

# 1 Alternatives to prison targeting to drug using offenders

## 1.1 Political, organizational and structural information

The Narcotic Drugs Act (BtMG) allows for the suspension of proceedings in cases of minor guilt or lack of public interest in the prosecution (§31a BtMG). This applies mainly to consumption-related offences, in particular when they occur for the first time and third parties are not involved. Furthermore, it is possible to defer the prison sentence after conviction to provide the drug addict with a chance to undergo therapy ('therapy instead of punishment', §35BtMG).

Law enforcement falls under the responsibility of the Laender. Also the application of the possibility to defer sentences through counts lies in the hands of the Laender according to § 35 BtMG. The Land Berlin describes that generally prosecution, justice and drug aid reach an agreement in order to provide the possibility, in special cases, to continue with therapy despite an issued warrant of arrest. Hereby, problems are sometimes caused by long processing times for the deferment of the sentence. At the beginning of the 90ies, the processing time for about a third of the cases was more than four months. A clear agreement between law enforcement and therapy institution is a crucial precondition for the client to actually start in-patient therapy after the time in prison (Wojak o.J.). Meanwhile, processing time has considerably decreased.

## 1.2 Interventions

### Prison sentences

In the year 2003 (as of 31 March 2003), a total of 9,015 out of 62,594 prisoners were imprisoned due to offences punishable under the Narcotic Drugs Act, which corresponds to a portion of 14,4% (2002: 8,574 out of 60,742 = 14,1%).

In 2003, the following case figures out of the federal central registry, regarding deferments of prison sentences imposed for drug-related offences, were reported by the general prosecutor at the Federal High Court of Justice:

- A total of 19,811 persons with an addiction diagnosis (narcotic drugs) were convicted to serve a prison sentence or a prison sentence for juveniles
- Out of these
  - the sentence was suspended in 3,818 (19,3%) cases according to §36 BtMG
  - the sentence was deferred in 10,878 (54,9%) cases according to §§35,38 BtMGout of these in their turn  
6723 were revoked (52.6% of the deferments; 28.9% of all convictions)

While only about a quarter of the persons convicted actually served their sentence in penal confinement, the portion of offenders whose sentence was deferred to enable them to undergo therapy decreased by revocation from 54.9% to 25.1% of the overall group.

A regional evaluation (Hessisches Sozialministerium 2004) reports following details, however without making any quantifying statements:

- Sentences are deferred to enable therapy mainly for opiate addicts, in numerous cases also for cocaine users. In most cases multiple drug use was found.
- The therapies are generally carried out in an in-patient setting.
- Out-patient therapies are only accepted if the convicted person participates in a regular substitution program with psychosocial care and urine tests, has a permanent place of residence and preferably also a regular occupation.
- The deferment is revoked in 30%-50% of the cases, the reasons being: refusal to start therapy or abandonment of therapy, desertion of the facility and relapse, disciplinary discharge from the facility or perpetration of serious offences.

In Saxony in the year 2003 a total of 124 prison sentences or youth sentences were based on BtMG. From them 27 were suspended and 69 deterred, of which 39 were revoked (Sächsisches Staatsministerium für Soziales, personal communication).

### **Interventions beyond penal law**

The project FRED, which offers voluntary help to drug users who are registered by police for the first time was - after the completion of the demonstration project - continued in many Laender. It has found a high acceptance with decision makers, practical persons and target groups alike. The measure is specifically geared to young users, consists of an 'intake-talk' and a course offer and is intended to prevent addiction and counteract sliding into criminality.

The project was tested on 514 persons between 14 and 21 years at 15 locations. Scientific evaluation proves that the target group was reached. The young drug users were referred to the project mainly by the police (49.1%) and juvenile court assistance (23,3%). The mostly male (87%) users of the offer responded very positively to the measure: 94% of the users were (very) satisfied with the offer. 94% of the persons questioned were not involved in any incidents with police contact up to the 10 months after completion of the course. In several Laender, the pilot locations have been approved as regularly funded programs.

The year 2003 was dedicated to the transfer of experience and results. Based on the manual and the final report of the scientific evaluation, events were run in the whole of Germany in order to multiply the approach of the pilot project all over the country (Landschaftsverband Westfalen-Lippe 2003).

### **1.3 Quality assurance**

The standard quality assurance measures are carried out within the frame of therapeutic or preventive activities. Beyond this, there are no specific quality assurance measures known for this intervention.