



E11 Proportionality of Sentences for Drug-Related Offences: Analysis of the Situation and Recommendations by the International Narcotics Control Board

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After attending this presentation, attendees will learn concepts and origins of the principle of proportionality and the recommendations of the International Narcotics Control Board for governments to ensure the principle of proportionality is respected in dealing with drug-related offenses.

This presentation will impact the forensic community by demonstrating the relevant provisions of the international drug control conventions to determine whether they meet the proportionality standards in the light of the proportionality principle, and the proposed recommendations for governments to ensure the principle of proportionality is respected in dealing with drug-related offenses.

The International Narcotics Control Board (INCB) is the independent and quasi-judicial monitoring body for the implementation of the United Nations international drug control conventions. It was established in 1968 in accordance with the Single Convention on Narcotic Drugs, 1961. It had predecessors under the former drug control treaties (the Permanent Central Narcotics Board and the Drug Supervisory Body) as far back as the time of the League of Nations.

The Board has thirteen members elected by the Economic and Social Council (ECOSOC) who have to serve independently (of Governments as well as of the United Nations) and impartially in their personal capacities for their five year term of office. Ten members of the Board are elected from a list of nominations by governments and three, from nominations by the World Health Organization.

The mandate and functions of INCB are laid down in the Single Convention on Narcotic Drugs, 1961; the Convention on Psychotropic Substances of 1971; and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. 183 U.N. member States, namely 95% of all, are party to all three international conventions, meaning an almost universal adherence.

INCB has a secretariat located in Vienna, Austria, that assists it in the implementation of its treaty-related functions. The secretariat is an administrative entity of the United Nations Office on Drugs and Crime (UNODC) but it reports solely to the Board on matters of substance.

INCB strives, in cooperation with governments, to ensure that adequate supplies of licit drugs are available for medical and scientific uses and that the diversion of drugs to illicit channels does not occur. INCB also monitors control over precursor chemicals used in the manufacture of illicit drugs and support governments in preventing the diversion.

As regards the illicit manufacture of, trafficking in and use of drugs, INCB identifies weaknesses in national and international control systems and contributes to correcting such situations. INCB is also responsible for assessing chemicals used in the illicit manufacture of drugs, in order to determine whether they should be placed under international control.

INCB is called upon to ask for explanations in the event of clear violations of the treaties, to propose corrective actions and, where needed, to assist governments in overcoming difficulties. If, however, INCB notes that the actions necessary to remedy the situation have not been taken, it may call the matter to the attention of the Commission on Narcotic Drugs and ECOSOC. As a last resort, the treaties empower INCB to recommend to parties that they stop importing drugs from a defaulting country, exporting drugs to it or both.

INCB is mandated to publish an annual report on its activities, which provides a survey of the drug control situation in the world and analyses, trends in abuse and illicit traffic and suggests necessary remedial action. The report is supplemented by technical reports providing details of estimates of annual legitimate requirements in each country as well as data, the licit production, manufacture, trade and consumption of these drugs worldwide.

Furthermore, the report is supplemented by the report to the Commission on Narcotic Drugs on the implementation of article 12 of the 1988 Convention which contains an analysis of measures Governments have taken against the diversion of precursors and essential chemicals and trends in illicit trafficking in such substances.

Since 1992, the first chapters of the annual reports have been devoted to a specific drug control issue on which INCB presented its conclusions and recommendations in order to contribute to policy-related discussions and decisions in national, regional and international drug control.

In this years' (2007) report the Board examined the concepts and origins of the principle of proportionality, particularly in relation to but not limited to sentencing for drug-related offences.

This presentation will specifically focus on the analyses by the Board of current implementation of laws and practices around the world, the review of the relevant provisions of the international drug control conventions to determine whether they met those proportionality standards in the light of the proportionality principle, and on proposed recommendations for governments to ensure the principle of proportionality is respected in dealing with drug-related offences.

Proportionality of Sentences, Drug-Related Offences, International Narcotics Control Board