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ACQUISITIONS

Subject :

POWERS AND ATTITUDE OF THE POLICE WITH REGARD TO YOUNG DRUG USERS  
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During the 41st General Assembly session (Frankfurt, 1972), the question of the attitude of the police with regard to young drug users was raised by the PERUVIAN delegation. After discussion, the General Secretariat undertook to carry out a study on this question.

A questionnaire was therefore sent out to all member countries. The headings of the questionnaire are listed in the present report.

The general purpose of the questionnaire was to carry out a survey of the duties and powers of the police and the concrete attitude adopted by them with regard to young persons implicated in cases of drug use.

66 countries (1) sent in their replies to the General Secretariat. One country (NEPAL) indicated that it had no legislation concerning the use and possession of drugs and was therefore unable to answer the questions. The following study therefore constitutes a summary of the replies of 65 countries.

I. IN YOUR COUNTRY, DOES THE USE OF DRUGS CONSTITUTE A CRIMINAL OFFENCE?

If so, does it constitute :

- a) A specific offence in itself?
- b) An offence as it involves the illegal possession of drugs?

a) 34 countries have laws under the terms of which the use of drugs constitutes a specific offence. These countries are : NETHERLANDS ANTILLES, AUSTRALIA, BRUNEI (for prepared opium), BURUNDI, CYPRUS (for prepared opium), ARAB REPUBLIC OF EGYPT, ETHIOPIA, FINLAND, FRANCE, GREECE (drug users are punished, addicts receive treatment), GUYANA, HONG KONG, IRAQ, IRAN, JAMAICA, KHMER REPUBLIC (for cannabis), LUXEMBOURG, MADAGASCAR (there are national regulations on cannabis, other substances are covered by the old French law), MALAYSIA, MALI, MOROCCO, MAURITIUS, NORWAY (the use of drugs constitutes a misdemeanor, not a criminal offence), NEW ZEALAND, PHILIPPINES, SINGAPORE (for opiates and cannabis), SRI LANKA, TOGO, TANZANIA, TURKEY, UNITED KINGDOM, VENEZUELA, VIETNAM, ZAIRE.

b) In 28 countries, the possession of drugs is a punishable offence, which means that it may be possible to prosecute drug users : FEDERAL GERMANY (the purchase and possession of natural drugs constitute offences), ARGENTINA, AUSTRIA, BELGIUM, BERMUDA, BRAZIL, CANADA, CHILE, DAHOMEY, DENMARK, DOMINICAN REPUBLIC, SPAIN, U.S.A., FIJI, GABON, INDIA, IRELAND, ICELAND, ITALY, KENYA, MALAWI, NIGERIA, OMAN, NETHERLANDS, RUMANIA, (possession of drugs constitute a punishable offence, but not the use of drugs), SWITZERLAND, TUNISIA, ZAMBIA.

(1) Listed below in French alphabetical order :

FEDERAL GERMANY, NETHERLANDS ANTILLES, ARGENTINA, AUSTRALIA, AUSTRIA, BELGIUM, BERMUDA, BRAZIL, BRUNEI, BURUNDI, CANADA, CHILE, CYPRUS, DAHOMEY, DENMARK, DOMINICAN REPUBLIC, SPAIN, U.S.A., A.R.E. ETHIOPIA, FIJI, FINLAND, FRANCE, GABON, U.K., GREECE, GUYANA, HONG KONG, INDIA, IRAQ, IRAN, IRELAND, ICELAND, ITALY, JAMAICA, KENYA, KHMER (Rep.), LUXEMBOURG, MADAGASCAR, MALAWI, MALAYSIA, MALI, MOROCCO, MAURITIUS, NEPAL, NIGERIA, NEW ZEALAND, NORWAY, OMAN, NETHERLANDS, PERU, PHILIPPINES, RUMANIA, SINGAPORE, SWEDEN, SRI LANKA, SWITZERLAND, TANZANIA, TOGO, TUNISIA, TURKEY, VENEZUELA, VIETNAM, YUGOSLAVIA, ZAIRE, ZAMBIA.

The penal code of 62 of the 65 countries which replied considers illicit use of drugs as a punishable offence, either directly as an offence in itself, or indirectly, by considering the illegal possession of drugs as an offence.

3 countries (SWEDEN, YUGOSLAVIA and PERU), where the use of drugs does not constitute a specific offence, did not state in their replies whether the possession of drugs was a punishable offence, but there is every reason to believe that this is the case.

II. IN CASES a) AND b) ABOVE, DOES THE LEGISLATION IN FORCE IN YOUR COUNTRY CONCERNING DRUG USE MAKE A DISTINCTION BETWEEN ADULT OFFENDERS AND MINORS?

If so,

- What are these differences?
- What is the age limit (or limits) with regard to legal minority in this particular field?

9 countries replied to this question in the affirmative : BRAZIL, CHILE, DAHOMEY, DOMINICAN REPUBLIC, U.S.A. (there are several distinct legislations : Federal law, State or local laws - see below), NIGERIA, PERU, PHILIPPINES, TOGO.

The differences established between adult and minor drug users can therefore be summarised country by country :

In BRAZIL, the difference in the way adults and minors are dealt with lies essentially in the measures applied : adults are subject to legal penalties; minors are detained in special juvenile rehabilitation centres.

According to Brazilian law, a minor is under 18 years of age.

According to CHILEAN Law, minors of 16 and 18 years "having acted with discernment" are sentenced to "preventive detention" or "house arrest" for a maximum period of two years; they also have to "collaborate" with the authorities at week-ends and holidays, for a period of not more than three months. It should be noted that this "collaboration" is imposed on those drug users whose state of health does not necessitate medical treatment. The judge is responsible for deciding what form this "collaboration" with the authorities will take.

Provision is made for aggravating circumstances in the case of people who help minors under 18 years of age to obtain and use drugs.

In DAHOMEY, all cases involving young drug users must be the subject of judicial investigation and then referred to a juvenile judge who pronounces judgment. The ages for legal minority in drugs cases are the same as those for all other offences (ages not given).

In the DOMINICAN REPUBLIC, the juvenile Court is responsible for dealing with all cases of drug use by minors. The legal age limits for minors are from 8 to 18 years. However, in the case of a minor aged from 16 to 18 years, the court can decide whether or not he acted "with discernment". If so he will be prosecuted as a legal adult.

In the UNITED STATES, the illegal possession of drugs is covered by local or State legislation, rather than by Federal Law. Therefore, in local laws there may be distinctions which do not exist in Federal texts. Entirely separate juvenile court schemes, with distinctive procedures and personnel are commonplace.

Federal Law provides for discretionary first-offender treatment for persons who have not previously been implicated in drugs cases. They are given treatment and rehabilitation opportunities, instead of prison sentences. Minors of not more than 21 years who have successfully completed this special treatment may apply to a criminal court for an order to expunge public records of the criminal proceedings taken against them.

In NIGERIA, the law makes no clear distinction between adult and minor drug users. However, young drug users may be tried by juvenile courts. The age for legal minority is not clearly defined.

PERUVIAN legislation makes a distinction with regard to the judicial authorities competent to deal with these cases : adults appear before a civil court and a children's judge deals with minors. The age of legal majority is 18 years.

In the REPUBLIC OF THE PHILIPPINES, the law makes provision for all minors implicated in a case of illicit drug use to be sent to a social rehabilitation centre instead of being imprisoned as adults are. The age of legal majority is 21 years.

TOGOLESE law has been modified by making the sentences applicable to minors considerably lighter (no details were given). Moreover, the sentences passed are served in rehabilitation centres, not in prisons. The legal minority age limits are from 13 to 18 years.

III. IN CASES WHERE THE SPECIFIC LEGISLATION ON DRUGS DOES NOT DISTINGUISH BETWEEN ADULTS AND MINORS CAN ANY DISTINCTION BE INFERRED FROM THE GENERAL LEGISLATION CONCERNING MINORS?

If so,

- What are these differences?
- What is the age limit (or limits) for legal minority?

Apart from the 9 countries mentioned under Question II, whose drugs legislations make a distinction between adults and minors, all the other countries (i.e. 56) mention the existence of a law on minority or of provisions which allow a distinction to be made for all kinds of offences and therefore, for illicit drug use. In all these countries, the resulting differences are situated at two levels : existence or absence of criminal prosecution and substitution of treatment adapted to each case instead of imprisonment; in both these hypotheses, the essential criterion is the age of the minor concerned, with an accessory criterion being his degree of "maturity" or "discernment".

a) The age under which a minor is not considered responsible for his acts varies from country to country :

- 7 years : BRUNEI, HONG KONG, INDIA, IRAQ, SWITZERLAND, TANZANIA
- 8 years : JAMAICA, SRI LANKA
- 9 years : ETHIOPIA
- 10 years : UNITED KINGDOM
- 11 years : TURKEY
- 12 years : GREECE (under the age of 12 years, minors are not punished, but can be sent to special educational establishments), NETHERLANDS, TANZANIA, ZAMBIA. (In Tanzania and Zambia, the principle that minors under the age of 12 years are not responsible for their acts is not absolute : they may be the subject of judicial proceedings if it is proved that they are capable of understanding their acts).
- 13 years : FRANCE, GABON, TUNISIA, VIETNAM
- 14 years : YUGOSLAVIA, AUSTRIA, FIJI, ITALY, NORWAY, RUMANIA
- 15 years : DENMARK, FINLAND, ICELAND, SWEDEN
- 16 years : CYPRUS, AUSTRALIA (this varies from state to state).

b) The age of legal majority also varies considerably, since it ranges from 10 to 21 years according to the countries :

- 10 years : GUYANA

- 12 years : INDIA, SRI LANKA
- 14 years : FEDERAL GERMANY
- 15 years : DENMARK, ETHIOPIA, ZAMBIA
- 16 years : AUSTRALIA (it is in fact 16 or 18 years, varying from State to State), BERMUDA, BURUNDI, CYPRUS, HONG KONG, MOROCCO (here, it can be raised to 18 years, depending on the character of the minor), RUMANIA, SINGAPORE, TUNISIA.
- 17 years : CANADA (the age limits vary throughout the 10 provinces, but Federal legislation is being enacted to standardise the age limit at 17 years for the whole country), FIJI, JAMAICA, IRELAND, ARAB REPUBLIC OF EGYPT, MAURITIUS, NEW ZEALAND, UNITED KINGDOM (there is however, a special law in SCOTLAND with special provisions for minors under 16 or 18 years).
- 18 years : AUSTRIA, ARGENTINA, NETHERLANDS ANTILLES, BELGIUM, BRUNEI, SPAIN, FINLAND, FRANCE, GABON, IRAQ, ITALY, KENYA, KHMER REPUBLIC, MADAGASCAR, MALAWI, MALI, LUXEMBOURG, NETHERLANDS, SWITZERLAND (between the ages of 18 and 25 years, "young adults" may be subject to normal sentences or disciplinary measures); TANZANIA, TURKEY, VIETNAM, VENEZUELA, YUGOSLAVIA, ZAIRE
- 20 years : NORWAY, SWEDEN
- 21 years : ICELAND, GREECE

Certain countries did not specify the age of legal majority : MALAYSIA (the existence of juvenile courts was mentioned, but no details were given), OMAN (all matters relating to drug offences are covered by the SHARIA religious law which may make a distinction between adults and minors), and NIGERIA (see under Question II).

DAHOMY made no mention of either the age of legal minority or of legal majority (see under Question II).

It can therefore be seen that in the majority of countries the age of legal majority is 18 years (26 countries), followed by 16 years (9 countries) and 17 years (8 countries).

It should also be noted that in many countries the law on legal minority makes provision for two categories of intermediate ages, or "transitional phases", between the age when a minor cannot be considered responsible for his acts and the age when he can be considered completely responsible for them:

- a) Up to a given age (e.g. 15 years if the legal age of minority is 13 years), the court may decide that the minor should not be considered responsible for his acts even if he is above the legal age limit;
- b) From a given age onwards (e.g. 16 years if the age of legal majority is 18 years), the court can, if it considers that the minor has acted with discernment, impute to him total or partial responsibility and apply penal sanctions.

In other countries, the legislation retains the principle of criminal prosecution for minors, but associates with the sentence passed the excuse of minority or the benefit of extenuating circumstances, which makes it possible to reduce the sentence considerably. At penitentiary level also, minors are often separated from adults within the prison. In this connection, the NETHERLANDS and SPAIN stated that they have special penitentiary treatment for young adults, aged up to 23 and 25 years respectively.

Legislation in the NETHERLANDS stipulates that this treatment can only be applied under certain conditions (sentence of less than one year and not more than 3 years).

IV. IN YOUR COUNTRY. DO THE POLICE AUTHORITIES HAVE TO BRING A MINOR BEFORE A JUDICIAL BODY WHEN AN OFFENCE INVOLVING DRUG USE HAS BEEN DISCOVERED OR ARE THEY ALLOWED SOME FREEDOM OF ACTION?

1st hypothesis :

The police authorities must bring a minor before a judicial body :

- Are they then discharged of all responsibility or does the judicial body give them supervisory or surveillance duties? If so, what are these duties?

2nd hypothesis :

The police authorities have some freedom of action.

In this case, what measures are they competent to take?

1st hypothesis :

In the majority of countries (47), the police have no freedom of action; they must bring minors before the judicial authorities, the only authorities competent to deal with them. In all these countries, special juvenile courts decide whether it is advisable to prosecute (if provision is made for this in law), and also what sentences or measures should be passed.

- a) In 43 of these 47 countries, the police are discharged of all responsibility and have no supervisory or surveillance duties to carry out.

However, particular aspects reported by some countries should be noted :

FIJI : Although the Commissioner of Police has the normal discretion with regard to the advisability of prosecution, this would not be exercised in drug cases.

CYPRUS : The police must report minors involved in cases of drug use to the Attorney General of the Republic, who decides on prosecution. However, the police may - taking into account the character of the minor, etc. - recommend to the Attorney General's office that the offender should not be prosecuted but that a warning would suffice.

MOROCCO : The police must bring minors before the court. However, when the minor concerned has committed an offence which has had no serious consequences, they can send him to hospital and inform the judicial authorities who will take a decision with regard to possible proceedings.

b) In four of these 47 countries, the police do assume a certain role of supervision and surveillance.

In BELGIUM, they are entrusted with a role of surveillance by the judicial authorities (no details were given).

In TURKEY, this role is exercised when the judicial authorities decide to release the minor.

In TANZANIA, in application of a provision which is applicable to both adults and minors, the courts can assign supervisory duties to the police, in which case the minor has to report regularly to the police for the duration of the period ordered by the court.

In TUNISIA, the police assume this role of surveillance after the sentence imposed by the court has been served by the minor.

#### 2nd hypothesis :

In 18 countries, the police have some freedom of action : they do not have to bring minors implicated in cases of drug use before the judicial authorities.

These countries are : NETHERLANDS ANTILLES, AUSTRALIA (in one part of the territory), BERMUDA, BURUNDI, CANADA, DENMARK, FINLAND, HONG KONG, KENYA, KHMER REPUBLIC, IRELAND, NORWAY, NEW ZEALAND, PERU, SINGAPORE, UNITED KINGDOM, VENEZUELA, YUGOSLAVIA.

The extent of this freedom of action varies from country to country :

#### NETHERLANDS ANTILLES :

The police do not have to bring a minor before the judicial authorities as long as he has not been arrested, in which case the public prosecutor must be informed.

#### AUSTRALIA :

In the States of New South Wales, Victoria and Western Australia, senior police officers may issue warnings to offenders in the presence of their parents. In the State of South Australia the police may issue a "caution" or bring an offender under the age of 16 years before a Juvenile Aid Panel for counselling.

The police have no such freedom of action in the Australian Capital Territory, the Northern Territory, the Territory of Papua and New Guinea and the State of Queensland.

#### BERMUDA :

With the parents' consent, the Commissioner of Police may direct that the minor be placed on a Juvenile Liaison Scheme, where the child will be under the supervision of the police.

#### BURUNDI :

The police can inform the Ministry of Public Health or the W.H.O. representative about the case and ask the medical authorities to decide on what measures should be taken to cure the minor.

#### CANADA :

Under certain circumstances the police may decide that charges need not be laid against a juvenile. The incident is then brought to the attention of the parents for corrective measures.

#### DENMARK :

The police have to hand over minors under 15 years of age to the child welfare authorities. However, when the offender is over 15 the police can deal with the case by issuing a warning.

In cases of repeated offences and particularly the possession of drugs other than cannabis, such persons will be prosecuted, the courts usually imposing a fine.

#### HONG KONG :

For all offences, including cases of drug use, police officers of the rank of superintendent or above are allowed, in certain circumstances, to exercise their discretion whether or not to prosecute young persons before the courts. Such exercise of discretion is dependent on: if the offence is considered to be a minor

one, if the young person has no previous criminal or police record, the consent of the victim (if any) and the recovery in full of any stolen property involved, the consent of the young person and his parents to the retention by the police of the young person's fingerprints and criminal records.

FINLAND :

If the use of drugs can be considered insignificant, and is due to excusable ignorance or inattention, the police do not have to report the matter to the judicial authorities unless there are other circumstances which require other measures to be taken.

IRELAND :

The police can refer a young offender to a Drugs Advisory Clinic or place him under the supervision of a Juvenile Liaison Officer.

KENYA :

The police have some freedom of action when it is considered that the possession of the drug and its consequences might not be realised by the minor; the criteria for this are the age of the minor, the quantity and type of drug involved.

KHMER REPUBLIC :

Depending on the seriousness of the offence, young offenders are brought before a judge for juveniles or released. In the latter case, the police may have a supervisory role to play.

NEW ZEALAND :

The police may officially warn a minor instead of prosecuting him : a Youth Aid Section exists within the police and has considerable freedom of action in handling cases involving minors. Its activities can include counselling, warning, charging and recommending supervision by the Child Welfare Division, or whatever other action appears appropriate.

PERU :

The police have the right to take the necessary measures, such as :

- 1) The application - decided in conjunction with the minor's parents or guardians - of the measures best suited to the child's rehabilitation.
- 2) Supervision of the child with a view to preventing further offences.

NORWAY :

Cases of drug use are generally dealt with by the police themselves, by means of an on-the-spot fine or waiver of prosecution, with a warning to the offender concerned.

Moreover, the police have the possibility, when dealing with cases involving violation of the drugs legislation, of handing over minors in the age group 14 to 18 years to the Child Welfare Authorities.

If a case against a minor is brought before the court, the police will not be given supervisory or surveillance duties in regard to the convicted minor.

UNITED KINGDOM :

The police authorities have freedom of action in dealing with juvenile offenders for all offences, including drugs.

There are special juvenile bureaus throughout the United Kingdom, to which all offences committed by juveniles are reported. It is the duty of these bureaus to enquire into the circumstances of the case, the background and character of the offender, and to decide whether to caution or prosecute him.

SINGAPORE :

A new law - the Misuse of Drugs Act - will shortly come into force in Singapore. This law was adopted in 1972 to replace a law of 1951 and another of 1969. The two main characteristics of this law are, on the one hand, heavier penalties and, on the other hand, greater powers for, Narcotics Officers, Customs and Police Officers. Also, the Director of the Central Narcotics Bureau will have the discretion of such freedom of action.

VENEZUELA :

The police are free to :

- 1) Provisionally release the minor while forwarding his file to a magistrate;
- 2) Keep the judicial investigation (averiguacion sumarial) open while awaiting more facts and proof;
- 3) In cases involving less serious offences, the police can confine themselves to notifying the minor's parents or guardians without opening a file on him.

YUGOSLAVIA :

When the police come across cases of drug use in their general investigations, they inform the welfare services and health services if the case necessitates any intervention of a medical nature. When a minor is implicated, the police inform his parents if this seems advisable. It must be remembered that there is no question of prosecution since use of drugs does not constitute an offence in Yugoslavia.

V. "REGISTERING" OF YOUNG DRUG USERS BY THE POLICE

Do your country's police authorities keep a list (in the form of a register, index, etc.) of minors implicated in cases involving the use of drugs?

a) Are they obliged to keep such a list?

What is the lower age limit?

For how long are names kept on the list?

b) Does the law make provision for the possibility of keeping such a list? If so, is a list in fact kept?

c) Is the keeping of such a list prohibited?

d) Is this list kept by other authorities (health, social or administrative bodies, etc.), using information supplied by the police?

A) In 23 countries young drug users are not listed in any special register or index, but are listed in the general police records.

These countries are : FEDERAL GERMANY, ARGENTINA, AUSTRALIA, ARAB REPUBLIC OF EGYPT, NETHERLANDS ANTILLES, GREECE, HONG KONG, IRAN, ICELAND, KENYA, KHMER REPUBLIC, LUXEMBOURG, MADAGASCAR, NEW ZEALAND, NIGERIA, NETHERLANDS, UNITED KINGDOM, SINGAPORE, SWITZERLAND, TANZANIA, OMAN, VIETNAM, TURKEY.

This general principle is, however, modified by the following special features peculiar to some countries :

FEDERAL GERMANY : Although there is no legal obligation to do so, the local services keep an index of offenders or persons suspected of violation of the drugs laws. At central level (Lankeskriminalamt and Bundeskriminalamt) the keeping of such an index is compulsory by law. There is no special index for minors.

In AUSTRALIA, the registration of minors is not compulsory and is not provided for in law. A list is kept of all persons, not only minors, involved or suspected of being involved in drug use, except for those under 8 or 10 years of age, depending on the State concerned. Only the police authorities keep such a list, but the information contained in it may be made available to other interested bodies. Names are kept on the lists indefinitely.

In the NETHERLANDS ANTILLES, a general register is kept for all categories of offences and offenders, irrespective of age. There is no limit to the length of time this register is kept. However, the keeping of this register is only compulsory for information used officially for the judicial authorities and not for police data. Only the police services keep such a register. Police

data can be given to the judicial authorities, and to the persons and services responsible for probation, social rehabilitation, etc.

In HONG KONG, all persons over the age of 7 years can be placed on record in the criminal records office. This disposition is neither provided for nor forbidden by law, but the police have the legal obligation of keeping the records of all persons convicted of criminal offences. Names are kept on record until the person concerned dies or reaches the age of 80 years. The Hong Kong authorities are currently compiling a general list of all known drug addicts in Hong Kong from material supplied by all agencies and government departments dealing with drug addiction.

In IRAN, a permanent list is kept of all those persons over 18 years of age who are implicated in drug cases. The keeping of this list is compulsory and provided for in law.

In KENYA, there is no special provision in law for keeping such a list, apart from the general criminal records in which all persons aged over 8 years, implicated in drugs cases, can be recorded. The list is kept indefinitely.

In the UNITED KINGDOM, the Commissioner of Police for the Metropolis is obliged by statute to keep records of all persons convicted of criminal offences, including drug offences, although there is no obligation to keep a list of minors implicated in cases involving drugs. The minimum age is 10 years, the age of criminal responsibility. These records are kept until the known death of the offender.

Moreover, local doctors must notify the Chief Medical Officer at the Home Office of the particulars of all drug addicts they attend; this is stipulated by statute in the Dangerous Drugs (Notification of Addicts) Regulations 1968. Similar information is also kept on a confidential basis by the Health and Social Service authorities for their information.

In SINGAPORE, there are two types of registers :

1) Intelligence cards : lists of all persons (minors and adults) who are arrested/detained. This list is used as an aid to investigation.

2) Criminal records of all persons (minors or adults) who have been charged in court and convicted.

These records, which are obligatory, are kept by the Criminal Records Office. The minimum age limit is seven and the names are kept for the life time of the convicted persons.

In TANZANIA, a list is kept of people who are placed under police supervision (see Question IV), and if the offence originally charged was possession or use of drugs, this is shown in the person's record. This measure is neither forbidden nor compulsory by law and therefore no age limits apply to this procedure.

Another list is also kept by the social welfare and probation services; the information is usually supplied to them by the courts and health services who receive it from the police authorities.

In TURKEY, it is legally compulsory to keep a list of this type of all persons aged more than 11 years; it is kept by the police and court authorities. The Central Bureau of Narcotics is responsible for centralising all information obtained from the various police services.

In VIETNAM, the keeping of such a list is a judicial formality.

B) 11 countries have adopted the principle of keeping a special index for minors.

CANADA :

Records are kept for all individual cases concerning minors over 7 years of age, who have been dealt with by the juvenile courts; the names are kept for five years. This procedure is neither provided for nor forbidden by the law.

Statistics are also kept by the Department of National Health and Welfare.

DOMINICAN REPUBLIC :

The law stipulates that lists shall be kept for minors over 8 years of age and for a period of ten years.

CHILE :

Although this is neither provided for nor forbidden by law, the police drugs squad keeps an index of persons over 16 years of age for police purposes only.

SPAIN :

The drugs squad is compelled by law to keep a register of drug users, but under no circumstances can minors under 16 years of age be listed in it. The information given in this register may be expunged at the request of the person concerned when a period of two years has elapsed since he last committed any offence.

FINLAND :

Besides keeping a list of other drug offenders, the police also keep a list of known drug users (no details of age limits were given). Similar lists are also kept by the health, welfare and child care services. The information is partly supplied to these services by the police.

MALI :

The national vice squad and child protection service keeps a list of minors implicated in cases of drug use or drug traffic. This is not compulsory by law and the age of the minor is of no special importance since this index is only kept to enable the police to carry out supervision.

No other services keep such a register.

MAURITIUS :

The keeping of such a list is compulsory for all persons over 10 years; names are kept on the list for a period of ten years if there is no recurrence of the offence.

PERU :

The police are obliged to keep an index of minors, with no limit on the age of the minor or on length of time the index is kept. It is used for police purposes only, and the information contained therein is not communicated to other services.

RUMANIA :

The police keep a list of minors implicated in drugs cases, but this is not compulsory. However, the law stipulates that the health services must keep such a list, which is drawn up on the basis of information gathered by the police or obtained directly by the health services themselves. In the latter case, the health services must communicate any such information to the police authorities. There are no age limits and minors are kept on the list until such time as they have proved that they are no longer tempted to commit such offences.

SWEDEN :

All offenders are entered in a central register at the Records Office of the National Swedish Police Board. However, offenders under 15 years of age are listed in the records of the local police authority. This procedure is fixed by law and the lower age limit is 10 years. The length of time these records are kept is determined by the type of sentence passed : if a fine is imposed the records will be kept for 5 years; in the case of other sanctions, they will be kept for 10 years.

The health, welfare and administrative services keep their own lists, which are drawn up partly on the basis of information supplied by the police.

FRANCE :

Although the law of 1970 does not actually stipulate that drug users should be registered, it does not prohibit the keeping of records by the administrative bodies concerned (police, health services, etc.).

The police do therefore keep a register of all drug users, whether adults or minors, who have been stopped and questioned in connection with illicit drug use. They also keep a list of drug traffickers. However, drug users who are minors are classified under a special heading within the register.

Other indexes are also kept by the health and social services. At provincial level, the directors of the health and social services receive all information concerning drug users stopped and questioned by the police gendarmerie and customs services. This is made possible by the use of a special counterfoil notebook which is first filled by the police and then completed by the judicial authorities. The counterfoils are then automatically sent to the health services.

At national level, the health and social services of each province send the Ministry of Public Health details of sex, age and profession for each case, but do not reveal the identity of the drug user concerned.

C) In 19 countries there is no provision for the keeping, by the police, of lists of minors implicated in drug cases : AUSTRIA, BELGIUM, DAHOMEY, DENMARK, BERMUDA, BRAZIL, U.S.A., INDIA, IRAQ, IRELAND, ITALY, JAMAICA, MALAWI, MALAYSIA, NORWAY, PHILIPPINES, SRI LANKA, VENEZUELA, YUGOSLAVIA. However, the following special features peculiar to certain countries should be noted :

In AUSTRIA the police do not register drug users. However, there is a service for drug control at the Federal Ministry of Public Health and Protection of the Environment. The police must send the records department of this service a copy of each official report made to the public prosecutor in this connection. The hospitals must also report to the records department all those persons who have been sent to hospital for this reason.

In DENMARK, the police do not keep any list concerning minors of 15 years. They are registered as drug users by the child welfare authorities.

In BRAZIL, such lists are forbidden by law.

At Federal level in the UNITED STATES, drug users of all ages are reported to the Drug Enforcement Agency by the State and local law enforcement agencies on a voluntary basis. There is in fact no federal law which stipulates that these services must keep such a list. The information received is used for statistical purposes only. The list cannot be considered a register as such, since the information received is not used for law enforcement purposes.

In JAMAICA lists are kept by the health, social and administrative services.

In MALAWI, information concerning young drug users may be kept by the probation services.

In the PHILIPPINES, the keeping of such lists - although not expressly prohibited by law - may be considered as contrary to the intention of the law in force to maintain the confidential nature of judicial proceedings involving the use of drugs by minor offenders. The complete records of these proceedings are sent to the Department of Justice by the courts which deal with the cases.

In VENEZUELA, it is forbidden to include legal minors in the general police records but, from a practical point of view, information concerning these minors stays in the internal records of the drugs and juvenile departments.

In YUGOSLAVIA, the law does not stipulate that the police must keep a list of drug users. The health services keep a list of drug users who have received medical treatment. The social centres register people whose names are sent to them by the police and other services, as well as those who come directly to their notice.

D) In the following 6 countries, minors are not registered, even though this is not forbidden by law : BURUNDI, GABON (here, this question is, in fact, felt entirely to the discretion of the police), MOROCCO, TOGO (the keeping of such a register is being considered), GAMBIA, ZAIRE (also being considered).

E) 6 other countries report that this question has not yet arisen, since the problem of drug use by minors either does not exist, is very slight or in any case, a very recent one. These countries are : BRUNEI, CYPRUS (there is an unofficial register in which all those persons implicated in cases of possessing drugs, etc. are listed, but no minors appear on this list), ETHIOPIA (where this is a very recent problem), FIJI, GUYANA. TUNISIA (no minors are implicated other than a few young Tunisians recorded abroad for drugs offences, whose names are listed in a special register so that they can be kept under strict surveillance on their return to Tunisia).

VI- IN ADDITION TO THE FORMAL LEGAL PROVISIONS, WHAT ACTION DO THE POLICE AUTHORITIES NORMALLY TAKE FROM DAY TO DAY WHEN DEALING WITH MINORS IMPLICATED IN CASES OF DRUG ABUSE ?

- a) Do the police authorities have a particular code of procedure which they normally follow?
- b) Do the police co-operate with :
  - The judicial authorities?
  - The health authorities?
  - Specialised public or private organisations?
  - Other authorities (please specify)?

a) In the following 35 countries, the police authorities have no particular code of procedure : AUSTRIA, BELGIUM, CYPRUS, BERMUDA, AUSTRALIA, BRAZIL, BRUNEI, BURUNDI, DAHOMEY, DOMINICAN REPUBLIC, ARAB REPUBLIC OF EGYPT, FIJI, FINLAND, GABON, GREECE, GUYANA, INDIA, IRAQ, ICELAND, ITALY, KHMER REPUBLIC, MALAWI, MALAYSIA, NIGERIA, NORWAY, OMAN, NETHERLANDS, RUMANIA, SWITZERLAND, SRI LANKA, TANZANIA, TOGO, TUNISIA, ZAMBIA, ZAIRE.

The 30 remaining countries reported that they do have a special attitude towards minors and apply the following rules :

ARGENTINA : In routine cases involving minors, the police authorities compile reports of a medical and social nature (family background and other influences) to illustrate the cases, which are submitted to magistrates.

In FEDERAL GERMANY, the emphasis is laid on prevention.

NETHERLANDS ANTILLES : Efforts are made to help young drug users by drawing their attention to the dangers of drugs and the damage they can cause. Their parents are contacted, and sometimes also their teachers. Especially in first offences, the police try to prevent a recurrence by talking to the minors and to their teachers.

CANADA : In all cases of this type in which minors are implicated, the parents or guardians are contacted.

CHILE : Young officers from the specialised drugs division, who have just finished their training, mix in circles frequented by drug users and traffickers in order to collect information, with a view to both prevention and law enforcement.

DENMARK : The police hand minors over to the Child Welfare authorities for further measures, after questioning them in the presence of a representative from these authorities.

SPAIN : In this field in particular, the police follow a code of procedure based on a humanitarian and responsible attitude.

UNITED STATES OF AMERICA : The vast majority of arrests and prosecutions for the unlawful possession of controlled drugs are made by State and local authorities. These authorities commonly refer youth offenders to organised treatment and rehabilitation programmes and place them in the custody of parents or legal guardians rather than initiating criminal prosecution.

This also occurs at Federal level. However, there are generally no procedural guidelines for such action. Federal law enforcement authorities cooperate on an informal basis with judicial authorities, health authorities, and specialised public and private institutions in arranging for the handling of minors arrested on drug-related charges.

ETHIOPIA : In addition to the formal legal provisions, the police have to follow criminal procedure in cases involving minors.

FRANCE : The police make every effort to carry out preventive action with regard to young people. This is part of more general prevention : creation of specialised services, opening reception centres, information about the dangers of using drugs given by specialised officers in the form of talks, lectures or films. In any case, with regard to drug use, the medical, health and social aspects of the problem are emphasised rather than law enforcement.

HONG KONG : Generally, if parents who have discovered that their children are using drugs take them to the police, the police authorities will not prosecute. Otherwise, the young person is arrested and, provided that he is not considered a discretionary case, is prosecuted.

IRAN : The police refer drug users to the health authorities for treatment.

IRELAND : First offenders and experimenters are usually cautioned by specialised police officers. If necessary, they are referred to the Drugs Advisory Clinic in DUBLIN and their parents are also acquainted with this service and advised to attend for guidance. Should this procedure fail, the young offender is made the subject of a report under the terms of the Garda Liaison Scheme for Young Offenders, and placed under the supervision of a Juvenile Liaison Officer (a police officer specially trained to assist young first offenders).

JAMAICA : This country replied that the police authorities do follow a particular code of procedure, but gave no details.

KENYA : When making an arrest for possession of drugs, the police normally visit the young person's home. Interviews are held with the minor in the presence of his parents whenever possible. The minor's home background and associates are checked. This is done so that when the case is presented to the Juvenile Court, the prosecutor will be in a position to suggest to the magistrate that probation or a conditional discharge might be a suitable solution. Police do not harass, but do keep in touch with known or convicted minors involved in the use of drugs. When dealing with minors, this procedure has proved beneficial both to the police and to the minors.

LUXEMBOURG : In compliance with the verbal instructions given by the Public Prosecutor, the police inform the Public Prosecutor's Office of every case of drug use reported to them. In principle, an official report is only drawn up in the case of repeated drug use, or if the use of the drugs is associated with a case of sale and importation of drugs.

The police always contact the parents of minors and inform them of existing possibilities with regard to curing the young person of his dependence on drugs. The minors themselves are given information about the dangers of using drugs.

MADAGASCAR : To date, the police have no particular code of procedure. Nevertheless, the attitude of the Drugs Bureau towards minors who have committed their first offence involving the use of cannabis, is determined by the desire to help them to free themselves of this tendency, rather than apply the full force of the law. The young people concerned are, however, recorded by this service so that they may be placed under supervision. If they commit further offences, they will be brought before the judicial authorities.

MOROCCO : The services specialised in dealing with young offenders are responsible for discovering places frequented by young drug users, detecting which young people are using drugs, taking the necessary steps to arrange for treatment for them and warning young people in general about the dangers of drug use.

MALI : This country replied that their police authorities do follow a particular code of procedure, but gave no details.

MAURITIUS : When a young person is arrested, his parents or the persons responsible for him are contacted and an enquiry is made so that a decision may be taken as to whether the minor should be released into their care or whether, in view of his antecedents, he should be taken into custody and sent to an Industrial School pending the hearing of his case by the Court.

NEW ZEALAND : All minors who have committed an offence are reported to the Police Youth Aid Section, a specialised unit within the police service designed to facilitate the prevention of offences by children and the reformation of those who have committed offences.

PERU : This country replied in the affirmative, but gave no details.

PHILIPPINES : The police carry out surveillance, (visits, spot checks) on known minor offenders to find out, if they are still dependent on drugs, and also on minor offenders who are on probation, to check if they are complying with the conditions of their probation.

SINGAPORE : The police only prosecute those minor offenders who have committed repeated offences involving the use of drugs and who have disregarded the warnings they have received.

UNITED KINGDOM : In all cases in which juveniles are implicated, the facts are reported to the local juvenile bureau. The bureau decides whether to prosecute the juvenile or to caution him. Factors such as the amount and type of the drug and the use to which it was being put (e.g. the offender's own use or supply to other persons) would be relevant in considering how to deal with the offender.

SWEDEN : Minors under 15 years of age cannot be prosecuted; the police must send a report to the Child Welfare Committee. Minors aged from 15 to 18 years can only be prosecuted when certain circumstances make it desirable that they be brought before the judicial authorities. If there are no such circumstances, the Child Welfare Committee is notified.

TURKEY : The police play a preventive role. They keep strict checks on all those places where young people meet.

VENEZUELA : With regard to prevention, the police appoint specialised officers to give lectures in schools and universities and use the mass media, such as radio and television.

VIETNAM : The police play a preventive role by giving lectures in schools and universities and they also co-operate with the authorities competent to deal with persons who volunteer to undergo treatment to cure themselves of drug dependence.

YUGOSLAVIA : The police services contact the minors' parents or guardians and inform the social centres, which decide upon the appropriate measures to be taken in each case.

b) In the majority of countries where the use of drugs by young people constitutes a problem, the police co-operate with one or more of the various services concerned, in particular with the health services (42 countries), the judicial and probation services (37 countries), specialised public or private bodies (25 countries) and with the social services (24 countries).

7 countries also mention co-operation with the national education authorities, 41 with parent-teacher associations, 3 with sports clubs, 2 with the cultural associations and one with the Women's League.

Co-operation between police and other bodies is more or less close; in some countries it is on a permanent basis, in others it depends on circumstances. However, those countries which have set up permanent interministerial liaison committees, or committees which meet regularly, still seem to be few and far between (4). This at least is what can be deduced from the replies to the questionnaire, although this specific question was not asked.

In most of the countries where such co-operation exists, it seems to take the form more of an exchange of information between services and widens the choice of action to be taken : prosecution, or socio-medical treatment.

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The summary of the replies sent in by countries reveals the following characteristics :

1) In the vast majority of countries illicit drug use is punished either directly under the legislation on drugs or indirectly through the offence of possessing drugs.

2) Few countries have included in their laws special texts concerning young drug users, but almost all of them have a general law on juveniles which allows a distinction to be made between adults and juveniles in this particular field.

3) In most countries, the police have no freedom of action with regard to criminal proceedings - only the judicial authorities are competent to decide whether or not to institute proceedings.

However, in quite a large number of countries, the police do have some freedom of action. These are mainly those countries whose legislation is based on Anglo-Saxon principles.

4) The law on legal minority protects the minor with regard to keeping his personal data on file in the general police records. Where it is possible to keep a special index for minors, this is governed by certain criteria, notably the age of the minor concerned. Where minors can be listed in the general records, they are often listed separately, under a special heading. Finally, in some countries, it is forbidden by law to register minors.

5) In almost half the countries which replied to the questionnaire, police action is governed, if not by a written code of procedure - although this is the case in certain countries - at least by a special attitude. When dealing with minors, their main concern is prevention rather than suppression, and they always try to contact the parents or guardians of the minor who has committed an offence. Often, they also request the assistance of the social services and health authorities.

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**END**

*7. 11. 1954*