The Transformation of Social Control in Europe: The Case of Drug Addiction and its Socio-Penal Management

1. INTRODUCTION

My contribution will essentially focus on the position of drug addiction under Article K of the Maastricht Treaty. In the first two sections of this report I would like to present two theses: (A) That the Maastricht Treaty makes drug addiction into a quasi-constitutional concept, and (B) that the action plan of the European Union regarding the fight against drugs, interpreting Article K.1.4, strengthens the standardization of the representation of the drug addict as an agent of European disorder. The third and last part of my report (C) will summarize the issues involved in the European usage of drugs: In view of its inefficiency in reducing drug usage, the couching of drug addiction within European policies, intended to lead the fight against drugs, will be interpreted as a factor of the negative construction of the European identity.

2. THE TREATY ON EUROPEAN UNION (MAASTRICHT TREATY)

1.1. Limits of the Maastricht Treaty

The European Union, as a level of sovereignty set between the world order and the national order cannot really avoid the international commitments of the Member States of the United Nations Conventions regarding drug related matters. An international regulation\(^2\) dominates in that field.

According to Article 3 of the United Nations Convention against Illicit Traffic in Narcotic and Psychotropic Substances of 1988\(^3\), the Contracting Parties, concerned with the scale of

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3. Ratified by 88 States.
the production, demand and illicit traffic of drugs, are encouraged to enact penal legislation dealing with, namely the possession or the purchase of the substances targeted by the conventions of 1961 (Single Convention on Narcotics) and 1971 (Convention on Psychotropic Substances).

According to these well-known United Nations Conventions, the repression of users (possessors or buyers) has ever since been internationally recognized as a way to fight drug trafficking.

2.2. Drugs are Everywhere

The provisions relating to drugs are scattered throughout the text of the Treaty. If one wishes to clearly distinguish between the various parts of the Treaty on European Union according to the conventional metaphor of the three pillars (Community Competence, Common Foreign- and Security Policy, Co-operation in the Fields of Justice and Home Affairs), one can say that drugs cross all three pillars. Title V establishing the Common Foreign and Security Policy⁴ (second pillar) is mostly concerned with the fight against drugs; however, one will only find an explicit mention of drug addiction in title II⁵ (first pillar) and in title VI⁶ (third pillar) of the Maastricht Treaty.

The Treaty on European Union does devote some explicit provisions to the problem of drug use (under the term of drug addiction). I will concentrate exclusively on those provisions. To begin, I would like to direct your attention on the positioning of a social problem at the heart of the 'Constitution of the European Union'. Relatively speaking, the regulation of drugs in the Treaty of the European Union could be compared to a hypothetical regulation of alcohol for the proletariat in a constitution of a modern democratic state last century. With this I mean to point out, with the benefit of historical hindsight, that it is somewhat surprising and thus rather meaningful that drugs made their way into the baptismal font of the European Union.

2.3. The Explicit Provisions of the Treaty

2.3.1. Public Health: The Community Competence⁷

Article 129 of the Treaty deals with the health issues – the prevention of diseases and the protection of health – of the policies of the Community. Drug addiction is the only one that is

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⁴ In effect, The European Council of Lisbon of 26 and 27 June 1992 has recognized, amongst other things, arms trafficking and terrorism, and the fight against drugs as an appropriate area for a concerted action on the part of the European Union within the framework of foreign policy and common security. Article J.1.3. states the principle of the implementation of 'joint action' concerning the objectives of the common foreign and security policy of Article J.1 (the safeguard of common values, fundamental interests and independance of the Union, the strengthening of the security of the Union and its Member States in all ways, the promotion of international co-operation). The European Council of Lisbon of June 1992, explicitely stated that the fight against drugs was an specific objective of the common foreign and security policy with regard to the Maghreb and the Middle-East.

⁵ Treaty on the European Union, dispositions modifying the Treaty implementing the European Economic Community with regards to implementing the European Community, Article 129.


⁷ Title X, Public Health.