Swedish drug policy and human rights

The overarching goal of Swedish drug policy at the international level is to work for a public health-oriented approach based on human rights. Sweden prioritises the implementation of the 2016 UNGASS Outcome Document and the operational recommendations therein.

**Why has Sweden criminalised personal use? Does that mean penalising people with substance use disorders?**

The conventions that form the basis of Swedish drug policy set minimum requirements on legislation aimed at limiting drug use to medicinal use only, and on criminalising the illegal growing and sale of the substances covered by the conventions. It is therefore possible for countries that have ratified the conventions to choose whether or not to criminalise personal use. In Sweden, using drugs, i.e. having drugs in your body, has been a criminal offence since 1988 and imprisonment was added to the scale of sanctions for personal use in 1993. The intentions of the legislator were to send a clear signal that drugs are not acceptable in society and to give the police authority grounds to carry out drug tests in the event of suspected drug use. Criminalisation of personal use has been added to protect people from the harmful effects of drugs, to enable early intervention to offer care and treatment, and as part of efforts to prevent young people from using drugs, as well as becoming involved in criminality. The initiatives carried out by the police authorities when young people are tested often take place together with social services. In Stockholm, for example, testing takes place at Maria youth centres and motivational talks and access to care and treatment are offered there by the county council and social services at the time of testing. According to statistics from the National Council for Crime Prevention, up

to 35 000 people are tested for drugs each year. Imprisonment for personal use is not applicable as the sanction for personal use of drugs is a fine. Persons with substance use disorders are also often involved in criminal activities, and a large proportion of those in the custody of the Prison and Probation Service are people with substance use disorders. However, they have been given a custodial sentence for crimes other than personal drug use (e.g. peddling, theft, assault, etc.). Prohibiting both personal use and the possession and sale of drugs in Sweden makes it harder for “open drug scenes” to arise, i.e. places where drugs are used and sold more or less openly. This is an important element in systematically reducing access to drugs and preventing people from using drugs.

**Can the fact that drug use is criminalised prevent people from seeking care and treatment?**

Because at individual level there is no legal obligation for the social services to report to the police authority, there is no opportunity to monitor how many of the people convicted for personal use or possession choose to take up the treatment they are offered. Protection of personal privacy is strong in Sweden and people who seek help for substance use disorders are not reported to the police authority, which means that people who seek care and treatment are able to do so without risking criminal sanctions. There is strong trust in social services and the government has received no indications that the fact that personal use is illegal prevents people with substance use disorders from seeking treatment.

**What is Sweden’s attitude to the care and treatment of people with substance use disorders?**

Care and treatment for people with substance use disorders is as important a part of drug policy as limiting availability and criminal sanctions. Having ratified the UN’s drug conventions and the International Covenant on Economic, Social and Cultural Rights, Sweden sees it as of the utmost importance to allocate resources to offer evidence based and individually tailored care and treatment. There are several pieces of legislation that work together in providing for the right to support and treatment. The Social Services Act (SFS 2001:453) gives people with substance use disorders the right to interventions to break the negative cycle, and the Health and Medical Services Act (SFS 1982:763) obliges county councils to provide care

and treatment without stating any specific diagnosis. The Care of Young Persons (Special Provisions) Act (SFS 1990:52) gives young people the right to protection. Together these acts clearly set out the right to care, support and treatment. This involves an opportunity for voluntary abstinence treatment, outpatient treatment, treatment centres, motivational talks, substitution treatment, etc. In some particular cases where there is a risk of the person seriously injuring themselves or someone close to them, compulsory care may be relevant. Compulsory care is regulated under the Care of Persons with Substance Use Disorders in Certain Cases Act (SFS 1988:870) and the Compulsory Psychiatric Care Act (SFS 1991:1128). Medicine assisted rehabilitation for opiate dependence (substitution treatment) with methadone or buprenorphine (Subutex or Subuxone) is not defined as harm reduction in Sweden but is included in the guidelines for care of those with substance use disorders drawn up by the National Board of Health and Welfare. Sweden was one of the first countries in the world to develop a methadone programme. Today substitution treatment using Subutex/Subuxone and methadone is provided by the county councils at 114 places in Sweden. The programmes cannot be viewed in isolation and those who participate in them also need a great deal of psychosocial intervention for the treatment to be effective.

**How is compulsory care used in Sweden and how does it relate to the conventions on human rights?**

Sweden is a signatory to most of the conventions on human rights, such as the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture, etc. In Swedish drug policy there are many elements that seek to improve the health of the population in general by preventing the use of drugs, but also many initiatives for people with substance use disorders – to improve their health, prevent the spread of infection, undergo abstinence treatment and other forms of treatment, get help with housing, social interventions, employment, etc. If the opportunities for voluntary measures are exhausted, the Care of Persons with Substance Use Disorders in Certain Cases Act states that if anyone as a consequence of continuing abuse is placing their physical or mental health in serious danger, is running a clear risk of destroying their life, or if there is a fear that they may seriously harm themselves or a person close to them, a court may decide on compulsory care provided that the care cannot be provided in any other way. This opportunity exists in the majority of

countries, but tends to be incorporated under the framework of national psychiatric legislation. It is important that the decision is made in a manner that complies with the rule of law and the human rights conventions. The purpose is to, for a limited time (maximum six months), motivate the person to seek voluntary treatment. The vast majority of people who undergo compulsory care, 75 per cent, choose, and are given the opportunity during the period the decision is valid, to transfer to voluntary treatment.

**What is Sweden’s view on the rights of people with substance use disorders?**

Sweden is criticised by advocates of human rights for the fact that using drugs is a criminal offence, in other words there is a risk of criminalising people with substance use disorders. Furthermore, we are also criticised because there are elements of compulsory treatment. Critics emphasise the right to health and that the health of people with substance use disorders is made worse by the limited range of harm reduction initiatives offered in Sweden. The UN Convention on the Rights of the Child recognises a child’s right to grow up in a drugfree environment as a human right. The UN International Covenant on Social, Economic and Cultural Rights talks about the right to health. All societies attempt to protect their citizens from risks that they cannot foresee; these may be anything from additives in food to seat belts in cars. This is part of the duty of society and of governments to protect citizens from risks. The majority of people who start to use drugs do so at a young age when it is difficult to make their own assessment of the longterm risks. The right to health also means obtaining treatment for substance use disorders and in Sweden many different treatment options are offered, such as outpatient treatment and treatment centres, medicinal treatment, abstinence treatment, etc. The majority of treatment initiatives seek to achieve a drugfree existence. It is also the duty of society to draw attention to the risks of drugs and to conduct work to prevent the use of drugs. Besides the individual concerned, substance use disorders also affect society in general, socially and economically, and those close to the individual concerned in particular. The fact that using drugs is a criminal offence follows on from the Swedish zero vision, but proceedings are conducted in line with the rule of law and combined with an offer of treatment. An important part of the discussion on human rights is that society allocates resources to every aspect as part of a balanced drug policy.

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For more information on Swedish drug policy, please visit: <https://www.government.se/496f5b/contentassets/89b85401ed204484832fb1808cad6012/rk_21164_broschyr_narkotika_a4_en_3_tillg.pdf>