

LEGISLATION ON DRUGS

Recognizing the efforts, worldwide, who have been waging the governments in the fight against the cultivation, trafficking and drug use, expressed in national and international legislation relating;

Agreeing and agreeing with other countries, the Council of State, early on in Independence, including the size of the problem of trafficking and consumption of drugs, approved by Decree-Law No. 1 / 76 to April 21, the law on drugs;

Later, however, sixteen years on the effective date of that statute imposes the practice, not only do the review and adjustment of any of the measures enshrined in previous legislation, but also structural adjustments to the institutional;

The growth confirms the above is a major concern of the UN Programme for International Drug Control Programme (UNDCP), which is the harmonization of drug laws at the level of Africa and the planet. Put this project to be harmonized with the rules of that department of the United Nations;

Accordingly;

The Council of State decree in accordance with paragraph 2 of Article 64 of the Constitution to become law, the following:

TITLE I

GENERAL PROVISIONS

ARTICLE 1

(Right of conventions and tables)

1. The provisions of this ordinance are interpreted in accordance with the conventions on narcotic drugs, psychotropic substances or precursors, to ratify or ratified by Guinea-Bissau.
2. The references in this ordinance to tables of narcotic drugs, psychotropic substances or precursors understood to be reported to the attached tables which are updated in mandatory terms therein.
3. In applying the provisions of this ordinance establishes a distinction between "high-risk drugs", represented by all the plants and substances listed in Tables I and II, "drug risk" represented by the set of plants and substances listed in Table III and precursors, represented by the substances listed in table IV.

ARTICLE 2

(Definitions)

In this ordinance:

- a) The terms "drug abuse" and "misuse" means the use of prohibited drugs without prescription and use of other drugs placed under control in the country;
- b) the term "addict" means any person in a state of psychic or physical dependence and in the face of a drug placed under control in the country.

TITLE II

PRODUCTION AND TRAFFICKING IN SUBSTANCE UNDER CONTROL

CHAPTER I

Charges and FEATHERS MAIN

ARTICLE 3

(Drugs for high risk)

A person who, without being allowed to find, cultivate, produce, manufacture, extract, prepare, offer, offers for sale, sell, distribute, buy, give or receive any title, to provide to others, transport, import, transit or unlawfully holds do outside the cases provided for in Article 20, plant, substances or preparations listed in Tables I and II, shall be punished with imprisonment of 12 years *.

2 Those who act contrary to authorization, unlawfully sell, introduce or endeavor that others enter the trade plants, substances and preparations referred to above, shall be punished with imprisonment from 3 to 15 years.

3 In the penalty provided in the preceding paragraph who grow crops, produce or manufacture of various substances or preparations listed in the title of authorization.

ARTICLE 4

(Risk Drugs)

Who, without encountering authorized to practice any of the actions referred to in paragraph 1 of Article 3 concerning the drugs included in Table III, shall be punished with imprisonment from 2 to 8 years.

ARTICLE 5

(Equipment, materials and precursors)

1. Who is authorized without, produce, manufacture, extract, prepare, offer, offers for sale, sell, distribute, buy, give or receive any title, to provide to others, transport, import, export, you move equipment, materials or substances listed in Table IV, knowing that they are or will be used in the cultivation, production or manufacture of narcotic drugs or psychotropic substances is punishable by imprisonment of her 10 years.

2. Who authorized without meeting, holds, which wants the title, equipment, materials or substances listed in Table IV, knowing that they are or will be used in the cultivation, production or manufacture of narcotic drugs or psychotropic substances, is Punic with imprisonment 1 to 5 years.

3. If the agent receives authorization, shall be punished:

- a) In the case of paragraph 1, with imprisonment of her 12 years;
- b) In the case of paragraph 2, with imprisonment of her 8 years.

ARTICLE 6

(Conversion, transfer or concealment of goods or products)

1. Who, knowing that the goods or products are derived from the commission in any form of reimbursement, the offense referred to in Articles 3, 4, 5, 8 and 9:

a) converts, transfers, aids or facilitates an operation of conversion or transfer of such goods or products, in whole or in part, directly or indirectly, for the purpose of concealing or disguising the illicit origin or of assisting a person involved in the practice of any of these offenses to evade the legal consequences of their actions, is punished with imprisonment from 2 to 12 years;

b) conceal or disguise the true nature, source, location, disposition, movement or ownership of such goods or products or rights pertaining thereto, shall be punished with imprisonment from 2 to 10 years;

c) takes or uses any title receives, holds or maintains, shall be punished with imprisonment of 5 years of it.

2. The punishment for the crimes of the preceding paragraph shall not exceed the corresponding applicable to infringements of Articles 3 to 5, 8 and 9.

3. The punishment for the crimes referred to in paragraph 1 takes place even if the facts referred to in Articles 3 to 5, 8 and 9, shall have been committed outside national territory.

CHAPTER II

Aggravation of FEATHERS

ARTICLE 7

(Causes of aggravation)

The penalties provided for in Articles 3 to 6, are increased by one quarter in its minimum and maximum are:

a) substances or preparations have been delivered or intended for minors or diminished mental;

b) substances or preparations were distributed by a large number of people;

c) The agent obtained or tried to get hefty salary compensation;

d) The official agent is responsible for the prevention or prosecution of these offenses;

e) The agent is a doctor, pharmacist or other health worker, customs officer, prison services or the probation services, postal workers, telegraph, telephone or

telecommunications, teacher, educator or worker education establishment or worker services or social institutions, and that is practiced in the exercise of their profession;

f) The agent participating in other organized criminal activities, international in scope;

g) The agent involved in other illegal activities facilitated by commission of the offense;

h) the offense is committed in service facilities for treatment of drug users, rehabilitation of social services or social welfare institutions, in prison, military unit, educational establishment or other places where students or students to engage in the practice of educational activities, sports or social, or in its vicinity;

i) The agent using collaboration, in any form, of minors or diminished mental;

j) The agent acts as a gang member for the repeated commission of the crimes referred to in Articles 3 to 6, with the collaboration of at least one other gang member;

k) substances or preparations have been corrupted, altered or tampered with, by manipulation or mixture, increasing the danger to life or physical integrity of others.

ARTICLE 8

(Dealer-consumer)

1. When the practice of some of the facts referred to in Article 3, the agent has a sole purpose to get plants, substances or preparations for personal use, the penalty is imprisonment up to two years.
2. The attempt is punishable.
3. Not apply paragraph 1, but the general deposition of this law, when the agent owns the plants, substances or preparations in amounts exceeding that necessary for the average individual during the period of 5 days.

ARTICLE 9

(Abuse of exercise of profession)

1. The penalties provided for in Articles 3 and 4 are applied to the doctor to pass revenue, administer or deliver substances or preparations listed there, with non-therapeutic purpose.
2. The same penalties are applied to the pharmacist or whoever replaces him in his absence or inability to sell or deliver those substances or preparations for non-therapeutic purpose.
3. In case of conviction under the preceding paragraphs, the court announced the decision to the Order of Doctors, Pharmacists and the Order of the Ministry of Health

ARTICLE 10

(Associations criminal)

1. Those who promote, establish or fund group, organization or association of two or more persons acting in concert, to commit any of the crimes referred to in Articles 3 to 6, shall be punished with imprisonment from 40 to 10 years.
2. Who to collaborate directly or indirectly, to join or support the group, organization or association referred to above, shall be punished with imprisonment of her five years.
3. Incurs a penalty of 6 to 14 years in prison who lead or direct a group, organization or association referred to in paragraph 1.
4. If the group, organization or association has the purpose or activity as conversion, transfer, concealment or receipt of goods or products of the crimes referred to in Articles 3 to 6, the agent is punished:
 - a) In cases of paragraphs 1 and 3, with imprisonment from 2 to 6 years;
 - b) In the case of paragraph 2, with imprisonment of six years of it.

ARTICLE 11

(Incitement)

Those who, by any means, inciting the commission of an offense set forth in Articles 3 to 6 and 8, are punished with the penalty for the offense in question.

ARTICLE 12

(Incitement to the use of narcotic or psychotropic substances)

1. Who induce, encourage or abet another person in public or in private, or in any way facilitating the illicit use of plants, substances or preparations listed in Tables I and II, shall be punished with imprisonment up to three years.
2. In the case of substances or preparations listed in Table III, the penalty is imprisonment up to 1 year.
3. The minimum and maximum penalties are increased by one third if:
 - a) The facts were practiced to the detriment of smaller, less psychic or person who was in the care of the perpetrator of the crime for treatment, education, instruction, supervision or custody;
 - b) It was some of the circumstances envisaged under d), e) or h) of Article 7.

ARTICLE 13

(Trafficking and consumption in public places or meeting)

1. Who, being the owner, manager, director or in any way, explore the hotel, restaurant, cafe, tavern, club, house or room for meetings, entertainment or amusement, agrees that this place is used for trafficking or use of plants, substances or preparations listed in Tables I to III, shall be punished with imprisonment of her six years.
2. Who, having at its disposal building, enclosure or vehicle, which consent is normally used for trafficking or use of plants, substances or preparations listed in Tables I to III, shall be punished with imprisonment of 5 years of it.
3. Notwithstanding the preceding paragraphs, the agent who, after notification pursuant to paragraph 4, does not take appropriate measures to avoid the places mentioned therein are used for trafficking or illicit use of plants, substances or preparations listed in Tables I to III, is punishable with imprisonment up to five years.
4. The preceding paragraph shall apply only after two seizures of plants, substances or preparations listed in Tables I to III, conducted by the judicial authority or by a criminal police body, duly notified to the agent referred to in paragraphs 1 and 2, rather than mediating between them period exceeding one year, though without identifying the owners.
5. The conditions referred to in paragraphs 3 and 4 the competent authority for the investigation of the facts known to the administrative authority which granted the authorization to open the establishment, who will decide on the closure.

ARTICLE 14

(Qualified disobedience)

1. Who opposes acts of supervisory or refuse to display the required documents after you warned of the consequences of their criminal conduct, is punished with a penalty corresponding to the crime of qualified disobedience.
2. Incurs the same penalty, who does not meet the time obligations of participation urgent removal or loss of substance or documents referred to in the law mentioned above.

CHAPTER III

MITIGATION OR WAIVER OF PENALTY IN SPECIAL SITUATIONS

ARTICLE 15

(Reduction or waiver of penalty)

If, as provided in Articles 3 to 6, 9 and 10, the agent voluntarily abandon its activity, removes or decrease by a considerable danger produced by the conduct, prevent or makes serious efforts to prevent the result that the law either avoid it occurs, or assist in practice the authorities in collecting evidence crucial to the identification or capture of other officials, particularly in the case of groups, organizations or associations may be worth it to take place or mitigated the waiver of penalty.

CHAPTER IV ANCILLARY MEASURES AND PENALTIES

ARTICLE 16

(Loss of property or rights related to the fact)

1. The courts declared forfeited to the state seized the plants and substânciasb under commission of an offense under this ordinance, which have not been destroyed or delivered to authorized body for its lawful use, even if no particular person can be punished because .
2. The court also declared forfeited to the State facilities, materials, equipment and other property used or intended to be used to commit the offense, without prejudice to the rights of bona fide third parties, as well as the rewards given or promised to the agents the offense.

ARTICLE 17

(Goods processed, converted or mixed)

1. In cases under this statute, the courts also ordered the confiscation of the products from the state of the offense, directly purchased by agents for themselves or others, of movable or immovable property in which they were transformed or converted, and up to the amount the estimated value of the products concerned, legitimately acquired assets with which those products were mixed, as well as income, interest, profits and other benefits drawn from these products, goods in which they were processed or invested, or assets that have been mixed.
2. If the rights, benefits or subject referred to above can not be appropriated in kind, the loss is replaced by payment to the State of its value.
3. The preceding paragraphs shall apply to the rights, advantages and objects obtained with the transaction or exchange rights, object, objects and advantages achieved by means of direct infringement.

ARTICLE 18

(Disposal of confiscated property to the State)

1. The goods and declared forfeited to the State under the preceding articles or amount from their sale are used for actions and measures to prevent drug use, treatment and rehabilitation of drug addicts and combating trafficking.
2. The shape and percentage distribution of goods and products are established by Government decree.
3. In the absence of agreement or treaty, goods and products seized at the request of

authorities or foreign state funds from its sale belong to the State where he was at the time of apprehension.

ARTICLE 19

(Expulsion of foreigners and closure of establishment)

1. Without prejudice to Article 24, if convicted for the crime of trafficking described in this law, if the accused is a foreigner, the court may order his expulsion from the country for a period not less than 10 years.
2. On conviction of a crime provided for in Article 13, and regardless of the ban on profession or activity, may be ordered the closure of the establishment or public place where the events have occurred for a period of 1 to 5 years.
3. Having previously been judicially or administratively orderly shutdown, the period is taken into account in sentencing.
4. If the defendant is acquitted shall cease immediately ordered the closure administratively.

TITLE III

DRUG USE TREATMENT OF ADDICTION

ARTICLE 20

(Consumption)

1. Who or consume, for consumption, grow, acquiring or holding plants, substances or preparations listed in Tables I to III which considers that allowed small quantities intended for their personal consumption, shall be punished:
 - a) Whether it is plant or substance classified as high risk, including cannabis oil, with imprisonment for two months al years.
 - b) Whether it is a derivative of the cannabis plant other than cannabis oil, with imprisonment for 1 month to 6 months.
 - c) whether it is plant or substance classified as a drug risk, with imprisonment from 15 days to 3 months.
2. The applicant may be exempted from punishment if cumulatively meet the following requirements:
 - a) has not reached the age;
 - b) There is a recidivist;
 - c) by a solemn declaration before the magistrate not to commit again.

ARTICLE 21

(Spontaneous and treatment care consumers)

1. Those who use illicitly, for individual consumption, plant, substances or preparations listed in Tables I to III and request the assistance of state health services or private will be assured of anonymity.
2. The doctors, technicians and other staff of the establishment to assist the patient are under a duty of confidentiality are not obliged to testify in court or provide information to the police about the nature and evolution of the therapeutic process.
3. The Ministry of Health shall, through the appropriate departments, the necessary steps to provide care to drug users and other consumers who have spontaneously and monitor

the conditions under which private entities to meet drug addicts.

ARTICLE 22

(Suspension of sentence and treatment obligation)

1. If the accused has been convicted of the crime provided for in Article 20 or another with which it is in a direct relationship and connection have been considered a drug addict, the court may suspend execution of sentence in accordance with the law, provided in addition to other duties or rules of conduct appropriate to undergo treatment or hospitalization in the establishment appropriate, to prove the way and time that the court determines.
2. If during the period of suspension of the sentence the addict culpably not subject to treatment or hospitalization or fails to perform any other duties or rules of conduct imposed by the court applies the provisions of criminal law for failure to comply these duties or rules of conduct.
3. Revoked the suspension, the sentence will take place, preferably in the appropriate zone of the prison, and provided needed medical care.
4. You can, *mutatis mutandis*, apply the rules of evidence.

ARTICLE 23

(Treatment within the proceedings pending)

1. When the treatment in any of the methods followed is held in a case pending in court, the doctor or send the establishment of 3 in 3 months, if another period is not fixed, an information on the evolution of the person he subject, with respect for confidentiality of the therapeutic relationship, suggesting the measures they deem appropriate.
2. Upon receipt of the information referred to in the preceding paragraph, the court pronounced, if it thinks necessary, on the procedural status of the person concerned.

TITLE IV

SUBSIDIARY LEGISLATION

CHAPTER I

CRIMINAL LAW AND PROCEDURE

ARTICLE 24

(Criminal Law)

In the absence of specific provision of this law are applicable in a subsidiary, the provisions of the general part of the Criminal Code and complementary legislation.

ARTICLE 25

(Application of national criminal law)

For purposes of this law, criminal law of Guinea-Bissau is still applicable to acts committed outside the national territory:

- a) When committed by foreigners, since the agent is in the national territory and not extradited;
- b) Subject to agreement between the state, when committed on board a ship for which the flag State has authorized the State of Guinea-Bissau to examine, to visit or to be taken in

case of discovery of evidence of participation in trafficking, appropriate action against the vessel, persons on board and cargo.

ARTICLE 26

(Measures relating to minors)

The courts with jurisdiction in the area under the measures provided for in this Act, *mutatis mutandis*, when the person is less subject to them, under special legislation for minors, and without prejudice to the application by the courts of common law concerning young people aged 16 to 21 years.

ARTICLE 27

(Criminal procedural law)

In the absence of specific provision of this law shall apply alternative standards of the Code of Criminal Procedure and complementary legislation.

CHAPTER II

SPECIAL RULES OF PROCEDURE

ARTICLE 28

(Searches and seizures)

1. The visits, searches and seizures to where they are manufactured, processed or stored drugs illicitly at high risk, or risk of drug precursors, equipment and materials for the cultivation, production or manufacture of illegal entities are permitted at any time of day or night.
2. Procedure to follow in the dwelling shall be preceded by written authorization of the competent judicial authority under the laws of the process.
3. In the case of offenses under this law, drugs and precursors are immediately seized, the same as making facilities, materials, equipment and other movable property suspected of being used or intended to be used for the crime, sums and securities suspected of direct or indirect source of infringement, as well as all documents to facilitate their evidence or the guilt of the perpetrators, without the secret can be invoked.

ARTICLE 29

(Revised and skill)

1. When there are serious indications someone who conceals or carries on his body narcotic drugs or psychotropic substances is ordered reviewed and, if necessary, to expertise.
2. The target can be driven to a hospital or to another appropriate institution and remain there for the time strictly necessary for the achievement of expertise.
3. The magazine is made by the authorized official to appear in the offense, which will report in writing to the competent judicial authority within 48 hours, the result of the investigation.
4. Who, after being warned of the legal consequences of his act, refusing to be submitted to the magazine or expertise allowed under the preceding paragraph, shall be punished with imprisonment up to 2 years.

ARTICLE 30

(Banking and financial system)

1. Whenever there are serious indications that an individual sufficiently identified uses or has used the financial system, banking or similar institutions, to carry out operations related to the offenses provided for in Articles 3 to 6 and 10, the competent judicial authority may, without

that professional secrecy or banking you can be the opposite:

- a) the placing under surveillance, for a certain period of bank accounts;
- b) access for a specified period the computer systems used in those operations;
- c) the display or delivery of any information or documents financial, banking, tax or business.

2. The financial institutions banks and similar institutions, public or private, can on their own initiative, alert the competent judicial authorities on the transactions that they suspect related to the offenses referred to in paragraph 1 and does not constitute such a procedure a violation of professional secrecy or banking nor imply liability.

ARTICLE 31

(Controlled deliveries)

1. May be authorized on a case-by prosecutors, not the Police action on people with narcotic drugs or psychotropic substances in transit through Guinea-Bissau in order to provide, in collaboration with the country or countries of destination and any other countries traffic, and the identification of the complaint more participants in the various operations trafficking and distribution, but without prejudice to the prosecution by the facts to which national law applies.

2. The authorization is only granted at the request of the recipient country, provided that:

- a) is known in detail the route and the identification of patients likely enough of these;
- b) is guaranteed by the competent authorities of the countries of destination and transit countries of the substances against the security risk of leakage or loss;
- c) The competent judicial authorities of the countries of destination or transit undertake to communicate urgently with detailed information on the results of operation and details of the action undertaken by each of the agents of the crimes, especially those who acted in Guinea Bissau.

3. Although the authorization granted previously mentioned, the Judicial Police intervene if safety margins have declined significantly, if there is unexpected change of itinerary or any other circumstance that makes it difficult to grasp the future of the substances and the capture of the agents: if that intervention has not been previously communicated to the entity that grants the permission, it is within 24 hours by written report.

4. By agreement with the country of destination, the substances in transit may be partially replaced by other innocuous, such is plowing its self.

5. The international contacts can be made by the National Bureau of Interpol.

6. Any entity that receives requests for controlled delivery channels them immediately to the Judicial Police for execution.

ARTICLE 32

(Probation)

1. Where the crime charged for drug trafficking diversion of precursors, money laundering or conspiracy, and the defendant is found detention, when considering his release, the judge shall take into account the defendant's financial resources used for support breach of the pledge and the danger of continued criminal activity, in national terms and international.
2. Before deciding on the livelihood of the conditions of imprisonment, the judge will collect updated information that may be of interest to review those assumptions.

CHAPTER III

INVESTIGATOR NATURE OF PROVISIONS

ARTICLE 33

(Criminal investigation)

The investigation of illicit plants, substances, preparations and precursors included in the tables annexed hereto is the sole responsibility of the Judicial Police.

ARTICLE 34

(No Conduct punishable)

1. Is not punishable the conduct of the criminal investigation officer who, for purposes of investigation, and without revealing its identity and quality, accept directly or through a third delivery of narcotic drugs or psychotropic substances.
2. The report of such facts is attached to the file within 24 hours.

ARTICLE 35

(Protection of information sources)

1. No criminal investigation officer, the declarant or witness is required to disclose to the court to identify or any element that will lead to identification of someone who has assisted police in finding infringement under this law.
2. If in the course of the trial, the court is convinced that the person who assisted the police transmitted data or information that he knew or should have known to be false, may require the disclosure of their identity and inquiry in her audience.
3. In the case mentioned at the end of the preceding paragraph, the presiding judge may decide to exclude or restrict the advertising of the hearing.

CHAPTER IV

DESTRUCTION OF DRUGS AND SAMPLING

ARTICLE 36

(Examination and destruction of controlled substances)

1. The plants, seized substances and preparations are examined by order of the competent judicial authority in the shortest time possible.
2. After laboratory examination, the expert proceeds collection, identification, weight - gross and net - packaging and sealing of a sample, if the amount of drug permitting, and the remainder, if any.
3. The sample is kept in the safe of the body which makes the investigation until a final

decision.

4. Within 5 days after the joint report of the laboratory examination, the competent judicial authority orders the destruction of the drug remaining in the order which is accomplished in a period not exceeding 30 days, getting the drug to the destruction, kept in safe.

5. The destruction of the drug is by incineration, in the presence of a magistrate, an official designated for that purpose, a laboratory technician, drawing up to its self, in the same operation can be carried out burning wrecks drug seized in various processes.

6. Rendered final decision, the court orders the destruction of the sample kept in the safe, which will be in compliance with paragraph 5, and sent him a copy of its self.

ARTICLE 37

(Samples requested by foreign entities)

1. Can be sent samples of substances and preparations that have been seized, at the request of foreign entities, or for scientific research, even during the proceedings.

2. To this end, the request is transmitted to the competent judicial authority who will decide on your satisfaction.

3. The application may be made through the National Bureau of Interpol.

ARTICLE 38

(Communication of decisions)

1. Are reported to the Coordinating Body for Combating Drugs all seizures of plants, substances and preparations listed in Tables I to IV.

2. Courts send the same entity judgments handed down in criminal proceedings for offenses covered by this statute.

TITLE V

COORDINATION NATIONAL AND INTERNATIONAL COOPERATION IN THE FIGHT AGAINST ILLICIT

ARTICLE 39

(Coordination of the fight against drugs) 2

1. Will be created, depending on the Prime Minister, a National Commission for the purpose of proposing strategies and coordinate policies issued by the Government in all areas of combating drug, its composition and allocation subject to the decree.

2 The Interministerial Commission for Drug Control, was created by Decree No. 11/94 of 14 February, published in Official Gazette No. 7, February 14, 1994.

2. It will also set up a structure to coordinate the fight against illicit trafficking, both nationally and internationally, depending on the Attorney General.

ARTICLE 40

(International Cooperation)

With regard to extradition, mutual legal assistance, execution of foreign criminal judgments and transmission of criminal proceedings, apply to treaties, conventions and agreements to which the Guinea-Bissau, and secondarily tied the provisions of the UN Convention of 1988 against trafficking in narcotic drugs and psychotropic substances.

FINAL PROVISIONS

ARTICLE 41

(Repeal)

Is hereby revoked Decree-Law No. 1 / 76 of April 21.

Article 42

(Entry into force)

This law comes into force immediately.

Approved on September 9, 1993.

Promulgated on September 9, 1993.

To be published.

The President of the Council of State, General Joao Bernardo Vieira.

ANNEX

(A referred to in paragraph 2 of Article 1)

This annex contains:

- Substances hereinafter referred to by their proprietary name or name under international conventions;
- Your isomers, unless otherwise expressed in all cases where there may be in accordance with the chemical formula corresponding to said substances;
- Esters and ethers of these substances in all the ways that may exist;
- The salts of these substances, also includes the salts of esters, ethers and isomers in all the ways in which these salts may exist;
- The preparations of these substances, unless otherwise provided by law: