment and such therapeutic care as may be required for rehabilitation in appropriate establishments, as determined by the judge, but not in outpatient facilities.
6. *Length of stay:* Indefinite, but may not exceed the duration of the sentence. The curative safety measures must be carried out first and counted as part of the time to be served under the sentence.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* Treatment is terminated by judicial decision on the advice of experts.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Austria

Legislation: Two items are in force.

Note: It is reported (Austria, 1998) that the Narcotic Substances Act, which entered into force 1 January 1998 repealed the Narcotics Drug Act, 1951 as amended. Under Art 39 of the Narcotic Substances Act, prison sentences for convicted drug addicts may be suspended up to three years in order for the drug addicted offender to undergo health related measures.

- A. *Narcotics Drugs Act, 1951, as amended by the Narcotic Drugs Amendment Act, 1971, the Penal Code Adaptation Act and the Narcotic Drugs Amendment Acts, 1977, 1980 and 1985.*
1. *Grounds:* Person is charged solely for having acquired or possessed a small quantity of narcotic drugs for his or her own personal use in violation of the existing regulations.
 2. *Application:* If grounds apply, the public prosecutor must provisionally shelve the charge for a probation period of two years, subject to the following provisions and conditions. If a person is charged solely for having committed another offence punishable under Section 16, paragraph (1), in respect of a small quantity of narcotic drugs, the public prosecutor may provisionally shelve the charge for a probationary period of two years subject to the following provisions and conditions, if such measures appear more likely than a conviction to prevent the charged person from committing criminal offences under this Federal Act.

Provisional shelving of the charge presupposes: (1) that information has been obtained from the Federal Ministry of Health and Environmental Protection as provided by Section 25 [i.e. reports and information]; and (2) that the district administrative authority in their capacity as health authority has commented on the question whether: (a) the person charged requires medical treatment or health supervision; and (b) the necessary treatment or supervision is possible and is obviously not hopeless in the light of the circumstances.

Under Section 23, a prison sentence may be suspended to permit a convicted drug-dependent person to undergo treatment. If the treatment proves successful, the sentence may be suspended and the person placed on probation.
 3. *Decision-making authority:* District administrative authority.
 4. *Medical examination:* Before making their decision, the district administrative authority shall take the necessary steps to obtain from a doctor sufficiently conversant with problems of drug abuse a medical expert opinion on the person charged, due consideration being given to the quantity of narcotic drugs which was acquired or possessed by that person [Section 17 (4)].
 5. *Treatment programme:* The public prosecutor shall make the provisional shelving of the charge dependent on the person's agreement: (1) to undergo the necessary medical treatment or supervision; or (2) to accept being placed under the supervision of a probation officer or of a recognized institution or association (Section 22) to the extent to which this is possible and reasonable [Section 17 (5)].

6. *Length of stay*: Not stated. If the provisional shelving of the charge depends on whether the person charged undergoes medical treatment or supervision, the district administrative authority shall state whether or not such person complies with this precondition. If the person charged persistently evades medical treatment or supervision, the district administrative authority shall report this to the public prosecutor [Section 18 (1)].
7. *Appeal*: Not stated. If a motion for punishment has already been filed against the charged person, Sections 17 and 18 apply correspondingly to the provisional termination of the criminal proceedings by the court [Section 19].
8. *Periodic review*: Not stated.
9. *Discharge procedure(s)*: Criminal proceedings shall be either instituted or continued if, within the probation period ... (2) the person charged persistently evades medical treatment or supervision [Section 20 (2)]. If an offender, addicted to the abuse of a narcotic drug, successfully underwent medical treatment after a penal judgement made against him had become final, the court, upon receiving knowledge thereof, shall examine ex officio whether or not a subsequent mitigation, under Section 410 of the Code of Criminal Procedure, of the term of imprisonment imposed on the offender in accordance with this Federal Act should be effected by the grant of probation [Section 23 (20)].
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.
- B. *Federal Chancellery Regulation GZ 61.51/14-VI/14/87 of 25 September 1987, as amended by Regulation GZ 61.551/20-VI/A/7a/90 of 8 January 1991.*

Note: This Regulation concerns oral substitution therapy for intravenous drug addicts, in conformity with the provisions of Section 5 of the Narcotics Drugs Act, 1951, as amended. Section VII (Special situations) provides that, if the patient receiving substitution methadone therapy is placed under arrest while awaiting trial, it is in the patient's interest to determine whether the treatment can still be continued. Where only a short prison sentence is expected, the continuation of substitution therapy should certainly be recommended from the medical point of view. Where the patient is to remain in prison for a longer period, or before starting a long prison sentence previously pronounced, withdrawal therapy shall be recommended.

Bahrain

Legislation: Decretal Law No. 10 of 1984 on the Amendment of the First Article of Decretal Law No. 15 of 1983 on the Amendment of Articles 23 and 24 of Decretal Law No. 4 of 1973 on Controlling the Use and Circulation of Narcotic Substances and Preparations.

- Notes: (a) Articles 23 and 24 of Decree Law No. 4 of 1973 on Controlling the Use and Circulation of Narcotic Substances and Preparations are replaced by two articles.
(b) Amended Article 24 provides that whoever possesses, keeps or buys narcotic substances or preparations for personal use in cases other than those permitted by this Law (Decree Law No. 4 of 1973) must be punished by a term of imprisonment of not less than six months and a fine not exceeding 10 000 dinars.
1. *Grounds:* When imposing the penalty mentioned in the preceding paragraph, the court may order the confinement of any person whose addiction to narcotic substances or preparations is established, to designated hospitals for treatment .
 2. *Application:* Not stated.
 3. *Decision-making authority:* Court.
 4. *Medical examination:* Not stated.
 5. *Treatment programme:* Treatment at any hospitals designated by the Minister of Health.
 6. *Length of stay:* Until such time as a committee created by a decision of the Minister of Health decides on the person's release from the hospital, the period of confinement being subtracted from the term of the sentence.
 7. *Appeal:* Not stated.
 8. *Periodic review:* Committee created by Minister of Health.
 9. *Discharge procedure(s):* See paragraph 6 above.
 10. *Harm reduction:* Not stated.
 11. *Non-discrimination:* Not stated.

Bolivia

Legislation: Law No. 1008 of 19 July 1988 on the Regime Applicable to Coca and Controlled Substances.

Note: Supreme Decree No. 22099, dated 20 December 1988, contains Regulations in application of Law No. 1008. For compulsory civil commitment, see section A2.1.

1. *Grounds:* Drug-dependent persons or non-habitual consumers apprehended in the possession of controlled substances in minimal quantities that are presumed to be intended for their own immediate personal consumption.

"Possession" means the illicit holding of controlled substance, raw materials or seeds of plants from which controlled substances can be extracted.

"Dangerous or controlled substances" means the natural or synthetic drugs listed in schedules I, II, III, IV and V of the annex to the present Law and those that may in future appear in the official schedules of the Ministry of Public Health.

"Rehabilitation" means the biopsychosocial readjustment of the consumer to, or his reintegration in, the normal activity of society;

Notes:

- (a) The minimum quantity for immediate personal consumption must be determined by a ruling by two experts from a public institution for drug-dependence. If the quantity held is greater than the minimum quantity, it shall fall under the provisions of Article 48 of this Law.
- (b) Article 48 (concerning traffic) provides that any person who engages in traffic in controlled substances must be punished by imprisonment for a term of 10 to 25 years plus a fine at 10 000 to 20 000 times the daily rate.

"Chemical dependence or drug dependence" is the psychic and/or physical state resulting from the interaction between a human being and a natural or synthetic drug, the characteristics of which are alterations in behaviour and other reactions caused by the need and impulse to ingest the natural or synthetic drug, periodically or constantly, with the object of again experiencing its effects and sometimes to avoid the malaise produced by withdrawal of the drug.

"Drug" means any substance capable of altering physical, psychic, physiological and/or biological structures or functions, whether or not causing dependence and/or tolerance.

"Physical dependence" means the state of adaptation to the drug, which, when administration thereof is interrupted, causes physical and/or somatic disorders.

"Psychic dependence" means the state in which a drug produces a sensation of satisfaction and a psychic impulse to take the drug periodically or constantly owing to the pleasure that it gives or in order to avoid malaise.

2. *Application*: Not stated.
3. *Decision-making authority*: Not stated.
4. *Medical examination*: The institutes mentioned [in paragraph 5 below] must diagnose and treat any consumer detained by judicial order, as well as any person whose detention is requested by family members or voluntarily. They shall evaluate the condition of drug-dependent persons or drug addicts brought to the establishment and shall provide all technical information required by a competent authority.
5. *Treatment programme*: Detention in public or private institution for drug-dependence to receive treatment until such time as certainty regarding their rehabilitation has been established. Institutes and centres must diagnose and treat any consumer detained by judicial order, as well as any person whose detention is requested by family members or voluntarily. The State must establish centres for research, prevention, treatment and rehabilitation related to chemical, physical and psychic dependence (drug dependence) and for the treatment, rehabilitation and social reintegration of consumers of controlled substances. Private centres can be empowered to function with the same objective, subject to prior authorization from the Department of Mental Health of the Ministry of Social Welfare and Public Health and to supervision by the National Council for Controlled Substances.
6. *Length of stay*: Indefinite, until such time as certainty regarding their rehabilitation has been established.
7. *Appeal*: Not stated.
8. *Periodic review*: To determine certainty of rehabilitation.
9. *Discharge procedure(s)*: See paragraph 6 above.

10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Brazil

Legislation: Law No. 6368 of 21 October 1976 enacting measures for the prevention and suppression of illicit traffic in and abuse of narcotic drugs or substances that cause physical or psychic dependence and other provisions.

Note: Revisions to Law No. 6368 are reported to be under consideration in the National Congress.

1. *Grounds:* For persons dependent on narcotic drugs or on substances causing physical or psychic dependence, diversion to treatment may be ordered, as follows:
 - (a) A dependent who has committed a punishable offence and has been sentenced to a term of imprisonment or custodial security measure must undergo treatment in the clinic attached to the penal establishment where he is serving his sentence.
 - (b) Where the judge finds the accused not guilty, as a result of official expert evidence that his dependence, at the time a criminal act was committed, made him totally incapable of understanding the unlawful nature of his conduct or of acting on such an understanding, he must order the accused to undergo medical treatment.
2. *Application:* Public prosecutor. At preliminary hearing, the judge must ask the accused whether he is a dependent and point out to him the consequences of his statements. An adjudication hearing must take place within 30 days of a medical examination ordered by the court.
3. *Decision-making authority:* Judge of competent court.
4. *Medical examination:* Official expert evidence. In the absence of official experts, the offender must be examined by medical practitioners appointed by the judge.
5. *Treatment programme:* Medical outpatient treatment. Where the person in any way fails to cooperate in treatment provided on an outpatient basis or is brought to trial a second time under the same conditions, the court may order hospitalization. Where the offender has been rehabilitated, the fact must be communicated to the judge, who must hear official expert testimony to that

effect and the opinion of the public prosecutor and then decide whether to close the proceedings.

6. *Length of stay*: Not stated.
7. *Appeal*: Not stated.
8. *Periodic review*: Not stated, but see paragraph 9 below.
9. *Discharge procedure(s)*: When an offender has been rehabilitated, the judge must hear official expert testimony to that effect and the opinion of the public prosecutor and then decide whether to close the proceedings.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.

Chile

Note: Decree No. 2298 of 10 October 1995 adopts Regulations on establishments that provide rehabilitation for persons dependent on psychoactive substances through community care. (See Chapter 14 for a discussion of drug and alcohol patient's rights.)

Note: Law No. 19366 of 30 January 1995 repeals Law No. 18403 of 14 February 1985 [IDHL 1998, 49 (2)]

Legislation: Act No. 18.403 of 14 February 1985 Punishing the Illicit Traffic in Narcotic Drugs and Repealing Act No. 17.934.

Notes: (a) This Act repeals Act No. 17.934, [E/NL. 1974/12].

- (b) Persons who, without proper authorization, produce, manufacture, transform, transport or extract narcotic or psychotropic drugs or substances that cause physical or psychic dependence and produce serious toxic effects or substantially endanger public health, shall be punished by long-term imprisonment, minimum or medium grade, and a fine of 20–100 minimum monthly wages.

1. *Grounds*: Habitual consumer of substances. A person who is discovered in the act of consuming any proscribed drugs or substances indicated in Article 1, paragraph 1 (see note above) or is found in circumstances giving rise to the presumption that he has just consumed such a substance, must be placed at the disposal of the criminal justice authorities in order that they may order an

examination by a medical practitioner, authorized for that purpose by the National Health Service.

2. *Application:* Not stated.
3. *Decision-making authority:* The judge. If the examination (see paragraph 4 below) indicates that the person is a habitual consumer of these drugs the judge must order his immediate confinement in an establishment authorized by the National Health Service for the purpose of rehabilitation or if he considers it advisable, having regard to the circumstances of the offence and the personal circumstances of the offender, the judge may authorize such treatment without confinement, but subject to the medical supervision of the National Health Service.
4. *Medical examination:* See paragraph 1 above. The National Health Service must determine whether or not the person is dependent on the substances indicated in Article 1, as well as the degree of his drug dependence. The judge shall order the same measure in the case of a person discovered in the act of carrying these substances if the evidence indicates that he was doing so for his personal use.

Notes: (a) If the evidence in the case shows that the narcotic substances or raw materials in the possession of the person concerned are not intended for his own personal use, he shall be liable to the penalties under the provisions of Article 1 of this Act.
(b) Following a report from the Ministry of Health, the Ministry of Justice shall annually provide the appropriate Appeals Court with a list of the medical practitioners who are authorized to make the reports or carry out the examinations referred to in this Article.
5. *Treatment programme:* If the examination (see paragraph 4 above) indicates that the person is a habitual consumer of these drugs, the judge shall order his immediate confinement in an establishment authorized by the National Health Service for the purpose of his rehabilitation or, if he considers it advisable, having regard to the circumstances of the offence and the personal circumstances of the offender, the judge may authorize such treatment without confinement, but subject to the medical supervision of the National Health Service.
6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.

9. *Discharge procedure(s)*: Not stated.
10. *Harm reduction*: Prohibitions relating to narcotics or other drugs and substances that substantially endanger public health. See note preceding paragraph 1, above.
11. *Non-discrimination*: Not stated.

China (Federal)

Legislation: Decision of the Standing Committee of The National People's Congress on Drug Ban.

Note: Adopted at the seventeenth Meeting of the Standing Committee of the Seventh National People's Congress on 28 December 1990 and promulgated by Decree No. 38 of the President of the People's Republic of China on the same date.

1. *Grounds*: Those addicted to drugs.

Note: The drugs covered by this Decision include opium, heroin, morphine, cannabis, cocaine, and other narcotics and psychotropic drugs controlled under the Regulations of the State Council.
2. *Application*: Not stated. Illegal holding of drugs is prohibited. Those holding over 1000 g of opium, 50 g of heroin, or a great quantity of other drugs shall be sentenced to imprisonment for over seven years or life and a fine; those holding smaller amounts of narcotics shall be punished accordingly. Drug-users shall be punished by 15 days detention, a fine and confiscation of their drugs.
3. *Decision-making authority*: Not stated..
4. *Medical examination*: Not stated.
5. *Treatment programme*: Those addicted to drugs shall be forced to stop taking them and receive treatment and education.
6. *Length of stay*: Not stated.
7. *Appeal*: Not stated.
8. *Periodic review*: Not stated.
9. *Discharge procedure(s)*: Not stated.

10. *Harm reduction*: Not stated.

11. *Non-discrimination*:

China (Hong Kong Special Administrative Region)

Legislation: Two separate items are in force.

A. *Drug Addiction Treatment Centres Ordinance (Chapter 244 of the Revised Edition 1988 (Ordinance No. 42A of 1968) Laws of Hong Kong).*

Note: Pursuant to Section 10, the Governor in Council may make regulations for all or any of the following matters:

- the regulation and management of addiction treatment centres;
- the treatment, employment, discipline, control and welfare of persons detained in addiction treatment centres;
- forms required for the purposes of this Ordinance; and
- generally for the better carrying out of the purposes of this Ordinance.

1. *Grounds*: Persons found guilty of an offence punishable by imprisonment otherwise than for non-payment of a fine and who are addicted to any dangerous drug (as defined in the Dangerous Drug Ordinance). For detention in addiction-treatment centres to be ordered in lieu of any other sentence, the Court must be satisfied that, given the circumstances of the case and having regard to the person's character and previous conduct, it is in his and the public interest that he should undergo a period of cure and rehabilitation in such a centre.

"Addiction treatment centre" means any place or building appointed by the Secretary of Security.

"Commissioner" means the Commissioner of Correctional Services.

"Dangerous Drug" has the meaning it has for the purpose of the Dangerous Drugs Ordinance.

"Detention order" means any order of detention made under Section 4 (1) of the Ordinance.

"Recall order" means an order made under Section 6(1) of the Ordinance.

"Supervision order" means an order for supervision made under Section 5(1).

2. *Application:* Court.

Note: If the Governor of Hong Kong is satisfied, on application by the Commissioner of Prisons, that a person serving a sentence of imprisonment is addicted to any dangerous drug and, having regard to his health, character and previous conduct, it is in his and the public interest that he should undergo a period of cure and rehabilitation in an addiction-treatment centre, the Governor may order such person to be transferred to and detained in an addiction treatment centre.

3. *Decision-making authority:* Court.

Note: When a court makes a detention order, no conviction may be recorded against the person in respect of whom the order is made unless, in the opinion of the court, the circumstances of the offence so warrant and the court orders accordingly.

4. *Medical examination:* Before a detention order is made in respect of any person, the court must consider a report of the Commissioner of Prisons on the suitability of such person for cure and rehabilitation and on the availability of places at addiction-treatment centres, and if the court has not received such a report it must, after such person has been found guilty, remand him in the custody of the Commissioner of Correctional Services for such period, not exceeding three weeks, as the court thinks necessary to enable such a report to be made. The Commissioner must, in his report, inform the Court whether or not a detention order has previously been made in respect of the person.

5. *Treatment programme:* A period of cure and rehabilitation in a treatment centre.

6. *Length of stay:* The period of detention (not less than two and not more than 12 months from the date of the detention order) is determined by the Commissioner of Prisons in the light of the health and progress made by the person and the likelihood of his remaining free from addiction to any dangerous drug on his release. After this period, he must be released.

7. *Appeal:* Not stated.

8. *Periodic review:* A Board of Review is established for each addiction-treatment centre. The composition and functions of the Board are stated in the Regulations (see below).

If the Governor is satisfied, on application by the Commissioner of Prisons, that a person detained in a addiction-treatment centre is exercising a bad influence on other persons detained in that centre, the Governor may order such person to

be transferred to, and detained in a prison for a period not exceeding: (a) the balance of the period during which such person might have been detained in an addiction centre; or (b) the term of imprisonment to which such person was liable for the offence of which he was found guilty, whichever is less.

9. *Discharge procedure(s)*: The Commissioner of Correctional Services may order that a person released from a centre be subject to supervision, for a period of 12 months from the date of release, by such organization or person as the Commissioner may specify. While under supervision the person must comply with such requirements, including medical examination, and residence, as the Commissioner may specify. The Commissioner may at any time vary or cancel a supervision order.

A person who fails to comply with any requirement in the supervision order commits an offence and is liable to a fine of HK\$5000 and to imprisonment for 12 months.

The Commissioner may, if he is satisfied that a person against whom a supervision order is in force has failed to comply with any requirement of that order, make a recall order against such person requiring him to return to an addiction-treatment centre, and thereupon such person may be arrested and taken to an addiction-treatment centre and detained there.

If a person in respect of whom a detention order, a supervision order or a recall order is in force is sentenced to imprisonment: (a) for a term of 9 months or less, the detention order, supervision order, or recall order must be suspended until the expiration of his term of imprisonment; (b) for a term of more than 9 months or a new detention order is made in respect of him, the first mentioned detention order, or the supervision order or recall order, as the case may be, ceases to have effect.

10. *Harm reduction*: Not stated.
11. *Non-discrimination/patient responsibility/patients' rights*: See Drug Addiction Treatment Centres Regulations, below.
- B. *Drug Addiction Treatment Centres Regulations Chapter 244, subsidiary legislation, as amended 4 December 1992.*

Notes:

1. The Board of Review must consist of the following persons: (a) the Deputy Commissioner or a Senior Superintendent who is Chairman; (b) the Superintendent; (c) not less than three other officers of the Correction Services Department or public officers, as the

Commissioner may from time to time appoint. The meetings of the Board must be held at such times and places as the Chairman may appoint but at least once in every month. At any meeting of a Board three members form a quorum. A Board may regulate its procedure in such manner as it thinks fit.

2. The functions of the Board are: (a) to review the progress of each inmate since his admission and to make recommendations to the Commissioners relating to his release; (b) to make recommendations to the Commissioners concerning the desirability of transfer to prison of any inmate who is alleged to exercise a bad influence on inmates in the addiction-treatment centre.
3. A Board, for the purpose of carrying out its functions, must interview an inmate: (a) during the second month after the date of his admission; (b) at least once in every two months during the four months following the first interview; and (c) thereafter at least once in each month.
4. If in the opinion of the Superintendent, an inmate is exercising a bad influence on other inmates in the addiction-treatment centre, the Superintendent must bring the inmate before the Board. The Board must examine the record of the inmate and after giving him an opportunity of being heard and of calling evidence, may recommend to the Commissioner that an application be made under Section 8(1) of the Ordinance [see paragraph 8 above] for the transfer of the inmate to prison.
5. A supervision order must be read and explained to an inmate by, or in the presence of, the Superintendent prior to the release of the inmate from an addiction-treatment centre. Every inmate must be supplied with food in accordance with such scales of diet as the Governor from time to time approves.
6. The Superintendent may, if satisfied that an inmate belongs to a religious denomination, if the inmate so desires and it is reasonably practicable to do, make arrangements for the inmate to attend appropriate religious services or instruction.

China (Macao Special Administrative Region)

Legislation: Decree-law No. 5/91/M of 28 January 1991.

Note: This Decree-law proscribes the illicit use of, and trafficking in narcotics and psychotropic substances. It also provides that drug addiction is a health problem and that voluntary treatment must be provided on a strictly confidential basis for drug-dependent persons.

The following is reported (M.I. Belo, personal communication, 1994) regarding the provisions of Article 24, and Article 27 of the above-mentioned Law. After a medical examination has shown that the person is drug-dependent, the Court may consider a convicted person's request to become drug free; and may suspend the sentence for that purpose. Treatment and rehabilitation for the convicted drug-dependent person must be provided in prison, or with the cooperation of other governmental or nongovernmental organizations. For those persons sentenced and thereafter found by medical examination to be drug-dependent, the prison must inform the judicial system and provide medical assistance.

Colombia

Legislation: Law 30 of 1986 (31 January) Adopting the National Narcotic Drugs Statute and enacting other provisions.

Note: The Preamble notes that Decree Law 1188 of 1974, the statute previously in force is inadequate due to the appearance of new types and classes of drugs, and the spread of drug trafficking. The new Law places particular stress on prevention measures, and makes provisions for the rehabilitation of drug-dependent persons, designed to return them to useful lives in society. See section A2.1 for summary of legislation on compulsory civil commitment.

1. *Grounds:* A first-time user or consumer in a state of drug addiction.

Anyone who carries on his person, keeps for his own use or consumes cocaine, marijuana or any other dependence-producing drug in a quantity considered to be a dose for personal use, as provided in this Law, is subject to penalties including, for the first offence, 30 days detention and a fine of one-half of the minimum monthly salary; and for the second offence, detention of between one month and one year and a fine of between one-half and the full amount of the minimum monthly salary if the new offence is committed within 12 months of the first offence.

In addition to the detention and fines for first and second offences, a user or consumer who, in accordance with forensic medical opinion, is in a state of drug addiction, having been found so for the first time, must be confined in a private or government psychiatric or similar establishment for the period necessary for his recovery. In this case there will be no fine or detention.

"Drug" means any substance which, when introduced into a living organism, alters its physiological functions.

"Narcotic drug" means a drug, not medically prescribed, which acts on the central nervous system, producing dependence.

"Psychotropic substance" means a drug which acts on the central nervous system, producing neuropsychophysiological effects.

"Abuse" means use by a person of a drug which is self-prescribed and taken for non-medical purposes.

"Psychological dependence" means repeated need to consume a drug, regardless of the consequences.

"Addiction or drug addiction" means dependence on a drug with the appearance of physical symptoms when the drug is removed.

Note: Decree No. 3788 of 31 December 1986, Regulating Law No. 30 of 1986 (31 January) adopting the National Narcotic Drugs Statute provides that, for the application of Law No. 30 of 1986, the meaning of the words "addiction" or "drug addiction" shall be understood as referring to both physical and psychological dependence.

"Toxic addiction" is "understood" as dependence on substances medically classified as toxic.

"Dose for personal use" means an amount of a narcotic drug that a person carries or keeps for his own consumption. The dose for personal use may not exceed twenty (20) grams of marihuana, five (5) grams of marihuana hashish, one (1) gram of cocaine or any cocaine-based substance and two (2) grams of methaqualone. Any narcotic drug carried by a person for the purpose of distribution or sale may not be regarded as a dose for personal use, regardless of the quantity.

"Treatment" means the different methods of therapeutic intervention designed to counteract the effects produced by the drug.

"Rehabilitation" means activity leading to the useful reincorporation of a drug-dependent person in society.

2. *Application:* Not stated.
3. *Decision-making authority:* The competent authority.
4. *Medical examination:* By forensic medical opinion, to determine whether the user or consumer is in a state of drug addiction. See paragraph 1 above.
5. *Treatment programme:* Confinement in a private or government psychiatric or similar establishment for the period necessary for his recovery. The competent authority may entrust the drug addict to the care of his family or refer him, under the responsibility of his family, to a clinic, hospital or health centre for appropriate treatment, which shall continue for the time required for his recovery. Recovery must be certified by the treating doctor and by the relevant forensic medicine section.

The drug addict's family must answer for the fulfilment of these obligations by deposit of security in an amount to be fixed by the competent official, taking into account the family's ability to pay.

The doctor responsible for treatment shall periodically inform the authority concerned with the case of the state of health and rehabilitation of the drug addict. If the family should fail to fulfill the obligations incumbent on it, the security deposited shall be forfeited and the confinement of the drug addict shall be mandatory.

Chapter VII (Articles 84-88) sets out the statutory provisions concerning treatment and rehabilitation and provide that:

1. The principle objective of the social and health measures for the treatment and rehabilitation of a drug-dependent person must be to return the individual as a useful member to the community.
2. The programmes of the Ministry of Health must include services for the prevention of drug dependence and the treatment and rehabilitation of drug-dependent persons. Each quarter, the Ministry of Health must send the National Narcotic Drugs Council statistics regarding the number of persons cared for by such centres in Colombia.
3. The creation and operation of any public or private establishment for the prevention of drug dependence and the treatment or rehabilitation of drug-

dependent persons shall be subject to authorization and inspection by the Ministry of Health.

6. *Length of stay*: Indefinite, time required for recovery. See paragraph 5 above.
7. *Appeal*: Not stated.
8. *Periodic review*: The doctor responsible for treatment shall periodically inform the authority concerned with the case of the state of health and rehabilitation of the drug addict.
9. *Discharge procedure(s)*: See paragraph 5 above.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.

Costa Rica

Legislation: Law No. 7233 Governing Narcotic Drugs, Psychotropic Substances, Drugs of Unauthorized Use and Related Activities.

1. *Grounds*: Accused possessed the drug of unauthorized use for his personal consumption as a result of his drug dependence.

Note: Any person who unlawfully distributes or undertakes other proscribed activities enumerated in the Law shall be sentenced to imprisonment for between eight and 20 years. The lower limit (eight years) may be reduced by up to one half when it is shown that the sale or supply of such drugs is for the consumer's own use.

"Drug" means any substance or pharmacological agent which, when introduced into the organism of a living person, changes the physiological functions of that person.

"Narcotic" means any drug which acts on the central nervous system and cause stupor. Deemed to be narcotic are drugs covered by the Single Convention on Narcotic Drugs, 1961, in the Convention as amended by the 1972 Protocol Amending the Convention, and all those subject to international control in the future as well as those declared as such by decree of the Ministry of Health.

"Psychotropic or psychopharmacological" means any substance or synthetic or natural material which acts on the central nervous system, included in the Vienna Convention on Psychotropic Substances of 21 February 1971, or other

convention which may replace or amend it, as well as substances declared as such by decree of the Ministry of Health.

"Inhalant" means any substance which has the property of being converted into vapour or gas, whereby it can be inhaled and come into contact with the lungs, thereby passing into the bloodstream and thence to other organs and the nervous system, giving rise to intoxication which may cause irreversible damage.

"Drug-dependent" means anyone presenting a psychological or, sometimes, physical state caused by the interaction of a living organism and a medicament. Drug dependence is characterized by changes in behaviour and by other reactions which always include an irresistible impulse to consume a medicament on a continuous or periodic basis, in order to experience its psychological effects and, sometimes, to avoid the discomfort caused by privation. Dependence may or may not be accompanied by tolerance. A single person may be dependent on one or more medicaments.

2. *Application:* Not stated.
3. *Decision-making authority:* The jurisdictional organ which establishes that the accused possessed the drug of unauthorized use for his personal consumption as a result of his drug dependence, will give a ruling, referring the matter to the Alcoholism and Drug Dependence Institute.
4. *Medical examination:* When the judge establishes that the sale or possession is for the consumer's own use or personal consumption, the judge must take into account, and pay special attention to the medical report to be submitted by the Criminal Investigation Authority on the consumer's degree of drug dependence in relation to the quantity of substances, and drugs or plants seized.
5. *Treatment programme:* The Alcoholism and Drug Dependence Institute must determine the remedial measures for the accused, who must present himself to the jurisdictional organ with the relevant report. It is the duty of the State to provide economic resources for ensuring the treatment required for the rehabilitation, social resettlement and education of persons affected by the consumption of the drugs to which the present Law relates.

Treatment is the responsibility of the Ministry of Health, the Costa Rican Social Security System and the Alcoholism and Drug Dependence Institute and any other legally authorized body or institution. The Alcoholism and Drug Dependence Institute is responsible for the related technical guidance under the authority of the Ministry of Health.

The State must provide drug addicts undergoing rehabilitation treatment with protection and assistance.

It is the duty of the State, through its competent organs and by all existing means, to encourage international technical and economic cooperation in order to strengthen programmes for research, prevention, suppression and rehabilitation in respect of narcotic and psychotropic drugs and other substances to which the present Law relates.

6. *Length of stay*: Not stated.
7. *Appeal*: Not stated.
8. *Periodic review*: Not stated.
9. *Discharge procedure(s)*: Not stated.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.

Czech Republic

Note: see section A2.1, for provisions on compulsory civil commitment.

It is reported (K. Nespor, L. Csemy, personal communication, 1994), that criminal legislation makes it possible for a court to order the involuntary treatment of a person who commits a crime related to alcohol and/or other drugs; usually in addition to punishment. Persons undergoing treatment may be discharged from treatment facilities only upon a court order.

Egypt

Legislation: Law No. 122 of 1989, amending certain provisions of Decree Law No. 182 of 1960 concerning the control of narcotic drugs and regulation of their utilization and trade in them.

Notes: (a) The provisions of this Law replace the provisions of Articles 33, 34, 35, 36, 37, 38, 40, 41, 42(1), 43, 44, 45 and 50 of Decree Law No. 182 of 1960 Concerning the Control of Narcotic Drugs and the Regulation of their Utilization and Trade in Them.

(b) It is reported (Alkott, personal communication, 1994) that Presidential Decree No. 228 of 1990, aimed at establishing and organizing special prisons for those prisoners sentenced for drug

crimes. It provides also for regular medical examination and analysis to make sure that prisoners have not taken any drugs.

1. *Grounds:* Anyone who possesses, acquires, buys, produces, extracts, separates or manufactures any narcotic substance, or cultivates, possesses or buys any of the plants included in Schedule No. 5, with the intention of personal use or processing, in any cases not authorized by law, shall be punished by a term of hard labour and by a fine of not less than 10 000 pounds and not more than 50 000 pounds.

Note: Criminal action will not be taken against a user of narcotic substances who reports voluntarily to be placed and remain in one of the sanatoria provided for in Article 37 of this Law, or in the treatment institutions established for this purpose by a decision of the Minister of Social Affairs in agreement with the Minister of Public Health, in order to receive medical, psychological and social treatment, until the Committee (Decree Law No. 182 of 1960) decides otherwise.

However, if the patient, before a decision is taken by the said committee, leaves the sanatorium or ceases his periodic visits to the treatment institutions mentioned herein, he shall be required to pay the cost of treatment, which may be collected from him by administrative sequestration. In such a case, the provisions of Article 45 of this Law [Law No. 182 of 1960] shall not apply.

The provisions of this Article shall not apply to any person who possessed a narcotic substance and who did not give it to the competent authority when interned in the sanatorium or when visiting treatment institutions.

Moreover, criminal action will not be taken against a person whose addiction to, or use of, narcotic substances is proven, if a spouse or any of the ascendants or descendants of such person apply to the committee (responsible for supervising persons in sanatoria) referred to in Article 37 of this Law, requesting the internment of the said person in one of the sanatoria or treatment institutions referred to in Article 37 (a).

The committee (composed of an appeal judge, public prosecutor, and representatives of the ministries of public health, interior, defence, and social affairs) shall decide on the request upon examining the person in question and hearing the statements of those concerned and, in that connection, may request the Public Prosecution to investigate the matter and transmit a note on its opinion to the committee.

2. *Application:* Not stated.

3. *Decision-making authority:* Criminal court. The voluntary internment in a sanatorium of a person whose treatment is required, or compelling such person to visit a treatment institution regularly shall be decided by the committee. Should the person refuse, the committee, through the Public Prosecution, shall refer the matter to the competent criminal court located in his place of residence which shall decide the matter in a session held in the court chambers, either by ordering the internment of the person in a sanatorium or by compelling him to visit a treatment institution regularly.

4. *Medical examination:* See paragraph 5 below.

5. *Treatment programme:* Where necessary and prior to a decision on the request of the committee, the committee may place the person whose treatment is required under observation for a period of not more than two weeks for the purpose of medical control. The court, in deciding the punishment for the offence (specified in paragraph 1), may, as an alternative to such punishment, order the internment of a person proven to be an addict in one of the sanatoria established for this purpose, to undergo medical, psychological and social treatment, which shall be determined by a decision of the Minister of Justice, in agreement with the Ministers of Public Health, the Interior and Social Affairs.

Note: A special fund for the control and treatment of drug addiction and abuse shall be established and shall have legal personality. A decision on the organization, affiliation, funding and functions of the fund shall be issued by the President of the Republic, upon a suggestion by the National Council for the Control and Treatment of Addiction. Its function shall include the establishment of sanatoria and treatment institutions for drug addicts and abusers and the construction of prisons for persons sentenced for drugs offences. The fines imposed in respect of the crimes specified in this Law and the proceeds confiscated by a court decision to that effect shall be considered to be among the resources of the fund.

6. *Length of stay:* Not less than six months nor more than three years, or the term of sentence, whichever is less.

7. *Appeal:* The said person may appeal either to the Public Prosecution or to the director of the place of internment against such a procedure. Within three days of its receipt of the appeal, the Public Prosecution shall refer the appeal to the court, so that the court can decide as it deems necessary.

8. *Periodic review:* Not stated.

9. *Discharge procedure(s):* When his addiction is cured, the internee shall be released by a decision of the committee responsible for supervising the persons

interned in the sanatorium. If the internment procedure is found to be ineffective, if the maximum period fixed for his internment elapses before his recovery, if the internee violates the requirements imposed on him in respect of his treatment or if he commits during his internment any of the crimes covered by this Law, the above-mentioned committee shall submit a report on the matter to the court through the public prosecution, requesting a decision repealing the stay of execution so that the fine can be imposed and the remainder of the term of deprivation of liberty can be served, after deduction of the period which the sentenced person spent in the sanatorium.

However, internment in a sanatorium may not be ordered where an offender commits any of the offences (e.g. possession of narcotic substance for personal use) referred to in paragraph 1 of this Article 37, after he has previously been sentenced to a penalty or to the internment procedure. In such cases the provisions established in the preceding Article shall apply if the application of Article 17 of the Penal Code is deemed justifiable by the court.

10. *Harm reduction*: Not stated.
11. *Non-discrimination/patients' rights*: All the data and information which come to the knowledge of the personnel involved in the treatment of drug addicts and abusers shall be treated as confidential, disclosure being punishable by the penalty established in Article 310 of the Penal Code.

Finland

Note: It is reported (J. Eskola, personal communication, 1993) that Finnish criminal and prison legislation does not include specific provisions on the treatment and rehabilitation of intoxicant-abusers. According to the Finnish Criminal Code, a court may waive a sentence if it is considered to be unreasonable taking into account, e.g. social welfare and health-care measures and the fact that treatment has been sought before the matter has come before a court. It is also reported that diversion from the criminal justice system to specialized treatment systems for alcoholics and drug addicts is being discussed.

France

Legislation: Law No. 70-1320 of 31 December 1970 relating to the health measures for the control of drug dependence and the suppression of traffic in, and illicit use of, poisons.

Note: The following circulars also apply:

1. Circular No. 56 D.G. S/2.D/ of 10 June 1992 concerning Decree No. 92-590 of 29 June 1992 is related to specialized treatment centres for

substance-abusers. This Circular provides explanations concerning the application of the afore-mentioned Decree on specialized treatment centres for substance-abusers.

2. Circular of 12 May 1987 concerning cooperation between the judiciary, health and social authorities for the application of Law No. 70-1320 of 31 December 1970.
3. Circular No. CRIM.93-3/SDJC.15.02.1993, NOR.JUS.D.93-30007 C. This Circular refers to the Circular of 12 May 1987, noted above, and concerns the subject of "therapeutic injunctions" (court ordered treatment, as alternative to prosecution).
4. Decree No. 71-690 of 19 August 1971 establishing the conditions in which persons who have used illicit drugs in violation of Article L628 of the Public Health Code can be required to undergo detoxification treatment.

It is reported (S. Slama, personal communication, 1994), that special centres are designated in each *département* by prefectural order made by agreement with the Procurator General to the Court of Appeal. Such centres may include only those treatment units: (a) which are under the medical management of a specialized physician; (b) whose rules and regulations are in conformity with those drawn up by the Ministry of Public Health; and (c) which are recognized as technically capable of providing the treatment prescribed in Article L628-5 of the Public Health Code and which have premises where, if necessary, some or all of those found guilty of illicit drug use can be isolated in an acceptable way.

1. *Grounds:* Persons making illicit use of substances or plants classified as narcotics.
2. *Application:* The public prosecutor may order a person who has made illicit use of narcotics to undergo detoxification or to submit to medical surveillance.
3. *Decision-making authority:* Examining magistrate or the juvenile court magistrate. The specialized establishment in which the person concerned must undergo treatment if continuous or part-time hospitalization is necessary is designated by writ of the examining magistrate. If the person's condition does not necessitate continuous or part-time hospitalization, the examining magistrate issues a writ placing him under medical surveillance either by a physician of his choice or by a social hygiene clinic or approved health establishment, either public or private.

Persons who have complied with the medical treatment prescribed for them and have continued the treatment until its termination are not liable to prosecution.

Similarly, proceedings are not initiated against persons who have made illicit use of narcotics where it is established that since their offence they have undergone detoxification or have submitted to medical surveillance.

In the event of a second offence, the public prosecutor determines whether or not criminal proceedings should be initiated.

4. *Medical examination:* Competent health authorities arrange for a medical examination of the person and an investigation into his family, professional and social life.
5. *Treatment programme:* If it appears from the medical examination that the person is an addict, he is ordered by the health authority to attend an approved establishment of his choice or, if he fails to exercise this right, an officially designated establishment in order to undergo detoxification. Once a person has begun the required course of treatment, he must remit to the health authority a medical certificate indicating the date of commencement of care, the probable duration of treatment, and the establishment in which he is to be hospitalized or under whose surveillance he is to undergo outpatient treatment.

If undergone in a specialized establishment, detoxification must involve either continuous or part-time hospitalization or, alternatively, the two types of hospitalization consecutively. The period of hospitalization may be followed by outpatient treatment.

If undergone under medical surveillance, without hospitalization in a specialized establishment, detoxification must be supervised by an approved physician.

6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.
8. *Periodic review:* The health authority follows the progress of the treatment and at "regular intervals" informs the public prosecutor's office of the medical and social situation of the person.

The physician responsible for the treatment may at any time propose to the examining magistrate that the conditions of treatment should be modified or the person concerned placed in another establishment better adapted to his needs.

9. *Discharge procedure(s):* Not stated.

10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.

Germany (Federal Republic of)

Legislation: Two items are in force.

- A. *Notice promulgating the revised version of the Narcotics Law, of 1 March 1994.*
 1. *Grounds*: Under Section 35 (Deferment of execution of sentence) of Chapter VII (Drug-dependent offenders), if a person has been sentenced for a crime to imprisonment for a period of not more than two years and the reasons for the judgement state or it has been otherwise established that the offence was committed due to narcotic drug addiction.
 2. *Application*: Law-enforcement authority.
 3. *Decision-making authority*: The law-enforcement authority may defer, with the approval of the court of first instance, the execution of punishment, residual punishment or institutionalization in drug detoxification centres for a period not exceeding two years, if the person convicted is undergoing appropriate treatment promoting his rehabilitation or promises to undergo such treatment, and it is certain that this treatment will be started. Treatment also includes any stay in a state-approved institution aiming at curing the dependence or at preventing a relapse.
 4. *Medical examination*: Not stated.
 5. *Treatment programme*: See paragraph 3 above.

At times established by the law-enforcement authority, the person convicted is required to prove that he has begun treatment or is continuing it; the persons treating him or the institutions concerned must inform the law-enforcement authority if treatment has been discontinued.

Note: the law-enforcement authority revokes the deferment of execution if the treatment is not started or continued or if the convicted person does not furnish the proof mentioned above. The revocation can be cancelled if the convicted person subsequently proves that he is under treatment.

Deferment of execution is also revoked where:

- (a) an aggregate sentence is imposed subsequently and its execution is not deferred as well; or
 - (b) another prison sentence or measure of rehabilitation and prevention involving deprivation of liberty is to be executed.
- 6. *Length of stay:* At least three months.
- 7. *Appeal:* If the law-enforcement authority has revoked the deferment, it is authorized to issue a warrant of arrest for the purpose of the prison sentence or for institutionalization in a centre for the care of addicts. The revocation can be challenged by appealing to the court of first instance. The continuation of execution is not interrupted by the appeal to the court.

Under the provisions of Section 36:

- (a) If execution has been deferred and the convicted person has undergone treatment in a state-approved institution where his way of life is subject to considerable restrictions, the period of institutionalization served by the convicted person can be credited against the penalty until two-thirds of the sentenced have been disposed of by such credit. The decision to credit institutionalization in this way is taken by the court, together with the approval pursuant to Section 35. If two-thirds of the sentence have been disposed of by the credit, or treatment in the institution is no longer required at an earlier date, the court can suspend the execution of the residual penalty on probation as soon as the court is assured by evidence submitted in court that the convicted person is not likely to commit any further crime.
- (b) If execution has been deferred and the convicted person has undergone treatment for his addiction other than that specified here, the court must suspend the execution of the prison sentence or residual penalty on probation, as soon as the court is assured by evidence submitted in court that he is not likely to commit any further crime.
- (c) If the convicted person has undergone treatment for his addiction after committing the crime, the court may order, if the requirements specified here are not fulfilled, that all or part of the period of treatment be credited against the sentence, provided that this is advisable given the requirements imposed upon the convicted person by the treatment.
- (d) The decisions pursuant to subparagraphs (a) to (c) must be taken by order by the court of first instance without any hearing. The law-enforcement authority, the convicted person and the persons in charge or the institution must be heard. An immediate appeal can be filed

against the decision. The caution regarding the suspension of the residual penalty must be given by the court.

Under Section 37:

- (a) If an accused person is suspected of having committed a crime as a result of narcotic drug dependence and the penalty to be expected is imprisonment for a period not exceeding two years, the public prosecutor, with the approval of the court competent to open the main proceedings, may provisionally refrain from preferring the public charge, if the accused proves that he has been undergoing treatment for his dependence as specified in Section 35 (a) of at least three months, and that his rehabilitation is to be expected. The public prosecutor must fix the dates on which the accused is to prove the continuity of treatment.

The proceedings must be continued if:

- (i) the treatment is not completed as envisaged;
- (ii) the accused does not provide the proof required;
- (iii) the accused commits a crime showing thereby that the grounds on which the decision not to prefer the public charge was based were not well founded; or
- (iv) as a consequence of facts or proofs, imprisonment for a period of more than two years is to be expected.

In the cases covered by items (i) and (ii) above, the proceedings may be suspended if the accused can subsequently submit proof that he is still under treatment. The person can no longer be prosecuted if the proceedings are not reopened within a period of four years.

- (b) If the public charge has already been preferred, the court may provisionally discontinue the proceedings, with the approval of the public prosecutor, until the end of the trial in the court of which the findings of fact can be considered for the last time. The decision is made by way of a court order which is not subject to appeal.

- 8. *Periodic review:* At times established by the law-enforcement authority, the person convicted must prove that he has started treatment or is continuing it. The persons treating him or the institutions concerned must inform the law-enforcement authority if treatment has been discontinued.
- 9. *Discharge procedure(s):* See paragraph 5 above.
- 10. *Harm reduction:* Not stated.

11. *Non-discrimination:* Not stated.

B. *Penal Code. Section 64 (revised under notice of 2 January 1975).*

Note: Section 64 may be summarized as follows:

Detention in a withdrawal clinic:

1. The court shall order that any person convicted of an unlawful act committed under the influence of intoxication or whose crime is a result of habitual intoxication, or any person not convicted of such a crime for the mere reason that he cannot be found responsible for the crime and such person is also found to habitually consume alcoholic or other intoxicating substances in excessive amounts, shall be detained in a withdrawal clinic if there is the danger that he will commit serious unlawful acts in consequence of his habit.
2. No such order shall be made, if before the person is sent to the withdrawal clinic it appears to the court (usually on the advice of the probation service or a medical examination) that such treatment does not offer any prospect of success and the person is likely to relapse to his habitual intoxication.

Greece

Legislation: Two items are in force.

Note: For compulsory civil commitment, see section A2.1.

A. *Law No. 1729 of 3 August 1987 on the control of traffic in narcotics and the protection of adolescents and other provisions.*

Section 12 of Law No. 1729 provides that a person obtaining or possessing small quantities of narcotics purely for their own use, in any form, and actually using such narcotics may be sentenced to a prison term in a special therapeutic prison. In certain cases where the person does not display symptoms of drug dependence, the court may order him to follow a programme of consultation and support, upon the proposal of the Central Council, as specified in Regulation No. A2b/ik. 3983 of 7 October 1987 (e.g. in health centres, consultation agencies, or any other similar establishments).

Note: Regulation No. A2b/ik. 3983 of 7 October 1987 concerns the organization, function and management of the centre for the treatment of dependent persons.

Section 14 provides that offenders who are found not to be responsible for their actions in accordance with Section 34 of the Penal Code may be ordered by

decision of the court to follow a special treatment programme in an appropriate prison establishment or any public health care establishment, in accordance with detailed provisions to be laid down by decision of the Minister.

Section 26 concerns the use, supply, or illegal possession of narcotics strictly for personal use and provides for voluntary attendance at a treatment establishment.

- B. *Ministry Decision No. A2b/ik. 3982 of 7 October 1987 on approved scientific criteria applicable to diagnosis of dependence.*

None. See Annex A2.1.

Hungary

Note: Three items are reported (K. Szomor, personal communication, 1999; K. Szomor, personal communication, 1994) amending the Criminal Code, and the Code of Criminal Procedure.

Note: Act V of 1979 on placing into effect and implementing Act 4 of 1978 was amended in 1999 and redefined the exact quantities for the "small" and "significant" quantities of illegal drugs.

- A. *Amendment of the drugs related measures of the Penal Code of 1978.*

The amendment of 1993 (see B below) was changed in 1999, as follows: penal measures for illegal production, storing, trafficking, trading of narcotic drugs and psychotropic substances became more serious. For example, (1) drug consumption is reintroduced as a violation of the Penal Code; (2) the exact quantities for the "small" and "significant" quantities of illegal drugs are defined; (3) alternatives for illicit drug users subject to criminal procedures are: treatment, fine and public works. Treatment is mandatory for alcohol and drug addicts who endanger "their family and environment".

- B. *Criminal Code, Amendments of 15 May 1993.*

Section 282. A person who, by violating official regulations, cultivates, produces, purchases, keeps, offers for use, hands over, puts on the market, imports, exports, transports through the territory of the country or trades in narcotic drugs, commits a felony and shall be punished by deprivation of liberty for up to five years. Other punishments are prescribed in subsection (1).

Section 282/A. A person cannot be punished who: (a) cultivates, produces, purchases or keeps a small quantity of narcotic drugs for personal usage;

(b) commits an offence punishable by less than two years' deprivation of liberty connected with the consumption of narcotic drugs; provided that, before the sentence of the court of first instance, he certifies with a document that he has participated in a continuous course of treatment of at least six months' duration aimed at preventing or curing narcotic drug addiction.

In the application of Sections 282 and 282/A "narcotic drugs" shall be understood to include any psychotropic substance dangerous from the point of view of abuse.

C. *Code of Criminal Procedure, Amendments of 15 May 1993.*

Section 137. (Suspension of Investigation). In a case defined in the Criminal Code, Section 282/A, paragraphs (a) and (b), the investigation of a suspect addicted to narcotic drugs must be suspended on a single occasion for a period of one year, provided that the suspect undertakes to participate in continuous medical treatment. The investigation must be conducted if the suspect does not certify with a document that he participated in continuous medical treatment lasting at least six months within the one-year period from the day on which the investigation was suspended.

Section 169 (Suspension of Proceedings). Proceedings against a defendant addicted to narcotic drugs can be suspended in a case defined in the Criminal Code, Section 282/A, paragraphs (a) and (b), provided that the investigation has not been suspended under Section 137 (2), which provides that the court of first instance shall suspend such proceedings on a single occasion for a period of one year, if the defendant undertakes to participate in continuous medical treatment.

India (Federal)

Legislation: Two separate items are in force: (a) The Narcotic Drugs and Psychotropic Substances Act, 1985, as amended; and (b) Narcotic Drugs and Psychotropic Substances (Execution of Bond by Convicts and Addicts) Rules, 1985.

A. *The Narcotic Drugs and Psychotropic Substances Act, 1985, as amended.*
Note: The following acts are repealed: the Opium Act, 1857; the Dangerous Drugs Act, 1930.

1. *Grounds:* Addict found guilty of an offence punishable under Section 27.

Note: Section 27 provides for punishment for the illegal possession of a small quantity for personal consumption of any narcotic drug or psychotropic substance or the consumption of such drug or substance. For purposes of this Section "small quantity" means such quantity as may be specified by the Central

Government by notification in the *Official gazette*, namely heroin or the drug commonly known as brown sugar or smack, 250 mg; hashish or *charas*, 5g; opium, 5g; cocaine 125 mg; and ganja, 500g. Where a person is shown to have been in possession of a small quantity of a narcotic drug or psychotropic substance, the burden of proving that it was intended for the personal consumption of such person and not for sale or distribution, lies on such person. "Addict" means a person addicted to any narcotic drug or psychotropic substance.

"Narcotic drug" means coca leaf, cannabis (hemp), opium, poppy straw and includes all manufactured drugs.

"Psychotropic substance" means any substance, natural or synthetic, or any natural material or any salt of preparation of such substance or material included in the list of psychotropic substances specified in the Schedule.

2. *Application:* See paragraph 3 below.

3. *Decision-making authority:* Court.

(a) If the court by which any addict is found guilty of an offence punishable under Section 27 and if the court by which he is found guilty is of the opinion, regard being had to the age, character, antecedents or physical or mental condition of the offender, that it is expedient so to do, then, notwithstanding anything contained in this Act or any other law for the time being in force, the court may, instead of sentencing him at once to any imprisonment, with his consent, direct that he be released for undergoing medical treatment for detoxification or de-addiction at a hospital or an institution maintained or recognized by Government and on his entering into a bond in the form prescribed by the Central Government, with or without sureties, to appear and furnish before the court within a period not exceeding one year, a report regarding the result of his medical treatment, and, in the meantime, to abstain from the commission of any offence under Chapter IV (Offences and Penalties).

(b) If it appears to the court, having regard to the report regarding the result of the medical treatment (detoxification or de-addiction) that it is expedient so to do, the court may direct the release of the offender after due admonition on his entering into a bond in the form prescribed by the Central Government, with or without sureties, for abstaining from the commission of any offence under Chapter IV during such period not exceeding three years as the court may deem fit to specify or on his

failure so to abstain, to appear before the court and receive sentence when called upon during such period.

4. *Medical examination:* See paragraph 1 above.
5. *Treatment programme:* Section 71 provides that the Government may, at its discretion, establish as many centres as it thinks fit for the identification, treatment, education, after-care, rehabilitation, social reintegration of addicts and for the supply, subject to such conditions and in such manner as may be prescribed, by the concerned Government of any narcotic drugs and psychotropic substances to the addicts registered with the Government and to others where such supply is a medical necessity.

Note: The Government may make rules consistent with this Act providing for the establishment, appointment, maintenance, management and superintendence of, and for the supply of narcotic drugs and psychotropic substances from, the centres referred to in the subparagraph above and for the appointment, training, powers, duties and persons employed in such centres. It is reported (J. Rao, personal communication, 1993), however, that no such rules have been promulgated. However, see note regarding the Bihar Narcotic Drugs and Psychotropic Substances Rules, 1985, below.

6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.
8. *Periodic review:* The said immunity from prosecution may be withdrawn if the addict does not undergo the complete treatment for detoxification or de-addiction.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Section 64A (Immunity from prosecution to addicts volunteering for treatment) provides that any addict, who is not charged with any offence punishable under Sections 15-25 (both inclusive) [i.e. a contravention in relation to poppy straw, opium poppy and opium, etc.] or Section 27A [i.e. financing illicit trafficking and harbouring offenders], who voluntarily seeks to undergo medical treatment for detoxification or de-addiction at a hospital or an institution maintained or recognized by the Government or a local authority and undergoes such treatment shall not be liable to prosecution under Section 27 once in his lifetime.

Provided that the said immunity from prosecution may be withdrawn if the addict does not undergo the complete treatment for detoxification or de-addiction.

Note: This provision, added by The Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988 (Act. No. 2 of 1989), amended The Narcotic Drugs and Psychotropic Substances Act, 1985.

B. *Narcotic Drugs and Psychotropic Substances (Execution of Bond by Convicts and Addicts) Rules, 1985.*

Note: When any person addicted to any narcotic drug or psychotropic substance is found guilty of an offence punishable under Section 27 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and the court directs that such person be released to undergo medical treatment on his entering into a bond, the form of such bond must be as in Form II (see next page).

Bond to appear before the court after medical treatment for detoxification/de-addiction and to abstain from commission of any offence under Chapter IV of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Where I (name), son/daughter/wife of (name) inhabitant of (place) have consented to undergo medical treatment for de-toxification /de-addiction and have been called upon to enter into a bond to appear before the court before _____ and furnish a report regarding the result of my medical treatment, and in the meantime to abstain from the commission of any offence under Chapter IV of the Act, I hereby bind myself to do so and, in case of my making default therein, I hereby bind myself to forfeit to the Government the sum of rupees _____.

Dated this _____ day _____ 19 ____

Signature

(Where a bond with sureties is required to be executed add)

We, _____ do hereby declare ourselves sureties for the above named _____ and furnish a report regarding the result of his/her medical treatment, and in meantime he/she will abstain from the commission of any offence under Chapter IV of the Narcotic Drugs and Psychotropic Substances Act, 1985 during the said term: and in case of his/her making default there, we bind ourselves jointly and severally, to forfeit to the Government the sum of rupees _____.

Dated this _____ day _____ 19 ____

Signature

India (Bihar)

Legislation: Bihar Narcotic Drugs and Psychotropic Substances Rules, 1985.

Note: These Rules are made by the Governor of Bihar, in exercise of the powers conferred by Sections 10, 65 and 71 read with section 78 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Act 61 of 1985) in force 14 November 1985.

"State" means, unless the context is otherwise, the State of Bihar and "State Government" (or "Government" means, unless the context is otherwise, the Government of the State of Bihar.

Note: (Under Section 34 on de-addiction:

- (1) The Government may, from time to time, by notification in the Official Gazette, establish as many centres as it thinks fit for identification, treatment, education, after-care, rehabilitation, social reintegration of addicts.
- (2) Such centres will be placed in overall charge of the Civil Surgeon of the district in which they may be situated.
- (3) The Civil Surgeon of the district shall be assisted by such of his subordinate staff as may be necessary for maintenance, management and superintendence of such centres.
- (4) Persons identified by the Civil Surgeon as addicts may be registered as such and may be admitted to any of the centres on such fees and on such terms and conditions as may be decided by the Director of Health Services, Bihar, in this behalf considering the state of addiction, in consultation with the Excise Commissioner and with the approval of the Department of Finance, Bihar.
- (5) The Civil Surgeon of the district, in consultation with the Director of Health Services, Bihar, may decide, from time to time, the number of staff of different categories both medical and non-medical in each centre depending on the number of addicts registered for treatment, education, after-care, rehabilitation and social reintegration, as the case may be.
- (6) The staff mentioned in the preceding sub-rule (5) may till such time as may be prescribed by the Government be drafted from the existing staff of Government Hospitals for running the centres and their conditions of service including their appointment, training, powers and duties as may be laid down by the Government keeping in view their special responsibilities in such centres.

Indonesia

Legislation: Law No. 9 of 1976 on narcotics.

Note: This Law is reported (H.A. Nawawi R. Skm, personal communication, 1994) to be under revision.

1. *Grounds:* Conviction for unauthorized personal use of narcotics.
"Narcotics" are defined in the Law.

"Narcotic addict" is someone who utilizes narcotics and is in a state of dependence on narcotics, physically as well as mentally, resulting from the use or abuse of narcotics.
2. *Application:* Not stated.
3. *Decision-making authority:* Judge pronouncing sentence.
4. *Medical examination:* Not stated.
5. *Treatment programme:* Medication and nursing of narcotic addicts and rehabilitation of ex-addicts is at their own expense, and are provided at rehabilitation institutions. The establishment, organization, and function of rehabilitation institutions and branches are determined by the President. Involvement of private and government community agencies is sought.

"Rehabilitation" is an endeavour to make a narcotic addict recover so that he regains his physical and mental health in order to readapt to his living environment and improve his dexterity, knowledge and skill.
6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Iran (Islamic Republic of)

Legislation: Anti-Narcotic Drug Law of 25 October 1988, as Amended on 1 July 1989.

1. *Grounds:* All drug addicts who are sentenced for illicit activities (under Article 4 or Article 8).

Note: Using drugs in any form or manner except as provided by law is considered a crime and the perpetrator will be sentenced to the punishments prescribed.

All drug addicts mentioned in Article 8 (concerning the import, production, distribution, etc., of heroin, morphine, etc.) are required to give up addiction within six months and the Anti Drug Campaign headquarters has the duty to take action, from the same date and in accordance with its plans and with due regard to its priorities, with respect to introducing such drug addicts to rehabilitation centres.

All drug addicts referred to in Article 4 (concerning the smuggling, production, etc., of opium) who are under the age of 60 are required to give up their addiction within six months. If after the expiration of six months they have failed to do so, the public prosecution must send them to rehabilitation centres and such addicts must remain in the centres until they get rid of their addiction.

"Drug addict" and "non-addicts" are not defined in the Law.

2. *Application:* Anti Drug Campaign.

Note: Drug addicts mentioned in Article 8 [i.e. anyone who imports, produces, distributes, exports, deals in, puts on sale, keeps or stores, conceals and carries or transports heroin, morphine, codeine, methadone and other chemical derivatives of morphine, cocaine and also chemical extract of hashish or hashish oil, and who is sentenced to the prescribed punishments, taking into account the amount of said drugs] are required to give up their addiction within six months. The Anti Drug Campaign headquarters must take action, from the same date and in accordance with its plans and with due regard to priorities, with respect to introducing such drug addicts to rehabilitation centres.

Drug addicts mentioned in Article 8 who carry or keep up to one gram of such drugs shall not be condemned to the punishments laid down in Articles 8 and 9. After the expiry of the time limit provided in Article 8 the drug addicts referred to in Article 8 shall be sentenced to fines, punishment, and dismissal from government employment.

The punishment of the drug addicts referred to in Article 4 who, after their treatment in rehabilitation centres, resume their addiction shall include fines and imprisonment.

Non-addicts who use the narcotic drugs referred to in Article 4 shall be sentenced to prescribed punishments and fines and non-addicts who use the drugs mentioned in Article 8 shall also be sentenced to prescribed punishments and fines.

Note: No provisions are included in this Article for the treatment or rehabilitation of non-addicts.

3. *Decision-making authority*: Not stated.
4. *Medical examination*: Not stated.
5. *Treatment programme*: Not stated.
6. *Length of stay*: For smugglers, etc., until rid of their addiction.
7. *Appeal*: Not stated.
8. *Periodic review*: Until rid of addiction.
9. *Discharge procedure(s)*: See paragraph 6 above.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.

Ireland

Legislation: Misuse of Drugs Acts, 1977 and 1984.

Notes: The Principal Act and the Misuse of Drugs Act, 1984 are cited together as the Misuse of Drugs Acts, 1977 and 1984, and are to be construed together as a single Act. The Misuse of Drugs Act 1977-1984 provides for offences in respect of harmful possession and the misuse of controlled drugs.

See also the Misuse of Drugs Regulations, 1988, which give effect to the legislative provisions.

Notes: It is reported (M. Lyon, personal communication, 1994).

- (a) That the Misuse of Drugs Acts, 1977-1984, together with administrative action, constitute the statutory basis for the essential control over the availability of controlled drugs in treatment and rehabilitation programmes. For example, under Sections 3 and 4 of the 1984 Act, medical practitioners may be prohibited from prescribing controlled drugs [e.g. methadone], thus encouraging such practitioners to participate in local health board arrangements for the prescription and dispensing of drugs for treatment and rehabilitation.
- (b) That drug abusers appearing in the Courts are seldom caught with drugs in their possession, but appear on drug-related charges, e.g. on possession with intent to supply. The purpose of such supply is often to "feed" their habit, and while not acceptable, is considered by the Court as being a somewhat less serious offence than that committed by a non-user who is charged with "pushing" drugs.
- (c) That the criminal justice system operated under the legislation dealing with drugs, namely Section 28 of the Misuse of Drugs Acts 1977-1984, makes provision *inter alia*, for the accused, in certain circumstances, to be detained in a designated custodial treatment centre.

Section 28(10) of the Act provides that the Minister for Health "may by order designate an institution which in his opinion is suitable for the medical treatment or the care of persons in respect of whom an order may be made under this section, or a specified part of such an institution, as a designated treatment centre for the purpose of this section".

The Court, when dealing with drug or drug-related offences often requests a social inquiry report, which is prepared by the Probation and Welfare Service, employed by the Department of Justice. The probation officer in such cases will be asked by the Court to obtain a medical report, which will be prepared in conjunction with the National Drug Treatment Centre, Trinity Court. The Centre is the only agency providing a toxicology service. The report is required by the Court for use in its assessment of the motivation of the person on whom the report is prepared.

Many projects have been set up by voluntary organizations to assist drug-abusers and persons who are HIV-positive, including primary care satellite clinics providing maintenance, needle exchange and counselling. It is too early to judge the effectiveness of these clinics, but to date, from the Courts' point of view, they are considered to be providing a maintenance facility rather than a producing drug-free persons. If the Court is considering a prison sentence in respect of offences where the accused is being maintained on methadone, the Court cannot consider the alternative sentence to prison, namely a Community

Service Order [this would mean that persons who are drug-free would be working alongside persons who are being maintained, and would put unnecessary pressure on the drug-free persons; a person who is being maintained and is still committing crimes is likely to receive a prison sentence].

Many persons appearing before the Court are long-time drug-abusers for whom the only effective way of making them address their problem is through residential inpatient treatment. The Courts refer such persons to Coolmine Therapeutic Community, but only if the accused person seeks such treatment. The Probation and Welfare Service and the National Drug Treatment Centre would also be involved.

Note: Alcohol abuse is seen as a major cause of crime in Ireland. However, it is reported (M. Lyons, personal communication, 1994) that there are no custodial residential [inpatient] treatment centres for the rehabilitation and care of alcoholics, but that several inpatient treatment centres run by health boards and organizations (mainly religious orders) exist in Dublin and other parts of Ireland. It is not unusual, if the convicted person agrees, for that person to be put on probation (i.e. under the supervision of a probation officer) for a period of time, normally 12-18 months, subject to certain conditions, e.g. that the convicted person resides in one of these centres, as directed by the probation officer. However, as this is a non-custodial sentence, the person is free to leave the treatment centre. Another possibility reported is for the convicted person to attend a day treatment clinic, normally operated by the local Health Board. This would also be done under the supervision of a probation officer.

In either of the above circumstances, if the person placed on probation does not comply with the conditions of the probation bond, that person can be brought back before the judge who imposed the sentence, and a prison sentence could then be imposed.

It is rare, however, for persons appearing in the Courts to seek treatment without the intervention or "encouragement" of the Court, and it often takes the threat of a prison sentence before a treatment programme becomes attractive.

Israel

Legislation: Two laws are in force.

- A. *Penal Law, 5737-1977, as amended by the Dangerous Drugs Ordinance (Amendment No.3) Law, 5749-1989.*
- B. *Penal Law (Modes of Punishment) (Cure of Addiction to Dangerous Drugs) Regulations, 5729-1969 (see paragraph 11 on Patient's Rights).*

1. *Grounds:* Person has been sentenced to imprisonment, other than conditional imprisonment, for a term of six months or more, and the court is satisfied, after hearing the opinion of a psychiatrist, that the accused is addicted to dangerous drugs, within the meaning of the Dangerous Drugs Ordinance and that there is reason to believe that he committed the offence for which he has been sentenced in consequence of that addiction, and that the said addiction may lead him to commit further offences. The court may, in its sentence, order that the person be detained in a closed institution to be cured of that addiction.

Where a person has been convicted and the court is satisfied the person uses dangerous drugs, within the meaning of the Dangerous Drugs Ordinance (New Version) 5733-1973, the Court may impose, by order, probation under which he will receive treatment in a communal framework, for such period and in accordance with a programme as the court may direct. The court may make such an order for probation even if the court has not convicted the person.

"Dangerous drugs" (as defined in the Dangerous Drugs Ordinance (New Version) 5733-1973) means a substance specified in the First Schedule and includes any salt thereof, as well as any preparation, compound, mixture or solution of a substance as aforesaid and a salt of any such preparation, compound, mixture or solution.

The court may not order probation under the aforementioned provision unless:

- (1) the person concerned agrees to undergo the treatment and understands the conditions and nature of the treatment;
- (2) the condition of the person concerned justifies the treatment and is suitable for it;
- (3) arrangements have been made enabling the person concerned to receive treatment under a programme set out in the report of the probation officer regarding the kind, nature and duration of the treatment.

The Minister of Labour and Social Affairs may, in consultation with the Minister of Justice, the Minister of Police and the Minister of Health, make regulations for the implementation of these provisions.

The Minister of Health, in consultation with the Minister of Justice and the Minister of Labour and Social Affairs, may make regulations as to places and modes of medical treatment.

Regulations under this section require the approval of the Constitution, Legislation and Juridical Committee of the Knesset.

2. *Application:* Court.
3. *Decision-making authority:* Court.
4. *Medical examination:* Opinion of psychiatrist that the accused is addicted to dangerous drugs.
5. *Treatment programme:* Any person against whom a court order has been made is detained in a "closed institution" under the same conditions (subject to some exceptions) as those for the hospitalization of a "sick person" within the meaning of the Treatment of Mentally Sick Persons Law, 1955.

An order ("detention order") may not be made unless an institution approved by the Minister of Health suitable for curative treatment has stated that it can accommodate the sentenced person for the purposes of the treatment.

The Minister of Health may, with the consent of the Minister of Police, approve a psychiatric ward in a prison as a suitable institution.

6. *Length of stay:* A detention order may not be made for a period exceeding three years or exceeding the term of imprisonment that the sentenced person has to undergo, whichever is the longer.

The period of detention must be deducted from the term of imprisonment of such person unless the court directs that the whole or part of that period may not be deducted. Where the court so directs, it must, after hearing the opinion of a psychiatrist (or a physician), determine whether the period of treatment in a closed institution shall take place before or after the person serves his prison sentence.

7. *Appeal:* Not stated.
8. *Periodic review:* The Attorney General or his representative must, once every six months, bring the case of the patient before the court that made the detention order, and the court may rescind the order if it is satisfied that there is no justification for the continued detention of the patient in a closed institution.
9. *Discharge procedure(s):* The Minister of Justice must appoint a Board of three persons of whom one is a district court judge and at least one is a psychiatrist.

Where the Board is satisfied that a patient is no longer in need of treatment in a closed institution or is incurable, it may direct his release from the closed institution at any time prior to the expiration of the period of the order. The Board may also in its discretion, from the point of view of the cure or rehabilitation of the patient, direct that he be released for such time or on such conditions as it may think fit.

The person in charge of the closed institution or a person empowered by him in that behalf may grant the patient special leave for a period not exceeding four days.

Release from a closed institution does not relieve the patient of liability to the term of imprisonment that he still has to undergo at the time.

A patient who leaves a closed institution without permission and a person who aids a patient to leave are liable to imprisonment for a term of one year.

10. *Harm reduction:* Not stated.

11. *Non-discrimination/patients' rights:* The Penal Law (Modes of Punishment) (Cure of Addiction to Dangerous Drugs) Regulations, 5729-1969, provide the following rights and restrictions:

- (a) The officer in charge of the institution or a person empowered in that behalf may examine every letter and postal packet sent by or to the patient and if it appears to the officer that the letter or packet is objectionable or suspect for any reason, he may prohibit its being taken out of or brought into the institution and may store it in any manner he thinks fit; but a patient's right to send closed letters to the Minister of Health, the Minister of Police, the Attorney General and his advocate shall not be restricted.
- (b) The patient is entitled to receive visitors, with the permission of the officer in charge or a person empowered in that behalf on such days at such hours as either of them may direct.
- (c) The officer in charge may direct that a person who comes to visit the patient shall be searched. If the visitor is a woman, the search must be carried out by a woman.
- (d) An advocate whom the patient has asked to see may visit him on any day except Sabbaths and holy days, at any reasonable hour, provided that the patient has informed the officer in charge that he wishes to contact or talk to that advocate.

Italy

*Legislation: Decree of the President of the Republic No. 309 of 9 October 1990.
Consolidation of the Laws governing drugs and psychotropic substances, the prevention, treatment and rehabilitation of drug addicts.*

Note: Law No. 162 of 26 June 1990, consolidated in Decree No. 309, is summarized below. See also section A2.1 for a summary of the provisions of Law No. 162 on compulsory civil commitment.

1. *Grounds:* Any of the following:
 - (a) Person who unlawfully imports, acquires or possesses narcotic and psychotropic substances in doses not greater than the daily average requirement for personal use alone, and is charged.
 - (b) Person condemned to a term of imprisonment of not more than three years for criminal offences committed in relation to his condition as a drug addict.
 - (c) Drug addict or alcoholic under prison sentence of not more than three years who is currently taking part in a rehabilitation programme, or intends to do so.
 - (d) Workers who are found to be drug addicts and who intend to take part in therapeutic and rehabilitation programmes in the health-care services of the local health boards (USL) or other therapeutic and social welfare rehabilitation structures are entitled, where they are employed on a permanent basis, to leave to attend rehabilitation treatment and to return to their place of work for a period of more than three years.

Notes:

- (a) The Minister of Health shall, after consultation with the Higher Institute of Health [*Istituto Superiore di Sanità*], issue a decree establishing:
 - (i) the diagnostic and forensic medical procedures for ascertaining the habitual use of narcotic and psychotropic substances; (ii) the methods for quantifying the usual doses administered in a 24-hour period; and (iii) the maximum amounts of the active principle for average daily doses.
- (b) The judge may suspend the enforcement of the sentence for five years whenever it is ascertained that the person has taken part or is taking part in a therapeutic and social rehabilitation programme, but no suspension

will apply if the offender commits another criminal offence, with malice, for which a statutory prison term is prescribed.

2. *Application:*

- (a) Prefect, who summons person, or if minor, family members to inform them of the circumstances and of the therapeutic and rehabilitation facilities which exist in the province, encouraging them to make contact with these facilities. When the person concerned voluntarily asks to undergo a therapeutic and rehabilitation programme (pursuant to Section 122), and if this is deemed advisable, the Prefect must suspend the measure otherwise applicable under law and send the person to the public service for treatment of drug dependence, setting a deadline for attendance, and collect data for use in the monitoring of programme progress, notwithstanding the professional secrecy which is required by legislation.

Note: If the person concerned fails to comply with the Prefect's order in ways specified in the Law, the Prefect must report the matter to the public prosecutor so that court proceedings involving criminal penalties for non-compliance will be taken (e.g. prohibition of leaving the municipality of residence).

- (b) To the surveillance court of the place in which the convicted person resides.
- (c) Drug addict or alcoholic offender may apply to be remanded on probation and entrusted to the social services in order to continue or to undertake therapeutic activities according to a programme agreed by him with the Local Health Board or one of the agencies provided for in the Law or a private agency.

3. *Decision-making authority:*

- (a) The judge, who must issue a reasoned decree after obtaining all available information from the public service for drug addiction.
- (b) Surveillance court.
- (c) Surveillance court, which, if ordering probation, must include orders establishing the manner in which the programme shall be conducted, and instructions and procedures for supervision in order to ensure that the drug addict or alcoholic undergoes the rehabilitation programme.

4. *Medical examination:*

- (a) Not stated.
- (b) Not stated.
- (c) The offender's application must be accompanied by a certificate issued by the public health facility attesting to his status as a drug addict or alcoholic and the appropriateness of the agreed programme for the purposes of rehabilitating the offender.

5. *Treatment programme:*

- (a) Not stated.
- (b) For persons under a detention order that has been suspended, the claimant must supply to the surveillance court the certificate issued by the public service for drug dependency attesting to the type of therapeutic and social rehabilitation programme selected, identifying the facility, even if it is private, where the programme has been or is being provided, the procedures for its implementation and whether or not it has been completed.
- (c) All persons who are in preventive detention or serving a prison sentence for criminal offences in relation to their status as drug addicts or who are deemed by the health-care authorities to be habitual users of narcotic and psychotropic substances, or in any way suffer from drug dependence problems, are entitled to medical treatment and assistance within the prison institutions designed for their rehabilitation. The local health boards by agreement with the prison authorities are responsible for the treatment and rehabilitation of drug- addicted or alcoholic prisoners.

After speaking to the person concerned, who may be assisted by the person's physician, and making the necessary inquiries, the public drug-dependence service must define a treatment and social rehabilitation programme tailored to the person, taking into account the psychological and physical condition of the drug addict. The programme may include initiatives designed to bring about the full incorporation into society of the person concerned through counselling and vocational training, work of public utility or social solidarity. When urgently necessary, the drug-dependence service may also arrange for drug-treatment therapies and psychological and pharmacological treatment as appropriate.

The programme must be implemented in the public service structures or rehabilitation structures registered with the regional or provincial register, or alternatively with the assistance of a physician selected by the patient. When the patient wishes to take part in a programme in one of the rehabilitation structures registered with the regional or provincial register any of the aforesaid structures may be chosen, if it states that it can take the person.

6. *Length of stay:* Not stated.
7. *Appeal:* (a) The offender may appeal against the judge's decision, but the appeal will not suspend the implementation of the decision unless the issuing judge gives leave. The judge must take into account the demands of any therapeutic and social rehabilitation programme to which the offender has been invited to submit or for which he volunteers, as well as the requirements of work, study, family and health. At the offender's request the judge may suspend the measure and order him to be sent to the public service for drug addiction in order to take part in the programme referred to in Section 1222 (i.e. therapeutic and social rehabilitation programme).
8. *Periodic review:* The judge must revoke the suspension and order the resumption of the measures whenever he ascertains that the person has not cooperated in defining the programme, has refused to take part in it or has interrupted it, or adopts an attitude which is incompatible with the sound performance of the programme.
9. *Discharge procedure(s):*
 - (a) If the offender takes part in the programme, complies with instructions, and completes it, the judge shall order the matter to be closed, but the closing of a procedure cannot take place more than once in respect of the same person.
 - (b) If the convicted offender takes part in a therapeutic programme and within five years following suspension of his sentence does not commit another wilfully criminal offence for which imprisonment alone would be imposed, the sentence or any other criminal effect is deemed spent.
 - (c) Not stated.
10. *Harm reduction:* Except where exceptional precautions need to be taken, preventive detention in prison may not be ordered when the offender is a drug addict or an alcoholic who is currently taking part in a programme of rehabilitation treatment in an authorized facility, and where the interruption of the programme might jeopardize the treatment of the offender. The Court may,

in the same ruling or a subsequent one, specify the controls required in order to ascertain that the drug addict or alcoholic is pursuing the rehabilitation and treatment programme.

11. *Non-discrimination:* Not stated.

Jordan

Legislation: Law on Narcotic Drugs and Psychotropic Substances of 1988.

Note: The Law on Dangerous Drugs No. 10 of 1955, as amended, is repealed. Regulations issued pursuant to this Law remain in force until changed or replaced.

1. *Grounds:* Whoever imports, purchases, produces, manufactures or processes any narcotic drug or psychotropic substance for the purpose of abuse shall be punished by imprisonment for not less than six months or more than two years and by a fine of not less than 2000 dinars and not more than 3000 dinars. The same punishment must be inflicted on whoever cultivates or purchases any of the plants which produce any narcotic drug or psychotropic substance for the purpose of extracting such a drug or substance for abuse.

When considering any of the above-mentioned offences stated below, instead of sentencing him to the punishment provided for under the preceding paragraph, the court may take any of the following measures against the offender as it deems necessary, including an order for his placement under treatment in a sanatorium specialized in the treatment of persons addicted to narcotic drugs and psychotropic substances, or decide that he should be treated in a clinic specialized in psychological and social therapy for persons addicted to narcotic drugs and psychotropic substances according to the programme determined by the psychiatrist or social specialist in that clinic.

Note: No legal proceedings by the public prosecution shall be brought against a person addicted to narcotic drugs or psychotropic substances if he, of his own accord, requests treatment or if such a request is made prior to trial.

"Narcotic drug" means any of the natural or synthetic substances listed in Schedules I, II and IV annexed to this Law.

"Psychotropic substance" means any substance, natural or synthetic, listed in Schedules V, VI, VII and VIII annexed to this Law.

2. *Application:* The court.

3. *Decision-making authority:* The court.
4. *Medical examination:* Not stated.
5. *Treatment programme:* The treatment of persons addicted to narcotic drugs and psychotropic substances must be carried out in compliance with the provisions and procedures provided for in the regulations issued for this purpose in accordance with this Law.
The aforementioned regulations must stipulate adherence to complete secrecy in respect of the identity of those being treated and of any other information or facts concerning them. In addition, the disclosure of such information is punishable by imprisonment for a period of not more than one year and by a fine.

For treatment in a sanatorium specialized in the treatment of persons addicted to narcotic drugs and psychotropic substances, a period determined by the commission authorized to examine those placed in sanatoriums.

For treatment in a clinic specialized in psychological and social therapy for persons addicted to narcotic drugs and psychotropic substances according to the programme and frequent such a clinic as determined by the psychiatrist or social specialist in that clinic.
6. *Length of stay:* See paragraph 5 above.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Kazakhstan

Note: See Section A2.1 for comments on the treatment and rehabilitation of drug-dependent persons under the Law on health care.

It is reported (B. Ajdeldjaev, personal communication, 1994) that cases of drug abuse among those who have committed criminal offences are dealt with under criminal legislation.

Kuwait

Legislation: Law No. 74/1983 of 18 April 1983 on narcotics and their utilization and marketing.

See Section A2.1 for a summary of the provisions on compulsory civil commitment of this Law.

Note: This Law repeals Law No. 26/1960 concerning the regulation of trade in, and utilization of, narcotics, as amended.

Under Section 33, a court may, instead of applying the penalties prescribed in the Law, order a drug-dependent person to be committed to a hospital for treatment.

Section 34 provides that no criminal proceedings are to be instituted against drug-dependent persons who voluntarily apply for admission to such institutions for treatment.

Latvia

Note: A new criminal code is reported to be in preparation. According to a review of the present situation concerning legislation on treatment associated with the criminal justice system (J. Strazdins, personal communication, 1994), all the orders made before 1990 hindered the development of treatment. Now, however, health-care facility can draw up its own individual action plan and try to improve the quality of care since the payments received by medical practitioners depend on the effectiveness of treatment. Patients have the right to choose both clinics and physicians. Because the Criminal Code, which is still in force, imposes criminal or administrative penalties for narcotic drug use without a prescription, legislation still hampers the development of treatment for drug addicts, who generally seek help only if they can remain anonymous. Very severe criminal penalties are imposed for the purchase, production and possession of narcotic drugs, even in small quantities. New legislation is being drafted on this matter. Under the existing legislation the State has lost its monopoly on alcohol, so that there are no restrictions on alcohol sales. As a result, alcohol consumption has increased.

Lithuania

Legislation: Decrees of the Supreme Soviet of the Lithuanian Soviet Socialist Republic, dated 29 October 1973, 29 December 1982, and 29 July 1987.

Note: It is reported (V. Struoga, personal communication, 1993) that this series of decrees is still in effect. Article 232, which concerns the illicit production, acquisition, storage and transportation, of narcotic substances, includes the

following: "A person who voluntarily applies to a medical institution for medical assistance related to the use of narcotic substances for non-medical purposes is excusable from criminal responsibility for using unprescribed narcotic substances, and also for the illicit acquisition, storage and transportation of the narcotic substances used".

Note: On 8 January 1998, No. VIII-602, Republic of Lithuania Law on the Control of Narcotic and Psychotropic Substances was enacted to establish principles of classification of narcotic and psychotropic substances, for a lawful circulation of these substances when they are used for health care, veterinary and scientific purposes, in accordance with international agreements.

Malaysia

Legislation: The Dangerous Drugs Act (No. 234 of 1952) (revised 1980), as amended by Act No. A553 Dangerous Drugs (Amendment) Act 1983, and Act No. 283 Drug Dependents (Treatment and Rehabilitation) Act 1983.

Note: Act No. 283 Drug Dependents (Treatment and Rehabilitation) Act 1983 added the following provisions:

Where any person below the age of 18 years is found guilty of an offence against the Dangerous Drug Act, 1952, other than in the case of an offence under Section 6B (restriction on planting or cultivation of certain plants) or 39B (trafficking in dangerous drug) or other than in a case where a person is found guilty of an offence against this Act for which the punishment shall be under Section 39A (increased penalty where the subject matter is the prescribed amount of certain dangerous drugs), the Court must consider a report of a Rehabilitation Officer as defined in the Drug Dependents (Treatment and Rehabilitation) Act 1983, and if the Court believes the person is drug-dependent, as certified by a government medical officer, and taking into account the circumstances of the case, health and mental conditions of the person charged, considers it inexpedient to inflict the punishment provided, may with or without recording a conviction:

- (I) release the offender to reside at a rehabilitation centre for two years for treatment and rehabilitation, and then after-care under the Treatment and Rehabilitation Act 1983; or
- (ii) order the offender to be placed under the supervision of a rehabilitation officer for not less than two years or more than three years, under bond and supervision during that period.

Mauritius

Legislation: Dangerous Drugs Act 1986, Act No. 32 of 1986.

Note: The Dangerous Drugs Act is repealed. It is reported (P. Jagaunath, personal communication, 1994) that rehabilitation centres have been opened in prisons; and that referral by magistrates to rehabilitation centres with suspension of sentences is therefore to be stopped.

1. *Grounds:* Subject to Section 38 (higher penalties for traffickers), every person who unlawfully: (a) (i) has in his possession, smokes, consumes or administers to himself or to any other person any drug [specified in the note below]; (ii) has in his possession any pipe, syringe, utensil, apparatus or other article for use in connection with the smoking, sniffing, consumption or administration of any drug (specified in section 2) commits an offence and if convicted will be liable to a fine and to imprisonment for not more than eight years. The Probation of Offenders Act must apply to a conviction under these grounds.

Note: This section applies to: (a) any dangerous drug; (b) coca leaves, crude cocaine, raw opium, prepared opium, gandia, Indian hemp, hashish, heroin or morphine; (c) any preparation of which hashish forms the base; (d) any preparation of which heroin forms the base, other than a pharmaceutical preparation specified in the Fourth Schedule.

"Dangerous drug" means: (a) a substance or preparation specified in the First Schedule of this Act; and (b) does not include a substance or preparation specified in the Second Schedule to this Act.

2. *Application:* Not stated.
3. *Decision-making authority:* The Court. Where a person is convicted of an offence under subsection (1) (a) above, the Court may also order the person to undergo such treatment, education, after-care, rehabilitation or social reintegration as the Court thinks appropriate at such institution as may be prescribed and for such period not exceeding five years as the Court may specify.

Note: Where the Court makes such an order, it may also order that any sentence of imprisonment not exceeding 12 months be suspended. If the Court is satisfied that an order made under subsection 4(4) has been complied with, the Court must discharge the offender. Where a person fails to comply with an order made by the Court under this provision, he shall commit an offence and must: (i) be ordered to serve the full term of the suspended sentence; and (ii) in addition, be

liable to a fine which must not exceed 5000 rupees and to imprisonment for a term which must not exceed five years.

4. *Medical examination*: Not stated.
5. *Treatment programme*: See paragraph 3 above.
6. *Length of stay*: Not exceeding five years as the Court may specify. See paragraph 3 above.
7. *Appeal*: Not stated.
8. *Periodic review*: Not stated.
9. *Discharge procedure(s)*: See paragraph 3 above.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.

Mexico (Federal District)

Legislation: Penal Code for the Federal District as regards the Court of Equity and for the Republic as a whole as regards for the Federal Court.

Note: It is reported (E. Medina Mora, personal communication, 1994) that Article 67 of this Code provides that, if the person sentenced is addicted or needs to consume narcotics or psychotropic substances, the judge must also order the type of treatment required to be provided by the health authority or other health service under the supervision of the health authority. In no case may the treatment ordered by the court exceed the maximum duration of the sentence imposed for the offence committed. Article 69 provides that, if the drug-dependent person is still in need of treatment at the completion of the sentence, the person must be turned over to the health authority.

Article 194 is a general provision specifying that every person who is an addict or habitual user must receive treatment; and that the person sentenced must submit to adequate treatment under the supervision of the proper authority.

Myanmar

Legislation: Two separate laws are in force.

A. *Narcotic Drugs and Psychotropic Substances Law, 1993.*

Notes: See section A2.1 for provisions on compulsory civil commitment. The Narcotics and Dangerous Drugs Law, 1974 is repealed. Rules, notifications, orders and directives issued under the Narcotics and Dangerous Drugs Law, 1974 which are repealed by this Law may continue to be applicable in so far as they are not inconsistent with it.

For the purpose of carrying out the provisions of this Law: (a) the relevant Ministry may issue rules and procedures with the approval of the Government; and (b) the relevant Ministries and the Central Committee may issue notifications, orders and directives as may be necessary. The Central Committee means the Central Committee for Drug Abuse Control.

1. *Grounds:* A registered drug-user. A drug-user shall register at the place prescribed by the Ministry of Health or at a medical centre recognized by the Government for this purpose for medical treatment.

Section 15 provides that a drug-user who fails to register at the place prescribed by the Ministry of Health or at a medical centre recognized by the Government for this purpose or who fails to abide by the directives issued by the Ministry of Health for medical treatment shall be punished by imprisonment for a term ranging from a minimum of three years to a maximum of five years.

"Drug-user" means a person who uses a narcotic drug or psychotropic substance without permission in accordance with the Law.

"Narcotic drug" means any of the following: (i) poppy plant, coca plant, cannabis plant or any kind of plant which the Ministry of Health has, by notification, declared to be a narcotic drug, substances and drugs derived or extracted from any such plant; (ii) drugs which the Ministry has, by notification, declared to be a narcotic drug, and substances containing any type of such drug.

"Psychotropic substance" means drugs which the Ministry of Health has, by notification, declared to be a psychotropic substance.

"Central Body" means the Central Body for the Prevention of the Danger of Narcotic Drugs and Psychotropic Substances established by the Government under this Law.

2. *Application:* Not stated.
3. *Decision-making authority:* Not stated
4. *Medical examination:* Actions taken under this Law must be in accordance with the results of laboratory analyses in respect of narcotic drugs and psychotropic substances.
5. *Treatment programme:* The Ministry of Health shall lay down and carry out such programmes as may be necessary in respect of medical treatment for a registered drug-user. A registered drug-user undergoing medical treatment must abide by directives issued by the Ministry of Health. Registration of a drug-user is to be carried out in accordance with the stipulations of the Law.

The Ministry of Social Welfare, Relief and Resettlement shall, in respect of the rehabilitation and after-care of drug-users, carry out the following measures in accordance with the stipulations of the Law:

- (a) rendering assistance and protection as may be necessary to persons undergoing medical treatment and to the families dependent on them;
- (b) providing for rehabilitation, teaching of means of livelihood as may be necessary resettlement and after-care to enable persons who have undergone medical treatment to resume their normal lives;
- (c) conducting expertise training courses for the relevant persons in order to implement systematically and effectively the rehabilitation of drug users. The Ministry of Home Affairs shall provide for the teaching of means of livelihood as may be necessary to persons serving sentences under Section 15 (see paragraph 1, above), in accordance with the stipulations of the Law.

6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.
- B. *The Narcotic Drugs and Dangerous Drugs Rules, 1974.*

Notes: Convicts who are addicts may if necessary be admitted for medical treatment in prison hospitals. Medical treatment is given under the Government

scheme. The Government must, after obtaining all necessary assistance, take steps for the rehabilitation in every way of users of drugs on recovery after medical treatment, to enable them to resume their places in society as useful citizens and to perform their share of the duties of the country.

"Addict" means any person who has the desire to use narcotic and dangerous drugs and who is unable to refrain from taking such drugs and who suffers from withdrawal symptoms when he does not consume the same.

No information is given in the Rules on the treatment provided in prison hospitals.

Nigeria

Legislation: National Drug Law Enforcement Agency Decree 48 of 1989.

1. *Grounds:* Person accused of an offence under Section 11 of the Decree.
2. *Application:* Not stated.
3. *Decision-making authority:* Tribunal before whom an accused is convicted may in addition to the punishment prescribed in subsection (2) of Section 11 (i.e. imprisonment) may order an offender to undergo measures such as treatment, education, after-care, rehabilitation or social reintegration.

The tribunal before whom a minor is being convicted may, in an appropriate case, make an order as the circumstances may determine: (a) either as an alternative to conviction or punishment; or (b) for treatment, education, after-care, rehabilitation, and social integration of the offender.

4. *Medical examination:* Not stated.
5. *Treatment programme:* Not stated.
6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.

11. *Non-discrimination:* Not stated.

Norway

Note: Prison Law No. 7, 1958 provides for the transfer of drug-dependent persons from prison to treatment institutions; and is the basis for suspended sentences (Norway, Ministry of Health and Social Affairs, National Directorate for the Prevention of Alcohol and Drug Problems, 1993).

Paraguay

Legislation: Law No. 1340 of 27 October 1988 (amending and updating Law No. 357/72 aimed at the prevention of illicit trafficking in narcotics and dangerous drugs and other similar offences and establishing preventive and rehabilitative measures aimed at drug-dependent persons).

1. *Grounds:* A lower civil commercial court judge or a juvenile court judge, as the case may be, who becomes aware in any way and through any means of the existence of a drug addict not receiving medical care shall order the confinement of that person at a care centre for his medical treatment and social rehabilitation.

Note: This Law adopts all the definitions given in the Single Convention on Narcotic Drugs and the Convention on Psychotropic Substances referred to in Article 1.

2. *Application:* Not stated.
3. *Decision-making authority:* Judge. In all cases, before ordering the confinement of the person in question, the judge shall hear him and shall require an expert decision in order to determine whether that person is suffering from addiction. If the person in question does not submit to the expert examination, he shall be confined, with the help of the forces of public order, at a State welfare centre for that purpose. The judge shall rule on the case within a period that may not exceed five days.

When a person who has stood trial or been convicted for any offence is also a drug addict, he shall be subject, in addition to the penalty appropriate to his offence, to such measures of treatment in custody as his recovery may require. This treatment in custody shall be provided at an appropriate establishment determined by the judge and shall precede the serving of the sentence, the time spent in recovery being counted against the duration of the sentence. Such treatment shall cease under a court order following a decision by the experts referred to in the above paragraph.

4. *Medical examination:* The expert decision mentioned in paragraph 3 above must be submitted within 10 days, the experts being a specialist in forensic medicine, a physician designated by the Ministry of Public Health and Social Welfare, and another physician engaged, at his own cost, by the person in question if he or his legal representative so request.
5. *Treatment programme:* The cost of the drug addict's treatment shall be covered under the service programme of the Ministry of Public Health and Social Welfare. Anyone preferring to undergo this treatment at a private centre shall be required to assume the corresponding costs.
6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Peru

Legislation: Penal Code.

1. *Grounds:* Not stated.
2. *Application:* Not stated.
3. *Decision-making authority:* Article 77 provides that, when it is necessary for an offender or an offending drug addict or alcoholic to be subject to compulsory hospitalization, the Court must arrange for this to take place before the sentence is served. The period of compulsory hospitalization shall be counted towards the sentence, without prejudice to the fact that the court may annul the sentence or reduce its duration depending on the success of treatment.
4. *Medical examination:* Not stated.
5. *Treatment programme:* Article 76 provides that outpatient treatment must be provided concurrently with the sentence imposed on the offender, who requires such treatment for therapeutic or rehabilitation purposes.

6. *Length of stay:* Article 75 provides that the duration of compulsory hospitalization must not exceed the duration of the custodial sentence that might have been imposed for the offence committed.
7. *Appeal:* Not stated.
8. *Periodic review:* Without prejudice to the power of the Court to request the same every six months, the authorities of the compulsory hospitalization establishment must provide the Court with an expert medical report in order to inform it whether the reasons which made it necessary to impose compulsory hospitalization no longer exist. If so, the Court must terminate the compulsory hospitalization imposed.
9. *Discharge procedure(s):* See paragraph 8 above.

Philippines

Note: Since the publication of the Dangerous Drug Act, 1972 (Republic Act No. 6425), amendments to various sections of the Act have been published, and are noted.

Legislation: The Dangerous Drug Act of 30 March 1972, as amended by Presidential Decrees Nos. 44, 165, 1683, 1708 and Batas Pambansa Blg. 179 dated 2 March 1982.

1. *Grounds:* Either:
 - (a) compulsory submission of a drug-dependent to treatment and rehabilitation after arrest; or
 - (b) voluntary submission of a drug-dependent to confinement, treatment, and rehabilitation by the defendant himself or through his parents, guardian, or relative.

If a person charged with an offence is found by the court, at any stage of the proceedings, to be a drug-dependent, the court must suspend all further proceedings and transmit copies of the record of the case to the Dangerous Drug Board.

If a drug-dependent voluntarily submits himself for confinement, treatment and rehabilitation in a treatment centre and complies with such conditions therefor as the Board may, by rules and regulations prescribe, he is not criminally liable for any violation of the Dangerous Drug Act. This exemption is extended to a minor who may be committed for treatment and rehabilitation in a centre upon sworn petition of his parent, guardian or relative, within the fourth civil degree of

consanguinity or affinity, or of the Director of Health or the Secretary of the Department of Social Welfare, in that order.

Should the parents or guardian refuse to cooperate with the Board, or in any manner, prevent or delay the after-care and follow-up of the child or ward, as the case may be, they may be cited for contempt of court.

"Drug dependence" means a state of psychic or physical dependence, or both, on a dangerous drug, arising in a person following administration or use of that drug on a periodic or continuous basis. "Dangerous drug" is defined in the Act.

2. *Application:* If the Board determines, after medical examination, that public interest requires that a drug-dependant be committed to a centre for treatment, and rehabilitation, it must file a petition for his commitment with the Court of First Instance, Juvenile and Domestic Relations Court, or Circuit Criminal Court of the province or city where the person is being held for investigation or is being tried. Any of the said courts may receive and act upon a petition for commitment.
3. *Decision-making authority:* A petition is filed with the Court of First Instance, Juvenile or Domestic Relations Court, or Circuit Criminal Court.
4. *Medical examination:* Examination by two physicians who must report to the court.
5. *Treatment programme:* By court order for commitment to a centre for treatment and rehabilitation.

The judicial and medical records pertaining to any drug-dependant's confinement or commitment under this Section [30] shall be confidential and shall not be used against him for any purpose except to determine how many times he shall have voluntarily submitted himself to confinement, treatment and rehabilitation or been committed to a centre.

6. *Length of stay:* Unlimited.
7. *Appeal:* Not stated.
8. *Periodic review:* The director of the treatment centre must report to the court every four months on the patient's progress.
9. *Discharge procedure(s):* The person or a relative or guardian may petition the court for release. If, after a hearing, the court orders discharge of the person, it must indicate whether the period of treatment is to be deducted from any criminal sentence, taking into account the person's behaviour during treatment.

The period of prescription of the offence charged shall not run during the time that the respondent or the accused is under detention or confinement in a centre.

10. *Harm reduction*: Not stated.
11. *Non-discrimination: Patients Rights*. (See Annex A2.3) The judicial and medical records pertaining to any drug-dependent's confinement or commitment must be confidential and must not be used against him for any purpose except to determine how many times he shall have voluntarily submitted himself to confinement, treatment and rehabilitation or been committed to a centre.

Poland

Note: see section A2.1 for compulsory civil commitment.

Three separate laws are in force:

- A. *Law of 19 April 1969 (Article 102 of the Criminal Code)*.

Note: The full text of the Law of 19 April 1969 (Article 102 of the Criminal Code) regarding the treatment of alcohol-dependent offenders reads as follows:

"Where sentence has been imposed for an offence committed in association with the habitual use of alcohol or other intoxicant, the court may commit the offender to an institution for the treatment of dependence before the sentence is carried out.

The period of stay in the institution shall not be fixed in advance; it shall not, however, be shorter than six months or longer than two years; the court shall decide upon discharge from the institution in the light of the results of the treatment."

It is reported (J. Morawski, personal communication, 1994) that the Law of 19 April 1969 (Article 102 of the Criminal Code) applies to both alcohol- and drug-dependent persons.

For other specific provisions pertaining to drug and alcohol treatment and rehabilitation associated with the criminal justice system, see the Code of Violations; the Penal Code; and the Code on the Execution of Penal Penalties.

B. *Law No. 15, of 31 January 1985, on Prevention of Drug Abuse.*

Note: See section A2.1 for compulsory civil commitment, and Annex 3 for citations for the following Ordinances on drug dependence which are also in force:

- (i) Ordinance of the Minister of Health and Social Welfare of 3 August 1985 on the organization and principles of functioning of treatment, rehabilitation and readaptation institutions for drug-dependent persons;
- (ii) Ordinance of the Minister of Education of 29 March 1986 on special forms of preventive and educational activities for youth exposed to addiction;
- (iii) Ordinance of the Minister of Health and Social Welfare of 31 August 1985 concerning detailed conditions for the issuance of permits for the conduct of rehabilitation and resocialization of drug-dependent persons by voluntary organizations, churches and other religious institutions as well as persons;
- (iv) Ordinance of the Minister of Justice of 12 July 1985 on detailed rules and procedures with respect to the treatment, rehabilitation and resocialization of minors dependent on narcotic drugs or psychotropic substances, placed in correction institutions;
- (v) Ordinance of the Minister of Justice of 12 July 1985 on detailed rules and procedures with regard to the treatment, rehabilitation and resocialization of persons addicted to narcotic drugs and psychotropic substances placed in penal institutions, under investigative arrest or in special readaptation centres;
- (vi) Ordinance of the Minister of Health and Social Welfare of 3 August 1985 on detailed rules and procedures with respect to the treatment of dependent persons sentenced for offences related to narcotic or psychotropic substances.

1. *Grounds:* Article 34 provides that when a drug-dependent person who is sentenced to imprisonment for a crime connected with intoxicant or psychotropic drug use, is given a suspended sentence, the court must put the convicted person under an obligation to undergo treatment and rehabilitation in an appropriate treatment and rehabilitation and readaptation facility and must turn the person over to the custody of a selected person, institution or social organization.

"Drug-dependent person" means a person who, as a result of using narcotic or psychotropic substances for medical reasons or through abuse of such substances, becomes dependent on them.

"Drug addiction" means constant or periodic use for non-medical purposes of narcotic or psychotropic substances or their surrogates which may lead or has led to dependence.

"Narcotic or psychotropic substance" means any substance of natural or synthetic origin which affects the central nervous system and which is listed in the schedule of psychotropic substances drawn up by the Ministry of Health and Social Welfare.

"Dependence on narcotic or psychotropic substances" means a complex of mental, and sometimes physical, phenomena arising from the effect of such substances on the human organism which is characterized by behavioural change and other psychophysical reactions within a definite range and by compulsive consumption, either constant or intermittent, of such substances in order to experience their effect on the psyche or to avoid the consequences of withdrawal.

"Potentially drug-dependent person" means a person who intermittently uses narcotic or psychotropic substances or their surrogates.

2. *Application:* Person, institution or social organization (see paragraph 1).
3. *Decision-making authority:* Court. The court, upon an application of the institution or social organization (see paragraph 1), or upon a motion from the facility conducting the treatment and rehabilitation, may revoke the suspended sentence should the convicted person evade the duty to undergo treatment or be found guilty of flagrant violation of the rules and regulations of the treatment facility during the probation period. If a dependent person is sentenced to imprisonment without conditional suspension of the sentence, the court may rule that the person be placed in an appropriate treatment facility before serving the sentence.
4. *Medical examination:* Not stated.
5. *Treatment programme:* The Minister of Health and Social Welfare in agreement with the Minister of Justice must define in a ruling the detailed rules and procedures governing the treatment of dependent persons. See the Ordinances noted above.

6. *Length of stay:* Not longer than two years.
 7. *Appeal:* Not stated.
 8. *Periodic review:* Court.
 9. *Discharge procedure(s):* The person's release from the facility must be decided by the court on the basis of the treatment's results. After the treatment is completed the court must rule whether the prison sentence should be carried out.
 10. *Harm reduction:* Not stated.
 11. *Non-discrimination:* Not stated.
- C. *Law of 26 October 1982 on education for sobriety and control of alcoholism, as amended on 11 July 1984.*

Note: This Law repeals Law No. 434 of 10 December 1959 on the control of alcoholism. See section A2.1 for compulsory civil commitment.

Treatment for alcohol-dependent persons shall be provided in inpatient or outpatient detoxification centres and general health care centres. Except as otherwise provided, entry into treatment is voluntary.

Article 37 provides that persons detained in reformatory schools and shelters for alcohol-dependent minors must follow the prescribed treatment. Such treatment is to be ordered by the administration of the school or shelter in respect of a minor, subject to the agreement of the legal guardian of the minor, or if no legal guardian exists or the person is not a minor, with the permission of the court implementing the order issued after hearing the opinion of a recognized expert. The Minister of Justice and the Minister of Health and Welfare shall specify by order the principles and procedures governing the treatment of alcohol-dependent minors in reformatory schools and shelters. The Ordinance of the Ministry of Justice of 7 May 1983 concerning principles and procedures for the alcohol treatment of the alcohol-dependent persons convicted in reformatories and asylums for juveniles applies.

Article 38 provides that the Minister of Justice jointly with the Minister of Health and Social Welfare must determine in a ruling the principles and provisions concerning the alcohol treatment of persons remanded in custody in prisons, and social reform centres.

Portugal

Note: It is reported that the criminal justice legislation is being reviewed. For civil commitment, see section A2.1.

Legislation: Decree Law No. 430/83 of 13 December 1983.

1. *Grounds:* "Drug-addicted" person who acquires or illicitly possesses proscribed substances or preparations for personal consumption.

Possession of illicit substances for personal consumption is punishable by a fine and imprisonment.

Under Article 37, individual and anonymous treatment is guaranteed to anyone who uses illicitly for personal consumption substances or preparations listed in the tables of this Decree. Doctors and technicians assisting the patient are subject to professional secrecy and are not obliged to tell the court or to inform the police about the treatment undertaken.

2. *Application:* Not stated.

Under Article 36, subject to the Courts discretion, and based on the evidence gathered, or a medical statement showing that the offender is drug addicted, the punishment may be suspended, as provided in the Penal Code, if the person submits voluntarily to medical treatment, or is confined to an appropriate establishment.

If, during the period of the sentence, the drug addict does not submit to medical treatment or does not obey the court's orders, Article 50 of the Penal Code shall apply. Once the suspension of the penalty is revoked, it must take place in appropriate quarters in the prison, separated from the other inmates, or in a detention centre, if a corrective measure is applied. The Centre for Social Rehabilitation must assist the drug addict. The judge must send the Centre a copy of the sentence, as well as the dispatch revoking the suspension.

Note: Under Article 38 the public prosecutor may abstain from prosecution for possession or consumption of illicit substances by drug-addicted persons if all the following conditions are met:

- (a) the defendant is under 21 years of age at the time of the acquisition or illicit possession;
- (b) the defendant has never been on trial before for the same facts;
- (c) the defendant makes a written statement, read before the judge, assuring the judge that the defendant will not repeat the offence; and

- (d) the substances and preparations involved in the crime are seized and turned over to the State by the investigating judge.

3. *Decision-making authority:* The court.

If the drug addict is already receiving medical treatment, the public prosecutor may abstain from implementing the treatment programme otherwise provided for in the Decree; however, the doctor or the establishment responsible for the treatment must report to the public prosecutor every three months on the progress of the treatment. If the treatment is interrupted without good reason, or there are doubts about its results, compulsory treatment shall be instituted.

If a person is found to be drug addicted while in prison, awaiting trial or serving a sentence, this fact must be reported by the police or prison officers to the public prosecutor, so that the drug-addicted person may be transferred to a prison where due assistance can be provided, independently of the measures prescribed in this Decree and of the urgent measures to be adopted in case of serious poisoning and performed by a doctor or in any hospital.

4. *Medical examination:* If there is evidence or a medical statement showing that the person is drug addicted, this must be proved in such ways as the court shall decide.
5. *Treatment programme:* The Centre for Drug Prophylaxis, in collaboration with the Institute for Social Rehabilitation, must assist the drug-addicted person.
6. *Length of stay:* As long as necessary for the recovery of the drug-addicted person.
7. *Appeal:* Not stated.
8. *Periodic review:* If the drug addict does not submit to medical treatment or does not obey court orders, provision is made for the confiscation of the property of the drug addict, and other measures. If the patient refuses treatment, or interrupts it without good reason, the court must order the person to be confined in the appropriate quarters of a prison, separated from the other inmates, or in a detention centre for a period up to six months, which may be extended to up to one year, except when a patient suffers from mental illness. The Centre for Drug Prophylaxis or the institution in charge of treatment must report every three months to the court on the gradual development of the patient. This information must be kept confidential, and the Centre may suggest appropriate measures, including the end of the prescribed treatment, or its replacement by any form of voluntary treatment.

After receiving the confidential information mentioned above, the court must decide upon the continuation, modification or ending of the measures that it has imposed.

9. *Discharge procedure(s)*: If the suspended penalty (for treatment) is revoked, the resumed punishment shall continue in appropriate quarters of the prison.
10. *Harm reduction*: (Preamble) Drug consumption is reprehensible because it involves a breach of individual responsibility towards society as a whole, but the drug-addicted person must not be considered as someone not in need of medical assistance. All efforts must therefore be made to treat and protect him or her, and thus society as a whole.
11. *Non-discrimination*: Not stated.

Qatar

Legislation: Law No. 9 of 1987 to Control Narcotic Drugs and Dangerous Psychotropic Substances and to Regulate their Use and Trade therein.

Note: This Law repeals Decree Law No. 28 of 1966 to control narcotic drugs and regulate their use and trade therein, as amended by Laws No. 20 of 1972 and No. 1 of 1983; as well as Decree Law No. 5 of 1986, and any provision in conflict with the provisions of this Law.

1. *Grounds*: Anyone who imports, possesses, procures, buys, acquires, carries, produces (or performs other enumerated illicit actions) shall be liable to imprisonment and fines. As an alternative to the enforcement of this penalty, the court may order that a person whose addiction to narcotic drugs or dangerous psychotropic substances has been established must be committed to a specialized sanatorium for treatment.

"Narcotic drugs or dangerous psychotropic substances" means substances and psychotropic agents listed in schedules annexed to this Law.

Criminal proceedings will not be instituted against any person taking narcotic drugs who presents himself for treatment spontaneously.

2. *Application*: The court.
3. *Decision-making authority*: The court.

4. *Medical examination:* Board responsible for examining the cases of persons committed to sanatoria to be appointed by decree of the Minister of Public Health.
5. *Treatment programme:* In a specialized sanatorium for treatment. The Ministry of Public Health must establish a sanatorium or sanatoria for the treatment of persons addicted to narcotic drugs or dangerous psychotropic substances.
6. *Length of stay:* For person taking narcotic drugs who presents himself for treatment spontaneously; upon confirmation of addiction and need of treatment, the person must be placed under observation at a sanatorium for a period not exceeding two weeks. If his addiction and need of treatment are confirmed, he must sign a statement accepting his committal to the sanatorium for a period not exceeding three months. If the administration of the sanatorium considers the person to be still in need of treatment after the end of the three-month observation period, and the patient refuses to agree to this in writing, the patient must appear before the Board (responsible for examining the cases of persons committed to sanatoria and appointed by decree of the Minister of Public Health for a hearing which will decide whether he is to be discharged or kept at the sanatorium for treatment for further period or periods, but not for more than one year.
7. *Appeal:* The administration of the sanatorium must notify the patient in writing of any decision to extend the duration of his committal within three days of the date of its announcement. A decision by the Board to discharge the patient must be implemented within 24 hours of its announcement. The patient has the right to appeal against a decision of the Board to extend his committal to the High Criminal Court within 15 days of the date of notification. A judgement ordering committal to a sanatorium under this provision is not subject to appeal.
8. *Periodic review:* See paragraph 7 above.
9. *Discharge procedure(s):* (a) At the end of the three-month observation period, if the patient is "cured" within that period, the administration of the sanatorium must order his discharge. Based on the report submitted to it by the Board responsible for examining cases of persons committed to sanatoria, the court shall decide whether the person is to be discharged from the sanatorium or to remain committed for a further period of time.

Note: Anyone who has already been committed to a sanatorium twice, or who was discharged from a sanatorium less than two years earlier, will not be readmitted to a sanatorium.
10. *Harm reduction:* Not stated.

11. *Non-discrimination*: Not stated.

Russian Federation

Note: It is reported (V. Pelipas, personal communication, 1994) that the Russian Federation Criminal Code makes alcohol intoxication in the commission of a crime an aggravating circumstance. Under Article 39, the court reserves the right to recognize this circumstance. Under Article 46, the court may require a person convicted of a crime to undergo medical treatment for alcohol abuse.

San Marino

Legislation: Law No 32 of 7 March 1988. Additions to the Provisions of the Criminal Code and Code of Criminal Procedure Regarding Offences Involving Narcotic Substances.

1. *Grounds*: Under the provisions of the Criminal Code, punishments may be reduced for the offences of illicit production, import or possession of narcotic substances if the offence is of a particularly minor nature by reason of the quality and quantity of the substances and if according to the offender's express declaration, said substances were intended for his personal use.
2. *Application*: Judge.
3. *Decision-making authority*: Judge. Under the Criminal Code, punishment for the offence remains suspended for the entire time required for the examination (see paragraph 4 below), or treatment (see paragraph 5 below) referred to above. The period of suspension may not, however, exceed the duration of the "probationary experiment" (see paragraph 5).
4. *Medical examination*: The judge may require an expert opinion on the subject's physical and psychological condition any time the habitual or occasional consumption of substances capable of producing narcotic effects has played a direct or indirect role in the behaviour of the person committing the offence or the victim of the offence. An expert opinion on the subject's physical and psychological condition must always be ordered when the offender is to undergo the probationary experiment mentioned in the following paragraph.

However, an expert examination of this kind will not be carried out when other and equivalent medical and health techniques for ascertaining or establishing the subject's condition have been used.

5. *Treatment programme:* The judge can order a "probationary experiment" under the Criminal Code. As part of this experiment, the judge shall impose (after conviction) on the offender, among other obligations, that of undergoing a medical examination and, if required, treatment, which may entail confinement in a hospital or a community.
6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.
8. *Periodic review:* If the probationary experiment is successful, the judge may order that the period spent in a health institution or in another suitable recovery facility shall be deducted from the duration of the sentence.

Note: The judge may also grant a judicial pardon if he concludes that, under the circumstances, the person found guilty will not commit other offences of the same nature.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Senegal

Legislation: Law No. 75-81 of 9 July 1975 repealing and amending Section 8 of Law No. 72-24 of 19 April 1972 on the prevention of contraventions in the field of narcotics, as amended.

Note: Decree 75-815 of 21 July 1975 provides for and specifies the terms and conditions of the enforcement of Act 75-81 of 9 July 1975.

1. *Grounds:* Any person accused of, or charged with, illicitly using or attempting to use narcotics may, following an examination, be required by the competent examining court or court passing sentence to undergo detoxification. In such cases, the court may dismiss the charges against the person before he is sent for detoxification treatment.
2. *Application:* Any physician who, while carrying out a diagnosis or a treatment, becomes convinced that a person is illicitly using narcotics must notify the chief medical officer of the region. Where the chief medical officer of a region is notified of a case of a person using narcotics, either by a certificate from a

physician or by a report from the Regional Governor or from the Prefect, he must arrange for the person concerned to be medically examined.

3. *Decision-making authority:* The court before which the person is charged, on the basis of medical examination and specific recommendations of the chief medical officer of the region.
4. *Medical examination:* By at least three physicians. The person's family, professional, and social life must also be investigated.
5. *Treatment programme:* Treatment may be in a detoxification centre, or on an outpatient basis under the care of a physician or care establishment under the jurisdiction of the Ministry of Public Health.

Note: Drug-dependent persons who report voluntarily to a care establishment under the jurisdiction of the Ministry of Public Health with a view to treatment are not subject to the above provisions. Upon written application, such persons may remain anonymous when admitted. Their wish to remain anonymous may be set aside only for reasons other than the prevention of the illicit use of narcotics.

6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Seychelles

Legislation: Misuse of Drug Act, 1990.

Note: The Dangerous Drugs Act is repealed.

1. *Grounds:* Person reasonably suspected of being a drug addict and it is necessary for the person to undergo treatment or rehabilitation or both at an approved institution.

"Drug addict" means a person who through the use of a controlled drug: (a) has developed a desire or need to continue to take the controlled drug; or (b) has developed a psychological or physical dependence upon the effect of the controlled drug, where "controlled drug" means a substance, preparation or product specified in the First Schedule.

"Approved institution" means an institution or place approved under this Act for the purposes of the treatment and rehabilitation of drug addicts or other persons.

"Offender" means a person who has been convicted of an offence under this Act.

Note: Notwithstanding any other written law, the Magistrates Court shall have: (a) jurisdiction to hear and determine all proceedings; and (b) power to impose the full penalty or punishment in respect of any offence.

2. *Application:* The Commissioner of Police or any other persons appointed by the Minister for the purposes of Part V (Treatment and Rehabilitation) may after consultation with the Attorney General, by order in writing, require the person referred to in paragraph 1 to be medically examined or observed by a medical practitioner. Under Section 41, where a person in respect of whom an order has been made under Section 38(1) [preceding sentence] fails or neglects to appear for medical examination or observation, a police officer may arrest him without a warrant and produce him before the medical practitioner specified in the order.
3. *Decision-making authority:* After such examination (see paragraph 2), the Commissioner of Police or person appointed by the Minister may after consultation with the Attorney General, make an order in writing requiring the person to be admitted to the approved institution specified in the order for the purpose specified in the order. Under Section 41, where a person who has been admitted to an approved institution under Section 38 (2) [preceding sentence] or 38 (4) [voluntary admission] or under Section 39 [conviction of an offence] has escaped from the approved institution, a police officer may, without a warrant, arrest the person and deliver him to the custody of the approved institution.

Note: A person who is a drug addict may volunteer to undergo treatment or rehabilitation or both at an approved institution and the approved institution may admit the drug addict for treatment or rehabilitation or both on such terms and conditions as may be prescribed. Where a person has been convicted of an offence in relation to Section 5 [proscription of drug trafficking] or Section 6 [proscription of possession; smoking, consumption, or administration of a controlled drug] the court may, if it reasonably suspects that the person is a drug addict, order that the person be medically examined or observed by a medical practitioner.

If as a result of a medical examination or observation it appears to the court that it is necessary for the person examined or observed to undergo treatment or rehabilitation or both in an approved institution, the court may make an order that the person be admitted for treatment or rehabilitation or both in an approved institution specified in the order for such period of his term of imprisonment for the offence as the court may specify in the order. The court may at any time amend an order made under subsection (2). Where a person has been admitted, he shall not be discharged or transferred from the approved institution specified in the order without an order of the court. Any period served by a person in an institution pursuant to subsection (2) shall be counted as a similar period of imprisonment served by the offender pursuant to a sentence for the offence for which he has been convicted.

4. *Medical examination:* see paragraph 3.
5. *Treatment programme:* The Minister may make regulations for carrying into effect the purposes and provisions of this Act, and may make regulations; declaring an institution or place to be an approved institution for the treatment and rehabilitation of drug addicts and other persons under this Act and providing for the management, maintenance and inspection of approved institutions; and providing for the control, discipline, occupation, supervision, release on temporary leave and after-care of drug addicts and persons undergoing or who have undergone treatment or rehabilitation in an approved institution.
6. *Length of stay:* A drug addict or any other person who has been admitted to an approved institution shall be detained in the institution for a period of six months unless discharged earlier by a court or the person in charge of the institution.
7. *Appeal:* see paragraph 8.
8. *Periodic review:* A person detained in an approved institution under Section 38 (for treatment and rehabilitation), a member of his family or the Attorney

General may at any time apply to the court for an order: (a) discharging the person; or (b) transferring the person to another institution but the court shall not, except for reasons which it thinks to be exceptional, entertain an application made within three months from the date of a similar application (for transfer).

9. *Discharge procedure(s)*: The court or the person in charge of an approved institution may at any time by an order in writing: (a) discharge a person detained in an approved institution under Section 37, or (b) transfer a person detained under Section 37 from one approved institution to another.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.

South Africa

Legislation: Criminal Procedure Act 1977 (Act 51 of 1977), as amended by the Prevention and Treatment of Drug Dependency Act, 1992 (Act 20 of 1992)

As published in the *International Digest of Health Legislation*, 1993, 44 (4), the Criminal Procedure Act, 1977 is amended by the insertion of a revised version of Sec. 296 (Committal to treatment centre), reading substantially as follows:

- “(1) A court convicting any person of any offence may, in addition to or in lieu of any sentence in respect of such offence, order that the person be detained at a rehabilitation treatment centre established under the Prevention and Treatment of Drug Dependency Act, 1992, if the court is satisfied from the evidence or from any other information placed before it, which shall in either of the said cases include the report of a probation officer, that such person is a person as is described in section 21(1) of the said Act, and such order shall for the purposes of the said Act be deemed to have been made under section 22 thereof: Provided that such order shall not be made in addition to any sentence of imprisonment (whether direct or as an alternative to a fine) unless the operation of the whole of such sentence is suspended.
- (2) [Revoked]
- (3) (2) (a) Where a court has referred a person to a treatment centre under sub-section (1) and such person is later found not to be fit for treatment in such treatment centre, such person may be dealt with *mutatis mutandis* in accordance with the provisions of section 276A(4).”

Spain (Federal)

Legislation: Constitutional Law 1/1988, of 24 March 1988 amending the Criminal Code in respect of Illicit Trafficking in Drugs.

1. *Grounds:* The Judge or Court may grant a suspended sentence to offenders sentenced to imprisonment for a period not exceeding two years who committed the offence as a result of their dependence on toxic drugs, narcotics or psychotropic substances, subject to the following conditions:
 - (a) that the sentence states that the individual has been proved to be a drug addict and that the offence was committed as a result of this situation;
 - (b) that a duly accredited or authorized establishment or department provides adequate certification that the offender has been detoxified or is undergoing detoxification treatment at the time when the suspended sentence is allowed;
 - (c) that the individual is not a recidivist, and has not previously benefited from a suspended sentence.
2. *Application:* Not stated.
3. *Decision-making authority:* The court.
4. *Medical examination:* Not stated.
5. *Treatment programme:* Detoxification: The court must require the offender or the establishments or departments taking part in his detoxification treatment to provide adequate proof that the treatment has commenced and has continued, together with data permitting the monitoring of the progress of treatment and any changes required.

The suspension of execution of the sentence shall be dependent upon the offender committing no further offence over the period of time stipulated and upon his not breaking off the treatment.
6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.
8. *Periodic review:* Once the three conditions [a,b,c] in paragraph 1 above have been fulfilled, the period of suspension concluded and the detoxification of the

offender demonstrated, the judge or court shall remit the sentence. If not, the judicial authority shall order its execution.

9. *Discharge procedure(s)*: See paragraph 8 above.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.

Spain (Catalonia)

Legislation: Law No. 20 of 25 July 1985 on prevention and care in regard to potentially dependence-producing substances.

Note: See section A2.1 for compulsory civil commitment.

The Department of Health and Social Security is responsible for collaborating with the Department of Education in the adoption of measures designed to sensitize the professional staff of the health and social services in regard to drug dependence, and with the Department of Justice in implementing detoxification programmes for prisoners dependent on non-institutionalized drugs.

"Non-institutionalized drugs" means heroin, cocaine, cannabis and its derivatives, LSD, and other drugs whose use has not been accepted by society.

Sweden

Legislation: Act on Correctional Treatment in Institutions (SFS 1974:203) as amended, and, Decree containing certain regulations regarding the implementation of the Act on Correctional Treatment in Institutions (SFS 1974: 248), dated 26 April 1974.

Note: See section A2.1 for the provisions of The Care of Alcoholics, Drug Abusers and Abusers of Volatile Solvents (Special Provisions) Act/LVM/(SFS:1988:870) applicable to persons for whom treatment has been provided but who are subsequently subject to prosecution and imprisonment for criminal offences.

The Act permits a prisoner to serve part of his sentence outside prison, e.g. in a care institution for drug-abusers. This treatment is combined with a requirement that a prisoner who does not continue treatment must be returned to prison.

Probation combined with therapeutic measures is an alternative to prison. Courts may make contract care orders where a criminal offence was to a large extent

due to drug abuse, if the convicted person is willing to undergo treatment in accordance with a special plan drawn up by the court.

Thailand

Legislation: Three separate laws are in force: (a) The Rehabilitation of Narcotic Addicts Act B.E. 2534 [1991]; (b) Narcotics Act B.E. 2522 [1979]; and (c) Penal Code.

A. Legislation: The Rehabilitation of Narcotic Addicts Act B.E. 2534 [1991], dated 20 November 1991.

Note: It is reported that mandatory treatment and rehabilitation for drug dependence provided by the Rehabilitation of Narcotics Act B.E.2534 [1991] is not enforced and that mandatory measures for treatment and rehabilitation have not yet been established.

1. *Grounds:* Any person who is accused of committing an offence by using or possessing a No. 1 or No. 5 narcotic in a quantity prescribed in a Ministerial Regulation and there is nothing to show that he/she is accused of or is in the process of having legal action instituted against him/her for another offence which is an offence for which the penalty is imprisonment or is subject to a judgement ordering imprisonment, must be sent by the interrogation officer to the rehabilitation centre which is in his/her area of jurisdiction in order to verify whether the accused is addicted to narcotics or not, and it shall be held that the accused is still under the supervision of the interrogation officer.

"Addiction to a narcotic" means the using of a narcotic regularly and continuously and becoming dependent on that narcotic, where it is possible to identify such a condition according to scientific principles.

"Narcotic" means a narcotic under the law governing narcotics and a narcotic under the law governing the prevention and suppression of narcotics.

"Rehabilitation centre" means a centre for the rehabilitation of narcotic addicts and the verification of narcotic addiction.

"Rehabilitation" means any action to relieve narcotic addiction and restore the physical and mental condition of a narcotic addict to normality.

2. *Application:* The competent official. The Minister of Justice is responsible for enforcing this Act and is empowered to appoint competent officials and issue Ministerial Regulations and Notifications in order to implement it.

"Competent official" means a person appointed by the Minister to act in accordance with this Act and appointed from among government servants attached to the Ministry of Justice or the government agencies concerned.

"Minister" means the Minister responsible for enforcing this Act.

3. *Decision-making authority:* Where the permanent committee of the rehabilitation centre rules that the results of the verification examination show that the accused is addicted to narcotics, the competent official must send that person to receive rehabilitation treatment and then report to the interrogation officer accordingly.

If the results of the examination do not show that the accused is addicted to narcotics the competent official must send the person back to the interrogation officer, with a report on the verification examination.

4. *Medical examination:* After an accused is received at the rehabilitation centre (see paragraph 1) the competent official must arrange for a verification examination quickly to find out whether the accused is addicted to narcotics or not.

Note: The criteria and procedures for the verification examination are prescribed in Ministerial Regulations.

5. *Treatment programme:* Subject to three qualifications, a person who has been received at the rehabilitation centre must stay and receive rehabilitation treatment at the rehabilitation centre in accordance with the rules and regulations prescribed by the Narcotic Addicts Rehabilitation Board (described in Section 5 of the Act) for a period of not more than six months from the date on which the person was sent to receive rehabilitation treatment.

The three qualifications are:

1. The duration of the rehabilitation treatment of a person who has been received at the rehabilitation centre may be extended or reduced in accordance with the rules and regulations prescribed by the Board.
2. If it appears that the results of the rehabilitation treatment are still not satisfactory, the permanent committee of the rehabilitation centre may consider extending the duration of the rehabilitation treatment. However, if it appears that the rehabilitation treatment results are satisfactory, the permanent committee of the rehabilitation centre may consider reducing the duration of the rehabilitation treatment as it sees fit or send that person back to the interrogation officer, together with a report on the results of the rehabilitation treatment.

3. The duration of the rehabilitation treatment may be extended or reduced any number of times, but each extension of the rehabilitation treatment must not exceed six months and the total duration must not exceed three years from the date on which the person was sent to receive rehabilitation treatment.
6. *Length of stay:* Not more than six months, which may be extended. See paragraph 5 above.
7. *Appeal:* Not stated. However, where it appears that the place of domicile of a person who has come to receive rehabilitation treatment is in a locality different from the area of jurisdiction of the rehabilitation centre to which that person has come to receive rehabilitation treatment or that there is other reasonable cause connected with the family status of the person who has come to receive rehabilitation treatment, the person who has come to receive rehabilitation treatment may petition the permanent committee of the rehabilitation centre to consider permitting the person to be transferred to receive rehabilitation treatment at another rehabilitation centre. The Board may consider permitting the transfer of the person who has come for rehabilitation treatment to another rehabilitation centre for rehabilitation treatment when it appears that the said transfer will be beneficial to the rehabilitation of that person.
8. *Periodic review:* The permanent committee of the rehabilitation centre may consider extending the duration of the rehabilitation treatment. However, if it appears that the results of the rehabilitation treatment are satisfactory, the permanent committee of the rehabilitation centre may consider reducing the duration of the rehabilitation treatment as it sees fit or send that person back to the interrogation officer, together with a report on the results of the rehabilitation treatment. See paragraph 5 above.
9. *Discharge procedure(s):* See paragraph 5 above. When a permanent committee of a rehabilitation centre rules that any person who has come to receive rehabilitation treatment has been completely rehabilitated and is no longer a narcotic addict, that person must be held to be absolved from the offence with which the person was charged. If the results of the rehabilitation treatment of any person who has come to receive rehabilitation treatment are unsatisfactory even though the person has received rehabilitation treatment for the entire duration specified in paragraph 5 above the competent official must send that person back to the interrogation officer together with a report on the results of the rehabilitation and the opinion of the permanent committee of the rehabilitation centre in order to consider whether it would be appropriate to take legal action against that person or not.
10. *Harm reduction:* Not stated.

11. *Non-discrimination*: Not stated.
- B. *Narcotics Law, B.E.2522 [1979]*.
 1. *Grounds*: A person who has consumed the narcotics specified in the Act and applied for treatment in a medical establishment before his offence is discovered by the competent authority and has strictly complied with the rules and regulations for treatment and the disciplinary rules of the medical establishment and obtained a certificate from the competent official as prescribed by the Minister [responsible for, and in control of, the execution of the law] is exempted from the penalties for the statutory offences provided for in Sections 91 and 92 of this Law, as follows:
 - (a) Section 91: consumption of narcotics belonging to category I (e.g. heroin); or category II (e.g. morphine, cocaine, codeine, medicinal opium) except for the curing of disease upon authorized prescription by a medical practitioner or dentist.
 - (b) Section 92: consumption of narcotics belonging to category V (e.g. marijuana, *kratom* plant).
 2. *Application*: Not stated.
 3. *Decision-making authority*: Not stated.
 4. *Medical examination*: Not stated.
 5. *Treatment programme*: Not stated.
 6. *Length of stay*: Not stated.
 7. *Appeal*: Not stated.
 8. *Periodic review*: Not stated.
 9. *Discharge procedure(s)*: Not stated.
 10. *Harm reduction*: Not stated.
 11. *Non-discrimination*: Not stated.

C. *Penal Code.*

Note:

1. Title 1 contains provisions applicable to general offences. Section 56 of the Penal Code provides that, whenever any person commits an offence punishable by imprisonment and the court orders punishment not exceeding two years, the court may suspend punishment by taking into consideration the following: the person's age, past record, behaviour, intelligence, education and training, health, condition of mind, habit, occupation and environment, nature of the offence, other extenuating circumstances, and suspend punishment if:
 - (a) it does not appear that such person has previously been imprisoned;
 - (b) it does appear that the person was imprisoned previously but for negligence or a petty offence.
2. The court may release the person with or without conditions for controlling his behaviour, so as to give such person an opportunity to reform himself within a period of time to be determined by the court, but not to exceed five years.
3. The court may specify one or more conditions, including a requirement that the offender undertakes treatment for drug dependence.

Tonga

Legislation: Mental Health Act 1992.

See section A2.1, for a summary of the provisions on compulsory civil commitment of this Act.

1. *Grounds:* Where a person is convicted before the Supreme Court, or is sent to the Supreme Court for sentence (unless the sentence for the offence is fixed by law), the Court may in addition to, or instead of, any other punishment order that he be detained in hospital for treatment. The Court must be satisfied (see paragraph 4 below), and having due regard to all the circumstances, including the nature of the offence and the character and antecedents of the offender, that such an order is the most suitable method of dealing with him; and that arrangements have been made to admit the offender to hospital within a period not exceeding 28 days from the date of the order.
2. *Application:* Two registered medical practitioners.

3. *Decision-making authority:* Supreme Court.

4. *Medical examination:* Written or oral evidence of two registered medical practitioners that the offender is suffering from mental disorder of a nature and degree that warrants his detention in hospital for medical treatment.

"Mental disorder" means mental illness, arrested or incomplete development of the mind, psychopathic disorder and any other disorder or disability of the mind.

"Alcoholic" or "Drug addict" means a person suffering from a disorder or disability of the mind caused by his being so given over to, or dependent on, the use of alcohol or drugs that he is unable to control himself or is incapable of managing his affairs or endangers himself or others.

"Mental illness" means a psychiatric disorder which substantially disturbs a person's thinking, feeling, or behaviour and impairs the person's ability to function.

5. *Treatment programme:* The Minister of Health is empowered: (a) to provide a mental health service for Tonga including the provision of hospital inpatient, outpatient and other facilities for the investigation, treatment, rehabilitation, care and after-care and prevention of mental disorder; and (b) to provide services for the treatment and prevention of alcoholism and drug dependence and the rehabilitation of alcoholics and drug addicts.

6. *Length of stay:* Until the court orders his release.

7. *Appeal:* The offender or his relative has the right to appeal to the Court of Appeal from any order made under these provisions.

8. *Periodic review:* Court.

9. *Discharge procedure(s):* Application for release may be made by a medical officer, psychiatrist, the offender, or his relative. The offender must not be released unless the Court is satisfied on the sworn evidence of a registered medical practitioner that his detention is no longer necessary in the interests of himself or of any other persons.

10. *Harm reduction:* Not stated.

11. *Non-discrimination:* Not stated.

Trinidad and Tobago

Legislation: Dangerous Drugs Act, 1991, Act No. 38 of 1991.

Note: The following laws are repealed: (a) the Narcotic Control Ordinance: and (b) the Narcotic Drugs and Psychotropic Substances Control Act, 1985.

Notwithstanding the repeal of the Ordinance and the Act referred to, anything done or any action taken under the Ordinance or the Act shall be deemed to have been done or taken under the corresponding provisions of this Act, the Dangerous Drugs Act, 1991.

The Minister may make regulations for carrying out the purposes and provisions of this Act.

"Minister" means the Minister to whom responsibility for the administration of health is assigned.

1. *Grounds:* Upon conviction of a person guilty of an offence of possession of any dangerous drug, who is in need of psychiatric care and treatment.

"Dangerous drugs" means a narcotic drug listed in the First Schedule or a thing that contains such a drug or a psychotropic substance listed in the Second Schedule or a thing that contains such a substance.

2. *Application:* Not stated.

3. *Decision-making authority:* The court. The court before which a person is convicted under Section 5 [possession of any dangerous drug] may, before imposing a sentence, order the Psychiatric Hospital Director to admit the person convicted to the psychiatric hospital named in the Order.

On receipt of the medical examination report (see 4 below) the Court shall forthwith: (a) rescind the Order (to admit the person to a psychiatric hospital) made under subsection (1) if the psychiatric hospital director is satisfied that the person named in the Order is not in need of care and treatment; or (b) make another Order authorizing the psychiatric hospital director to admit the person named therein to a hospital for such further care and treatment as the psychiatric hospital director may consider necessary.

Where a court order authorizing the psychiatric hospital director to admit the person to a hospital for such further care and treatment as the director may consider necessary is made, the psychiatric hospital director shall, when he is satisfied that the patient is no longer in need of care and treatment, report this fact to the court which shall forthwith rescind the Order. The court shall, where

it rescinds such an Order deal with the person in such manner as it deems necessary.

"Psychiatric hospital director" "psychiatric hospital" and "hospital" have the same meaning as in the Mental Health Act.

4. *Medical examination:* The psychiatric hospital director shall, as soon as practicable after admitting a person make or cause to be made such psychiatric examination as he considers necessary for determining whether or not the person is in need of psychiatric care and treatment, and shall, within 14 days of the date of admission, submit a report in writing to the court relative to the condition of the person. Upon receipt of the report the court must either:
(a) rescind the Order made if the psychiatric hospital director is satisfied that the person named in the order is not in need of care and treatment; or (b) make another order authorizing the psychiatric hospital director to admit the person named therein to a hospital for such further care and treatment as the psychiatric hospital director may consider necessary.
5. *Treatment programme:* Not stated.
6. *Length of stay:* Not more than 14 days.
7. *Appeal:* Not stated.
8. *Periodic review:* Where an order is made authorizing the psychiatric hospital director to admit the person to a hospital for care and treatment, the psychiatric hospital director must, when he is satisfied that the patient is no longer in need of care and treatment, report this fact to the court, which must rescind the order.
9. *Discharge procedure(s):* The court must, where it rescinds the order under the provisions noted in paragraph 4 above, deal with the person in such a manner as it deems necessary.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Turkey

Legislation: Penal Code No. 765 of 1 March 1926, as amended by Law 2275 of 8 August 1933, Law 6123 of 9 July 1953 and Law 2370 of 7 January 1981.

1. *Grounds:* (Article 404). When the use of narcotics has attained the degree of addiction.

Note: A person who uses narcotic drugs or keeps narcotic drugs for this purpose will be punished by imprisonment for three to five years and fined. Recurrences will be punished, in addition to these penalties, by banishment for one year to a county away from the production areas, under police supervision throughout the banishment period.

2. *Application:* Not stated.
 3. *Decision-making authority:* Criminal court of first instance. Where the use of narcotics by persons has attained the degree of addiction, such persons will be referred to a hospital until they are fully cured. The court may also arrange, at any time during the hearings, for the referral of addicts to hospitals for observation and treatment.
 4. *Medical examination:* See paragraph 3 above.
 5. *Treatment programme:* Persons who are addicted are referred to a hospital until they are fully cured (see paragraph 3 above). When there is no hospital, drug addicts must be transferred to a locality where a hospital exists.
- Note: Drug addicts may be sentenced to banishment for six months to one year under police supervision.
6. *Length of stay:* Until they are fully cured.
 7. *Appeal:* Not stated.
 8. *Periodic review:* Not stated.
 9. *Discharge procedure(s):* See paragraph 6 above.
 10. *Harm reduction:* Not stated.
 11. *Non-discrimination:* Not stated.

United Arab Emirates

Legislation: Federal Law No. 6 of 1986 on the Control of Narcotic Substances and like Substances.

Notes: Amendments to Federal Law No. 6 are under review.
Also applicable is Ministerial Decision No. 28 for 1987 regarding internal procedures for addiction treatment units, dated 25 January 1987.

1. *Grounds:* An offender, after having obtained the opinion of the committee that supervises the treatment of addicts at the sanatorium assigned.

Note: No criminal proceedings will be instituted against a person who has taken psychoactive substances or plants from which such substances can be derived if he presents himself of his own accord to the sanatorium assigned or to the Public Prosecution and seeks treatment if the committee referred to above considers that the condition of the petitioner necessitates treatment at the sanatorium.

The person must remain at the sanatorium until the committee decides to release him. However, the duration of the stay at the sanatorium may not be less than six months and not more than three years.

This Law does not apply to a person who was in possession of a narcotic substance and did not surrender it at the sanatorium or to the Public Prosecution at the time that the person requested treatment.

The narcotic substances and similar substances governed by this law are: (a) psychoactive substances, namely the essences, drugs and preparations listed in Schedules I to IV annexed to the Law No. 6 of 1986; and (b) plants from which such substances can be derived, listed in schedule V annexed to the Law No. 6 of 1986. The provisions of this Law do not apply to the parts of plants listed in schedule VI annexed to the Law No. 6 of 1986.

2. *Application:* Not stated.
3. *Decision-making authority:* Court.
4. *Medical examination:* See paragraph 1 above.
5. *Treatment programme:* A sanatorium is to be assigned for the treatment of persons addicted to psychoactive substances and plants from which such substances can be derived. It is to be supervised by a committee established by decree of the Minister of Health, one of the members of which shall be a representative of the Public Prosecution selected by the Prosecutor General.
6. *Length of stay:* Not less than six months and not more than three years.
7. *Appeal:* Not stated.
8. *Periodic review:* The committee (that supervises the treatment of addicted persons at the sanatorium) established by the Minister of Health must submit to

the court once every six months at the most a report on the condition of the committed person. The court may, after having obtained the opinion of the Public Prosecutor, order his release from the sanatorium if the report indicates that his condition so permits. The court may also order the release of the committed person from the sanatorium at his request and with the approval of the committee and after having obtained the opinion of the Public Prosecution. If the court decides to refuse the request, the committed person may not renew it until six months have elapsed from the date of the refusal.

9. *Discharge procedure(s)*: See above.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.

United Kingdom (England and Wales)

Legislation: The Crime and Disorder Act 1998 (c.37)

1. *Grounds*: Person aged 16 or over is convicted of an offence other than one for which the sentence is fixed by law; offender is dependent on or has a propensity to misuse drugs; his dependency or propensity requires and may be susceptible to treatment.
2. *Application*: Secretary of State notifies court that arrangements for implementing a "drug treatment and testing order" are available in the area to be specified in the order and that notice has not been withdrawn.
3. *Decision-making authority*: Court by or before which the offender is convicted may make a "drug treatment and testing order".
 - (1) Before making a drug treatment and testing order, a court shall explain to the offender in order language-
 - (a) the effect of the order and of the requirements proposed to be included in it;
 - (b) the consequences which may follow (under Schedule 2 to the 1991 Act) if he fails to comply with any of those requirements;
 - (c) that the order may be reviewed (under that Schedule) on the application either of the offender or of the responsible officer; and
 - (d) that the order will be periodically reviewed at intervals as provided for in the order;and the court shall not make the order unless the offender expresses his willingness to comply with its requirements.
 - (2) Where, in the case of a drug treatment and testing order made by a magistrates' court, another magistrates' court is responsible for the order,

- the court making the order shall forthwith send copies of the order to the other court.
- (3) Where a drug treatment and testing order is made or amended under section 63(2), the court responsible for the order shall forthwith or, in a case falling within subsection (2) above, as soon as reasonably practicable give copies of the order, or the order as amended, to a probation officer assigned to the court, and he shall give a copy-
 - (a) to the offender;
 - (b) to the treatment provider; and
 - (c) to the responsible officer.
 - (4) Where a drug treatment and testing order has been made on an appeal brought from the Crown Court, or from the criminal division of the Court of Appeal, for the purposes of sections 62 and 63 it shall be deemed to have been made by the Crown Court.
 - (5) Schedule 2 to the 1991 Act (enforcement etc. of community orders) shall have effect subject to the amendments specified in Schedule 4 to this Act, being amendments for applying that Schedule to drug treatment and testing orders.
4. *Medical examination:* For purposes of determining whether an offender has a drug in his body, the court may order him to provide samples of such description as it may specify; but court shall not make such an order unless the offender expresses his willingness to comply.
 5. *Treatment programme:*
 62. - (1) A drug treatment and testing order shall include a requirement ("the treatment requirement") that the offender shall submit, during the whole of the treatment and testing period, to treatment by or under the direction of a specified person having the necessary qualifications or experience "the treatment provider") with a view to the reduction or elimination of the offender's dependency on or propensity to misuse drugs.
 - (2) The required treatment for any particular period shall be-
 - (a) treatment as a resident in such institution or place as may be specified in the order; or
 - (b) treatment as a non-resident in or at such institution or place, and at such intervals, as may be so specified;
 but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a) or (b) above.
 - (3) A court shall not make a drug treatment and testing order unless it is satisfied that arrangements have been or can be made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident).

- (4) A drug treatment and testing order shall include a requirement ("the testing requirement") that, for the purpose of ascertaining whether he has any drug in his body during the treatment and testing period, the offender shall provide during that period, at such times or in such circumstances as may (subject to the provisions of the order) be determined by the treatment provider, samples of such description as may be so determined.
 - (5) The testing requirement shall specify for each month the minimum number of occasions on which samples are to be provided.
 - (6) A drug treatment and testing order shall include a provision specifying the petty sessions area in which it appears to the court making the order that the offender resides or will reside.
6. *Length of stay:* A period specified in the order of not less than six months nor more than three years ("the treatment and testing period").
7. *Appeal:* Not stated.
8. *Periodic Review:*
A drug treatment and testing order shall-
- (a) provide that, for the treatment and testing period, the offender shall be under the supervision of a responsible officer, that is to say, a probation officer appointed for or assigned to the petty sessions area specified in the order;
 - (b) require the offender to keep in touch with the responsible officer in accordance with such instructions as he may from time to time be given by that officer, and to notify him of any change of address; and
 - (c) provide that the results of the tests carried out on the samples provided by the offender in pursuance of the testing requirement shall be communicated to the responsible officer.
- Supervision by the responsible officer shall be carried out to such extent only as may be necessary for the purpose of enabling him-
- (a) to report on the offender's progress to the court responsible for the order;
 - (b) to report to that court any failure by the offender to comply with the requirements of the order; and
 - (c) to determine whether the circumstances are such that he should apply to that court for the revocation or amendment of the order.
- In this section and sections 63 and 64 below, references to the court responsible for a drug treatment and testing order are references to-
- (a) the court by which the order is made; or
 - (b) where another court is specified in the order in accordance with the subsection below, that court.

Where the area specified in a drug treatment and testing order made by a magistrates' court is not the area for which the court acts, the court may, if it thinks fit, include in the order provision specifying for the purposes of the subsection above a magistrates' court which acts for that area.

A drug treatment and testing order shall .

- (a) provide for the order to be reviewed periodically at intervals of not less than one month;
- (b) provide for each review of the order to be made, subject to the subsection below, at a hearing held for the purpose by the court responsible for the order (a "review hearing");
- (c) require the offender to attend each review hearing;
- (d) provide for the responsible officer to make to the court, before each review, a report in writing on the offender's progress under the order; and
- (e) provide for each such report to include the test results communicated to the responsible officer under section 62(7) (c) and the views of the treatment provider as to the treatment and testing of the offender.

At a review hearing the court, after considering the responsible officer's report, may amend any requirement or provision of the order.

The court-

- (a) shall not amend the treatment or testing requirement unless the offender expresses his willingness to comply with the requirement as amended;
- (b) shall not amend any provision of the order so as to reduce the treatment and testing period below the minimum specified in section 61(2), or to increase it above the maximum so specified; and
- (c) except with the consent of the offender, shall not amend any requirements or provision of the order while an appeal against the order is pending.

If the offender fails to express his willingness to comply with the treatment or testing requirement as proposed to be amended by the court, the court may-

- (a) revoke the order; and
- (b) deal with him, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by the court of the offence.

In dealing with the offender under the subsection above, the court-

- (a) shall take into account the extent to which the offender has complied with the requirements of the order; and
- (b) may impose a custodial sentence notwithstanding anything in section 1(2) of the 1991 Act.

Where the order was made by a magistrates' court in the case of an offender under the age of 18 years in respect of an offence triable only on indictment in the case of an adult, the court's power under subsection (4)(b) above shall be a power to do either or both of the following, namely-

- (a) to impose a fine not exceeding £5,000 for the offence in respect of which the order was made;
- (b) to deal with the offender for that offence in any way in which it could deal with him if it has just convicted him of an offence punishable with imprisonment for a term not exceeding six months;

and the reference in paragraph (b) above to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of young offenders.

If at a review hearing the court, after considering the responsible officer's report, is of the opinion that the offender's progress under the order is satisfactory, the court may so amend the order as to provide for each subsequent review to be made by the court without a hearing.

If at a review without a hearing the court, after considering the responsible officer's report, is of the opinion that the offender's progress under the order is no longer satisfactory, the court may require the offender to attend a hearing of the court at a specified time and place.

At that hearing the court, after considering that report, may-

- (a) exercise the powers conferred by this section as if the hearing were a review hearing; and
- (b) so amend the order as to provide for each subsequent review to be made at a review hearing.

In this section any reference to the court, in relation to a review without a hearing, shall be construed-

- (a) in the case of the Crown Court, as a reference to a judge of the court;
- (b) in the case of a magistrates' court, as a reference to a justice of the peace acting for the commission area for which the court acts.

United States of America (Federal)

Legislation: Narcotic Addict Rehabilitation Act of 1966, as amended (Public Law No. 89-793).

See section A2.1 for a summary of this Act.

United States of America (Connecticut)

Legislation: Sections 17a-648 to 17a-658 of Chapter 329 of the General Statutes of Connecticut.

Note: There are two situations:

Suspension of prosecution and treatment for alcohol-dependent person or drug-dependent person; or
Treatment for alcohol-dependent person or drug-dependent person convicted person.

"Alcohol-dependent person" means an alcohol-dependent person as defined in Section 17a-621, i.e. a person who has a psychoactive substance dependence on alcohol as that condition is defined in the most recent edition of the American Psychiatric Association's *Diagnostic and statistical manual of mental disorders*.

"Drug" means a controlled drug as defined in Section 21a-240.

"Drug-dependent person" means a drug-dependent person as defined in section 21a-240.

"Treatment programme" means a programme operated by the Connecticut Alcohol and Drug Abuse Commission or approved by the Executive Director of the Commission or the Department of Correction, for treatment of both the physical and psychological effects of alcohol or drug dependency, provided such programme is not intended solely to detoxify an alcohol-dependent or drug-dependent person.

1. Grounds:

A. Suspension of prosecution and treatment for alcohol and drug dependency (Section 17a-652-17a-655):

(a) accused person was an alcohol-dependent or drug-dependent person at the time of the crime,

- (b) the person presently needs and is likely to benefit from treatment for the dependency, and
 - (c) suspension of prosecution will advance the interests of justice.
- B. Treatment for alcohol-dependent person or drug-dependent person convicted person (Section 17a-656). The court may impose a sentence and order treatment if the court finds that: (1) the convicted person was an alcohol-dependent person or drug-dependent person at the time of the crime for which he was convicted; (2) there was a relationship between the dependency and the crime; (3) the person presently needs and is likely to benefit from treatment for the dependency; (4) the person is not ineligible under subsection (a) of Section 17a-656 (a); and (5) the person meets the criteria for probation under subsection (c) of Section 53a-29.

2. *Application:*

- A. Suspension of prosecution and treatment for alcohol and drug dependency: Accused person [Section 17a-652]. After receipt by the court of the examination report, the accused person may make a motion for suspension of prosecution and an order of treatment for alcohol or drug dependency pursuant to the provisions of Section 17a-653. Unless the opportunity for a hearing is waived by both the accused person and the state's attorney, the court must hear the motion. The examining committee is not required to be present to testify on the report unless the presence of the examining committee is requested by the court, the accused person or the state's attorney. Any member of the examining committee must be competent to testify as to the determinations of the examining committee.

3. *Decision-making authority:*

- A. Order for suspension of prosecution and treatment for alcohol and drug dependency:
- (a) The provisions of this Section [17a-653] do not apply to any person charged with a violation of Section 14-227a or 53a-60d or with a class A, or C felony or to any person who was previously ordered treated under this Section, subsection (i) of Section 17-155y, Section 19a-386 or Section 21a-284 of the general statutes revised to 1989. The court may waive the ineligibility provisions of this subsection for any person.

- (b) The court may order prosecution and order treatment for alcohol or drug dependency as provided in Section 17a-653 and Sections 17a-654 and 17A-655 if it, after considering information before it concerning the alcohol or drug dependency of the person, including the examination report made pursuant to the provisions of Section 17a-651, finds that: (1) the accused person was an alcohol-dependent or drug-dependent person at the time of the crime; (2) the person presently needs and is likely to benefit from treatment for the dependency; and (3) suspension of prosecution will advance the interests of justice. Treatment may begin no sooner than the date the examining committee reports under the provisions of Section 17a-651 that space is available in a treatment programme.
- (c) A suspension of prosecution ordered under the provisions of subsection (b) of this Section may be for a period not exceeding two years. During the period of suspension, an accused person must be placed in the custody of the office of adult probation for treatment for alcohol or drug dependency. The court or the office of adult probation may require that the person: (1) comply with any of the conditions specified in subsections (a) and (b) of Section 53a-30; and (2) be tested for use of alcohol or drugs during the period of suspension. The accused person must, unless indigent, pay the cost of treatment ordered under this Section.
- (d) If prosecution is suspended under the provisions of this Section: (1) the statute of limitations applicable to the crime charged must be tolled during the period of suspension; and (2) the accused must be deemed to have waived his right to a speedy trial for the crime charged.
- (e) The court may not permissibly suspend prosecution under this Section unless:
- (1) the accused person has acknowledged that he understands the consequences of the suspension of prosecution;
 - (2) the accused person has given notice, by registered or certified mail on a form prescribed by the chief court administrator, to the victim, if any, of the crime of which the person is accused and of the pending motion for suspension of prosecution;
 - (3) such victim, if he exists, has been given an opportunity to be heard on the motion for suspension of prosecution; and
 - (4) the accused person, unless he is indigent, has paid to the clerk of the court an administration fee of 25 dollars.

- (f) If the prosecution is suspended, the person must be released on a written promise to appear or on a bond and any other bond posted in any criminal proceeding concerning such person must be terminated.
- (g) If the court denies the motion for suspension of prosecution, the state's attorney may proceed with prosecution of the crime.
- (h) A person will be deemed to be indigent for the purposes of this Section if the court determines that the person has an estate insufficient to provide for his support or that there is no person legally liable or able to support him.

B. Treatment for alcohol-dependent person or drug-dependent person convicted person.

- (a) The provisions of this Section [17a-656] do not apply to any person convicted of murder, attempt to commit murder, kidnapping, robbery in the first degree or any felony involving serious physical injury or to any person who has been previously ordered to be treated under this Section or Section 19a-387 or 21a-285 of the General Statutes, revised to 1989.
- (b) Before sentencing a convicted person, the court may consider any information before it concerning the alcohol or drug dependency of the person, including an examination report made pursuant to Section 17a-651.
- (c) The court may, after imposing sentence; (1) suspend execution of a sentence of imprisonment, either entirely or after a period set by the court; (2) impose a period of probation as provided in this Section and subsection (b) and (c) of Section 53a-28; and (3) as a condition of probation, order the office of adult probation to place the person in an appropriate treatment programme for alcohol or drug dependency. The court may require that a probation officer have at least one contact per week with the treatment programme in which the person is participating and at least one contact per week with the person when such person is not participating in an inpatient programme. Placement in a treatment programme must be no earlier than the date that space is available in a treatment programme as reported by the examining committee under Section 17a-651.

- (d) The court may order that the person be transferred immediately to a treatment programme provided space is available as provided in subsection (c) of this section. If the court orders an immediate transfer, it must issue a mittimus directing the sheriff to convey the person to the treatment programme.
 - (e) Time spent in a treatment programme by a person pursuant to the provisions of this Section must not be credited against any sentence, the execution of which was suspended because of such treatment.
 - (f) Any violation of conditions set under this Section constitute a violation of probation under Section 53a-32.
 - (g) The provisions of this Section [17a-656] may not be construed to limit the application of any provision of the General Statutes requiring mandatory minimum sentences and prohibiting probation for certain offences.
4. *Medical examination:* A. Suspension of prosecution and treatment for alcohol and drug dependency: Section 17a-649: Any person in the custody of the office of adult probation under the provisions of Section 17a-653 or 17a-656 may, without any notice, be tested for use of alcohol or drugs.

Section 17a-650: Order for suspension of prosecution and treatment for alcohol or drug dependency. The court, on its own motion or on motion of the state's attorney or a person charged with a crime or convicted of a crime but not yet sentenced, may order, if the interests of justice will be served, that such person be examined, pursuant to the provisions of Section 17a-651, to determine if the person is alcohol-dependent or drug-dependent and eligible for treatment under Section 17a-653 or 17a-656. A probation officer may order that such an examination be conducted as part of a presentence investigation conducted pursuant to the provisions of Section 54-91a.

Section 17a-651:

- (a) The executive director of the Connecticut Alcohol and Drug Abuse Commission or his designee must appoint, at each facility operated by the Commission, an examining committee of one or more members of the clinical staff of the facility to conduct examinations for alcohol or drug dependency ordered pursuant to the provisions of Section 17a-650. Each member of the examining committee must be a member of the clinical staff of the facility who is authorized by the facility to conduct independent evaluations.

- (b) The examining committee must determine whether the person being examined was an alcohol-dependent or drug-dependent person at the time of the crime. If such person is determined to have been dependent on alcohol or drugs, the committee must further determine: (1) the history and pattern of the dependency; and (2) whether the person presently needs and is likely to benefit from treatment for the dependency. If the committee determines that the person presently needs and is likely to benefit from treatment, it shall recommend treatment and state the date space that will be available in an appropriate treatment programme, provided such date must not be more than 45 days from the date of the examination report. A recommendation for treatment must include provisions for placement and the type and length of treatment and may include provisions for outpatient treatment.
- (c) The examining committee must prepare and sign, without notarization, a written examination report and deliver it to the court, the office of adult probation, the state's attorney and defence counsel no later than 30 days after the examination was ordered.
- (d) No statement made by the person in the course of an examination under the provisions of this Section may be admitted in evidence on the issue of guilt in a criminal proceedings concerning the person.

5. *Treatment programme: A. Suspension of prosecution and treatment for alcohol and drug dependency: Section 17a- 649:*

- (a) The office of adult probation has custody of: (1) any person charged with a crime for whom the court, pursuant to the provisions of Section 17a-653, has suspended prosecution and ordered treated for alcohol or drug dependency; and (2) any person convicted of a crime whom the court, pursuant to the provisions of Section 17a-656, has sentenced to a period of probation and ordered treated for alcohol or drug dependency.
- (b) The office of adult probation may: (1) coordinate, pursuant to the provision of Section 17a-651, the examination of any person in its custody; (2) coordinate the placement of such person for treatment for alcohol or drug dependency; and (3) monitor the progress and behaviour of such person in the treatment programme.
- (c) The office of adult probation may transfer any person in a treatment programme to another treatment programme with the agreement of the director of the programme to which the person is proposed to be transferred.

6. *Length of stay:*
- A. Suspension of prosecution and treatment for alcohol and drug dependency:
Period of probation.
 - B. Treatment for alcohol dependent person or drug dependent person convicted person.(Section 17a-656). See paragraph 5 above. The court may require that a probation officer have at least one contact per week with the treatment programme in which the person is participating.
7. *Appeal:*
- A. Suspension of prosecution and treatment for alcohol and drug dependency:
Not stated.
 - B. Treatment for alcohol-dependent person or drug-dependent person convicted person (Section 17a-656). Not stated.
8. *Periodic review:* Suspension of prosecution and treatment for alcohol or drug dependency. Section 17a-654 (b) (c) (c) (completion of treatment programme; dismissal of charges):
- (b) At any time before the end of the period of suspension of prosecution, the office of adult probation may recommend to the court that the charge be dismissed if the person has: (1) completed the treatment programme; (2) complied with all conditions set under subsection (c) of Section 17a-653; and (3) abstained from the use of alcohol for one year if such person was alcohol- dependent or abstained from the unlawful use of drugs for one year if such person was drug-dependent.
 - (c) Not later than one month before the end of the period of suspension of prosecution, the office must notify the court of the impending conclusion of the suspension and submit a report on whether the person has completed the treatment programme and has complied with all conditions set under subsection (c) of Section 17a-653 and on whether the office recommends dismissal of the charge.
 - (d) If the court, on motion by the person discharged from treatment, or on its own motion, finds that the person: (1) is responding favourably to treatment at the expiration of the period of suspension of prosecution or has completed the treatment programme; and (2) has complied with all other conditions of suspension, it may dismiss the charge for which prosecution had been suspended under the provisions of Section 17a-653. If the court denies the motion and terminates the suspension of prosecution, the state's attorney may proceed with prosecution of the crime.

Section 17a-655. Modification or termination of suspension of prosecution prior to completion of treatment programme.

- (a) The court shall conduct a hearing to determine whether the conditions of the suspension of prosecution should be modified or the suspension terminated, if the office of adult probation, after receipt of a report from the director of the treatment programme, notified the clerk of the court that a person treated pursuant to Section 17a-653: (1) has committed a violent act against another person at the treatment programme facility or a violent act that damages property at the treatment programme facility; (2) has threatened to commit such a violent act; (3) has committed a serious violation of rules of the treatment programme; (4) has repeatedly committed violations of programme rules that inhibit the person's ability to function in the programme; (5) has continually refused to participate in the programme; (6) has asked to be removed from the programme; or (7) is unable to participate in the treatment programme because of a medical or psychosocial condition which is not appropriately treated by the programme operated by the facility. The director of the treatment programme has the burden of establishing facts to support his report. If the court terminates the suspension, the state's attorney may proceed with prosecution of the crime.
- (b) If a person being treated has not complied with conditions set pursuant to subsection (c) of Section 17a-653, the office of adult probation must notify the clerk of the court. The court may terminate the suspension of prosecution and the state's attorney may proceed with prosecution of the crime if the court, after a hearing, finds the person has not complied with such conditions.
- (c) A person who has not completed treatment may not be discharged sooner than four days after the office of adult probation is notified of the proposed discharge, except that if immediate discharge from treatment is necessary to protect the health or safety of persons in the programme or staff of the programme, the person may be discharged less than four days after notification with the agreement of the office of adult probation.

9. *Discharge procedure(s)*: Suspension of prosecution and treatment for alcohol or drug dependency. Section 17a-654: (a) The director of the treatment programme shall discharge from treatment any person being treated pursuant to the provisions of Section 17a-653 who completes the treatment programme. The director of the programme must notify the office of adult probation of his intent

to discharge such person at least seven days before the date the person is to be discharged.

10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

United States of America (Massachusetts)

Legislation: Sections 10-13 of Chapter III E of the General Laws: Drug Rehabilitation Law of 24 December 1981.

A. *Section 10. Defendant charged with drug offence.*

1. *Grounds:* Any defendant who is charged with a drug offence.
2. *Application:* Any defendant who is charged with a drug offence must, upon being brought before the court on such charge, be informed that he is entitled to request an examination to determine whether or not he is a drug-dependent person who would benefit by treatment, and that if he chooses to exercise such right he must do so in writing within five days of being so informed.

If the defendant requests such an examination, the court may in its discretion determine that the defendant is a drug-dependent person, who would benefit by treatment, without ordering examination. In such event, the court must inform the defendant that he may request assignment to a drug-treatment facility, and advise him of the consequences of assignment and that if he is so assigned the court proceedings will be stayed for the term of such assignment.

3. *Decision-making authority:* The provisions of Section 10 apply to proceedings in the superior court provided, however, that no defendant who has been examined for his drug dependence pursuant to this Section in a district court has the right to a new examination if his case is bound over or appealed to the superior court; provided, however, that a superior court judge may, in his discretion, grant a second such drug examination.

The court proceedings are stayed for the period during which a request made under this Section is under consideration by the court. If the defendant requests an examination, the court must, unless it has already determined that the defendant is a drug-dependent person, appoint a psychiatrist, or if it is, in the discretion of the court, impracticable to do so, a physician, to conduct the examination at an appropriate location designated by it. In no event may the request for such an examination or any statement made by the defendant during

the course of the examination, or any finding of the psychiatrist or physician be admissible against the defendant in any court proceedings.

The psychiatrist or physician must report his findings in writing to the court within five days after the completion of the examination, stating the facts upon which the findings are based and the reasons therefor.

If the defendant is also charged with a violation of any law other than a drug offence, the stay of the court proceedings may be vacated by the court upon the report of the psychiatrist or physician, whereupon the report must be considered upon disposition of the charges in accordance with Sections 11 and 12, and the remaining provisions of this chapter do not apply. If the defendant is charged with a drug offence only and if the psychiatrist or physician reports that the defendant is a drug-dependent person who would benefit by treatment, the court must inform the defendant that he may request assignment to a drug-treatment facility, and advise him of the consequences of the assignment and that if he is so assigned the court proceedings will be stayed for the term of such assignment.

If the defendant requests assignment and if the court determines that he is a drug-dependent person who would benefit from treatment the court may stay the court proceedings and assign him to a drug-treatment facility.

In determining whether or not to grant a request for assignment under this Section, the court must consider the report, the past criminal record of the defendant, the availability of adequate and appropriate treatment at a facility, the nature of the offence with which the defendant is charged including but not limited to, whether the offence charged is that of a sale or sale to a minor, and any other relevant evidence.

If the court does not assign the defendant to a facility, the stay of the court proceedings is vacated.

Note: The following terms are defined in Section 1 of Chapter 111E:

"Director" means the director of the division of drug rehabilitation.

"Drug" means any controlled substance as defined in Chapter 94-C, or glue or cement, as defined in Section 19 of Chapter 270.

"Drug-dependent person" means a person who is unable to function effectively and whose inability to do so causes, or results from, the use of a drug other than alcohol, tobacco or lawful beverages containing caffeine, and other than from a

medically prescribed drug when such drug is medically indicated and the intake is proportional to the medical need.

"Drug offence" means an act or omission relating to a dependence-related drug which constitutes an offence pursuant to Section 21 or subdivision (1) of Section 24 of Chapter 90, Section 8 of Chapter 90B, Chapter 94C, or Section 62 of Chapter 131; provided, however, in the case of a juvenile this definition is applicable if said juvenile is charged with being delinquent by reason of an offence pursuant to said sections.

"Facility" means any public or private place, or portion thereof, which is not part of or located at a penal institution and which is not operated by the Federal Government, providing services especially designed for the treatment of drug-dependent persons or persons in need of immediate assistance due to the use of a dependence-related drug.

"First drug offence" means that illegal act which stands pending for trial. Persons arrested for prior drug offences in which the case has been terminated favourably to the defendant, are considered as a first drug offender.

"Independent psychiatrist" means a psychiatrist, other than one holding an office or appointment, in any department, board, or agency of the commonwealth, or in any public facility or penal facility.

"Independent physician" means a physician, other than one holding an office or appointment, in any department, board, or agency of the commonwealth, or in any public facility or penal facility.

"Private facility" means a facility other than one operated by the Federal Government, the commonwealth, or any political subdivision thereof.

"Psychiatrist" means a physician who has board certification or board eligibility in psychiatry.

"Public facility" means a facility operated by the commonwealth or any political subdivision thereof.

"Tolerance" means a state in which increased dosage of a dependence-related drug is required to produce the physiological and psychological effects of prior dosages.

"Treatment" means services and programmes for the care and rehabilitation of drug-dependent persons, or persons in need of immediate assistance due to the use of a dependence-related drug, including, but not limited to, medical,

psychiatric, psychological, vocational, educational, and recreational services and programmes.

"Withdrawal" means the involuntary physical and psychological reaction or illness which occurs when the intake of a dependence-related drug to which the user has developed a tolerance is abruptly terminated.

4. *Medical examination:* See paragraph 3 above.

Note: If the psychiatrist or physician reports that the person is not a drug-dependent person who would benefit by treatment, the defendant is entitled to request a hearing to determine whether or not he is a drug-dependent person who would benefit by treatment. The court may on its own motion, or upon the request of the defendant or his counsel, appoint an independent psychiatrist, or if it is impracticable to do so, an independent physician to examine the defendant and testify at the hearing. If the court determines that the defendant is a drug-dependent person who would benefit by treatment, the procedures and standards applicable to a defendant who is determined by the court, following the report of the first examining psychiatrist or physician, to be a drug-dependent person who would benefit by treatment, apply to the defendant.

5. *Treatment programme:* If the defendant requests assignment and if the court determines that the defendant is a drug-dependent person who would benefit by treatment, and the defendant is charged for the first time with a drug offence not involving the sale or manufacture of dependence-related drugs, and there are no continuances outstanding with respect to the defendant pursuant to this Section, the court must order that the defendant be assigned to a drug-treatment facility without consideration of any other factors.

Before such assignment, the court must consult the facility or the division, to determine that adequate and appropriate treatment is available.

If the defendant requests assignment, and if the court determines that the defendant is a drug-dependent person who would benefit by treatment, and the defendant is charged for the first time with a drug offence not involving the sale or manufacture of dependence-related drugs, and there are no continuances outstanding with respect to the defendant pursuant to this Section, and adequate and appropriate treatment at a facility is not available, the stay of court proceedings remains in effect until such time as adequate and appropriate treatment at a facility is available.

In all other cases, an assignment order may not be made unless, after consultation with the facility or the division, the court determines that adequate and appropriate treatment is available, provided, however, that the court may in

its discretion order that the stay of court proceedings remain outstanding until such time as adequate and appropriate treatment is available.

If the stay of the court proceedings remains in effect for the reason that adequate and appropriate treatment at a facility is not available, the issue of the availability of adequate and appropriate treatment at a facility may be reopened at any time by the court on its own motion, or on a motion by the prosecutor, or the defendant.

At any time during the time of assignment, the administrator may transfer any inpatient to an outpatient programme if he finds that the patient is a proper subject for such a programme; provided, however, that the administrator may retransfer the patient to an inpatient programme if he finds that the person is not suitable for outpatient treatment, and provided further that immediately upon such transfer the administrator notifies in writing the assigning court and the director of such transfer.

6. *Length of stay:* An order assigning a person under Section 10 must specify the period of assignment, which must not exceed 18 months or the period of time equal to the maximum sentence he could have received had he been found guilty of every count alleged in the complaint or indictment, whichever is shorter.
7. *Appeal:* In no event may any defendant be assigned pursuant to Section 10 unless the defendant consents in writing to the terms of the assignment order.
8. *Periodic review:* Throughout the period of assignment at a facility pursuant to Section 10, the administrator of the facility must provide quarterly written reports on the progress being made in treatment by the defendant to the assigning court. Failure to comply may be grounds for suspension of the facility's licence. At the end of the assignment period, or when the patient is discharged by the administrator, or when the patient prematurely terminates treatment at a facility, whichever occurs first, the administrator must notify in writing the assigning court and the director of such termination, and state the reasons for such termination, including whether the defendant successfully completed the treatment programme.

In reaching its determination of whether or not the defendant successfully completed the treatment programme, the court must consider, but not be limited to, whether the defendant cooperated with the administrator and complied with the terms and conditions imposed on him during his assignment. If the report states that the defendant successfully completed the treatment programme, or if the defendant completes the form of treatment ordered by the court, the court must dismiss the charges pending against the defendant. If the report does not so state, or if the defendant does not complete the term of treatment ordered by

the court, then, on the basis of the report and any other relevant evidence, the court may take such action as it deems appropriate, including the dismissal of the charges or the revocation of the stay of the court proceedings.

9. *Discharge procedure(s)*: Any patient assigned under Section 10 may apply in writing to the assigning court for discharge or transfer either from inpatient or outpatient treatment or from one facility to another; provided, however, that not more than one such application may be made in any three-month period. Upon receipt of an application for discharge or transfer, the court must give written notice to the patient of his right to a hearing and to be represented by counsel at the hearing.

Within ten days of the receipt of the court of an application for discharge, the administrator and an independent psychiatrist, or, if none is available, an independent physician, designated by the court to make an examination of the patient must report to the court as to whether or not the patient would benefit from further treatment at a facility. If the court determines that the patient would no longer so benefit, the patient's application for discharge must be granted. If the court does not so determine, the application must be denied.

10. *Harm reduction*: Not stated.
11. *Non-discrimination*: See paragraph 8 above, and Sections 11, 12 and 13, below.
- B. *Section 11. Defendant charged with other than drug offence.*

Note: The full text of this Section reads as follows:

"Any person found guilty of a violation of any law other than a drug offense, who prior to disposition of the charge, states that he is a drug dependent person, and requests an examination shall be examined by a psychiatrist or, if, in the discretion of the court, it is impracticable to do so, by a physician, to determine whether or not he is a drug dependent person who is a drug addict who would benefit by treatment or a drug dependent person who is not a drug addict but who would benefit by treatment.

"If the defendant has previously been examined, pursuant to a request for an examination made in accordance with Section 10, the report of the physician or psychiatrist who conducted the examination shall serve at the examination provided for under this Section.

"The examination shall be conducted at any appropriate location upon appropriate order of the court. In no event shall the request for such examination or any statement made by the defendant during the course of the

examination or any finding of the psychiatrist or physician be admissible against the defendant in any criminal proceeding. The psychiatrist or physician shall report in writing to the court within five days after the completion of the examination, stating the facts upon which the report is based and the reasons therefor.

"If the report states that the defendant is not a drug dependent person who would benefit by treatment, and if the court orders that the defendant be confined to a jail, house of correction, prison, or other correctional institution, the court may further order that the defendant be afforded treatment at a penal facility for the whole or any part of the term of imprisonment; provided, however, that the court shall determine the term of treatment to be afforded with the advice of the administrator of the penal facility; and provided, further, that the court shall not order that the defendant be afforded treatment at a penal facility unless the defendant consents to the order in writing. The administrator may terminate treatment of the defendant at such time as he determines the defendant will no longer benefit by treatment.

"If the report states that the defendant is not a drug dependent person who would benefit by treatment, the defendant shall be entitled to request a hearing on whether or not he is a drug dependent person who would benefit by treatment. If the court determines that he is a drug dependent person who would benefit by treatment, and if the court orders that the defendant be confined to a jail, house of correction, prison, or other correctional institution, the court may order that the defendant be afforded treatment at a penal facility in accordance with the standards and procedures set forth in this Section.

"If the court does not order that the defendant be confined to a jail, house of correction, prison, or other correctional institution, the court may order that the defendant be afforded treatment pursuant to Section 12 (probation of drug-dependent person)."

C. *Section 12: Probation of drug-dependent persons*

Note: The full text of this Section reads as follows:

"Any court may, in placing on probation a defendant who is a drug-dependent person who would benefit by treatment, impose as a condition of probation that the defendant receive treatment in a facility as an inpatient or outpatient; provided, however, that the court shall not impose such a condition of probation unless, after consulting with the facility, it determines that adequate and appropriate treatment is available. The defendant shall receive treatment at a facility for so long as the administrator of the facility deems that the defendant will benefit by treatment, but in no event shall he receive treatment at the facility

for a period longer than the period of probation ordered by the court. A periodic programme of urinalysis may be employed as a condition of probation to determine the drug free status of the probationer. The cost of the administration of such programme shall be borne by the commonwealth. If at any time during the period of treatment the defendant does not cooperate with the administrator or the probation officer, or does not conduct himself in accordance with the order or conditions of his probation, the administrator or the probation officer may make a report thereon to the court which placed him on probation which may consider such conduct as a breach of probation.

"Throughout the period of probation at a facility pursuant to this Section, the administrator of said facility shall provide quarterly written reports on the progress being made in treatment by the defendant to the defendant's probation officer."

D. *Section 13: Juveniles and youthful offenders.*

Note: The full text of this Section reads as follows:

"The division shall accept for referral juveniles and youthful offenders referred to the division by the department of youth services. Application by the department of youth services for such referral shall be made to the director.

"Upon receipt by the director of a request for referral from the youth service board, he shall, unless the person has been examined pursuant to Section 10, designate a psychiatrist or, if in the discretion of the director it is impracticable to do so, a physician, to make an examination of the person to be referred to determine whether or not he is a drug dependent person who would benefit by treatment. The psychiatrist or physician shall report his findings in writing to the director after the completion of the examination, stating the facts upon which the findings are based and the reasons therefor.

"If the director finds that the person is a drug dependent person who would benefit by treatment and that adequate treatment is available at an appropriate facility he may recommend to the department of youth services that the person be admitted to the facility as an inpatient or an outpatient.

"In determining whether to admit to a facility a person who is reported to be a drug dependent person who would benefit by treatment, the director shall consider the past record of treatment, if any, afforded the person at a facility, and whether or not the person complied with the terms of any prior admission.

"If the director decides to admit to a facility a juvenile or youthful offender pursuant to this Section, he shall recommend to the department of youth services the period deemed necessary to accomplish adequate and appropriate treatment but in no case shall the period exceed one year.

"The director shall also notify the department of youth services of the nature of the treatment to be afforded and the facility to which the person will be admitted. If the department of youth services consents in writing to admission to the facility, to the nature of the treatment to be afforded, and to the period deemed necessary to accomplish treatment, the person shall be admitted to the facility.

"If the director decides that the referral to the division is to be refused because the juvenile or youthful offender is not a drug dependent person who would benefit by treatment or because adequate treatment is not available at an appropriate facility, he shall make known in writing to the department of youth services the basis for this decision.

"The referral to the division shall terminate at the conclusion of the period of treatment to which the department of youth services consents or upon a determination by the director that the juvenile or youthful offender will no longer benefit by treatment, whichever first occurs. If the director determines before the conclusion of the period of treatment to which the department of youth services consents that the juvenile or youthful offender will no longer benefit by treatment, he shall make known in writing to the department of youth services the basis for his decision.

"Juveniles and youth offenders referred to the division pursuant to this Section shall remain subject to the jurisdiction and control of the department of youth services for all purposes, including, but not limited to, discharge and release; provided, however, that the treatment to be afforded the juvenile and youthful offenders referred to the division shall be within the jurisdiction and control of the division. In no event, however, shall a juvenile or youthful offender be referred for a period longer than the period during which he is subject to the jurisdiction and control of the department of youth services."

Venezuela

Legislation: Organic Law Governing Narcotic and Psychotropic Substances.

Note: This Law repealed the Narcotics Law of 6 August 1934, the relevant provisions of the Penal Code and Code of Criminal Procedure, certain decrees relating to the Commission on Drug Abuse, and other laws that are in conflict with this Law. See section A2.1 for Resolution No. G-1112 of 16 June 1988 on civil commitment.

Article 77 (General provisions) states that it is the duty of the State to ensure the treatment, for purposes of rehabilitation, re-education and social resettlement, of

persons affected by the abuse of narcotic or psychotropic substances. Likewise, persons requiring instruction in a craft or trade shall be given such instruction.

1. *Grounds:* Any of the following:

- (a) Persons who are consumers of the narcotic or psychotropic substances referred to in this Law who voluntarily present themselves at rehabilitation centres for purposes of cure and submit themselves thereto must be given protection and assistance by the State, and remain anonymous while being treated.
- (b) Consumers of the narcotic or psychotropic substances referred to in this Law who as consumers possess the substances in the form of a personal dose for immediate consumption.

Note: For the application of the safety measures for consumers who possess substances in the form of a personal dose for immediate consumption, the Law requires that "the authentic definition of a drug-dependant" given in the sixteenth report of the WHO Expert Committee on Drug Dependence (World Health Organization, 1969), as amended, that the Organization may officially make, together with the definitions in Articles 57 and 58 of this Law, are intended to guide the courts in applying the safety measures. Article 57 defines a "drug-dependent" and Article 58 defines an "occasional user".

- (c) In the case of "flagrant or quasi-flagrant consumption of the substances referred to by this Law", requiring the person to be detained at a special prevention centre and to be subject to proceedings in cases of illicit consumption (see below).
- (d) If a person is found to be a consumer while imprisoned, the treatment must be provided inside the penal institution where he is detained.

A "drug-dependent" (Article 57) means an intense consumer characterized by the consumption of a minimum daily dose, usually motivated by the need to alleviate tension, i.e. regular consumption rising to levels that may be defined as dependence and transformed into an activity of daily life, even when the individual remains integrated within the community. The compulsive consumer is characterized by high levels of frequent and intense consumption, with physiological or psychological dependence such that his individual and social functioning is reduced to a minimum.

An "occasional consumer" (Article 58) means a person of what might be called the experimental type, usually motivated by curiosity, who tries out drugs on infrequent occasions. The "recreational consumer" is characterized by a

voluntary act which does not tend to escalate either in frequency or intensity. This cannot be considered dependence. The "circumstantial consumer" is characterized by the aim of achieving an anticipated effect for the purpose of facing a situation or state of a personal or vocational nature.

Note: The following are considered to be narcotic and psychotropic substances: (a) drugs, preparations and pharmaceutical specialities included in the schedules annexed to the Laws of Venezuela approving the 1961 Single Convention on Narcotic Drugs and the 1971 Convention on Psychotropic Substances; and (b) any others that, by resolution of the Ministry of Health and Social Welfare, may be considered as such and which must be identified by the generic name that the World Health Organization has adopted by virtue of the fact that their consumption may produce a state of dependence, stimulation or depression of the central nervous system or which results in hallucinations, disturbances of the motor function or thinking, or behaviour or perception or mood, or the fact that their illicit consumption may produce effects similar to those of a substance in the schedules referred to in the immediately preceding subparagraph (a) above.

Note: The following groups are exempt from application of this Law: smaller national groups, clearly defined by the competent authorities, which have traditionally consumed *yopo* during magic and religious ceremonies.

2. *Application:* Criminal Police, who must inform the Criminal Judge of First Instance and the representative of the Public Prosecutor's Office within the next 24 hours.
3. *Decision-making authority:* Criminal Judge of First Instance. When a consumer possesses a substance in the form of a personal dose for immediate consumption, the Judge must reasonably assess the quantity constituting a personal dose for immediate consumption, bearing in mind the report that he will receive from the forensic experts (see paragraph 4 below).
4. *Medical examination:* Medical, psychiatric, psychological and forensic toxicological examination for which at least two forensic experts must be designated.
5. *Treatment programme:* The State must establish the guidance and rehabilitation centres within one year of the promulgation of this Law (16 July 1984). All the provisions (e.g. treatment, rehabilitation under this law) must be implemented in State establishments.

Consumers shall be subject to the following measures: (a) detention at a rehabilitation or special therapy centre; (b) cure or detoxification; (c) social

resettlement; (d) probation or follow-up; (e) expulsion from the country in the case of a non-resident foreign consumer.

Detention at a rehabilitation or special therapy centre consists in making the drug-dependent person reside at an establishment suitable for his treatment.

Cure or detoxification is the set of therapeutic processes intended to bring about the recovery of the physical and mental health of the drug-dependent person, with or without detention.

Social resettlement consists in applying scientific methods designed to ensure that the consumer is fit enough to be reintegrated into his social environment for normal development within the community. The process of social resettlement includes instruction in a craft or trade for such persons as require this.

Probation or follow-up consists in recommending an occasional consumer to one or more specialists who can guide his conduct and prevent a possible relapse into consumption.

Expulsion of a foreign consumer from the country is a measure imposing the obligation never to return and applies only to foreigners with illegal status, transients or tourists.

Note: A drug-dependent must undergo the compulsory treatment recommended by the specialists and the process of social resettlement.

6. *Length of stay:* For occasional users, the Judge must order their release and place them under the control of specialists appointed for this purpose for the period indicated by them.
7. *Appeal:* Decision of Criminal Judge. This is subject to consultation with the Higher Court and must be open to appeal on one single occasion, within two days following the date of notification of the suspect or his lawyer.
8. *Periodic review:* Specialists appointed by the Judge shall periodically inform the Judge of the state of the suspect. On the basis of the report, the Judge must order continuation or suspension of the action.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.

11. *Non-discrimination/user responsibility:* Parents shall be deprived of their parental rights if they compromise the health, safety or morality of their children through the habitual consumption of the substances referred to by this Law. The State and private enterprises may not reject rehabilitated and socially resettled individuals when they apply for work, provided that they meet the requirements specified by the employer in his offer.

Zimbabwe

Legislation: The Inebriates Act, Chapter 64, to make provision for the treatment of inebriates by ordering their detention in inebriate reformatories, dated 4 December 1942.

1. *Grounds:* Two circumstances apply:
 - (a) the court is satisfied from the evidence that an offence, punishable by either fine or imprisonment, was committed by a convicted person while under the influence of drink, or that drunkenness was a contributory cause of the offence; and offender admits that he is, or he is found by the court to be, an habitual drunkard;
 - (b) any person convicted before any court of the offence of drunkenness, under the Liquor Act, 1984, and if the person admits that he is, or if he is declared by the court to be, an habitual drunkard.
2. *Application:* Whenever any court orders a person to be detained in an inebriate reformatory, a warrant must be issued by the court for that purpose setting forth the offence for which he has been convicted and the period for which he is to be detained, and the said warrant must be transmitted to such officer as the President may direct and must be the authority for conveyance of that person to an inebriate reformatory and his detention therein. A history and "antecedents" of the person ordered must accompany the warrant.
3. *Decision-making authority:* Magistrates court.
 - (a) the court may, in addition to or in substitution for any other sentence, order that the offender be detained for a period not exceeding three years at an inebriate reformatory and to perform there such labour or work as may be prescribed by or under the provisions governing the reformatory.
 - (b) the court may, in lieu of the sentence prescribed by the Liquor Act, sentence the offender to be detained for a period not exceeding three years at an inebriate reformatory and to perform thereat such labour

or work as may be prescribed by or under the provisions governing the reformatory.

4. *Medical examination:* Not stated.
5. *Treatment programme:* Labour or work, as prescribed by the inebriate reformatory.
6. *Length of stay:* Not more than three years.
7. *Appeal:* Whenever a magistrates court sentences any person to detention in an inebriate reformatory, such court must forward the proceedings for review by a judge, and the provisions of the Magistrates Court Act shall apply.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* See paragraph 3 above.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

A2.3 Compulsory reporting, central registries, laboratory testing and community surveillance

Afghanistan

Legislation: Law on Combating Drugs, 1991.

Note: This Law repeals the following:

- the Opium Regulations of 1956;
- Regulation concerning cultivation, trade, export, import and use of opium in Afghanistan, dated 1957;
- the Anti-drug-smuggling Law and its amendments;
- other provisions in conflict with this law.

1. *Reporting:* The health organization concerned must report to the respective court through the office of the prosecutor every 15 days on the health condition of the drug addict sentenced to detention. On the basis of the report received the court can abrogate or extend the detention of the drug addict. For the purposes of this provision, the authorized court is the court that took the final decision.

"Drug addict" is not defined.

2. *Registration:* Court.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* If the drug addict has been sentenced more than once by the court for using drugs, the court in addition to the main punishment, can impose a ban on the addict's movements, preventing him from going to certain places.

Bangladesh

Legislation: The Narcotic Drugs and Psychotropic Substances Control Act, 1990.

1. *Reporting:* Two classes of persons are required to report:
 - (a) If any member of a family becomes addicted to narcotics, the head or any other adult person of the family must inform the Director General

(i.e. the person appointed under the Act) or any officer subordinate to him about the same.

- (b) If it appears to any physician that any person under his treatment is addicted to narcotics and requires treatment, he must advise the addicted person about such treatment and must also inform the Director General in writing regarding the necessity of such treatment.

2. *Registration:* Director General, or delegate.
3. *Laboratory testing:* The Government may, for the purposes of this Act, establish a laboratory for the chemical examination of any narcotics or any ingredient of narcotics and appoint a chemical examiner for the purpose. Whenever, at any stage in the proceedings under this Act, chemical examination of any article becomes necessary, it must be sent to the chemical laboratory.
4. *Community surveillance:* Not stated.

Belize

Legislation: The Misuse of Drugs Act, 1990.

1. *Reporting:* The Minister may by regulations make such provision as appears to him necessary or expedient for preventing the misuse of controlled drugs. Such regulations may make provision [among others] for requiring any medical practitioner who attends to any person whom he considers, or has reasonable grounds to suspect, is addicted (within the meaning of the regulations) to controlled drugs of any description to furnish to the prescribed authority such particulars with respect to that person as may be prescribed.
2. *Registration:* Not stated.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

China (Federal)

Legislation: Decision of the Standing Committee of The National People's Congress on Drug Ban.

Note: Adopted at the seventeenth meeting of the Standing Committee of the Seventh National People's Congress on 28 December 1990 and promulgated

by Decree No. 38 of the President of the People's Republic of China on the same date.

1. *Reporting*: All citizens have the obligation to report and reveal any violation of the ban on the possession or use of illicit drugs.
2. *Registration*: Not stated.
3. *Laboratory testing*: Not stated.
4. *Community surveillance*: Not stated.

China (Hong Kong Special Administration Region)

Legislation: Dangerous Drugs (Amendment) Ordinance 1981, and Drug Addiction Treatment Centres Ordinance (Chapter 244 of the Laws of Hong Kong).

Note: The Drug Addiction Treatment Centres Ordinance (Chapter 244), originally No. 42 of 1968, includes the following: 5 of 1974, 41 of 1977, L.N. 30/82, 32 of 1983, L.N. 65/86, 24 of 1986, 44 of 1987, and 14 of 1988. The Dangerous Drugs (Amendment) Regulation 1996, dated 7 May 1996, amended the Dangerous Drugs Regulation of 1968, regarding the information to be included in registries and other records.

1. *Reporting*: Reporting agencies (e.g. hospitals, clinics, voluntary agencies, etc., providing services to a "drug-abuser") specified in the legislation must disclose certain "confidential information", defined, in the Dangerous Drugs (Amendment) Ordinance 1981 as information recorded by the Registry mentioned below or a reporting agency in respect of any person and which relates to any one or more of the following:
 - (a) the use, or alleged use, by that person of a dangerous drug;
 - (b) the conviction of that person for an offence under the Dangerous Drugs Ordinance;
 - (c) the care, treatment or rehabilitation of that person by reason of his use of a dangerous drug.

"Drug-abuser" means a person who is the subject of any confidential information.
2. *Registration*: Section 49 B of the Dangerous Drugs (Amendment Ordinance 1981) provides for a Central Registry of Drug Abuse, the purposes of which include:

- (a) the collection, collating, and analysis of confidential information supplied by reporting agencies and of information on drug abuse and its treatment supplied by other sources; and
- (b) the publication of statistical information on drug abuse and on various forms of treatment of drug abuse.

Section 49C provides for immunity of records from search and from production in court.

Section 49D (1) provides that, subject to exceptions, any person commits an offence and is liable to a fine of HK\$5000 and to imprisonment for six months who: (a) discloses any record of confidential information which is kept by the Registry or a reporting agency, or supplies to any person information obtained from any such record; or (b) permits access to any such record. Subsection (1) does not apply where the disclosure is made, or access is permitted:

- (a) in accordance with an authorization given under Section 49E [i.e. upon written application for research];
- (b) in accordance with an authorization given under Section 49F [i.e. upon written consent of the drug abuser];
- (c) in accordance with an order of the Attorney General made under Section 49G [i.e. by order of the Attorney General];
- (d) to the Commissioner or a reporting agency director, or to an employer of the Registry or of a reporting agency, for the purpose of treating a drug abuser for his drug addiction or of assisting him in his rehabilitation;
- (e) to a medical practitioner for the purpose of providing medical treatment for any person, or to a coroner or a medical practitioner for the purpose of inquiring into the cause of death of a drug abuser;
- (f) in proceedings for an offence under this Part.

3. *Laboratory testing:* Medical examination while under supervision.

4. *Community surveillance:* The Drug Addiction Treatment Centres Ordinance provides that the Commissioner of Correctional Services may order that a person released from an addiction-treatment centre be subject to supervision, for a period of 12 months from the date of his release, by such organization or person as the Commissioner may specify. While under such supervision the person must comply with such requirements (e.g. medical examination, residence) as the Commissioner may specify. The Commissioner may at any time vary or cancel a supervision order. A person who fails to comply with the supervision order commits an offence and is liable to a fine of HK\$5000 and to imprisonment for 12 months. The Commissioner may make a recall order against the person requiring him to return to an addiction-treatment centre, if

the Commissioner is satisfied that a person under a supervision order has failed to comply with any requirement of the order. The person may be arrested and taken to an addiction treatment-centre and detained there, until the expiry of 12 months from the date of the detention order or four months from the date of his being arrested under the recall order, whichever is the later. The Commissioner may at any time release a person in respect of whom a recall order is in force.

If a person under a supervision order, or recall order is sentenced to imprisonment:

- (a) for a term of nine months or less, the supervision order or recall order must be suspended until the completion of his prison term;
- (b) for a term of more than nine months, the supervision order or recall order ceases to have effect.

A supervision order lapses if the person, under any other Ordinance, is placed under the supervision of a probation officer or any other person other than the Commissioner.

If a police officer, officer of the Correctional Services Department, or delegate, reasonably suspects that a person under a recall order is unlawfully at large, the police officer may arrest the person and take him to the place where he is required to be detained.

If the Governor is satisfied that a person detained in a centre is exercising a bad influence on other inmates, he may, subject to certain conditions, order his transfer to prison.

Colombia

Legislation: the following are in force:

- A. Decree No. 3788 of 31 December 1986 Regulating Law No. 30 of 1986, the National Narcotic Drugs Statute.
 - B. Resolution No. 6980 of 28 May 1991, Establishing Regulations for the Control of The Import, Export, Manufacture, Distribution and Sale of Medicaments, Raw Materials and Precursors under Special Control.
-
- 1. *Reporting:* The National Narcotics Fund of the Ministry of Health shall keep the National Register of Drug-dependents, which shall be confidential and the data shall be used only for the prevention of illicit drug trafficking and drug dependence. The Fund shall provide the relevant sectional health services or the individual concerned with a form to be filled in by the medical professionals who prescribe drugs or medicaments under special control for

patients considered to be drug-dependent. When completed by the attending doctor, the form shall be returned to the relevant sectional health service. The form must contain the following minimum information: name of patient; identification of patient; address and telephone number of patient; names of medicament; daily dose; name of attending doctor; medical registration number; and address and telephone number of attending doctor.

2. *Registration:* The Narcotics Drugs Revolving Fund of the Ministry of Health shall establish a national drug-dependence register, which shall be confidential and the data from which shall be used exclusively for the purpose of preventing drug trafficking and drug dependence. The sectional health services shall establish these registers within their jurisdiction and shall forward the information contained therein to the Revolving Fund.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

Cyprus

Legislation: Two separate items are in force.

The Narcotics Drugs and Psychotropic Substances Law, 1977.

1. *Reporting:* The Council of Ministers may (by regulation) require any medical practitioner who attends a person whom he considers, or has reasonable grounds to suspect, to be addicted to controlled drugs of any description, to furnish to the prescribed authority such particulars with respect to the said person as may be prescribed.
2. *Registration:* Not stated.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

Narcotic Drugs and Psychotropic Substances Regulations, 1979.

Note: These regulations were made by the Council of Ministers pursuant to the Narcotic Drugs and Psychotropic Substances Law, 1977.

"Medical practitioner" means any person who is registered as a medical practitioner in accordance with the provisions of the Medical Registration Law.

"Register" means a bound book and does not include any type of loose-leaf book.

1. *Reporting:* Section 18 (1) provides that, subject to Section 18 (2), any medical practitioner who treats any person whom he considers or has reasonable cause to consider to be addicted to any controlled drug specified in the Sixth Schedule, must within seven days from the first visit, furnish in writing to a medical officer designated by the Minister of Health, such of the following particulars relating to that person as may be known to the medical practitioner, that is, the name, address, sex, date of birth and number of identify card of the said person, the date of the medical visit and the name of the relevant drug.

Section 18 (2) provides that there is no obligation to comply with the provisions of paragraph (1) above where: (a) the medical practitioner is of the opinion, formed in good faith, that the continuous administration of the relevant controlled drug is required for treatment of an organic disease or wound; or (b) the particulars required to be furnished under the provisions of paragraph (1) have, within 12 months from the first medical visit, been furnished in accordance with the said provisions: (i) by the medical practitioner; or (ii) in the case of treatment by another medical practitioner, either on payment or otherwise, by that other medical practitioner; or (iii) in the case of treatment in a Government hospital or institution, by a medical practitioner who is a member of the staff of the said hospital or institution.

2. *Registration:* Section 13 provides that any person authorized to supply any drug specified in the Second or Fourth Schedule, must keep a register and enter into it in chronological order particulars with respect to every quantity of a drug which he may be supplied with and every quantity of such drug which he may supply either by administration or otherwise to any person.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

Czech Republic

Legislation: Two laws are in force.

- A. *Law of 28 March 1989 on the Protection Against Alcoholism and other Drugs.*

1. *Reporting:* See paragraph 2 below.

2. *Registration:* The health service establishment registers persons who are dependant on alcohol or another habit-forming drug, and such registration is reported to the persons concerned. If a person who has been registered considers such registration to be incorrect, he may, under special regulations, submit a proposal for it to be revised; the decision of the national committee under these regulations will be reviewed by the court on the proposal of the above-mentioned person, his guardian or a person close to him.
 3. *Laboratory testing:* A person acting in a dangerous way must be tested for presence of alcohol and other habit-forming drugs. Two-part test for alcohol: breath test, and if positive, a blood test. For drugs, test of urine, saliva or blood.
 4. *Community surveillance:* Not stated.
- B. *Law No. 20/1966 on the protection of public health, as amended by Law No. 548/1991 of the Czech National Council.*
1. *Reporting:* The compulsory hospitalization of persons showing symptoms of mental illness or intoxication that constitute a danger to themselves or to those around them must be reported within 24 hours by the health-care establishment to the court within whose jurisdiction the establishment is situated. Hospitalization will not be notified to the court if, within the following 24 hours, the patient has given his consent to care in the establishment.
 2. *Registration:* Not stated.
 3. *Laboratory testing:* Not stated.
 4. *Community surveillance:* Not stated.

Finland

Legislation: Law No. 556 of 9 June 1989 on the National Register of Persons for Health-care Purposes.

1. *Reporting:* Reporting agencies.
2. *Registration:* The National Board of Health may keep a National Register of Persons for Health-care Purposes, which is a central register covering all of the country, and containing information on the state of health, disease, or disability of, or health care or related measures concerning, individuals. The

National Board of Health may keep this Register for the compilation of statistics, planning, research, and supervision for which it is responsible under laws and ordinances. The Board may also keep a Narcotics Control Register for the control of narcotics in accordance with the Narcotics Law (No. 41) of 21 January 1972 and the Narcotics Ordinance (No. 282) of 15 April 1981.

3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Notwithstanding the provisions contained in any other laws, the information contained in the National Register of Persons for Health-care Purposes may not be disclosed or used in any decision affecting persons on the Register. Nevertheless, the Board may use the information contained in the Narcotics Control Register in relation to the surveillance of health-care personnel under its authority.

France

Legislation: One law and ten decrees, circulars, and orders are in force.

- A. *Law No. 70-1320 of 31 December 1970, as amended, relating to the health measures for the control of drug dependence and the suppression of traffic in, and illicit use of, poisons.*
 1. *Reporting:* Whenever the public prosecutor (*procureur de la République*), in pursuance of Article L628-1 of the Public Health Code, orders a person who has made illicit use of narcotics to undergo detoxification (*cure de désintoxication*) or to submit to medical surveillance, he must inform the competent health authority.
 2. *Registration:* Not stated.
 3. *Laboratory testing:* Not stated.
 4. *Community surveillance:* Any person making illicit use of narcotics must be placed under the surveillance of the health authority.
- B. *Circular DGS-DH No. 15 of 7 March 1994, on beds reserved for detoxification in hospital departments and the development of municipal/hospital networks for the management of drug users.*

This circular addresses two complementary objectives:

(1) the involvement of hospital departments in the management of drug addicts: 3-5 beds, at least, should be reserved for detoxification cures; (2) the development of municipal/hospital drug addiction networks comprising

general practitioners, hospitals, specialized treatment centres and, where applicable, social services and associations.

I. Detoxification beds in hospital departments

I.1 *Objectives*

Detoxification of drug users can be carried out either on an outpatient basis or after admission to hospital.

Indications for hospital admission will depend on several factors - deterioration of physical health, major psychological or psychiatric disturbance, nature of the substances involved in dependence, intensity of dependence, social and family environment, and, finally, a request for admission by the individual in question. Half the drug users who undergo detoxification are reported to be treated in hospitals, 50% of them in psychiatric departments and 50% in medical departments.

Three to five beds at least should be reserved for detoxification at regional hospitals and at the other main hospitals mentioned in Article L711-6 of the Public Health Code, in towns with a population of at least 50 000. A special effort should also be made by the hospitals in the regions most severely affected by the problems of drug addiction, particularly Ile de France and the Provence-Alpes-Côte d'Azur region.

I.2 *Practical arrangements*

The distribution of these beds will be decided by the Director of the establishment in accordance with the conditions specified in the first and second paragraphs of Article L714-16 of the Public Health Code.

It is desirable that these beds should not be concentrated in one single department but dispersed among different psychiatric and medical wards.'

Widespread distribution of the list of these services to general practitioners, institutions specializing in the treatment of drug addicts, and other partners, will contribute to the efficacy of this measure.

I.3 *Financing of detoxification*

The costs of hospital stay for detoxification will be reimbursed by the State from the credits in chapter 47-15-10, devolved to the level of departmental prefects.

I.4 *Evaluation*

The mode of functioning adopted when the plan was established should be evaluated annually. You are requested to submit to me by 30 November 1994 a list including:

- the number of hospitals in which detoxification beds have been set aside;
- for each hospital, the number and type of wards or departments involved.

II. **Development of municipal/hospital networks**

II.1 *Network objectives*

Networks are intended to improve the management of drug addicts by fostering exchanges and communication between the various persons involved in the reception, care or orientation of these patients at any particular point in their history.

These persons as defined in the Government Plan are general practitioners, the staff of hospitals and specialized centres for the treatment of drug addicts, the personnel of social welfare agencies and the other professionals involved.

Networking enables all these social and health personnel, who have hitherto been working in parallel, to develop a partnership and work together for the comprehensive management of drug-users. It responds to the wishes of certain drug addicts to continue to be treated as outpatients by their physician, while at the same time benefiting from the technical facilities and infrastructure of a hospital.

This procedure enables all existing resources to be mobilized to solve the specific problems posed by a drug-user.

It also helps to foster the dissemination of information and knowledge relating to drug addiction, HIV infection, hepatitis B and C and other disorders connected with drug consumption.

Establishment of a network does not mean the creation of a new structure; rather it enables existing personnel to work together in a coordinated fashion for the benefit of the same patient.

II.2 *Functioning of the network*

A network is an open-ended organization involving, as a minimum, a hospital base, a group of general practitioners already involved in the management of drug addicts, and a centre specializing in the treatment of drug addicts, where

one exists. At the hospital base, several departments, both psychiatric and medical, should be involved. Its function is to foster the training of physicians, as well as the sharing of experience under similar conditions of practice, and to offer mutual support in the reception and follow-up of drug-addicted patients.

Since 1987, the General Directorate of Health has encouraged the formation of groups of general practitioners in several departments. In 1991, at the instigation of the Ministry responsible for health, municipal/hospital networks were established for patients with HIV infection, and a number of these also take charge of drug addicts.

Each municipal/hospital drug-addiction network will have a hospital physician, whose specific duty will be: (a) to ensure coordination with other hospital departments, in particular the emergency services and those concerned with the care of drug addicts infected with HIV; (b) to facilitate inpatient management of drug addicts, especially for detoxification; and (c) to interface with other partners outside the hospital (general practitioners and other personnel in contact with drug addicts).

The recruitment of these physicians and their status are described in Section II.3 on the examination of projects.

Modalities for the operation, leadership and coordination of the network are left to the initiative of the promoters of the project. They should be set out in tripartite technical agreements or bipartite agreements if there is no specialized centre for the treatment of drug addicts endorsed by the DDASS.

All networks will nevertheless have certain principles in common:

- (a) they should be open to all in the fields of health and social welfare involved in the overall management of drug-users;
- (b) linkage between hospital physicians, general practitioners and other personnel in contact with drug addicts should nevertheless occupy a central position;
- (c) specific training for hospital medical staff and training of general practitioners are indispensable for the establishment of a network.

II.3 *Examination of projects*

The annex contains a checklist for the preparation of a project for a municipal/hospital drug-addiction network.

Whenever it may seem appropriate, municipal/hospital networks established for persons with HIV, can be used for the management of drug-users.

Establishing and operating the networks will need to be accompanied by the building up or strengthening of the necessary logistic resources.

Each network will have a post for a hospital physician, to be responsible for leadership. This function will be entrusted to a physician specially recruited or a hospital physician already in service at the establishment, who will devote part of his time to this task. The recruitment of this physician should depend in the first instance on the quality and profile of the applicants. Good professional experience in the field of drug addiction is indispensable. From the point of view of employment status, these physicians may be:

- (a) practitioners on short-term contracts (Decree No. 93-701 of 27 March 1993) who may be recruited for a specific mission of a particular technical nature, including AIDS and drug addiction. They may be recruited on local contracts, with a duration of six months, renewable for two years. Whatever the type of contract issued, it is desirable that these physicians should initially be offered a part-time arrangement;
- (b) hospital assistants (Decree No. 87-788 of 28 September 1987).

These full-time staff are recruited locally on contracts of one or two years, renewable on a fixed-term basis for up to four years. They are placed under the responsibility of the head of department and may practise only in a non-university hospital. This status allows them at the next stage, to enter for competitive services, internal medicine, or psychiatry.

Recruitment as hospital practitioners. The service to which these physicians are assigned, whatever their status, is left to the initiative of the hospital; they may, for example, be assigned to the emergency. The service or department to which they are assigned should be chosen in the light of the efficacy and quality of the service to be rendered.

II.4 *Financing of networks*

Networks will be financed:

- (a) by the Directorate of Hospitals - AIDS Mission:
 - the post of hospital physician will be charged to funds from the AIDS budgetary allocation (national reserve);
 - the training of hospital medical personnel should be organized within the framework of the hospital's training plan;
- (b) by the General Directorate of Health, for the training of general practitioners, leadership and coordination of the networks, from Chapter 47-15, Article 40, by delegation to the prefect of the

department. Expenditure under this head should not exceed 300 000 F.

The decision to allocate these funds will be taken on the basis of a file on the project submitted by the promoters to the DDASS, which will forward it together with its substantiated opinion to the central administration (Directorate of Hospitals - AIDS Mission and General Directorate of Health - office SP3). The two directorates will jointly examine the application submitted.

Projects should reach the central administration by 31 May 1994 at the latest.

II.5 *Evaluation*

- (a) An annual progress report should be drafted by the promoters of the network and transmitted through the DDASS to the General Directorate of Health - office SP3, and to the Directorate of Hospitals - AIDS Mission.
- (b) A steering group composed of the principal partners will be established at the national level. Its task will be to evaluate operations and assess their efficacy.

Note: The following decrees, circulars and orders are also in effect:

C. *Decree No. 92-590 of 29 June 1992 on specialized centres for the care of drug-dependent persons.*

Note: Special centres are designated in each *département* by prefectural order made by agreement with the Procurator General to the Court of Appeal. These lists may include only those treatment units:

- which are under the medical management of a physician specialized in drug dependence;
- whose rules and regulations are in conformity with the standard drawn up by the Ministry of Public Health;
- which are recognized as technically capable of providing the treatment specified in Article L628-5 of the Public Health Code (Law No. 70-1320 of 31 December 1970 relating to the health measures for the control of drug dependence and the suppression of traffic in, and illicit use of poisons) and which have premises where, if necessary, some or all of those found criminally responsible can be isolated in an acceptable way.

The centres must conclude an agreement with the prefect of the *département*. Such centres, which are granted State aid, are then called authorized centres

for drug addicts, with or without accommodation. Only such centres are authorized by the State and financed by the Ministry of Health.

Prevention and treatment facilities for drug addicts are financed by the State on condition that they satisfy the following requirements:

Treatment centres must provide as a minimum: (a) medical and psychological care for drug-dependent persons; (b) social and educational care for the drug-dependent person (including assistance with resocialization and rehabilitation); and at least one of the following:

1. reception, guidance and information to drug-dependent persons and their families;
2. withdrawal, and support during withdrawal when it is carried out in a hospital;
3. support for the family environment.

Each treatment centre must draw up a therapeutic project setting therapeutic and socioeducational objectives. This plan is to cover a maximum of five years.

The centres may be managed by associations governed by the Law of 1 July 1901, or in conformity with Article L.711-8 of the Public Health Code for public health establishments.

Alternatively, they may be managed directly by State services in the *département*. Centres managed by associations are under the administrative and technical authority of a director designated by the administrative council of the association, by agreement with the Director of Health and Social Affairs for the *département*. This type of centre may or may not provide accommodation for drug addicts. It could manage:

1. collective accommodation with (designated) places;
2. accommodation in therapeutic apartments;
3. accommodation in half-way houses;
4. networks of volunteer families who take in drug addicts and are paid their expenses.

- D. *Decree (Order) of 26 January 1988 approved establishments for detoxification treatment provided for in Articles L355-18 and L355-19 of the Public Health Code.*

Note: Decree No. 98-1229 of 29 December 1998 on the centres referred to in Article L335-1-1 of the Public Health Code, provides (in paragraph 1) as follows: "The centres provided for by Article L335-1-1 of the Public Health

Code, referred to as outpatient centres for the treatment of alcohol dependence shall provide diagnosis, guidance, and therapeutic management in respect of the persons specified in that Article as well as social support to such persons and their families”.

- E. *Circular No. 56 D.G. S/2.D/ of 10 June 1992 concerning Decree No. 92-590 of 29 June 1992 related to specialized treatment centres for substance-abusers.*

This Circular provides explanations concerning the application of the Decree on specialized treatment centres for substance-abusers.

- F. *Decree of 23 July 1992 setting the model of the type of article related to specialized treatment centres for substance-abusers of associative status.*
- G. *Decree of 26 August 1992 setting the model of the type of clause (article) related to specialized treatment centres for substance-abusers managed by a public health establishment.*

Centres managed by health establishments in the public sector, under the Decree of 26 August 1992 (specifying the composition of the application file required in respect of the establishment and extension of a specialized centre for the care of drug-dependent persons) must provide to persons experiencing psychological, mental or social difficulties as a result of drug addiction any assistance that could facilitate their treatment, socialization or rehabilitation. Requests for admission to such centres are “free and voluntary” (S. Slama, personal communication, 1994).

- H. *Decree of 15 September 1993 setting the model of a conventional additional clause related to therapeutic specialized treatment centres for substance abusers with an associative status.*
- I. *DGS Circular No. 45 of 17 June 1993 related to the reinforcement of State action in the area of HIV infection.*
- J. *Decree of 18 August 1993 related to the networks of welcoming families for substance-abusers managed by national specialized treatment centres for substance-abusers.*
- K. *Order of 30 June 1989 on the establishment of a statistical database providing personalized data on drug-dependent persons seeking assistance from the care system.*

This order provides that the recipients of this information are to be the Department of Statistics, Studies and Information Systems, and the statistical units of

the Regional Directorates of Health and Social Affairs. Information to be used in the database includes age, sex, professional activity, associated pathology, and nature of substances consumed.

Greece

Legislation: Decision No. A2b/ik. 3982 of 7 October 1987 laying down approved scientific criteria applicable to diagnosis of dependence.

Note: This Decision is made pursuant to Section 7 of Law No. 1729 of 3 August 1987 on the control of traffic in narcotics and the protection of adolescents and laying down other provisions.

Ministry decision No. a2b/ik 3984 of 7 October 1987 establishes the conditions applicable to the pharmacological test for the syndrome of withdrawal from drugs.

1. *Reporting:* Not stated.
2. *Registration:* Not stated.
3. *Laboratory testing:* A diagnosis of **dependence** must be made in accordance with the scientific criteria fixed by the Central Health Council.

With regard to tests to determine whether narcotics have been used, a laboratory verification (toxicological analysis of body fluids) and a clinical examination (supplementary detailed examination) must be carried out.

Note: Ministry decision No. a2b/ik 3984 of 7 October 1987 specifies the conditions applicable to the pharmacological test for the syndrome of withdrawal from drugs. Such tests are authorized in the following cases: (1) the life of the person is at risk, or there is a risk of serious harm to health or of significant complications in a disease from which he is suffering; (2) the test is indispensable for carrying out diagnostic or therapeutic procedures or for the emergency transport of the person concerned, or if the indications of the syndrome preclude treatment for a disease; (3) the person in question is pregnant; and (4) the test is indispensable because of other acute symptoms displayed by the person concerned, provided that he is subsequently transferred to a special therapeutic centre for detoxification. Provisions are also made in this Decision for the methods for carrying out the pharmacological tests for the syndrome and the procedures for the test.

4. *Community surveillance:* Not stated.

Hungary

Legislation: Ordinance-Law No. 41 of 1982 of the Presidential Council of the Hungarian People's Republic on the compulsory institutional treatment of alcoholics.

1. *Reporting:* Director of institution may permit any institutionalized person to leave the institution temporarily after three months continuous treatment, provided the person's behaviour justifies such temporary absence. The Director must the health agency in the place of residence of the institutionalized person regarding such temporary leave or the final discharge of any institutionalized person.
2. *Registration:* Not stated.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* The purpose of the notification by the Director, mentioned in paragraph 1, is to enable the health agency to arrange for the surveillance or after-care of alcoholics who have undergone institutionalized care.

Indonesia

Legislation: Law No. 9 of 1976 on narcotics.

Note: It is reported (H.A. Nawawi R. Skm) that this Law is being revised.

1. *Reporting:* Parents or guardians of an under-age narcotic addict are required to report him to an official assigned by the Ministry of Health and to bring him to a hospital or to the nearest physician to receive the necessary medication and nursing. Medication and nursing care are provided in rehabilitation institutions. The establishment, organization and function of rehabilitation institutions and branches are determined by the President. Involvement of private and government agencies is sought.
2. *Registration:* Not stated.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

Israel

Legislation: Penal Law (Modes of Punishment) (Cure of Addiction to Dangerous Drugs) Regulations, 5729-1969.

1. *Reporting:* The officer in charge (see below) must prepare a monthly report on the treatment and condition of the patient and the prospects for his recovery and must recommend the continuance or discontinuance of his treatment.
2. *Registration:* The officer in charge of an institution (closed institution for the treatment of drug-addicted persons sentenced to imprisonment) must keep a register in which the following information must be recorded in respect of every patient:
 - (a) the number of the judgement and the name of the court ordering the detention of the patient in the institution;
 - (b) the date of the judgement;
 - (c) the date of the termination of the period of detention according to the judgement;
 - (d) the date of the admission of the patient to the institution;
 - (e) any leave granted to the patient under Section 17A of the law;
 - (f) the transfer of the patient to a hospital under Regulation 6 and his return therefrom;
 - (g) the directions issued with regard to the treatment of the patient;
 - (h) the date of the release of the patient from the institution.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* The officer in charge must immediately notify the Attorney General of the hospitalization or release of any patient, and must also so notify the district attorney of the district in which the court that made the order is situated or, if the order was made by the Supreme Court, the State Attorney.

Italy

Legislation: Law No. 162 of 26 June 1990 (Section 116 of Decree No. 309 of 9 October 1990).

Note: See chapter 4 for a discussion of Regional (Marches) Law No. 30 of 6 August 1982 prescribing provisions for the prevention, treatment and rehabilitation of drug-dependence and other forms of intoxication.

1. *Reporting:* The medical practitioner who examines or assists any person using narcotic and psychotropic substances must notify the public drug-dependence

service with jurisdiction for the territory. This must be done with full respect for anonymity. The judicial authority or the Prefect must, in the course of a trial, notify the public drug-dependence service with competence for the territory of any person discovered who uses narcotics and psychotropic substances. The public drug-dependence service is required to summon the person reported in order to draw up a therapeutic and social rehabilitation programme.

2. *Registration:* Regional governments and the autonomous provinces (Trent, Bolzano) in the exercise of their social and welfare functions, must create a register of the agencies (e.g. non-profit-making voluntary, ancillary agencies) which manage facilities for the rehabilitation of drug addicts and their reintegration into society.

Entry in the register is a statutory precondition for carrying out rehabilitation and other activities and is conditional on the following minimum eligibility criteria: legal status under public or private law, or as an association; availability of premises and appropriate facilities for the type of activity to be performed; and adequate numbers of staff with appropriate qualifications to deal with drug addicts.

3. *Laboratory testing:* Not stated.
4. *Community surveillance:* During the period of remand on probation, the official responsible for the community may accompany the drug addict or have the said addict accompanied by a person enjoying his confidence outside the community when necessary or for urgent reasons relating to treatment or serious family reasons, immediately notifying the judicial authorities to that effect.

Japan

Legislation: Narcotics and Psychotropics Control Law (Law No. 14 of 17 March 1953), as amended.

Note: Japan became a party to the Convention on Psychotropic Substances 1971 on 31 August 1990, and several provisions were added to the Narcotics Control Law so as to bring psychotropic substances under control. The Narcotics Control Law was then renamed the Narcotics and Psychotropics Control Law.

"Narcotic addict" means a person who is in a state of narcotic addiction.

"Narcotic addiction" means chronic intoxication with narcotic drugs, cannabis, or opium.

1. *Reporting:*

- (a) A medical practitioner must, if he has diagnosed as a result of a medical examination that the medical examinee is a narcotic addict, promptly report the name, domicile, age, sex of such person and other matters provided in the Ministry of Health and Welfare Ordinance to the Governor of the Prefecture having jurisdiction over such person's place of residence.

The Governor of the Prefecture must, upon receipt of the information, report it to the Minister of Health and Welfare without undue delay.

- (b) A narcotic control officer, a prefectural narcotic control official, a policeman, and a maritime safety official, must, in case he has found any narcotic addict or any person who is suspected to be a narcotic addict, promptly report the name, domicile, age and sex of such person, and the reason why such person is considered to be a narcotic addict or a person who is suspected to be a narcotic addict to the Governor of the Prefecture having jurisdiction over such person's place of residence.
- (c) A public prosecutor must, in case he has taken measures of non-prosecution to a suspect who is a narcotic addict or who is suspected to be a narcotic addict, or in case a judgement of a court (excluding an adjudication in which, imprisonment with forced labour, imprisonment without forced labour, or penal detention has been pronounced without suspension of execution of sentence thereof) has become finally binding with respect to the accused who is a narcotic addict or who is suspected to be a narcotic addict, promptly report the name, domicile, age and sex of such person to the Governor of the Prefecture having jurisdiction over such person's place of residence.
- (d) The chief of a correctional institution (signifying Prison, Reform and Training School, Juvenile Detention House and Juvenile Classification Home, and Woman's Guidance Home) must in case he releases an inmate who is a narcotic addict or who is suspected to be a narcotic addict, report in advance the name, place of return, age and sex of such person, date of release, the name and domicile of the caretaker of such person, and the reason why such person is considered to be a narcotic addict or a person who is suspected to be a narcotic addict, to the Governor of the Prefecture having jurisdiction over such person's place of return (signifying the location of the correctional institution concerned, in case such person has no place of return or such place is unknown).

2. *Registration:* Not stated.
3. *Laboratory testing:* The Governor of the Prefecture may, if he considers it necessary with respect to a narcotic addict or a person who is suspected to be a narcotic addict, have the designated physician of mental health examine the person.
4. *Community surveillance:* Not stated.

Kenya

Legislation: The Mental Health Act, 1989.

Note: This Act repeals the Mental Treatment Act.

1. *Reporting:* Where a person has been received into a mental hospital as an involuntary patient under the section of the Act pertaining to involuntary patients, or if a patient so received dies in or departs from the mental hospital, information of the reception, death or departure must be given by the person in charge to the district mental health council.
2. *Registration:* District mental hospital.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

Malaysia

Legislation: Act No. 283 Drug Dependents (Treatment and Rehabilitation) Act 1983.

1. *Reporting:* It is the duty of a registered medical practitioner, including a government medical officer, to notify the Director General of any person who is treated by him for drug dependency in accordance with rules made under this Act. Any person who contravenes the provisions of this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding 500 ringgit.

"Director General" means the Director General appointed under subsection (2) of Section 2 of the Act, which provides that the Minister charged with the responsibility for internal security must appoint a public officer to be Director General, who shall have, subject to the direction and control of the Minister, superintendence over all matters relating to the apprehension, treatment and

rehabilitation of drug-dependents under this Act, and there must be appointed such number of rehabilitation officers as may from time to time be required for the purposes of this Act.

2. *Registration:* Not stated.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* A person undergoing after-care may be required by a Board of Visitors to comply with such conditions as the Board of Visitors may specify in an after-care order to be made by such Board, and such conditions may include a condition that such person shall reside in an after-care centre for a period not exceeding six months for such hours daily or otherwise as may be specified in such after-care order. Where a person who is undergoing after-care is at any time reasonably suspected by an officer to be a drug-dependent, such officer may produce him before a magistrate who may, after having given such person an opportunity to make his representations in the matter, and after considering a report on him by a rehabilitation officer (a copy of which shall be supplied to such person) order him to reside at a rehabilitation centre for a period not exceeding six months if he is satisfied that such residence will assist in relieving such person of his drug dependency.

Malta

Legislation: Medical and Kindred Professions Ordinance (Cap. 51) Drugs (Registration of Addicts) Regulations, 1986.

1. *Reporting:* It is the duty of every practitioner to inform the Superintendent, on a prescribed form, of every patient under his care, who in his opinion is suffering from any form of addiction to or dependence on a drug.

"Drug" means a drug or chemical listed in the Third Schedule to the Medical and Kindred Professions Ordinance and any drug to which the Dangerous Drugs Ordinance refers.

"Practitioner" means a medical practitioner, dental surgeon or dentist.

"Superintendent" means the Superintendent of Public Health.

2. *Registration:* It is the duty of the Superintendent to keep a register, to be called the Register of Addicts, in which are entered the name, and other prescribed information set out in schedules of every patient who is notified under this regulation. No practitioner may prescribe any drug to any such patient unless the practitioner has made the required report.

3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

Mauritius

Legislation: The Dangerous Drugs Act 1986, Act No. 32 of 1986.

1. *Reporting:* On 30 June and 31 December of each year, every person who supplies dangerous drugs must check the stock of dangerous drugs and balance each register; and report to the Permanent Secretary any discrepancy found to exist as a result of such check.
2. *Registration:* Section 18 provides (with other requirements) that Section 17 (keeping of registers by every person who supplies a dangerous drug) does not apply to a medical practitioner who enters in a day book particulars of every dangerous drug obtained by him and of every dangerous drug supplied by him together with the name and address of the person to whom and the date on which the dangerous drug is supplied. Every register kept under Section 18 must be kept on the premises to which such register or book relates and be available for inspection at all reasonable times.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

Mexico

Legislation: Regulations of 7 January 1981 for the control of substances which are psychotropic when inhaled.

1. *Reporting:* Any person may report to the Ministry of Health and Welfare any violations of these Regulations by organizations or individuals trading illegally in inhalable substances with psychotropic effects, and supply information about the meeting places of inhalers.

Note: These Regulations apply to two types of substances having psychotropic effects when inhaled: (a) raw materials used in industry, separately or in combination, which produce or may produce psychotropic effects when inhaled (e.g. hydrocarbons, esters); and (b) finished products containing organic solvents which produce or may produce psychotropic effects when inhaled (e.g. thinners, glues).

2. *Registration:* Not stated.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* The Ministry of Health and Welfare, in cooperation with the Federal, local and municipal police forces, which for this purpose are considered as arms of the Ministry itself, shall establish special surveillance in the vicinity of schools and in public parks, marginal urban areas and other public places in which the substances covered by these Regulations are known to be used or abused.

Myanmar

Legislation: Narcotic Drugs and Psychotropic Substances Law. The State Law and Order Restoration Council Law No. 1/93.

Note: The Narcotics and Dangerous Drugs Law, 1974 is repealed. Rules, notifications, orders and directives issued under the Narcotics and Dangerous Drugs Law, 1974 which are repealed by this Law may continue to be applicable in so far as they are not inconsistent with it.

1. *Reporting:* Drug-user.

"Drug-user" means a person who uses a narcotic drug or psychotropic substance without permission in accordance with the Law.
2. *Registration:* A drug-user shall register at the place prescribed by the Ministry of Health or at a medical centre recognized by the Government for this purpose for medical treatment.

A drug-user who fails to register at the place prescribed by the Ministry of Health or at a medical centre recognized by the Government for this purpose or who fails to abide by the directives issued by the Ministry of Health for medical treatment shall be punished with imprisonment for a term ranging from a minimum of three years to a maximum of five years.

A registered drug-user undergoing medical treatment shall abide by the directives issued by the Ministry of Health. Registration of a drug user shall be carried out "in accordance with the stipulations".
3. *Laboratory testing:* Action taken under this Law in respect of the following matters must be in accordance with the rules: (d) laboratory analysis in respect of narcotic drugs and psychotropic substances.

4. *Community surveillance:* Not stated

Norway

Legislation: Law No. 42 of 8 June 1979 amending Law No. 7 of 12 December 1958 on prisons.

1. *Reporting:* Not stated.
2. *Registration:* Not stated.
3. *Laboratory testing:* The director of a prison is authorized to order the taking of urine tests, breath tests, and such other examinations as can be performed without danger or significant discomfort in order to detect whether an inmate has consumed an intoxicating or psychotropic substance. A physical search may also be carried out if it is suspected that an inmate has hidden such a substance in his body (such a search may be carried out only by health personnel).
4. *Community surveillance:* Not stated.

Pakistan

Legislation: The Control of Pakistan Narcotic Substances Ordinance No. XCIV of 1996.

1. *Reporting:* No stated
2. *Registration:* The Federal Government and each Provincial Government shall register all addicts within their respective jurisdiction for the purpose of treatment and rehabilitation of addicts. The Federal Government and the respective Provincial Governments shall bear all expenses for first time compulsory detoxification or de-addiction of an addict. The addict shall carry a registration card in such form as may be prescribed and produce it to any public authority on demand.

Note: This Ordinance repeals the Opium Act, 1857, the Opium Act, 1878, the Dangerous Drugs Act, 1930, and the Control of Narcotic Substances Ordinance, 1996 (LIX of 1996).

Papua New Guinea

Legislation: The National Narcotics Control Board Act, of 26 February 1992.

1. *Reporting:* Not stated.
2. *Registration:* The Act establishes the National Narcotic Control Board. Its functions include issuing licences to persons for the manufacture, import, and export of drugs; and, after consultation with the head of the department responsible for health matters, issuing a licence to a person addicted to drugs to obtain a drug specified in the licence while participating in a licensed and supervised detoxification or rehabilitation programme.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

Paraguay

Legislation: Law No. 1340 (amending and updating Law No. 357/72 aimed at the prevention of illicit trafficking in narcotics and dangerous drugs and other similar offences, and establishing preventive and rehabilitative measures aimed at drug-dependent persons).

1. *Reporting:* Relevant court must communicate to the National Department of Narcotics (DINAR) information on all proceedings, detentions, convictions and releases ordered. The armed and police forces and other public and private institutions must inform the National Department of Narcotics (DINAR) whenever they intervene in, or become aware of, cases of the kind contemplated in this Law.
2. *Registration:* The National Department of Narcotics (DINAR) must maintain statistics on the persons tried, detained and convicted for the offences provided for in this Law.
3. *Laboratory testing:* The National Department of Narcotics (DINAR) must undertake in all cases a chemical analysis of the substances or products confiscated under this Law.
4. *Community surveillance:* Not stated.

Philippines

Legislation: The Dangerous Drug Act of 30 March 1972, as amended by Presidential Decrees Nos. 44, 165, 1683, 1708 and Batas Pambansa Blg. 179 dated 2 March 1982.

1. *Reporting:* The judicial and medical records pertaining to any drug-dependent's confinement or commitment shall be confidential and shall not be used against him for any purpose except to determine how many times he shall have voluntarily submitted himself to confinement, treatment and rehabilitation or been committed to a centre.
2. *Registration:* Not stated.
3. *Laboratory testing:* Any person apprehended or arrested for violating the provisions of the Act shall, immediately upon his arrest/apprehension, be subjected to laboratory examination/test, if the apprehending/arresting officer has reasonable ground to believe that the person arrested/apprehended, on account of physical signs or symptoms or other visible or outward manifestation, is under the influence of dangerous drugs, and if found to be positive for such drugs, the results of the laboratory examination/test shall be prima facie evidence that such person has used dangerous drugs. If found negative, the suspect shall immediately be released, unless there be other evidence indicative of such violation. [Added by B.P. 179 dated March 2, 1982]: For this purpose, the Dangerous Drug Board shall establish, operate and maintain drug-testing centres in each province and city in order to conduct the laboratory examination/tests herein provided and appoint such technical and other personnel as may be necessary for the effective implementation of this provision.
4. *Community surveillance:* See note below.

Note: Board Regulation No. 5 Series of 1991, of 27 July 1991 provides that when there is a temporary release or discharge of the client from a treatment centre, there is a period of extended follow-up and after-care services for a period of not more than 18 months by the appropriate centre personnel, the Department of Social Welfare and Development or other agencies deputized by the Dangerous Drug Board. The staff of the receiving entity assigned to the case must maintain close contact with the client, family, the accredited physician attending to the case, and the police for the purpose of assisting the client to maintain his progress towards adjusting to the new environment. Periodic laboratory examinations of the client's biological samples must be made to ensure that the client remains drug-free.

Poland

Legislation: Law of 31 January 1985 on Prevention of Drug Abuse.

1. *Reporting:* Not stated.
2. *Registration:* Not stated.
3. *Laboratory testing:* The Minister of Health and Social Welfare shall define the principles of the organization of laboratory tests devised to detect the presence of intoxicants and psychotropic drugs.
4. *Community surveillance:* Not stated.

Portugal

Legislation: Governmental Decree N. 71/84, 7 September 1984.

1. *Reporting:* All public prosecutors must report to the Criminal Police, by means of an approved form, the decisions made in accordance with Decree Law No. 430/83 of 13 December 1983 (see section A2.2).
2. *Registration:* A separate registry must be kept by the Central Register of the Criminal Police, which files all cases where the public prosecutor did not prosecute or did not ask for treatment to be imposed. The record (referred to in paragraph 1, above) will be made available to the public prosecutor for review only upon prosecution or treatment, and it cannot be called for by the Criminal Police for other purposes.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

Senegal

Legislation: Law No. 75-81 of 9 July 1975 repealing and amending Section 8 of Law No. 72-24 of 19 April 1972 on the prevention of contraventions in the field of narcotics.

1. *Reporting:* Any physician who, while making a diagnosis or providing a treatment, becomes convinced that a person is illicitly using narcotics, is required to notify the chief medical officer of the region.

Note: It is reported (M.L. Fofana, personal communication, 1994) that for the past 20 years, no medical practitioner has had to report such cases to the public prosecutor's department.

2. *Registration:* Not stated.
3. *Laboratory testing:* Not stated, but where the chief medical officer of the region is notified of a case of a person using narcotics, either by a certificate from a physician or a report from the Regional Governor or from the Prefect, he must arrange for the person concerned to be medically examined by at least three physicians and must in addition conduct an investigation into the person's family, professional, and social life.
4. *Community surveillance:* If, on the basis of a medical examination, it appears that the condition of the person concerned merely requires that he be placed under medical surveillance, the chief medical officer of the region must order him to submit to medical surveillance either by a physician or by a care establishment under the jurisdiction of the Minister of Public Health.

Drug-dependent persons who report voluntarily to a care establishment under the jurisdiction of the Minister of Public Health with a view to treatment are not subject to the above provisions.

Upon written application, drug-dependent persons may remain anonymous when admitted. Their wish to remain anonymous may be set aside only for reasons other than the prevention of illicit use of narcotics.

Seychelles

Legislation: Misuse of Drugs Act, 1990.

1. *Reporting:* Not stated.
2. *Registration:* Not stated.
3. *Laboratory testing:* A police officer in charge of a police station or a police officer not below the rank of superintendent may, if he reasonably suspects that a person has committed an offence under Section 6 (b) of the Misuse of Drugs Act, 1990, require the person within such time as may be specified by him to provide a specimen of his urine or blood for a test.
4. *Community surveillance:* Not stated.

Spain

Legislation: Order of 20 May 1983 regulating treatment with methadone.

1. *Reporting:* The Order provides that treatment with methadone provided for persons dependent on opiates is to be based on guidelines for detoxification, so that health professionals are able to draw up a treatment plan for each patient for whom the use of methadone is justified.

Under the Order, the treatment plan referred to in the foregoing section shall include:

- (a) an assessment of the physical, mental, family, occupational, and social position of the patient at the beginning of treatment;
- (b) information on: the nature and dosages of toxic substances taken at the beginning of the process leading to drug dependence; the circumstances in which the process began; the development of drug dependence; and the quantity of heroin used at the time when treatment was begun;
- (c) guidelines on the medical care provided, with a check on the physical condition, nutritional state, and infectious diseases;
- (d) analyses to assess the detoxification of the patient; and
- (e) all medical and nursing care which, according to the health professional, are appropriate or necessary to the treatment of the patient.

The health professional shall transmit the above mentioned treatment plan to the competent health officials. Health professionals prescribing treatment with methadone shall notify the said officials quarterly of the progress of the therapy. All the information referred to in the foregoing paragraphs shall remain confidential.

2. *Registration:* Not stated.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

Sri Lanka

Legislation: The Poisons, Opium and Dangerous Drugs (Amendment) Act No. 26 of 1986.

1. *Reporting:* Registered consumers or registered ayurvedic practitioners.

2. *Registration:* the Director of Health Services may in his discretion distribute raw or prepared opium to registered consumers or registered ayurvedic practitioners as provided for in the Act. Such distribution is to be carried out through opium officers who are public officers in the Department of Health specially appointed by the Director to be opium officers; and officers in charge of all hospitals and dispensaries of the Department of Ayurveda appointed by the Commissioner for Ayurveda to be opium officers.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

Sweden

Legislation: The Care of Alcoholics, Drug-abusers and Abusers of Volatile Solvents (Special Provisions) Act/LVM/ (SFS 1988:870), including amendments, up to and including SFS 1994: 96.

Note: This Act repeals Law No. 1243 of 17 December 1981 on the care of substance-abusers in certain cases, identified as Law of 1 January 1982 on care of alcoholics and drug abusers in the previous WHO study (Porter, Arif & Curran, 1986).

1. *Reporting:* Public authorities which regularly come in contact with abusers are required to notify the Municipal Social Welfare Committee if they learn that any person may be presumed in need of care under this Act. This provision does not apply to authorities in the health and medical services except that a physician shall report to the Social Welfare Committee if in the course of his activities he comes in contact with a person who can be presumed to be in need of care under this Act and in his opinion neither the physician nor the general health and medical services can provide that person with satisfactory treatment or care.
2. *Registration:* Not stated.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* The Municipal Social Welfare Committee shall initiate an investigation where, as a result of a report made in accordance with (previous paragraph) or in any other way it has learned that there is reason to make use of compulsory treatment. Public Authorities (see paragraph 1 above) are obliged to supply the Municipal Social Welfare Committee with all particulars of potential relevance to such an investigation.

Switzerland

Legislation: Federal Law on Narcotics, as amended by Amendment of 20 March 1975.

1. *Reporting:* Administrative services, physicians and pharmacists are authorized to notify the competent supervisory authority or an approved treatment or care institution of cases of narcotic abuse that they detect in the conduct of their official or professional activities, where they consider that protective measures are indicated in the interests of the patient, his close associates, as the community.
2. *Registration:* Not stated
3. *Laboratory testing:* Not stated.
4. *Community Surveillance:* Not stated.

Tunisia

Legislation: Two laws are in force:

- A. *Law No. 92-52 of 18 May 1992 on Narcotics.*

Note: This Law repeals Law No. 64-47 of 3 November 1964.

Whoever becomes a drug addict may, before discovery of the facts of which he is accused, submit once a written request accompanied by a medical certificate to the commission established by virtue of Section 118 of Law No. 69-54 of 16 July 1969 regulating poisons. The request may be submitted independently by the drug addict, or through his wife or one of his parents, children or physicians, with a view to undergoing treatment for detoxification.

- B. *Law No. 69-54 of 26 July 1969 prescribing regulations concerning poisons.*
1. *Reporting:* The State Secretariat for Public Health must inform the National Bureau of Narcotics of all cases of prescriptions for, and consumption of, narcotics that are, in their view, indicative of abuse. Physicians must inform the Bureau of cases of drug dependence that they detect in the practice of their profession. The Bureau forwards the documents and information submitted to it under the above provision, as well as details of any suspected cases of drug-dependence, to the Commission on Drug-dependence, which includes three physicians nominated by the Secretary of State for Public Health. The Commission is empowered to compel any drug addict to undergo

detoxification in a specialized establishment, under the conditions to be laid down by Order of the Secretary of State for Public Health.

2. *Registration:* Not stated.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

United Kingdom (England and Wales)

Legislation: The Misuse of Drugs (Notification of and Supply to Addicts) Regulations 1973.

Note: Section 10 of the Misuse of Drugs Act 1971 confers powers on the Home Secretary to make various regulations for preventing the misuse of controlled drugs. The Misuse of Drugs (Notification of and Supply to Addicts) Regulations 1973 were issued pursuant to the Act.

1. *Reporting:* Any doctor must notify the Chief Medical Officer at the Home Office in writing within seven days if he attends a patient whom he considers to be, or has reasonable grounds to suspect is, addicted to any of the following controlled drugs:
cocaine, dextromoramide, diamorphine, dipipanone, hydrocodone, hydromorphone, levorphanol, methadone, morphine, opium, oxycodone, pethidine, phenazocine, piritramide.
2. *Registration:* Not stated.
3. *Laboratory testing:* Not stated.
4. *Community surveillance:* Not stated.

United States of America (Massachusetts)

Legislation: Chapter 111E of the General Laws: Drug Rehabilitation Law of 24 December 1981.

1. *Reporting:* Not stated.
2. *Registration:* Not stated.
3. *Laboratory testing:* The full text of Section 12 reads as follows:

"Any court may, in placing on probation a defendant who is a drug dependent person who would benefit by treatment, impose as a condition of probation that the defendant receive treatment in a facility as an inpatient or outpatient; provided, however, that the court shall not impose such a condition of probation unless, after consulting with the facility, it determines that adequate and appropriate treatment is available. The defendant shall receive treatment at the facility for so long as the administrator of the facility deems that the defendant will benefit by treatment, but in no event shall he receive treatment at the facility for a period longer than the period of probation ordered by the court. A periodic program of urinalysis may be employed as a condition of probation to determine the drug-free status of the probationer. The cost of administration of such program shall be borne by the commonwealth. If at any time during the period of treatment the defendant does not cooperate with the administrator or the probation officer, or does not conduct himself in accordance with the order or conditions of his probation, the administrator or the probation officer may make a report thereon to the court which placed him on probation which may consider such conduct as a breach of probation.

"Throughout the period of probation at a facility pursuant to this section, the administrator of said facility shall provide quarterly written reports on the progress being made in treatment by the defendant to the defendant's probation officer."

4. *Community surveillance:* See paragraph 3 above.

