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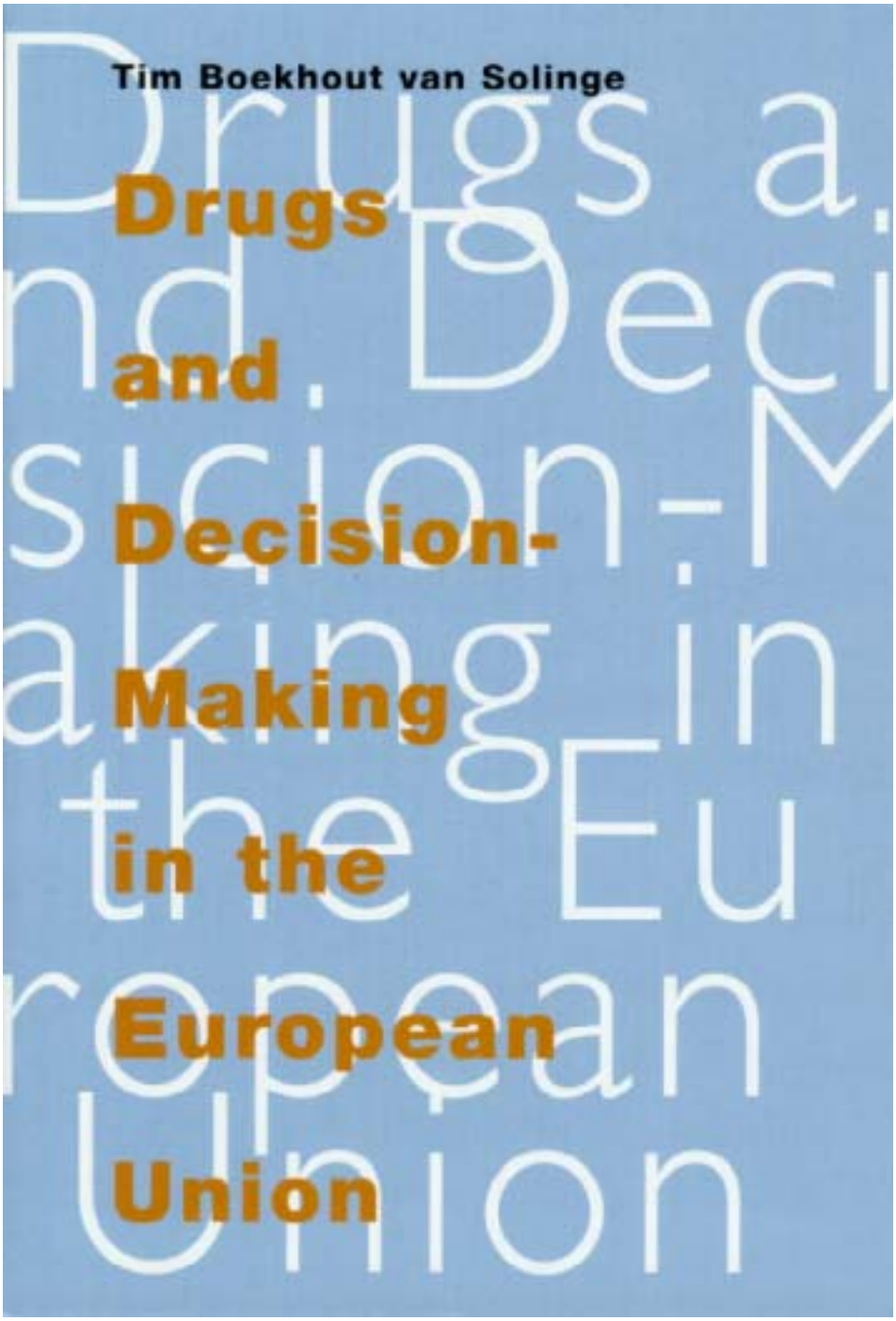

DRUGS AND DECISION-MAKING IN THE EUROPEAN UNION

Tim Boekhout van Solinge

Drugs and Decision-Making in the European Union

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GENERAL INTRODUCTION AND A GUIDE TO THIS BOOK

Introduction

Drugs figure prominently on the political agenda of the European Union. While policy on drugs is still primarily the responsibility of individual member states, the Council of the European Union increasingly forges agreements on a joint approach. The European Commission too has complementary powers in certain drug-related matters as part of Community policy.

Until a few years ago drugs were hardly ever discussed within the institutions of the EU, for the simple reason that they were not a European political issue. The fact that they have now become one is mainly a consequence of the many recent changes in the European political landscape, especially since the entry intro force of the Maastricht Treaty in 1993. Before that, European cooperation was primarily economic in nature. Maastricht extended it substantially to other policy areas. Since 1993 the policy areas in which the EU has competence have been divided into three "pillars", and drugs are discussed in each one of them. In the first pillar discussions arise in relation to development cooperation, and to Community health measures adopted to complement member states' actions at national level. Drugs also come up in the second pillar, that of the EU's Common Foreign and Security Policy. The issue is discussed most of all in the third pillar, "Justice and Home Affairs", in the context of policy and agreements on cooperation between police and judicial authorities.

In the relatively brief period that drug-related matters have belonged to the competence of the EU, the issue has acquired a prominent place on the political agenda. It is discussed at length within the EU's three main institutions, the Council, the Commission and the European Parliament. It has also become a standard item on the agenda of the European Council, the

summit of the heads of government. Many EU documents explain that the reason why the EU is now playing an active role in the fight against drugs is because drugs are among the greatest threats to society and humankind. Several EU booklets and other publications announce that the EU will take whatever action is necessary in the war on the "scourge of drugs", since it is self-evident that drugs have a destructive impact on health, safety at work and human relationships.[1]

Besides measures taken within the EU, drugs are increasingly being brought into the EU's talks with "third countries" (countries outside the EU) – not only applicant countries but all countries wanting to have any kind of relationship with the EU. In fact the EU has adopted the policy that taking certain anti-drugs measures is a prerequisite for cooperation with the EU. Drugs policy has therefore effectively become an element of the EU's foreign policy.

This study describes the way in which the drugs issue is dealt with in the EU. This will include looking at the activities undertaken by the EU's different institutions and their forums. However, these will not be described in detail, as that is not the primary objective of this study. The main question examined here is how the policy that is pursued and propagated by the EU actually came into existence. Why have drugs become such a "hot item" within the EU in such a short space of time? What are the most authoritative or trend-setting institutions, forums, countries, individuals or other active forces? This report will therefore focus primarily on the mechanisms underlining the EU's activities in this field, the mechanisms that determine how and why drugs are placed on the political agenda and the factors and power relationships that play a role in this process.

A guide to this book

While each of the following chapters is part of the whole, the structure is such that each one may be read separately. This may mean that the reader will encounter repetition. Readers who are familiar with the structure of the EU may find such repetition redundant, but for those for whom the EU is still something of a labyrinth it may serve a useful purpose.

The book is set within the wider context of studies of international drugs control, a policy area that has been dominated by the US since the beginning of the 20th century. The EU has grown into the most important international organisation in Europe, indeed one of the most important in the world. With its increasing cooperation in economic, political and military affairs, its influence is likely to expand still further in the future. On the international stage of drugs control, it has only recently become an active player. In order to follow the developments in this policy area, it is important to understand the way in which these issues are dealt with by and in the EU.

Chapter 1 briefly reviews the wider historical background of international drugs control and the part that the US has played in it. It will also discuss the special role that the drugs issue sometimes plays in politics.

Chapter 2 sets out to clarify the sometimes bewildering institutional framework of the EU. The idea is not to give a complete survey of the EU's organisational setup – several books cover that territory – but to shed light on certain relevant areas. Few European citizens are at all familiar with the complex structure of the EU, such as the three "pillars" of which it consists and the roles played by its different institutions, even though the decisions made there affect their lives. Many know the Maastricht Treaty, the Amsterdam Treaty and the Schengen Agreement by name, but few are familiar with their content. Chapter 2 also discusses some significant initiatives that the EU took prior to the Maastricht Treaty, through the anti-drug committee CELAD for instance.

Chapter 3 focuses more on content. It describes the role and powers of the three institutions, the Commission, the Council and the European Parliament, and their involvement in drug-related matters. It also discusses the main groups that are active in this policy area. It concludes with an account of the power struggle in this area between the Commission and the Council, and seeks to establish where the power really lies.

The heart of the study is chapter 4 on decision-making. It examines the question of how drugs have moved to such prominence on the political agenda and describes the bureaucratic mechanism that ensures that the issue stays there. It also looks at the content of the drugs issue and places it in a wider social and political framework. It discusses the customary approach to drugs within the EU's bureaucracy and the limitations of this approach.

After this lengthy description and analysis of the context and decision-making on drugs, chapter 5 looks at the measures that the EU has actually introduced, as opposed to mere talk. While the EU does not determine the drugs policy pursued by individual member states, various joint actions are increasingly agreed within the EU, on the mutual adjustment of legislation and practices for instance, and on an early warning mechanism for new synthetic drugs. Finally, chapter 5 discusses the various action plans and strategies that have been produced by the Commission and the Council, the status of which is far from clear.

1 BACKGROUND, APPROACH AND METHODOLOGY

1.1 Background: international drugs control

Many voluminous and well-informed studies have been written about the remarkable history of international drugs control. It is a relatively recent phenomenon. Most of today's illicit substances, such as opium, coca and cannabis, were legal at the beginning of the 20th century, and were used both medicinally and recreationally. In some countries opium was produced under state supervision and retailed at state-owned outlets or by physicians. Coca too was legal, and served as the basis for cocaine-containing drinks, notably in the United States.[2] It also had medicinal applications, for instance as a local anaesthetic.

In the course of time, however, the three best known drugs – cannabis, coca and opium – came under an international ban. The stimulant amphetamine was in general outlawed much later – not until the 1960s and 1970s in many European countries.

The history of the international ban on drugs begins with the meeting of the Shanghai Opium Commission in 1909, attended by representatives from 13 countries, the aim being to arrive at a stricter international policy on drugs. As this conference took the form of a Commission, its recommendations were not binding.[3] Then, in December 1911, the first opium conference took place in The Hague, which resulted one month later in the 1912 convention on opium. This convention marks the beginning of today's international drugs policy, based on prohibition.

Most studies on international drugs control have been written by Americans and focus on the role played by the United States. This is entirely understandable, since the United States played a key role in the genesis of the international drugs control regime at the beginning of the 20th century and has continued to dominate its further development. A classic study that

should be mentioned in this connection is *The American Disease – Origins of Narcotic Control* by the American physician and historian David Musto. His study shows that the US was the driving force behind the Shanghai Opium Commission and the Hague Convention of 1912. The United States' attitude served certain domestic political causes and was fuelled by economic and foreign policy considerations. Compared to European countries, the US had a relatively large number of addicts at the time (both at home and in the recently acquired Philippines), but this ultimately proved a less important factor than political and commercial motives.

Around the year 1900 the US experienced a number of drug scares, situations in which drugs were singled out as a source of social evil, which invested the struggle against them with significance and legitimacy.[4] It was towards the end of the nineteenth century that the US passed the first laws against smoking opium. This ban had unmistakable racial undertones: it was prompted not so much by problems associated with opium use as by general anti-Chinese rabble-rousing in California.[5] This increasingly led to an association in the public mind between Chinese people, Chinatown communities, opium, prostitution and gambling. The Chinese were even alleged to be using opium to entice white women into sexual slavery. Although opiate use was far more common among white Americans than in the Chinese community at the end of the nineteenth century, it was above all the *smoking* of opium by the Chinese that was seen as a problem. As time went on, opium smoking became a focus for general anti-Chinese sentiments, and this group and its use of opium came to be perceived as a threat to American society.

At the beginning of the 20th century, cocaine and several cocaine-containing drinks, including Coca-Cola, came to be associated with black Americans, who reportedly became incredibly powerful and wild after using it. To incapacitate "cocaine crazed Negros", some police stations switched from .32 to .38 calibre revolvers. Another popular rumour was that African Americans were raping white women under the influence of cocaine.[6] David Musto concludes that this opium scare resulted not from problems in cocaine use, but from white fears of black rebellion against segregation and oppression.[7] Another drug scare arose in the 1930s, this time

around marijuana. Harry Anslinger, who had headed the alcohol prohibition task force during Prohibition, was later appointed head of the Federal Bureau of Narcotics. In his zeal to ban marijuana, he published propaganda describing murders committed by people under its influence. Since marijuana was mostly used by Mexicans, they became the focus of this new anxiety: marijuana supposedly made them violent. Anslinger also alarmed the public by pointing out that the "killer weed" was gaining popularity among young white Americans.[8] As a result of the ensuing "reefer madness", engineered almost single-handedly by Anslinger, Congress declared marijuana illegal in 1937.[9]

Notwithstanding these fears in American society, however, foreign policy and commercial considerations were the prime motives in the United States' active role in international drugs control. Tellingly, the US did not introduce its own Federal legislation in this area – the Smoking Opium Exclusion Act – until 1909, the year in which the Shanghai Opium Commission was convened. Since the US was advocating a ban on drugs, it had to protect its credibility on the international political stage by showing that it was putting its theories into practice at home.

The United States' policy on drugs stemmed first and foremost from the country's new status: its war against Spain in 1898 had yielded Cuba, Puerto Rico and the Philippines.[10] With these new overseas possessions the US had become a political and economic world power. As an entrepreneurial nation, it had to compete with several European powers for the expanding markets in the Far East. One of the reasons that the US had conquered the Philippines was to use it as a bridgehead for the huge Chinese market. However, the trading ties between the US and China were marked by friction. As Jan-Willem Gerritsen has pointed out, "What united China and the United States was their common adversary – the European colonial powers, and Britain in particular. By emphasising its aversion to the colonial opium trade, the United States was able to distinguish itself from its European rivals".[11] Fifty years after losing the opium wars to Britain, a vigorously nationalistic anti-opium mood prevailed in China, in which the nationalists in particular wanted to reopen debate on the opium trade. The Americans presented themselves as the ideal partners to help the Chinese with

their opium problem, starting off with an international ban. By currying favour with the Chinese they hoped to gain access to their vast economic market. Besides, an international ban on opium would not be a bad thing for the US, since the country hardest hit by it would be Britain, its main commercial rival.[12]

Another study on international drugs control, also written in the 1970s, is by three Scandinavian authors, Kettil Bruun, Lynn Pan and Ingemar Rexed: *The Gentlemen's Club: international control of drugs and alcohol*.[13] Documented with interviews and case studies, this book covers seventy years of international drugs control and describes the part played by the diverse protagonists, countries as well as pressure groups and individuals. It paints a rather discreditable picture of the way in which international drugs control came into being. In particular, its account of the "Gentlemen's Club" describes how a handful of men managed to secure the introduction of international drugs control policy.[14] Many of these key players were diplomats, law enforcement officers or health-care officials. More importantly, many were friends and had close ties with the pharmaceutical industry.

The Gentlemen's Club makes dismal reading. It is a tale of ill-conceived priorities, disputes about the powers of organisations, conflicting national interests, the influence of the pharmaceutical lobby, and the lack of expert knowledge among the leaders of decision-making bodies. The book also provides an interesting picture of the way international organisations work, including their policy-making and administrative apparatus. It describes the often arbitrary way in which subjects end up on the agenda and subsequently lead lives of their own, culminating in some policy measure. It also demonstrates the immense influence that may be exerted by a single individual. Harry Anslinger, for instance, not only played a decisive role in American policy, but was also a leading player in the drafting of international drugs policy, especially on cannabis.

1.2 Approach and methodology

The two historical studies just mentioned, *The American Disease* and *The Gentlemen's Club*, demonstrate the complexity of drugs policy and identify

the factors and events that have helped to produce international drugs control. They show the frequently irrational nature of this policy and the political role that the drugs issue may play. They also make it clear that the role of the US has been decisive.

This study of the EU represents a relatively short period of research and does not lay claim to the same depth or sophistication as the two books discussed above. Nor does it have their historical dimension, since the EU has only become active in the realm of drugs in the past few years. But the EU is now starting to make its influence felt in the arena where international drugs policy is made: the UN Commission on Narcotic Drugs (CND) and its executive agency, the United Nations Drug Control Programme (UNDCP).[15] This influence can be expected to expand in the future, as EU countries are contributing an increasingly large proportion of the UNDCP budget – their share has now reached 70%.[16]

The EU's growing influence was already noticeable at the last Special Session of the UN General Assembly (UNGASS), convened in June 1998 to deliberate on the global drugs problem. The largely European emphasis on demand reduction clearly gained ground in relation to the American law enforcement approach that had been more traditional in UN circles hitherto. Prior to UNGASS, countries had already reached agreement in the CND on the guiding principles of demand reduction. Part of it was reducing the negative effects of drug use, which means that "harm reduction" – though not yet referred to as such – has now been incorporated *de facto* into UN drugs policy. One year later these guiding principles, including the harm reduction measures, were translated into the Action Plan on Demand Reduction. UNGASS also adopted the principle of shared responsibility, which means taking a balanced approach to demand and supply reduction. This helps to shift the burden of "blame" away from the producing countries in the South.

UN policy still lags behind European practice: harm reduction is an integrated part of policy or even the basic point of departure in most EU countries, while the UN adopted this approach only recently, at UNGASS, and even then in guarded terms as part of demand reduction. It is still impossible to use the phrase "harm reduction" in UN texts, any more than it can be used in the US . For the rest, the UN still follows the American usage of defining all

use of illicit drugs as "abuse". Nonetheless, it is fair to say that the US no longer plays the all-important role in international drugs control that it had for almost the entire 20th century. The countries of the South and the member states of the EU are making their voices heard more clearly than before. However, the EU is too divided to exert itself in this respect as an organisation; it may do so in the future, if the member states can agree on a uniform approach.

The EU's appearance in the arena of international drugs control, and the likelihood of its growing influence in the future, makes it important to understand the way in which policy within the EU is formulated and agreed. This information is particularly relevant to member states, as they have less and less autonomy when devising domestic drugs policy. Although the EU has decided that member states need not harmonise their drugs policies, a certain amount of coordination and agreement is essential. Yet little is known about the way in which this takes place, or the mechanisms involved. This book therefore sets out to clarify the ways in which the EU deliberates and adopts policy on drugs.

Drugs measures can also have dramatic consequences or side-effects that go far beyond drugs control. One salient example is the "prison industrial complex" in the US .[17] At over two million detainees (in 1999), the American prison population is many times larger today than it was in the early 1980s. Stricter drugs policy is the driving force behind the growth in registered crime; the number of drug arrests is eight times more than it was 20 years ago, and more than half of all detainees have been incarcerated for drug offences, largely for possession of small quantities. The US now has by far the highest percentage of detainees in the Western world. An increasing proportion of its jails are private companies, to whose owners they constitute a lucrative growth market.

Other side-effects of the fight against drugs include human rights violations, infringements of privacy and environmental damage. US anti-drugs programmes in Latin America, for instance, involve both human rights violations and substantial damage to the environment.[18] As for infringements of privacy, the US government and most American companies have now introduced compulsory drug tests.[19] In some states people have to pass drug tests to qualify for welfare or food vouchers.

In Europe, only Sweden has introduced blood and urine testing thus far. Since 1993 it has been possible under Swedish legislation to force individuals to submit to testing if they are suspected of being under the influence of drugs. This means the police may intervene without individuals being in possession of drugs or any other offence having been committed. So in examining drug-related measures in the EU, we should bear in mind the possibility of such side-effects coming into play. The history of international drugs control shows that drugs sometimes play a specific role in politics as a scapegoat for other social problems.[20] What is more, policy is decided more often by political factors than objective facts. Drugs are a ready vehicle for populism. Since they can be perceived as a threat to safety, something everyone finds important, they can easily generate public anxiety. Chapter 4 will deal with these issues in more detail.

This report on the EU to some extent follows on from previous reports on the drugs situation in France and Sweden,[21] which set out to place the issues involved in a wider context than that of official accounts. While the present book focuses more on policy than the two country reports, its emphasis is less on describing official policy – though this aspect also receives attention – and more on the underlying mechanisms and processes that help to shape it.

It is always a good idea – especially when dealing with large organisations – to look at processes from an outsider's point of view. Employees are often so preoccupied with their day-to-day work that they are unable to take the necessary distance essential to a more inclusive, holistic analysis. An outsider's analysis is not just useful, but perhaps essential. It will become clear in the following pages that the EU's decision-making machinery is complex in the extreme. Drug-related issues are discussed in many different bodies within the EU. Even people who have been working in Brussels for years do not always have a grasp of how all these bodies work. This complexity is one of the constraints on the present study. It is impossible to look at all the EU's procedures and decision-making mechanisms and every single body in which drugs are discussed.

In the course of the research another reason for this study became clear – the importance of the policy-making procedures and political decision-making processes themselves, along with the non-transparent mechanisms

that play a role in the background. This study shows that internal bureaucratic mechanisms within the EU greatly influence the formulation of policy. It became virtually unavoidable to examine these processes closely. So this study of EU policy on drugs can also be seen as an analysis of the way in which decisions in general are made within the EU, with drugs policy as an example. That is not to say, of course, that drugs are a representative issue. Not all the EU's policy areas are as politically sensitive as this one, added to which it is very much a "cross-pillar" theme, in EU jargon. Still, this analysis gives an impression of the procedures and mechanisms that are at work in the EU. It takes a look behind the scenes of the EU, from the vantage point of a specific policy area.

A variety of sources were used in the course of this research. It was essential to start by studying the EU's highly complicated structure: the treaties on which it is based, the many forums of which it consists and the diverse, non-transparent decision-making procedures of its administrative machinery. The study of the literature embraced general works on the EU, scholarly treatises on international drugs policy, and official documents produced by the Council, Commission, European Parliament and other EU bodies. Material was also incorporated from interviews with dozens of people of different nationalities who work for, or are closely involved with, the Council, Commission or Parliament, from policymakers at Directorates-General to secretarial staff. Other interviewees included people whose ministries have dealings with the EU, for instance through the Permanent Representative in Brussels.[22] Finally, numerous people were interviewed who do not work within the EU but have many years' experience in Brussels as consultants or other freelance operatives.

One final remark is in order about the terms used in this report. In the interests of intelligibility, EU jargon and abbreviations have been kept to a minimum. The term "Maastricht Treaty" is used, for instance, instead of its official title, the Treaty on European Union. Terms are sometimes explained in footnotes. Readers seeking further clarification of terms or procedures may find it useful to consult a concise guide to the EU such as *Europe from A to* Z, obtainable free of charge from EU publicity offices.[23]

2 POWERS BEFORE AND AFTER MAASTRICHT

2.1 Introduction

This introductory chapter will review the institutional framework of the EU before and after the Maastricht Treaty, or Treaty on European Union, of 1993. It was this Treaty that first gave the EU powers in drug-related issues.

Section 2.2 briefly summarises the way in which the EU came into existence. Section 2.3 looks at EU activity in this area before the Maastricht Treaty of 1993. This primarily involves measures taken through CELAD, the European Committee to Combat Drugs. The European Parliament was also active to some extent, and its Cooney Report contained some interesting observations.

Section 2.4 looks at the institutional structure of the EU since Maastricht. It describes the three "pillars" of the EU and explains the various contexts in which drug-related issues are discussed in each pillar. This section has been included for readers who are unfamiliar with the maze-like structure of the EU and its obscure decision-making processes. Section 2.5 and 2.6 look at the Schengen and Amsterdam Treaties, respectively. The latter entered into effect on 1 May 1999, and amended the Treaty on European Union in several important ways.

2.2 The institutional framework before Maastricht

For the sake of completeness it is useful to give a very brief summary of the way in which European cooperation came into existence. The first steps were taken in the aftermath of World War II. The rationale was that cooperation would reduce the risk of war within Europe, especially between France and Germany, which had been involved in three armed conflicts since 1870. Cooperation would also help to allay the "German peril":

anchored in a European framework, Germany would be less likely to display expansionist tendencies in the future.

The initial focus was on economic cooperation. In line with proposals by Robert Schuman and the ideas of Jean Monnet, the entire French and German coal and steel industries were placed under a supranational authority. This would initiate economic integration and reduce the risk of conflict between Germany and France to a minimum. This plan led to the establishment of the European Coal and Steel Community (ECSC) in 1952, which the Benelux countries and Italy also joined. In 1957 the EEC was founded in Rome by the three Benelux countries, the Federal Republic of Germany, Italy and France. The treaty establishing the European Atomic Energy Community, or Euratom, was signed at the same meeting. From then on, there were therefore three Communities: the ECSC, Euratom and the EEC. The latter proved to be by far the most important, and it became increasingly dominant with the passage of time.

In 1967, ten years after the signing of the Treaty of Rome, the Merger Treaty was signed. From then on the three European Communities would have common organs and institutions, in particular the Commission, Council, Parliament and Court. However, the three Communities would keep their own rules. Legally speaking, therefore, there were still three Communities, but informally, and for the sake of simplicity, the three were referred to collectively as "the EC". This three-strand history explains why the EC is still sometimes referred to in the plural as "Communities".

The next important moment in the history of European cooperation was the adoption of the Single European Act in 1987. This Act incorporated a series of measures and additions to the Treaty of Rome. While European cooperation had been largely economic in the beginning, centring on Community policies on coal and steel, agriculture and fisheries, little progress had been made in other fields. The Single Act placed more emphasis on the creation of an internal market. This meant that all obstacles to the free movement of goods, services, persons and capital had to be abolished, a process to be completed by 1992.

Meanwhile, the EEC, the most important Community, was gradually taking in more members. In 1973 the UK, Ireland and Denmark joined, fol-

lowed in 1981 by Greece, Portugal and Spain. In 1992 the EEC officially changed its name to EC. Three years later it acquired three new members: Austria, Finland and Sweden. How far political cooperation should go was, and remains, a contentious matter: should the EC strive to achieve a federal Europe, or should it be an intergovernmental Europe of States?[24] Successive plans were formulated to expand the existing cooperation into non-economic areas (such as the proposal to establish a political EPU alongside the economic EMU), but it was not until the Maastricht Treaty of 1993 that a new cooperative framework was adopted.

With the entry into force of Maastricht, the European Community became the European Union. Maastricht expanded European cooperation by adding two new "pillars": a common foreign and security policy (CFSP) in the second pillar, and closer cooperation in justice and home affairs (JHA) in the third pillar. The first pillar consisted of the existing cooperation within the EC. The result was therefore a considerable expansion in the EU's areas of competence, and drug-related issues were included in the subjects about which member states would make agreements for the first time. How this has developed will be discussed in the following chapters. First, the following section will describe the initiatives taken in relation to drugs before Maastricht.

2.3 European initiatives on drug-related issues before Maastricht

Drugs were scarcely discussed within the framework of the EC until the 1990s. There was no mention of them, for instance, in either the Treaty of Rome of 1957, which laid the foundations for the EC, or in the Single European Act of 1987. So during this period of integration, drugs were not regarded as belonging to the realm of European policymaking. Nonetheless, they were sometimes discussed, and several bodies took initiatives in this area before Maastricht.

The Stewart-Clark Committee (1985-1986)

In 1985 the European Parliament set up a committee to investigate drug problems in the countries of the Community, which became known as the

Stewart-Clark Committee.[25] This Committee, whose composition reflected the makeup of the Parliament, may be regarded as the first European initiative relating to drugs. It studied a variety of drug-related issues for one year, interviewing experts and making working visits along the way.

At the end of this year, in 1986, the Committee found itself unable to reach a unanimous verdict. The report, drawn up by the British Conservative Sir Jack Stewart-Clark, led to a left-right schism within the Committee's members. The right-wing majority initially rejected the report and submitted a large number of amendments. The left-wing members would not agree to these amendments, and adopted a minority position, which was published as such along with the report.[26] Hedy d'Ancona, a Dutch politician who was among this left-wing minority, later commented that "the essence of the schism was a difference of approach, on matters of principle, to the phenomenon of drug use".[27] The right-wing Committee members took the view that drugs are illegal and that policy should be based on the principle of prohibition, while the left-wing members preferred a more pragmatic approach, the emphasis being on reducing the harm caused by drug use.[28]

The report pronounced on various policy options, one of which being the legalisation of drugs, which it rejected.[29] For the Committee took the view that the most important effect of legalisation, that is, the elimination of the illegal market in drugs, would only be possible if governments were to make large quantities of drugs available. And this the Committee considered immoral, because of their harmful effects. Nonetheless, it advocated a relaxation of policy on cannabis use, partly on the basis of experience gained in the Netherlands. The liberal cannabis policy in the Netherlands had not led to more widespread use, it was argued. Furthermore, the separation of markets would reduce the likelihood of cannabis users switching to hard drugs. Substitution programmes involving methadone, for instance, were rejected because they generated a new dependency.

The left-wing minority emphatically favoured methadone substitution programmes, as they enabled people to live more normal lives. They also favoured a "normalisation" of the phenomenon of drug use, and proposed that people should no longer be prosecuted for the consumption, possession or sale of small quantities.

Although the Committee spent a year studying these issues, there was no institutional framework at the time enabling practical measures to be taken on the basis of its findings. The European Parliament, for instance, did not have a permanent committee on drug-related issues. The Council did respond to the Stewart-Clark report, however. On the basis of the report, the Council adopted a resolution reaffirming the illegality of all drugs listed in the relevant UN Conventions.[30] Summing up, in 1986 the European Community came down firmly on the side of tackling drugs from the vantage point of the criminal law.

Signing of the UN drugs convention of 1988

In 1987 a UN conference took place in Vienna on trafficking in narcotics and psychotropic substances, which eventually led to the Convention of 1988. In principle this conference was meant for countries, but the EEC also attended as a legal entity. In 1988 the EEC signed Article 12, paragraph 2 of the UN drugs convention of 1988, the part of the convention that deals with precursors. The fact that the EEC acted here as a legal entity and signed an article was based on article 113 (now article 155, para. 3) of the Treaty of Rome, the treaty establishing the EEC. This article empowers the Community to "cooperate with third countries to promote projects of mutual interest". On the basis of this competence, the EEC acted as a legal entity and signed the article concerned.

The European Committee to Combat Drugs (CELAD)

It was in 1989 that the subject of drugs first acquired a firm place on the EU's political agenda. For this was the year in which the European Committee to Combat Drugs (CELAD) was set up, following a proposal by President Mitterrand of France.[31] In October that year, Mitterrand wrote a letter to the other eleven EU government leaders and to the President of the European Commission, a letter that Georges Estievenart has called a milestone in the history of the European fight against drugs. Mitterrand's initiative recalled the efforts of Georges Pompidou in 1971.[32] The latter had initiated an expert consultative committee (the "Pompidou Group"), which was set up by the judicial authorities and met in the framework of the Council of Europe.

Like Pompidou, Mitterrand sought to immortalise himself through his stand on drugs, and set up a special committee that was initially intended to bear his name. Other government leaders were unenthusiastic about the new forum. Mitterrand's persistence eventually carried the day, but the new committee was given the more neutral name of CELAD.

Two months after Mitterrand's initiative, the European Council, meeting in Strasbourg, ratified the government leaders' proposal and established CELAD on a formal basis. This European committee consisted of individuals designated by each member state as coordinators of national drugs policy. Some countries delegated a former minister, others a senior civil servant. A representative of the European Commission also sat on CELAD.

CELAD occupied a unique position – it had been established as an ad hoc political committee *outside* the EU's usual institutional framework. The EU rules had been circumvented, as it were, and the committee had no formal powers. In spite of this, the Committee reported directly to the European Council. This meant that there was a direct line between the national coordinators who sat on CELAD and the heads of government, who make up the European Council. The fact that some countries sent politicians instead of experts to CELAD indicated that the political leaders wanted to keep things under firm control. Not everyone within the EU bureaucracy was entirely happy with CELAD's existence. Some bodies viewed it as a threat to their competence. On the other hand, the EU did little to impede CELAD, in spite of its peculiar informal status, and a representative of the Commission indeed sat on the Committee. It should be borne in mind that CELAD had been set up as an initiative launched at the level of heads of governments, at the initiative of the only head of state – the most influential person – in their midst.

CELAD's aim was to coordinate drug-related activities within the EU. Besides the fight against drugs, this included coordinating definitions of addiction and setting up a monitoring centre. Coordinating drug-related activities was a logical step, it was argued, given that several EU countries – Germany, France, Italy, Portugal and Spain – already had national drugs policy coordinators. By joining forces, CELAD hoped to form a more effective front against drugs. This optimism was partly inspired by the success, at

the time, of a joint EU effort to curb immigration. Another factor was the recent adoption of the UN drugs convention in 1988, which had helped to create a climate favouring joint action against drugs.

In retrospect CELAD can be viewed as the first consultative body of EU countries that discussed the whole spectrum of drug-related issues. According to its critics, CELAD was not always very effective: it talked long and hard, but often without producing any results. Still, it exerted immense influence. The two Action Plans to combat drugs that were adopted at the European Councils of Rome (December 1990) and Edinburgh (December 1992) respectively were both attributable to CELAD. The European drugs prevention week that is organised annually by the European Commission was also originally an idea launched by CELAD. But the Committee's main achievement was the establishment of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). When the preparations started for the launch of this new body, the EU had not yet formally decided that drugs policy was to fall within its competence. The preparations for the launch started as early as 1990, and the negotiations between member states took place in 1992, but it was not until a year later, with Maastricht, that the EU decided that drugs should indeed be an EU issue.

In general, CELAD can be said to have played an important role in the genesis of European cooperation on drugs policy between 1989 and 1993.[33] It eventually died a quiet death when the Maastricht Treaty entered into effect in 1993. Its work was later more or less taken over by the K4 Committee, whose powers, in contrast to CELAD, were clearly defined. However, K4's members were lower in rank than those of CELAD, and it was therefore less influential.

Adoption of first Action Plan to Combat Drugs (1990)

At the Rome European Council in 1990, the twelve heads of government adopted the first Action Plan to Combat Drugs, as proposed by CELAD. The second Action Plan was adopted at the Edinburgh European Council in December 1992.

The Cooney Report on drug trafficking and organised crime (1991-92)

In 1991 the European Parliament decided to launch an enquiry into the increase of organised crime related to drug trafficking. To this end it appointed a committee of enquiry, with Patrick Cooney as rapporteur.[34]

The report that emerged in due course started by commenting on the alarming increase in the power of criminal organisations that controlled drug trafficking. It noted that "the financial gains to be made from drug trafficking enables the criminal organisations involved to contaminate and corrupt the structures of the State at all levels",[35] and went so far as to state that in some countries organised crime possessed so much influence that it could impose its own conditions and blackmail those responsible for making political decisions.[36] It pointed out that there had been several instances of collusion between criminal groups and secret services and other state agencies in relation to fraud, money laundering, secret funding and the use of the same financial agencies. "All this can weaken the political determination to attack the main centres of the international traffic in drugs".[37] The report implicitly questioned the wisdom of the current policy as the answer to the existing problems, in that it observed that the current policy had been very ineffective.

"The policies carried out to date have not achieved their objective, namely to stop, or at least reduce the penetration of drugs into the EC. It is estimated that repression has so far brought about a reduction of between 5 and 15% in drugs traffic and the capital that generates. It is therefore necessary to assess whether – assuming it were possible – a determined increase in the effectiveness of repression could deal a significant, or even fatal, blow to the traffic or whether other strategies should not be considered".[38]

On the basis of these observations, the Cooney Committee asked for a cost-benefit analysis of current drugs policy. It also noted that aside from investigating the phenomenon of drug trafficking, the consequences of the fight against drugs should also be investigated, in particular the consequences for democracy and the security and freedom of the public. The Cooney Committee then made a large number of recommendations, including (in abbreviated form) the following:

More attention should be paid to the demand side of the drugs problem. Governments should also invest more in measures that reduce the risks of drug abuse, such as the distribution, free of charge, of needles and substitute substances. (Without actually using the term, the Committee advocated a policy of "harm reduction");

Drug addiction and drug abuse should be treated primarily as a subject relating to health and welfare, and not as one of "police and justice". The possession of small quantities of drugs for personal use should not be regarded as a criminal offence;

The emphasis in the fight against drugs should not be on users or the bottom of the trafficking hierarchy, but on organised international trafficking. With a view to reducing the health risks associated with drug use, a pragmatic approach should be followed, consisting of reimbursing the costs of drug addicts' health and social care. Attention should also be paid to ensuring that unadulterated drugs are available at specific dosages.

The subtext of the Cooney Report was that a new approach was needed. The Report struck an unusually rational, pragmatic and open tone, and did not flinch from violating taboos. For instance, it stated that cannabis was less harmful than tobacco and spirits. However, it did not follow this argument through to its logical conclusion by advocating a different regime (such as liberalising policy on cannabis and tightening up restrictions on tobacco and spirits). It also omitted to draw the more or less logical conclusions from previous statements, for instance in connection with UN drug conventions. While stating that the UN's position on drugs constituted an insuperable obstacle to legalisation,[39] the report did not go so far as to question the conventions or accession to them; on the contrary, it called upon EU member states to accede to the UN's three drug conventions and to observe their provisions. The report also stated that the UN was the organisation best qualified to monitor the fight against drugs. R.A. Visser has rightly observed that by adopting this stand the Cooney Report undermined a significant proportion of its own recommendations, many of which diverge from or are even diametrically opposed to elements of UN drugs policy.[40]

In a resolution based on the recommendations of the Cooney Report, the European Parliament rejected the legalisation of drugs and called upon member states to comply with the UN conventions.[41] Prohibition was to remain the basis of the EU's policy on drugs. Nonetheless, the report seems to point to changing opinions within Parliament on the policy to be pursued. Visser comments that the recommendations included in the Stewart-Clark Report as a minority view recur in the Cooney Report, but this time as the majority view.[42]

2.4 The institutional framework since Maastricht

After the Maastricht summit in 1991, the Maastricht Treaty was signed in 1992 and entered into effect in 1993. Its official name is the Treaty on European Union, or EU Treaty. Since Maastricht the decision-making processes of the EU have changed, and to a certain extent they have become more complex and impenetrable. For Maastricht introduced the principle of the three pillars as the organising principle of the EU's policy areas. The trouble is that numerous different and extremely complicated decision-making procedures apply in each of the three pillars – dozens in total – which are difficult even for insiders to comprehend. This impenetrability of the procedures is one of the primary reasons for the criticism expressed of European integration.[43]

Everything that had previously comprised the European Community was assigned to the first pillar. In this pillar, decisions are made together – by the "Community method". Whereas this cooperation was initially primarily economic, other areas were gradually added, such as agriculture. The important point about the Community method, which hence only applies within the first pillar, is the special interaction that takes place between the Commission and the Council. The Council is the body in which member states and their ministries are represented. It is the highest organ of the EU, because it makes the decisions. With the Community method, the Council reaches its decisions only after the Commission has formulated a proposal. For issues that are included in this first, Community pillar, the Commission thus has the "right of initiative". As will become clear, which bodies

possess the right of initiative is of considerable importance within the pillars. Entitlement to formulate proposals confers influence.

Since Maastricht, other policy areas have been added to the EU's areas of competence. These new policy areas are organised in the second and third pillars. These pillars do not operate according to the Community method, but are intergovernmental in nature, which means that member states arrive at policy in joint consultations. The organ within which member states conduct these consultations is the Council. So for policy areas belonging to the second and third pillars, the right of initiative lies with the member states. Since the Treaty of Amsterdam, the Commission – in addition to member states – has acquired the right of initiative in third-pillar questions. What has not changed is that all decisions, in all pillars, are always taken by the Council.

Before the ministers of the member states make decisions in the Council, the documents are first inspected by Coreper, the meeting of the Ambassadors to the EU, known in Brussels as Permanent Representatives (PRs). Within Coreper, decisions are prepared by Council groups, comprising officials from the ministries of the member states. Chapter 3 will deal with all these matters in more detail.

First pillar

Thus the first pillar comprises the "old" European Community more or less as it existed before the Maastricht Treaty. The policy areas in the first pillar include agriculture, transport, environment, energy, research and development. Here the European Commission possesses the right of initiative, which means that it carries out the preparatory work and formulates proposals. It only takes initiatives if it believes that an issue is "hot" in the member states, in other words that there would be enough support for its initiative. This means that the Commission formulates proposals that it anticipates will be accepted by the Council. If the Council does not agree with a proposal, it formulates a compromise alternative. In principle a qualified majority within the Council is enough to adopt this alternative, provided that the Commission agrees. If the Commission does not agree with the compromise, however, the Council can only adopt it by unanimous vote.

All in all, the Commission therefore has a lot of influence in first-pillar matters; once it has formulated its proposals, it is not easy for the Council to sweep them aside.

After the Commission has formulated a proposal, it is submitted to the relevant official EU working parties, whose members can consult the responsible ministries of their own member states. As already noted, the first pillar operates by the Community method: the Commission formulates proposals, after which the Council decides. The actual decision-making procedures differ from one issue to the next. For instance, for some issues (such as taxation, industry and culture) unanimity is required. For others a simple majority will suffice. But the most common procedure within the first pillar is qualified majority voting (QMV). QMV requires a qualified majority in the Council, sometimes with the additional condition that ten of the 15 countries must support the proposal. It applies to matters concerning, for instance, agriculture, fisheries, internal market, environment and transport. Qualified majority voting proceeds by "weighted" votes in the Council. At present the total of 87 votes are divided up as follows, with a qualified majority being reached at 62:

Germany, France, Italy and the UK:	10 votes each
Spain:	8
Belgium, Greece, the Netherlands and Portugal:	5 each
Austria and Sweden:	4 each
Ireland, Denmark and Finland:	3 each
Luxembourg:	2

It is customary with many (but not all) first-pillar subjects that as soon as the Commission has formulated a proposal, Parliament is asked for its advice. This advice is non-binding, however; it is up to the Council to adopt, amend or dismiss the proposal. So the European Parliament does play a role in these issues, but ultimately it does not possess real power. True, Parliament is consulted by the Commission, and public parliamentary debates are held on each proposal, but its formal powers do not extend beyond making recommendations, in the form of resolutions. Like the

Council, the Parliament can ask the Commission to take a particular initiative.

For certain policy areas a different procedure exists, however, in which Parliament has far more influence. This is the codecision procedure. In this line of decision-making both the Council and the European Parliament have to approve a proposal, which in this case is called an "incentive measure", from the Commission. So here Parliament has more tangible powers. The Treaty of Amsterdam increased the number of policy areas to which the codecision procedure applies to several dozen, including the internal market, consumer affairs, culture, environment, education and health care. So for all these policy areas, the EP has the right of amendment. The codecision procedure is quite elaborate and can take up to two years. After the Commission has submitted its proposal, Parliament formulates its recommendations to the Council. If the Council and Parliament agree, the Council can adopt the proposal by qualified majority. If the Ministers do not agree with Parliament, however, the Council resubmits the proposal to Parliament in amended form. If the two bodies still fail to reach agreement at this stage, a mediating committee is appointed, consisting of 15 MEPs and representatives of the 15 member states. This committee is given six weeks to find a compromise that is approved by Parliament and Council. If they fail to do so, the proposal is abandoned.[44]

It is significant that drug-related issues come under the first pillar on the basis of Article 152 (ex Article 129) of the EC Treaty, which deals with public health. The Article states:

"The Community shall contribute towards ensuring a high level of human health protection by encouraging cooperation between the Member States and, if necessary, lending support to their action. Community action shall be directed towards the prevention of diseases, in particular the major health scourges, including drug dependence, by promoting research into their causes and their transmission, as well as health information and education."

This established public health as a province of European policy-making, but public health is also subject to the principle of subsidiarity, which basically means that Community action is taken only if it has added value compared to policymaking at national level.[45] In practice this means that most aspects of public health care still come under the responsibility of member states, but that the Commission has complementary powers in this area. Community policy on drugs lies primarily in the realm of public information and education. This includes the 1996-2000 programme of action on drug prevention, the EU's first programme of this kind, which was adopted by the Council and Parliament in 1996.

It can therefore be said that Community policy on drugs exists as far as certain complementary public health care aspects of the problem are concerned. The working group that concerns itself with these issues is the Public Health group. Certain other aspects of the drugs theme belong to the first pillar, such as precursors and money laundering; these are dealt with in the Economic Affairs and Finances group respectively. Precursors, the raw materials from which synthetic drugs are made, belong to the first pillar because they are related to trade, while money laundering belongs here because it has to do with the implementation of the internal market, which is subject to Community law. In addition, the establishment and legal basis of the EMCDDA, and any changes to them, also come under Community policy. Finally, policy on drugs is also discussed at length in the first pillar in relation to development cooperation. This involves cooperation with regions such as East and Central Europe, the ACP countries (Africa, Caribbean and Pacific), and Central Asia. A special North-South drugs "budget line" has been created for this purpose, which is managed by the Development Directorate-General. Drug-related issues are also incorporated into the talks that the EU conducts with the countries in Eastern and Central Europe.

Second pillar

The second pillar covers the Common Foreign and Security Policy (CFSP). In other words, it deals with the EU's external relations in the political and diplomatic spheres. The Ministries of the member states most involved with the issues in this pillar are Foreign Affairs and Defence. The nature of

the cooperation here is intergovernmental, which means that decision-making is arrived at in joint consultation between countries and requires a unanimous vote. In the second pillar countries can also decide on what is called joint action, which also requires unanimity. For certain implementation decisions the Council can decide (unanimously) that a qualified majority vote will suffice.

In second-pillar issues, the European Commission does not have the right of initiative; it is the Council (which basically means the combined member states) that takes the initiatives here. The European Parliament has little influence on matters that arise in the second pillar. The Council Presidency keeps it informed of developments in the CFSP, and Parliament is entitled to ask the Council questions and make recommendations.

The Treaty on European Union does not refer explicitly to drugs as a theme to be dealt with in the second pillar. Still, it does come up in various contexts, albeit in a somewhat abstract fashion – far more abstract than in the other two pillars. The reason for this limitation is that the second pillar does not possess a budget for implementing measures. In this sense, the second pillar is purely political and diplomatic – it is a consultation pillar, focusing on the political dialogue with third countries (the EU term for countries outside the EU). So when drugs are discussed, the question is how to improve international cooperation with a view to achieving a more effective approach to the problems involved. The second pillar also includes talks with applicant countries and decisions on the conditions under which accession can take place. However abstract these deliberations may appear to the EU itself, they are of direct practical significance to the countries concerned.

The second pillar also includes discussions of international instruments, such as the international conventions to which the EU has joined up. This includes everything related to the UN's international drug conventions, such as the preparations of the Commission on Narcotic Drugs (CND) and those for UNGASS (see also 4.7). Wherever possible, the EU countries formulate joint positions for the CND and UNGASS, although countries also present their own points of view. Until 2000, the most important Council working group that dealt with these second-pillar questions was Codro.

Since all 15 countries of the EU have signed the three drugs conventions, these conventions have been incorporated into what is known as the EU's *acquis* or legal foundations. This means that all acceding countries also have to have sign them. At the Amsterdam European Council, the heads of government adopted the Action Plan on organised crime and with it the pre-accession pact on organised crime, a series of conditions with which countries must comply in order to accede to the EU. This means that applicant countries must show that they are taking effective action against drugs as an important constituent part of the accession process. For instance, it is a precondition that countries have signed the Strasbourg Convention on money laundering and the UN drugs conventions. In addition, countries that want to accede must in principle take all the other measures that EU countries have already taken in areas such as money laundering and precursors, and the same or similar measures to combat drugs as the present EU countries. Besides passing legislation, this also means that they must have institutions similar to those in the EU countries and national policy coordination points.

Countries that want to sign association agreements with the EU must also have signed the UN drugs conventions. Drug-related issues are raised in talks with several of these "associated countries", such as Iran, Afghanistan, Nigeria, Morocco and Peru. The EU goes further still: it brings drug-related issues systematically into virtually all political dialogues with third countries or regional organisations, including Afghanistan, Myanmar (Burma), the Southern African Development Community and the countries of Central Asia. Drugs and human rights are among the subjects that are raised routinely. The EU holds up action to combat drugs and respect for human rights as key conditions for cooperation. Indeed, the relationship between human rights and the war on drugs is a typical second-pillar subject. The two may well conflict, as in Burma. On the one hand, the EU wants to make agreements with the Burmese regime about measures to combat drugs, but on the other hand it wants to draw attention to human rights violations in Burma. Policy has to be developed concerning this dilemma within the second pillar.

The EU's active approach to the international fight against drugs, including insisting that countries have signed the UN conventions, is based on the

EU's position that the UN conventions constitute the foundation of international drugs policy, and that all countries in the world should sign them. Another reason for this approach is that the EU is eager to restrict the quantity of drugs within its territory.

Within the second pillar, drugs are also an issue in dialogue with the United States. The Dublin Group, an informal consultative drug prevention platform whose participants are Western donors to multilateral and bilateral drug programmes (see section 4.7), also operates within this pillar.

Third pillar

The third pillar relates to cooperation in the realm of Justice and Home Affairs (JHA). Here too, decisions must be taken unanimously, which means that every country has the right of veto. Here as in the second pillar, joint action may be decided upon unanimously, and here too the Council may decide that certain implementation decisions can be adopted by a qualified majority.

In the third pillar, the right of initiative lies in any case with member states. The Maastricht Treaty also gave the Commission the right of initiative in certain parts of cooperation in the third pillar, such as asylum policy, illegal immigration and fraud. Where the fight against drug trafficking and other forms of international crime are concerned, the right of initiative lies exclusively with member states.

The investigation and prosecution of those suspected of drug offences are matters discussed within the third pillar. Title VI, Articles 29 and 31of the EU Treaty on police and judicial cooperation provides that the fight against drug trafficking belongs here. To coordinate activities in the third pillar, the K4 Group was set up under the auspices of Coreper. With the Treaty of Amsterdam, K4 was subsumed into the Article 36 Committee. A variety of groups fall under this Committee, such as the Multidisciplinary Group on Organised Crime, and the Police Cooperation, Customs and Europol groups. Drug-related matters are raised in all these forums, but the Multidisciplinary Group on Organised Crime is one of the most active. Although it discusses other matters besides drugs, it may be regarded as the most important group dealing with these issues in the third pillar.

Various things have changed since the Treaty of Amsterdam. The third pillar has been thinned out a little, with some themes having been "communitised", that is, moved to the first pillar. Since then, the third pillar has been largely confined to cooperation between police and judiciary in criminal cases. What is more, the Commission's right of initiative has been expanded since Amsterdam; it can now take the initiative in all third-pillar questions. So the Council and the Commission are now on an equal footing in this pillar. But Parliament's role has also been strengthened. The Council is now required to ask Parliament for its advice, although it is still entitled to set it aside.

2.5 The Schengen Agreement

The Schengen Agreement dates from 1985, and its object is to accomplish the free movement of persons, goods and services. To achieve this, the Schengen countries strive to abolish all controls along their inner frontiers. This clearly makes it harder to curb cross-border crime. The Schengen countries have therefore decided to endeavour to harmonise their legislation on drugs, arms and explosives, and hotels' registration procedures, to improve the effectiveness of law enforcement.

The harmonisation of legislation on drugs is a stumbling block in these negotiations. The question arose of which national legislation or practice should be adopted as the standard. Should Schengen rules be based on the liberal policy of the Netherlands or the stricter policy favoured by France? Eventually a political solution was found by invoking the UN drugs conventions. The ratification of these conventions should be regarded as a guarantee for the harmonised legislation as enshrined in Article 19 of the Schengen Agreement.

In the course of time, however, this political compromise has proved inadequate: the countries concerned may well have signed the UN drug conventions, but this does not in fact provide any guarantee that they have harmonised their legislation on drugs. Quite simply, in practice every country has its own drugs policy, and even within a single country significant differences may be observed.[46] One clear difference between countries emerged

in the follow-up negotiations to the Implementation Agreement of 1990, in which Germany – where prosecutors have no discretion on whether or not to prosecute – wanted to introduce a minimum prosecution norm, an idea that did not appeal to countries where prosecutors do have this discretion.

A new compromise was eventually struck, by adopting as the general principal that if a country's drugs policy deviates from that of others, all parties must take measures to limit the impact of this discrepancy on those other countries. With the adoption of this solution, the original objective of the Schengen Agreement was effectively abandoned.[47]

It should be noted that since the Treaty of Amsterdam entered into effect, the Schengen Agreement has been annexed to the official Treaty on European Union as a protocol. What this means is that the compromise solution just described now applies to all 15 member states. Because of the Schengen Agreement, the countries have to take more account of one another than in the past, and they have less freedom, *de facto* if not *de jure*, to pursue their own policies.

2.6 The Treaty of Amsterdam

The Treaty of Amsterdam that entered into effect on 1 May 1999 made substantial changes to the EU Treaty ("Maastricht") and the EC Treaty ("Rome"). One of the most significant changes is that the European Council has now been endowed with a formal legal basis, which it lacked before. The purpose of this summit of heads of government, which takes place in principle every six months (at the end of each Presidency) is to lay down the lines to be followed by EU policy. The actual decision-making takes place not here but in the Council. Still, these summits are of crucial importance to EU policy.

The Treaty of Amsterdam gave the European Parliament more powers. The EP can now participate in decisions on legislation in a growing number of areas through the codecision procedure. Between Maastricht and Amsterdam, the codecision procedure applied in 15 areas of policy; Amsterdam added another 38, so that the European Parliament now has a large say in the drafting of much European legislation. It participates in decisions on matters involving environment, culture, transport and technological research.

The Treaty of Amsterdam also provides that Parliament must always be asked for its advice in matters relating to the third pillar.

One important change in the approach to drugs is that aspects relating to public health are to receive more emphasis. Article 129 of the EC Treaty had stated, prior to Amsterdam: "Community action shall be directed towards the prevention of diseases, in particular sources of great danger to human health, including drug addiction". The Treaty changed this formulation, and the Article (now Art. 152 of the EC Treaty) states: "Community action, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to human health." It is important here that the Community, represented by the Commission, can take initiatives to complement national policies. The drugs theme is mentioned explicitly in another part of this Article: "The Community shall complement the Member States' actions in reducing drugs-related health damage, including information and prevention".

Legal experts from the European Commission have tried to define the precise legal implications of this Article, which are not entirely clear. But it appears that the new Article will provide more scope for harm reduction as part of policy on health care, under the headings of "complementary" measures and "prevention". Article 152 also refers to "drugs-related health damage", which was not mentioned in Article 129. As it is up to the European Commission to take initiatives in this area, the Commission can also do so in the realm of harm reduction.

The Commission has also acquired extra powers in relation to drugs issues in the third pillar. Before the Treaty of Amsterdam it could only take initiatives for subjects in the first pillar, and now it can do so in the third pillar. The Treaty of Amsterdam has also introduced agreements about closer cooperation between police and judiciaries in the realm of illicit drug trafficking, but the legal and practical implications are not yet entirely clear. At present, decisions in the third pillar still require unanimity, but there is a gradual development towards more decisions being taken by qualified majority vote. This development is obviously related to the growing number of member states.

2.7 Summary

Member states started cooperating in drug-related matters at the end of the 1980s. CELAD, a coordinating committee launched on the initiative of President Mitterrand, played a leading role in this process. CELAD essentially acted in an institutional vacuum, as the EU, or EC, had not yet decided to concern itself with drugs. The European Parliament too undertook various activities, such as the publication of reports by the Stewart-Clark and Cooney Committees. The Cooney report in particular, which focused on drug trafficking and organised crime, made several interesting observations and recommendations, which were however not adopted by the Council.

It was not until the Treaty of Maastricht, in 1993, that drugs, along with a great many other new subject areas, were brought within the EU's competence. Since then the subject has been on the agendas of numerous EU forums. The powers possessed by these forums depend on the aspect of the drugs problem that is under discussion. This is because Maastricht introduced a three-pillar structure, which distinguishes between the EU's different policy areas. The first pillar consists of the "old" European Community (EC), the second deals with the Common Foreign and Security Policy, while the third deals with Justice and Home Affairs.

It is important to note which parties may take the initiative in the different pillars, as this provides scope for influencing decision-making. The first pillar operates according to the *Community method*; here the Commission plays an important role and possesses the right of initiative. The second and third pillars operate according to the *intergovernmental method*, which means that member states arrive at agreements in joint consultations, with the Commission having a far less prominent role. Despite the differences in the right of initiative, it is always the Council, in which the member states are represented, which takes the final decision. The powers of the European Parliament are relatively limited. It participates in decision-making only in policy areas that are subject to the codecision procedure, in which the Council and Parliament have to reach agreement. As far as drugs are concerned, this applies only to certain health-related aspects.

In the first pillar, drugs are discussed primarily within the framework of public health and development cooperation. In accordance with the principle of subsidiarity, public health is largely a matter of domestic policy for the member states. However, the Commission may take complementary measures, which it does primarily in the realm of preventive measures and disseminating public information. In addition, certain other aspects of drugs are discussed in the first pillar, such as precursors and money laundering. In the second pillar (Common Foreign and Security Policy), although drugs are not discussed in specific detail, they often arise in talks with third countries and international organisations. Such talks centre on concluding joint agreements, and the EU will sometimes question whether countries are doing enough to combat drugs. In the third pillar (Justice and Home Affairs), there is a great deal of discussion about drugs, since this pillar deals with the fight against organised crime and drug trafficking.

Drugs are increasingly being brought into talks with third countries in recent years. The Commission raises the subject in talks on development cooperation, and the Council does so in the second and third pillar. The EU operates a policy whereby countries must demonstrate that they are taking adequate measures to combat drugs as a condition for cooperation. This applies not only to applicant countries, whose capacity to act effectively against drugs is an important condition for accession, but to all countries that want to do business with the EU. It is in this area of external relations that the EU has become particularly active in drug-related matters.

3 COMMISSION, COUNCIL AND PARLIAMENT

3.1 Introduction

Chapter 2 discussed the division of the EU into three pillars. This chapter is based on another threefold division, as deals with on the EU's three main institutions: Commission, Council and Parliament. The focus will not be on their institutional framework, but on content and the way in which discussions and decisions relating to drugs come about within these bodies. It will become clear that each one has a different approach to the problems involved.

Many EU documents refer to action to combat drugs as a priority. The Cannes European Council of June 1995 (during the French Presidency) was the first to put drugs high up on the European agenda. For it was this summit that adopted the European Global Plan of Action in the Fight against Drugs. From that time onwards, the theme has had a fixed place on the agenda of each European Council, although it is not always discussed there.

As this survey will make clear, drugs are discussed in many different forums within the EU. Not only the Commission, but also the EU's most important decision-making body, the Council, has many working groups that discuss this issue. The European Parliament is active as well. Besides looking at the drug-related activities of each of the EU's three main institutions in turn, this chapter will also seek to answer the question of why drugs are discussed in so many different forums. We shall see that there is a power struggle being fought out within the EU on this issue. Sections 3.5 and 3.6 will address this point and try to answer the question of which party really has most influence in this area of policy.

3.2 The European Commission

Outsiders sometimes find the term "Commission" confusing, since it is used not only to refer to a body consisting of 20 Commissioners, but also to the administrative apparatus of 20-odd Directorates-General (DGs) that supports them. What is more, many people believe that the Commission is the most important body within the EU, whereas the Council in fact takes precedence, since it takes the most important decisions.

The Commission has a vast array of responsibilities. An executive body with some 16,000 officials, it is in some senses comparable to a ministry in a member state. Yet its concerns go beyond those of a ministry. The Commission is charged with defending the Community's interests, and it is supposed to watch over the system of democratic legitimacy.[48] Chapter 2 touched on the Commission's important role in taking initiatives in the first (and now also in the third) pillar. Besides preparing decisions, the Commission also has managerial, supervisory and executive responsibilities.[49]

Several Commissioners concern themselves in some way or other with policy on drugs. This is not so surprising, since the issues involved impinge not only on justice and home affairs, but on health, consumer affairs, agriculture, external relations, development cooperation, research and training. Because of their multi-faceted nature, drugs were originally placed under the responsibility of the then President of the Commission, Jacques Santer. The drugs unit set up to coordinate the Commission's policy on drugs accordingly came under the Secretariat-General's authority.

This situation changed in July 1998, when the drugs unit was placed under the Task Force for Justice and Home Affairs that had been created in 1995 to coordinate the Commission's third-pillar activities. The reason for forming a Task Force instead of a DG for this purpose was that the Treaty on European Union limited the power of the forum that would deal with these matters. (After the Treaty of Amsterdam it soon became likely that the Task Force would be changed into a DG, which eventually happened when the new Commission under Romano Prodi took office.)

Formally speaking, the Task Force still fell under the Secretariat-General, but the responsible Commissioner was no longer the President, but the

third-pillar Commissioner, who was then Anita Gradin. More accurately, the drugs unit was subject to a dual authority: in the first instance it fell under Gradin, but the President retained formal involvement. In terms of content, it is strange that the Commission's drugs unit should have come under the third-pillar Task Force. After all, the Commission's drug-related powers have to do with health issues, not law enforcement. On the other hand, drugs policy can be regarded as a cross-pillar issue, and it is therefore not exclusive to the third pillar. It would have been more logical to keep to the original designation, directly under the Secretariat-General.

It is sometimes said that the dysfunctionality of certain officials precipitated the drug unit's wholesale transfer away from the Secretariat-General. Given its subject matter, the second most logical place for it would have been the DG for Health, since that is where the Commission's competence lies. This idea was allegedly abandoned because the then Irish Commissioner Pádraig Flynn, whose portfolio for social affairs and employment included health, did not want drugs added to his responsibilities. The Swedish Commissioner Gradin, on the other hand, was interested in the portfolio, and it was therefore assigned to her. Given her nationality this is quite understandable. Drugs were an important theme during the Swedish debate on accession to the EU, with many Swedes fearing – as some still do – that their country would have to abandon its restrictive policy and adapt to the more "liberal" Europe. Given the strength of Swedish Euroscepticism, it was strategically astute for Gradin (and Sweden) to assume responsibility for drugs policy within the EU.

With the advent of the new Commission under President Romano Prodi in the second half of 1999, it was decided to keep the drugs unit as part of the Task Force and to turn the latter into a Directorate-General. This meant that the Portuguese Commissioner Antonio Vitorino, whose portfolio is Justice and Home Affairs, assumed responsibility for drug-related issues. Vitorino acts as drugs coordinator within the Commission, but health aspects still come under the Irishman David Byrne, Commissioner for health and consumer protection.

Not everyone within the Commission's apparatus is happy with the way the situation has developed. Since drugs are a cross-pillar theme involving

several DGs, critics feel that it sends out the wrong signal to assign its coordination to the Directorate-General for Justice and Home Affairs. They are concerned that it could create the impression that health issues related to drugs are thought less important than law enforcement.

The Commission has several other specific responsibilities in this policy area. Where health aspects are concerned, it possesses the right of initiative: it formulates proposals that are forwarded to the Council and Parliament. The Directorate-General for Social Affairs is responsible for this, and a special programme of action was set up in this context.[50] In 1995, the Commission, on the basis of its competence in health matters, launched its first drugs prevention action plan, which was scheduled to run until 2000. In May 1999 it presented its Action Plan to Combat Drugs 2000-2004, which outlined the EU's future activities in relation to drugs. However, several months earlier, during the UK Presidency, preparations had been launched for a similar plan, the EU Drugs Strategy 2000-2004. It is unclear how the Commission's Action Plan to Combat Drugs is related to the Council's EU Drugs Strategy. This confusion seemingly reflects the competition raging over this policy area, a matter dealt with at length in section 3.5 below.

The Commission's external relations

It is in the area of external relations that the Commission has been most active in relation to drugs in recent years. Sometimes it cooperates with the Council, and in other cases their activities overlap. As noted in the previous chapter, the drugs problem is systematically broached in talks with third countries, with the EU highlighting the importance of anti-drugs measures. The formal EU position is that these talks are based on a "balanced approach" – that is, they accord equal weight to supply and demand reduction measures. In practice, however, the emphasis often lies on cooperation in the fight against drugs, if only because demand reduction is far harder to tackle. The External Relations and Development DGs are both involved in these talks.

Let us start with the External Relations DG, which often raises the drugs problem in its talks with third countries. Eastern and Central Europe,

including Cyprus, are designated a priority region here, because many of these countries are hoping to accede to the EU. This means that they are bound by the pre-accession pact and the EU acquis on drugs. Since the UN drugs conventions signed by the EU countries have become part of the EU's acquis, all applicant countries have to ratify them. For the rest, the newcomers must take the same measures as the present member states have already taken. The PHARE Multi-Beneficiary Drugs Programme has been developed to help applicant countries develop their drugs policy, both by building up institutions and by adjusting legislation. In 1998 its budget was set at 11 million euros. The main priorities that year were gathering information about drug abuse (involving member states in the work of the EMCDDA) and taking action against synthetic drugs. Other activities have included developing a drugs prevention policy and working with the UNDCP to tackle the Balkan route.

Drugs have also been placed on the agendas of summits between the EU and ASEAN, the industrialised countries of Asia. Few if any drugs come from this region to the EU, so it is hard to see any specific reason or problem to account for this issue being raised. Even so, the theme was discussed and a special first-pillar subgroup created for the purpose, known as the Narcotics Drugs Committee.

Latin America is one of the priority regions for cooperation on drug-related issues. In February 1999 the Commission concluded an agreement with the Andes countries in Panama on the harmonisation of legislation, money laundering and checks on precursors. The Commission attaches particular importance to this latter point, and an agreement is currently in force with five countries of the Andes. Another one has been concluded with Chile and Mexico. In addition, a donor meeting took place in Brussels under the Commission's responsibility, where the Commission announced that it was considering launching a crop replacement programme. A national drugs observatory will probably be set up in Venezuela, funded by the Commission as a demand reduction measure. In 1998 the Commission raised the total anti-drug aid budget for Latin America from 2 million to about 70 million euros. This dramatic rise was decided upon after a meeting between the then Spanish EU Commissioner Marin and the then US drug czar Barry McCaffrey.

It is in the Development DG that drugs are discussed at greatest length. This DG handles relations with the ACP countries (Africa, Caribbean and Pacific). The priority areas for drugs control are the Caribbean and western and southern Africa. Drugs control activities are discussed in relation to the Lomé IV Convention, which refers to illegal drugs under the heading of health cooperation. Drug-related measures are part of the EU's development programme with the countries concerned, which seeks to promote sustainable development, social integration and above all poverty reduction. This is partly because the consumption and production of drugs and international drug trafficking are on the increase in many ACP countries. The emphasis in production is on cannabis (in the Caribbean as well as in western and southern Africa) and over the last ten years traffickers have been targeting the export market. What is more, Africa and the Caribbean are increasingly becoming transit regions for cocaine and heroin consignments.

Every ACP country hoping for cooperation with the EU has to keep to a "master plan", a national drugs strategy plan, the main outlines of which are developed by the country itself. The plan is also recipient oriented, which means that the country itself has a large say in the way it uses the money it receives. Its main elements must be law enforcement (drugs legislation based on the UN conventions, measures to combat money laundering and the production of precursors), demand reduction (primary, secondary and tertiary prevention), and supply reduction (in particular by developing alternatives).

In the recent past, the main emphasis in the Commission's approach to external relations had to do with supply reduction. The EU had a policy quite similar to that of the US . Today, however, the Commission adopts the view that supply and demand reduction should be balanced, within a wider multisectoral approach that also discusses health-related aspects of drugs and vulnerable groups. In recent years the EU has displayed greater understanding for the predicament and views of the ACP countries themselves. The growth in cannabis production in western Africa, for instance, is related to the increasingly poor profits to be made on the world market with other crops, such as coffee, cotton and cocoa. The Development DG's docu-

ment notes in this connection that the growth in cannabis production in western Africa during the 1980s coincided with the IMF's structural adjustment programme. Given the complexity of the drugs issue in ACP countries, the Commission proposes dealing with it in a wider socio-economic and psychological framework, and feels that a purely punitive approach would not be appropriate.[51]

Even so, given that the US has been dealing with these issues for much longer and that the EU is increasingly cooperating with the UNDCP, it is possible that the measures the Commission is advocating may end up emphasising law enforcement. On paper they may seem to strike a balance between supply and demand reduction, but given the wider issue of poverty in many ACP countries and the Commission's limited budget for such North-South cooperation, this approach is unlikely to succeed. In total, about 8.9 million euros a year are available in this budget line for four regions (Asia, ACP countries, Latin America and the Maghreb), which amounts to a little over 2 million for each region – counting the ACP as one region. Given the socio-economic and psychological context, making demand reduction measures work effectively will be very difficult.

Efforts to reduce supply by encouraging crop replacement will also be hard to implement. The UN and US have been carrying out programmes of this kind for many years, with in general poor results, as evaluated, for instance, in a study commissioned by the UN Research Institute for Social Development.[52] Crop destruction and replacement are hard to achieve in practice, because drugs crops yield far more than their legal replacements. And precisely because these measures are so hard to implement, past efforts (by the US in any case) have shown that attempts at supply reduction can easily lead to unethical practices such as militarisation, human rights violations and environmental damage. Investigation and prosecution are simply easier avenues to pursue, and it is therefore conceivable that the drugs measures taken in the ACP countries will end up being largely a matter of law enforcement. What is more, the tone of the Commission's documents on the anti-drugs measures in the ACP countries is suggestive of a punitive approach.[53]

It should be added that some passages in these documents reflect a rather patronising and interventionist attitude. Given their dependence, the countries themselves, especially the poorer ones, have little choice but to comply with the conditions set by the EU (in this case the Commission). Many Southern countries probably prefer cooperating with the EU rather than the US . The US imposes even stricter anti-drugs conditions than the EU, which is a source of considerable resentment, especially in Latin America.

It is morally relevant to ask whether the Commission is not simply imposing its own policy on third countries here and whether it has the right to do so. For instance, under the heading of "drugs and decriminalisation" we read that this topic is much debated in the EU but that it is "not an issue" for the ACP countries.[54] This is not a fair reflection of reality in certain regions. In parts of Africa and the Pacific, and particularly in the Caribbean, which is a priority region, the use of cannabis is fairly widespread and culturally integrated.[55] Decriminalisation *is* debated there, even at political level. Some of the documents produced by the Commission follow a rather skewed logic. One paper notes, for instance, that decriminalisation is not an issue in ACP countries because many of them lack adequate control mechanisms for legal drugs.[56] But if their governments find it hard to control even legal drugs, it would be more logical to conclude that there is little point in demanding that they prosecute people for using illicit drugs. What is more, it is rather unpalatable that the Commission should impose such demands on third countries when EU countries themselves are actually relaxing their criminal sanctions, at least where cannabis users are concerned, and decriminalisation has become the trend. Cannabis use is even more closely integrated into the culture of some ACP countries than it is in the EU.

3.3 The Council

Although not so well known among the general public, the Council, whose full name is the Council of the European Union (sometimes called the Council of Ministers), is the body that takes the decisions within the EU. The Council has been referred to as the EU's most obscure institution, which is

curious, and not a little alarming, given its importance. Formally speaking, the Council consists of Ministers from the various governments. In the beginning, "the Council" generally meant the assembled Foreign Ministers – what is now called the General Affairs Council. But it was soon decided to create different, specialist Councils, such as the Agriculture Council, Environment Council, etc. Today there are about 25 different Councils. Some meet more often than others. General Affairs and Economic and Financial Affairs meet monthly, whereas Transport, Environment and Industry meet only two to four times a year.

It would clearly be impossible for the Ministers to discuss every subject at length at each of their meetings before making a decision. Decisions are therefore prepared in the Committee of Permanent Representatives, known by its French acronym of Coreper.[57] The members of Coreper are the member states' ambassadors to the EU – their highest diplomatic envoys. Every document that is intended for the Council is first scrutinised by Coreper.

Formally speaking it does not matter which Council takes a decision, whether it is General Affairs or Agriculture; in each case it is a decision taken by the Council of the European Union. In practice, which Council takes the decision depends partly on the subject and partly on what stage of the decision-making process is involved. If it is a matter about which Coreper is already in full agreement, the subject acquires the status of "A point". Since no disputes remain to be ironed out, the next Council – whichever specialist Council this may be – can basically rubber-stamp it. If, on the other hand, Coreper has been unable to reach agreement, the matter is labelled a "B point". This means that the Ministers have to discuss it and try to come to an agreement.

As noted, Coreper acts as a crucial filter before documents are passed onto the Council. And before a document goes to Coreper, it is prepared in various Council working groups that consist of officials from the ministries of the 15 member states. As neither the Council nor Coreper wants to discuss every matter in detail, officials try to reach agreement as much as possible at an earlier stage. This makes sense, since these preparatory consultations take place between people who have more specialist knowledge than

the ambassadors or Ministers. But it basically means that the lion's share of real decision-making takes place in these preliminary consultations between officials.

Several Council working groups answerable to Coreper concern themselves with drug-related matters. The most important is the Horizontal Drugs Group, launched in 1997 in acknowledgment of the cross-pillar ("horizontal") nature of the drugs problem. Everything that has to do with drugs is supposed to undergo the scrutiny of this group before it goes to Coreper. At the same high level, that is, directly under Coreper, is the Article 36 Committee (previously the K4 Committee),[58] which deals with third-pillar matters. The Article 36 Committee reports in principle directly to Coreper, except where drug-related issues are concerned. Within the three pillars there are numerous other Council working groups that discuss specific aspects of the drugs problem. They include the Customs Group, the General Systems of Preferences Group (on regulations and priorities with third countries), the Police Cooperation Group, the Mutual Assistance in Criminal Matters Group, the Telecommunications Group, the Finance Group (which discusses money laundering), and the Economic Affairs Group (which deals with precursors). The following sections will look in greater detail at the most important groups.

Horizontal Drugs Group

Coreper set up this Council working group in February 1997, in acknowledgement of the fact that drugs are a cross-pillar theme. The Horizontal Group is by far the most important Council working group that concerns itself with drugs, and all subjects bearing on this issue must pass through it before being sent to Coreper. The Group has something of a unique status: it is a working group, yet it also plays a coordinating role for all drug-related issues. This makes it comparable, in terms of function and status, to the Article 36 Committee which coordinates third-pillar issues. Decision-making in the Horizontal Group is by unanimity, a kind of decision-making procedure that really belongs in the third pillar. This is consistent with the fact that the group discusses a great many third-pillar matters.

The Group's history is rather complex. At the Cannes European Council in June 1995, at the end of the French Presidency, the broad contours of the new European Global Plan of Action in the Fight Against Drugs (1995-1999) were adopted. The heads of government asked the national drugs experts, who were yet to be appointed, to work out the details of the plan with a view to presentation at the Madrid summit in December 1995. The original plan contained 66 measures, 15 of which related to public health. However, these latter 15 were not adopted at Cannes. At the Madrid Council in December 1995 the 15 health-related measures of the original plan were adopted, but under the Italian Presidency they were removed again. This meant that the expert group became primarily a third-pillar group.

In January 1997 the Dutch Presidency proposed that Coreper expand the group's mandate; and this gave rise to the Horizontal Drugs Group. As the fifteen health-related measures were initially kept separate from the rest and passed to the Council's working group on health, they did not receive much attention in the Horizontal Group in the beginning. For the first two years, the Group focused primarily on third-pillar subjects. And most of its delegates came from the third-pillar ministries of Justice and Home Affairs. Although it also included delegates from Health and Foreign Affairs ministries, and from national interministerial bodies, the third pillar dominated this Group for a long time.[59] In the course of 1999 the Horizontal Drugs Group gradually acquired a more cross-pillar character, with subjects from the first and second pillars being discussed as well, and in 2000 delegates from health and social affairs ministries came to dominate the forum.

The Horizontal Group's responsibilities are very wide-ranging. As the central group dealing with drug-related issues, it sees every relevant document. This means that it has gradually moved from coordination to policy-making. One of its key tasks was to prepare the Drugs Strategy plan launched under the last UK Presidency. It was up to the Horizontal Group to define the main foundations of this strategy. It also concerned itself, together with the second-pillar group Codro,[60] with the preparations for UNGASS.

The Horizontal Group has also been active in other foreign relations, such as those with associated applicant countries in Central and Eastern Europe. Since the EU has a pre-accession strategy for these countries, the

Horizontal Group met with the associated countries to discuss how they could comply with the drugs-related conditions for membership. It also concerned itself with the further implementation of regional initiatives in the Caribbean, Latin America, Central Asia and southern Africa. The latter has been designated a new priority region because of the increase in drug use and drug trafficking. A special summit was held on these issues in 1998 between the EU and the South African Development Community (SADC).

At the Florence European Council in 1996 it was decided to cooperate in third-pillar issues with the former Soviet Union, that is, Russia and the newly independent states (NIS). The Luxembourg European Council of 1997 extended a mandate for this purpose to the Council, which worked out the details of this cooperation during the UK Presidency. The agreements are mainly about improving border controls and tackling organised crime. The Commission is also involved through the TACIS programme, which specifically targets this region. For customs cooperation, 37 million euros were made available for the years 1996-1998. At the Dublin European Council of 1996, a British-French initiative was adopted to set up a programme to help the countries of Central Asia in their fight against drug production and trafficking. For 1997 and 1998, 6 million euros were made available for this purpose from TACIS. Most commentators view the Central Asia programme as a failure, in which a lot of money has been wasted. This is generally blamed on the incompetence of those in charge.

Cooperation with the Caribbean and Latin America in drug-related issues has intensified in recent years. The initial impetus was provided by the Madrid European Council of December 1995, which adopted a British-French proposal tabled by John Major and Jacques Chirac (and supported by Wim Kok) for a Drugs Action Plan in the Caribbean. At Spain's insistence this was later expanded to include Latin America. Senior representatives of the EU, Latin America and the Caribbean subsequently decided, in March 1998, to set up a Coordination and Cooperation Mechanism on Drugs. For this meeting the Horizontal Group decided in advance that the EU would set the following priorities in this cooperation: alternative development; cultivation, production and transport; chemicals for precursors; organisation of government action against drugs; legislation; law enforcement; enforcing

sentences; information/intelligence; money laundering; prevention and rehabilitation.[61] This list basically includes every single EU policy area related to drugs.

The Council is also active in other drug-related matters. Following a proposal by the Commission it approved funding for a Colombian system of remote sensing, which involves satellite monitoring of the growth of drugs crops. The Council has also held several meetings with the countries of the Andes to discuss the drugs problem.

When it comes to external relations in the fight against drugs, the Horizontal Group is not the only active body; the Commission is also active in this area on the basis of its competence in development cooperation.

Working Group on Public Health (first pillar)

The first-pillar Council working group on public health discusses all health-related aspects of drugs, including projects such as the Community Programme for the Prevention of Drug Dependence 1996-2000. As already noted, proposals in this area are formulated by the Commission, and the European Parliament takes part in decision-making on the basis of the codecision procedure.

However, this group is in general not very influential in drug-related issues, since in accordance with the principle of subsidiarity, policy on public health is primarily the responsibility of member states. The Commission has complementary powers, mainly in the realm of prevention. This has affected the institutional embedding of drug matters within the Council, where the emphasis is on the law enforcement angle and not so much on health.

Codro (*second pillar*)

Until its incorporation into the Horizontal Drugs Group in 2000, Codro was the most important second-pillar Council group on drugs. Among other things it was responsible for implementing the pre-accession pact on organised crime adopted by the Amsterdam European Council (1997). Under this pact, applicant countries must show that they can take effective action against drugs; it is a key condition for accession. But the EU does not

stop at applicant countries; it systematically raises drugs in almost all its political talks with third countries, and agreements are often made on anti-drugs measures. The Horizontal Group (HDG) now deals with these external matters.

The EU's attitude to third countries can be illustrated by what happened in 1999, when Vietnam wanted to enter a reservation to the UN Convention of 1988. All countries wanting to have an association with the EU must sign the UN drugs conventions, and any failure to do so prompts the EU to issue a formal reminder of this condition through the Presidency. Germany held the Presidency at this time, so the German ambassador to Vietnam communicated the EU's position to the Vietnamese government.

Relations with Burma, an important opium producer, are also discussed in the second pillar. The international community faces a dilemma here, as it wants local production to be reduced but is disinclined to negotiate with a military dictatorship. Codro's other activities included bilateral relations with various associated countries such as Afghanistan, Iran, Morocco, Nigeria and Peru. In 1998, Codro and the HDG prepared UNGASS together.

Both before and after Codro's incorporation into the HDG the dividing-lines between groups and pillars have often been unclear. There may be cooperation or a certain duplication, with the same matters being discussed in two or more forums. What is more, the Commission has its own drugs programmes, and drugs are also regularly raised in consultations between government leaders. In March 1998, for instance, a conference was held for the government leaders of the present member states and the applicant countries. Among other things it decided to launch a group to examine the relationship between drugs and organised crime. One month later the government leaders met in London for the Asia-Europe Meeting, and here too agreements were made, this time on the precursors of synthetic drugs. In 1999 the EU concluded a treaty with South Africa including a paragraph on drugs.

Multidisciplinary Group (third pillar)

Drugs are discussed in several third-pillar groups, but the Multidisciplinary Group on Organised Crime is one of the most active. The Dublin Euro-

pean Council (December 1996) decided that the EU should formulate a strategy on organised crime. To develop the basic contours of this policy, a High-Level Group on Organised Crime was set up. The Amsterdam European Council (June 1997) adopted this Group's 30 recommendations, laid down in an Action Plan on organised crime, and established a Multidisciplinary Group to implement them. The new group basically took over the activities of the previous Group on Organised Drugs Crime, but its mandate is wider, covering all organised crime. The Group concerns itself with concrete measures such as harmonising legislation on organised crime, money laundering and legislation to deprive criminals of the proceeds of crime. It is vigorous in its use of deadlines and progress reports to sustain momentum.

3.4 The European Parliament

The European Parliament (EP) is the only EU institution consisting of directly elected politicians. In fact it is the only directly elected international parliamentary assembly in the world. In June 1999 almost 270 million Europeans were entitled to vote in the elections for the EP, and just under 50% of them did so.[62] The EP cannot be compared to a national parliament; it is in a fundamentally different position. The EU does not have a government that is installed and scrutinised by Parliament. And unlike national parliaments the EP has no ruling party or coalition, and no opposition.

When the EP was created in 1957, its sole function was to advise the Council of Ministers. Its powers have gradually widened, as the codecision procedure, in which it shares decision-making powers with the Council, has been extended to more and more policy areas. The Maastricht Treaty gave the EP the power of codecision in 15 policy areas. The Treaty of Amsterdam, which entered into force on 1 May 1999, added another 38, and the EP is now an important actor in the drafting of much European legislation – on the environment, culture, transport and technological research.

The EP also has supervisory powers in respect of the Commission. Besides being required to approve the Commission's budget, it can ask questions and set up committees of inquiry. The EP also has the power to

dismiss the European Commission, a fact that was driven home to everyone in the spring of 1999, when it actually did so. Since then the EP has grown in self-confidence. It does not yet possess the power to dismiss individual Commissioners, but President Romano Prodi is expected to introduce this power, as he has spoken out in favour of it.

The fact that Parliament now has a say in more and more policy areas is important for member states and for citizens. However, few citizens appear to have realised this, given the low turnout at the last EP election. European legislation takes precedence over national legislation. This means that all member states have to amend their national legislation accordingly, without the intervention of national parliaments. However, in some policy areas the EP still has little influence, and lacks the powers of national parliaments. For instance, it cannot take the initiative for new legislation; it can only ask the Commission to draft a proposal for a directive. Furthermore, many decisions are still taken by the Council, with the EP having a solely advisory role. The EP's new powers of codecision all relate to first-pillar issues; as things now stand there is little chance of it acquiring this power in the second or third pillars. Since the Treaty of Amsterdam, the Council has asked the EP for its advice on third-pillar questions (which it may however choose to ignore), but in the second pillar (Common Foreign and Security Policy), the EP has no say at all.

Although Parliament's powers are undoubtedly more limited than those of the Council, some MEPs feel confident that they will steadily increase. One such optimist is the British Conservative Sir Jack Stewart-Clark, who was an MEP for 20 years, until June 1999. He emphasises the historical development, and is struck by the great change in recent years: Ministers sometimes consult MEPs today, something that would have been unthinkable only a few years ago.

It must be borne in mind that the EU is still in the process of development. The balance of power between its institutions has not yet fully crystallised. Formal powers are not the whole story; institutions also have to forge their own power base through the political process and through interaction with other institutions. The actions and initiatives taken by Parliament itself are significant here. Some MEPs study specific issues for years and

build up considerable expertise, giving their opinions more weight. This partly explains why the Commission and the Council take more account of MEPs' views than in the past.[63]

Whatever the increase in the EP's powers, its image was rather dented by the lack of interest in the elections of June 1999: turnout averaged below 50% in the 15 member states, with the UK sinking to the record depths of 23%. Some will explain this by saying that "Europe" is too remote from ordinary people, who do not realise how much influence the EP has and how much it impacts on their lives. This is actually rather curious, given that the EP dismissed the entire Commission in the spring of 1999 in connection with charges of corruption and nepotism. One explanation for the low turnout could be that the EP itself has become tainted by the aura of profiteering and nepotism and has done too little to dispel it.

The elections of June 1999 resulted in a shift from left to right. The socialists are no longer the largest parliamentary party in the EP; their place has been taken by the European People's Party (EPP), consisting of Christian Democrats and Conservatives. This is particularly striking, since most EU member states currently have social democrat or socialist prime ministers. It will become clear in the near future, as the debates in the EP unfold, whether this institution is set to gain influence in comparison to the Commission and the Council.

The fact that the EP possesses only advisory powers in certain areas is sometimes an advantage. It means that MEPs have fewer political constraints, and are freer to express new ideas. This creates more scope for open exchanges and enables MEPs to adopt firm positions, which sometimes leads to heated emotional debates. As a result, fresh and dissident views are often expressed in the EP. The Council and Commission, on the other hand, tend to keep to the safer middle ground of political compromise, without venturing much into the realm of fundamental debate. Their meetings are closed and seek to forge a consensus; whatever real differences of opinion do arise are unlikely to be released into the public domain. In sum, the EP is the most innovative of the three major institutions, and the only one that conducts its debates in public.

Since the Maastricht Treaty, the EP has had different powers in each pillar. In health-related drug matters it has the right of amendment through the codecision procedure. The parliamentary committee that deals with these subjects is the Committee for the Environment, Public Health and Consumer Policy, which discusses drugs under the heading of public health policy. The European Commission formulates a proposal, after which the Council and Parliament decide whether or not to adopt it. Other drug-related matters subject to the codecision procedure are those that impinge on Community policy, such as money laundering and precursors.

However, it is in the third pillar (Justice and Home Affairs) that drugs are discussed at greatest length. The key parliamentary committee here is the committee now known as Citizens' Freedoms and Rights, Justice and Home Affairs, to which numerous drug-related matters are passed on. Since these are third-pillar issues, the EP can only make recommendations, which the Council may choose to ignore. In recent years it has become customary for the Council to ask the EP for its advice. Title VI of the Maastricht Treaty required the Council to consult Parliament about the most important third-pillar matters. However, the Luxembourg European Council (1997) decided that Parliament should be consulted about *all* third-pillar matters, anticipating the provision to this effect in the Amsterdam Treaty. As before, the Council's third-pillar decisions are taken by unanimity, which means that a single member state can block Parliament's recommendations.

The EP's position on drugs

It may briefly be recalled here that the EP undertook some activities in this area prior to the Maastricht Treaty. It set up committees such as the Stewart-Clark Committee in 1985, which studied the drugs problem in the countries of the Community in 1985, followed in 1991-92 by the Cooney report on drug trafficking and organised crime. These reports have already been discussed in chapter 2.3, but the key points may be repeated here.

The final report of the Stewart-Clark Committee of 1985 came out against the legalisation of drugs, but favoured relaxing the policy on cannabis use.[64] Harm reduction measures such as needle exchange and

methadone programmes were rejected. A split emerged within the Committee between its left-wing and right-wing members. Basically what was at issue was the attitude to drug use: the right-wing majority favoured a total ban, while the left-wing minority preferred a more pragmatic approach based on harm reduction.

In 1991 Parliament set up the Cooney Committee to investigate the increase of drug-related organised crime.[65] This Committee's report advocated the use of needle exchange and methadone programmes and recommended that the possession of drugs for personal use should no longer be considered a criminal offence. In light of the health risks associated with drug use, the Committee recommended ensuring the availability of drugs in safe doses. The Report's tone reflected the view that an approach based purely on the criminal law did not constitute an effective response, and that it would be better to accept drug use and take a more pragmatic line. The Report implied that there was a need for a new policy, although it did not say so in so many words. In the EP Resolution adopted in response to the Cooney Report, Parliament rejected the legalisation of drugs and called on member states to act in accordance with the UN Conventions.[66] So prohibition was to remain the basis for the EU's policy on drugs.

Although the EP did not adopt the recommendations made in the Cooney Report, it does seem to have changed its approach to the drugs problem. In any case, assuming that a committee of inquiry reflects the political views of the Parliament, the differences in the recommendations made by the Stewart-Clark (1986) and Cooney (1992) Committees evidently reflect a shift in opinion. For instance, while the majority were against distributing methadone and clean needles in 1986, the majority favoured such programmes six years later. There are other significant differences. While only a minority of the Stewart-Clark Committee advocated the "normalisation" of drug use,[67] a majority favoured this approach in the later Report. The Cooney Report's first recommendation, on prevention, stated that member states were doing too little in their schools to educate children about risks such as those associated with drug use, and about resisting peer pressure and accepting responsibility for their own behaviour.

Until 1995, views on drugs in the EP were quite clear-cut, largely following party lines. Left-wing parties wanted a more progressive and pragmatic policy, one that was at least based on harm reduction and decriminalisation. The Greens and the socialist MEPs from some countries were more progressive still. Right-wing parties, on the other hand, supported more traditional views, insisting on the importance of a ban and its deterrent effect, and largely rejecting harm reduction measures.

In June 1995 the European Parliament adopted a resolution on drugs prevention in response to the European Commission's drugs prevention action plan. It was up to the chief parliamentary committee on drugs, the Committee for Citizens' Freedoms and Home Affairs, to prepare this resolution. The rapporteur was Sir Jack Stewart-Clark of the European People's Party, the party of Christian Democrats and Conservatives. The Resolution stated that the prosecution-based policy of the past few years had done more harm than good. It also pointed to the differences between the official positions adopted by member states at national level and actual policies pursued by regional and local authorities. It emphasised the need for a thorough investigation, in which policies would be judged on the basis of results.

Up until this point there had been a certain consensus about drugs (or a desire to reach one, at any rate) within the Committee for Citizens' Freedoms and Home Affairs, based on a pragmatic approach. The resolution of June 1995 is a clear example. Prominent MEPs such as Daniël Cohn-Bendit and Sir Jack Stewart-Clark (representing the German Greens and the UK's Conservatives respectively) were active in the drugs problem, and tried to cooperate in spite of their different political views.

This fairly clear political landscape in attitudes to drugs started to change in 1995, partly because of Sweden's accession to the EU on 1 January of that year. Sweden's membership would prove highly influential on drugs debates in the EP. The Swedish representatives were not yet a strong presence during the preparation and adoption of the resolution of June 1995, since they were new to the EP. This soon changed, however, leading to quite an upset in Parliament, and even more so in the Citizens' Freedoms and Home Affairs Committee. The national objective of Swedish drugs policy is to attain a drug-free society, and Swedish MEPs are very active in this area. Given the

role that the drugs problem has played in Swedish politics in recent years, and given that the word "liberal" used in connection with drugs has acquired very negative connotations, it is not surprising that all Swedish MEPs oppose liberal tendencies when it comes to drugs.[68] In other issues they have relatively little to say, but as soon as drugs are mentioned they are fired up and speak out emotionally, sometimes fanatically, against any form of harm reduction or liberalisation. As a result, since the advent of the Swedish MEPs, debates are less oriented towards finding pragmatic compromise solutions than they were before. The positions have become more polarised and more ideological.

Besides its influence on what is now the Citizens' Freedoms and Rights, Justice and Home Affairs Committee, Sweden has also altered trends in the Green and socialist political groups. The socialist group had been moving towards a consensus on a pragmatic, non-punitive approach, although the British Labour Party had distinct reservations. The advent of the Swedish Social Democrats reversed this trend. In the Green group, which had achieved a consensus on a more liberal approach to the drugs problem some time before, the advent of the Swedes was more dramatic still, causing a split between the Swedish and the other Greens.

In retrospect, the resolution of June 1995 may perhaps be seen as a turning point in the EP's thinking on drugs. Important though Sweden's role may have been, it did not bear sole responsibility for the change in attitude. It seems that the opponents of a more pragmatic approach have gained in self-confidence as a result of the fanatical and hence persuasive determination with which the Swedes oppose any liberalisation, and present their opinions more forcibly than in the past. So Sweden's membership has had a catalytic effect, serving to bolster the forces of conservatism in relation to drugs. One sign of this change was that the Conservative group EPP proposed a different rapporteur for drug-related matters. Its MEP Sir Jack Stewart-Clark, a British Tory, had for years been the party's specialist in the drugs problem, and he appeared to be the obvious candidate for nomination as rapporteur from this group. He had studied the problem since the mid-1980s, and his views had grown more pragmatic and more liberal with the passage of time. However, at the end of the 1990s it was not Stewart-Clark

whose name the EPP put forward as rapporteur on drugs, but the more conservative Austrian Pirker.

This shift in attitudes to drugs within the EP has also become clear during other debates. In May 1998, for instance, a resolution was adopted in response to a report on synthetic drugs, in which the Austrian Pirker had served as rapporteur. Compared to other reports on drugs that had issued from the EP in recent years, the Pirker report focused more heavily on a punitive approach. For instance, it stated that imposing criminal sanctions against drug users acted as a deterrent. Only a few years earlier it would have been hard to imagine Parliament adopting a formulation of this kind. The plenary session held in October that same year to formulate the EP's position on UNGASS also reflected its changed views.[69] Parliament wanted to send its recommendations to the Council. A long debate proved necessary before agreement could be reached on allowing for the possibility of introducing harm reduction measures at local level.

The EP had also used the debate on UNGASS as an opportunity to debate the Council's Drugs Strategy Plan. The EP's changed views, and the Swedish MEPs' key role in defining them, was very clear when the report on this strategy was discussed in the chamber. The Dutch rapporteur D'Ancona had included some extremely progressive proposals, such as the decriminalisation of cannabis, the distribution of heroin to known addicts, and the reform of the UN drugs conventions. Her report seemed to enjoy enough support when it was debated in the parliamentary committee, but only because of the absence of some right-wing committee members. This became clear during the plenary debate, when the report failed to gain the endorsement of Parliament as a whole. So many amendments were submitted that the rapporteur decided to return the report to the committee instead of having it voted down. The main opposition came from the Swedish representatives, who formed a block against the liberal portions of the report and submitted several dozen motions – a large proportion of the total. Another group that failed to endorse the report was the British Labour Party, which declined to vote along with other members of the socialist group. It seems that the Labour MEPs had been told to adopt a cautious stance by London, where Tony Blair had only just come to power.

The report was therefore sent back to the parliamentary committee, where its proposals were watered down in consultation with the EPP group. The most controversial passages, such as the decriminalisation of cannabis, the distribution of heroin to known users and the reform of the UN drugs conventions, were all removed. Eventually a political compromise emerged that amounted to very little. The report had so much of its stuffing removed that it did not really represent a clear position any more. This hollowed-out report was finally presented to the EP again in October 1999, where it was adopted. In plenary session it was supported by the EPP and the liberal group, but it still met with a great deal of opposition from the Swedes, who all voted against it again because of its inclusion of harm reduction measures. One innovative element of the debate was the EP's adoption of a resolution stating that there was no need to harmonise drugs policy, as there was already considerable convergence between member states in this area and the ways in which they applied their national legislation displayed more similarities than differences.

Something that is in danger of being overlooked in all this is that the drugs resolutions passed by Parliament do not ultimately affect policy. As this is a third-pillar policy area, Parliament's powers do not extend further than advising the Council. A resolution on such issues therefore possess largely symbolic value, as a document enunciating the views of the EU's parliamentary assembly. Even so, if this resolution subsequently attracts media attention and is publicised by NGOs, it can have some social impact.

Summarising, it is fair to say that the European Parliament no longer has a coherent position on drugs policy. The situation has become rather diffuse over the past few years. It may be that the powers of conservatism have gained influence, but alternatively, this may later turn out to have been a brief period of resistance in an overall trend towards a more liberal policy. The Parliament's new composition and the coalitions that are formed between its various groups will gradually make this clear.

3.5 Power struggle over drugs

The previous sections outlined the ways in which the Commission, the Council and the Parliament are involved in drugs policy. They reveal a diffuse picture of three institutions carrying out different activities in this area, each in their own way and in mutual interaction. Who orchestrates this whole is unclear. What does emerge, however, is that something of a power struggle is going on over drugs. A similar phenomenon can be seen within national governments, where, for instance, the Ministry of the Interior or Justice "does battle" with the Ministry of Health for primacy in decisions on drugs. Within the EU, the rivalry is chiefly between the Commission and the Council, with the Parliament playing a relatively marginal role at the moment.

We have seen that both the Commission and the Council are very active in broaching drug-related matters in relations with third countries. This is the most striking development in drugs policy in recent years. Here too a certain power struggle is going on. The Commission tries to impose its authority through its first-pillar powers. But the Council also has powers in this policy area, in the second and third pillars, and in this capacity it sets up activities and enters into agreements with third countries or their organisations.

Drugs play a role in almost all the EU's external relations. Sometimes one would be justified in questioning their relevance. Why, for instance, are agreements about drugs concluded with the ASEAN countries, when hardly any drugs reach Europe from that region? One reason sometimes given for drugs clauses being included in agreements with countries or regions is that it is useful to have them there in case they need amplifying at a later stage. In other words, drugs are apparently a suitable policy area to allow for an expansion of powers. The Commission's drugs activities within the PHARE programme can be viewed in the same light.

Documents produced by the Commission and the Council state that drugs programmes must be based on a so-called balanced approach, that is, aimed at reducing both supply and demand. In general, the Commission seems to display more understanding for the predicament of third coun-

tries, while the Council places more emphasis on a "third-pillar" law enforcement approach. According to Council documents, the Horizontal Drugs Group stresses that its drugs programmes must be "balanced, comprehensive, participatory, gender-sensitive, and internationally coordinated". Yet agreements made with third countries in the second and third pillars generally emphasise supply reduction.[70] In comparison, the Commission's programmes tend to focus less on punitive measures and more on the position of the third countries, emphasising demand reduction and health issues. This difference between the Council and the Commission is in part simply a function of their institutional powers. The Council is primarily active in external relations in the second and third pillar, whereas the Commission bears responsibility for health issues and development cooperation.

The power struggle manifested itself in the run-up to the UN drugs summit UNGASS in June 1998. The preparations for this meeting had been discussed by the Horizontal Drugs Group and Codro. The British Presidency, which had defined drugs as a priority, tried to gain control of the EU's input at UNGASS in order to highlight the UK's point of view. The UK had drawn up a document which it wanted adopted as representing the position of the Council and the EU. The document emphasised law enforcement and was rather strong on political rhetoric. Prime Minister Tony Blair had wanted to deliver a fiery oration at UNGASS on the EU's behalf. However, there was too little support in the Council for the political statement, and a compromise was eventually forged in a watered-down and hence rather insubstantial document. In the event it was not Tony Blair who delivered the speech. But the Council's report to the European Council, drafted by the British Presidency, was decidedly upbeat: "Much work was done on the Political Declaration, where the EU took a prominent position in the production of a short and politically useful document, to ensure maximum media impact".[71] That same year the UK had also presided over the G8, where it had taken the opportunity to raise the issue of organised crime and drugs. In this framework too a drugs group was set up. The same EU report noted that the Presidency had given a fine presentation of the EU's position in the run-up to UNGASS at the meeting of the G8's Group on drugs at Edinburgh on 19-20 February 1998.[72]

However, the Commission was not entirely happy about the rather inconsequential Council document that the UK had drafted for UNGASS. It therefore drafted one of its own, a "Communication to the Council and the Parliament", intended as a basis for a joint EU position at UNGASS.[73] In its closing passages the Commission asked the Council to take note of the Communication and to use it as a joint platform for statements by the Community and its member states at UNGASS. Furthermore, it asked the Council to note that it would be presenting the agreed positions on precursors at UNGASS, and said it also wanted to sign political statements adopted at the assembly on the Community's behalf. Reading these passages, it is impossible to avoid the impression that the Commission had felt rather passed over, and wanted to make it clear that it too had a say in these matters, of which the Council should take more account in future. The text also carried a distinct inference that the Commission was the appropriate party to coordinate matters at UNGASS.

In the event, a European Commissioner, the Spaniard Manuel Marin, vice-president and responsible for UN affairs, also made a speech at UNGASS. Ironically, it caused a political incident. Marin's draft text contained a sentence stating that prohibiting drugs did not work, but that decriminalisation was not the answer either. To a good listener, it was clear that he wanted to launch a debate on legalisation. After protests from member states this sentence was scrapped, but the draft text and translations had already been distributed. So when Marin made his speech in Spanish, the interpreters read out English and French versions which still contained the offending sentence. Some delegations were furious, and embassies including those of the UK and France later wrote to the Commission asking whether the sentence had been read out or not.

The power struggle between the Commission and the Council also rears its head in their different plans for EU drugs policy. The European Councils of Cardiff and Vienna had asked the Council, Commission and Parliament to devise a plan for the EU's future drug-related activities. During the UK Presidency, which had defined drugs as a priority, the Council presented its EU Drugs Strategy 2000-2004. The Horizontal Drugs Group was the Council group most involved in preparing this document. Commenting

on its Drugs Strategy, the Council wrote that the EU's integrated and multidisciplinary approach to the drugs problem had now been enshrined in a single, coherent document.[74] As noted above (in section 3.4), this plan had led to the D'Ancona report and the debates about it in the European Parliament. Meanwhile, in May 1999 the Commission presented a document of its own, the European Union Action Plan to Combat Drugs (2000-2004). This document too claims to give a comprehensive overview of the EU's drug-related activities in the next few years.

The existence of these two documents has hardly served to clarify matters. The relationship between them is quite unclear. Again, they evidently reflect a certain rivalry between the two institutions, both of which claim responsibility for coordinating this policy area. The introduction to the Commission's piece emphasises that to fight drugs effectively calls for a clear and integrated approach, suggesting that instead of everyone fighting on all fronts and at all levels at the same time, there should be coordination and interaction between the various actors and approaches.[75] Here the Commission is clearly claiming to be the most suitable body to undertake this coordination, strengthened by the fact that since the Treaty of Amsterdam it has also possessed the right of initiative in the third pillar. The Council too states that it is important to strive continuously to improve coordination at all levels in drug-related matters. The difference is that the Council does not believe that the Commission is the right body to do it.[76] According to the Council, the proliferation of working groups impedes effective coordination in the fight against drugs and the implementation of existing strategies. However, it states with satisfaction that the consultations on drugs are now centralised in a cross-pillar forum, thanks to the establishment of the Horizontal Drugs Group.[77] The Council accordingly proposes that the HDG should take the leadership in consultations to decide how the drugs issue can be fitted into the institutional framework more effectively than in the past.

Summing up, both the Council and the Commission have produced sizeable documents containing a large number of objectives and measures in response to the European Council's request for such a document. Both of them have announced all sorts of plans, which is of course a simple matter:

producing a report does not take much time or money, and both bodies can announce all sorts of measures and plans without incurring any accountability for them. So reams of text are produced, and dozens of agreements are announced and promises made, but what it will all mean in practice is quite unclear. Both plans contrive to be comprehensive while remaining low on detail and in some places quite vague. As it would be impossible to implement all the measures that have been announced, everything depends on the priorities that are set and implemented. At the moment, however, it is unclear who bears responsibility for setting priorities and for coordination.

It may seem puzzling that such a struggle should be going on within the EU for competence in a specific policy area. Why do the parties not set their sights on the ultimate goal instead of making each other's lives difficult? But a little familiarity with bureaucracies and the way in which they operate makes it seem less strange. Such processes are common enough, and to a certain extent unavoidable, in all large organisations. In any bureaucratic environment you will find an ongoing effort on the part of different departments to expand their powers. In the struggle for primacy, clashes or friction may arise between different departments and their directors. As a result, those involved see the way in which policy is made as a goal instead of as a means to an end – that is, the end of formulating the best policy. These processes manifest themselves all the more strongly within a large, international bureaucratic apparatus, that is, in multinationals and supranational organisations such as the UN and the EU. Power struggles are most acute in times of change, for instance when cuts are imposed, leading to a struggle for survival between departments, or when an organisation is undergoing expansion, and each department rushes to widen its own powers.

One key reason for the prominence of these mechanisms within the EU is that the "European house" is still under construction. Its expansion into new areas of cooperation is fairly recent, and the EU is therefore still in an intermediate stage at which the balance of power and areas of competence are not yet fully formed. Each institution and group has to secure a position and define its relationship to the others. A contributory factor here is that there is a certain intrinsic clash of interests between the Commission and the Council. The Commission was set up to represent and defend the Com-

munity's interests. The Council and its working groups, on the other hand, consist of the representatives of member states and their ministries, whose aim is to uphold national interests. The Commission (which enjoys, it should be said, the support of a few member states) wants as much as possible to formulate Community policy, whereas the Council (or more precisely, most of the countries represented in it) want to formulate policy by the intergovernmental method. This old debate between advocates of a Community-based and intergovernmental European Union lies is at the root of this power struggle. Given their different basic principles and the process of change in which the EU has been involved for several years, it is not strange that clashes and competition may ensue, although the Commission and the Council ultimately pursue the same objective: the further expansion and strengthening of the Union.

The Commission has become far more influential in recent years. The Single European Act of 1986 extended its powers to new policy areas (including research and technology, environment and structural policy for the regions), which has made it a key liaison point for organisations, enterprises, and local and regional authorities. Mediating between national governments has also strengthened its position. This is something it does more frequently than in the past, chiefly because more and more decisions are now being taken by qualified majority vote.[78] Its international role has also been strengthened by the expansion of economic and commercial ties and development cooperation. Finally, Jacques Delors' powerful leadership in the years 1985-1995 was of great significance. For ten years, the European Commission and the DGs saw their powers steadily increase.

Around 1993-1995 a turning point became visible in this growth. Maastricht created a new institutional structure, with a new constellation of powers. The Commission found its sphere of action confined to only one of the three pillars, while the Council's role was expanded. The latter represents the member states, and its interests are not served by seeing the Commission gain too much power. After the Delors years, the member states believed it was time to clip the Commission's wings. The EU Guide *Europe from A to Z* states that the arrival of the new Luxembourg President Jacques Santer ushered in a new era marked by moderation and consolidation.[79]

Some, including the President of the EP, said that after Delors, what member states wanted was a Commission that did as little as possible.[80] In any case, the net result of this process was a dilution of the Commission's importance, and in itself it is understandable that this body, as the representative of Community policy, responded by seeking to expand its powers.

The Council, of course, sees things very differently. The Council consists of representatives of member states that, since Maastricht, no longer have exclusive power over certain matters. Several policy areas that previously fell within the competence of member states have been wholly or partly transferred to the EU. This means that member states have to forge agreement with one another and make concessions. This new phase, which means relinquishing a measure of national control, will take time, and it is not strange that it sometimes provokes a defensive response, with countries seeking to keep as much as possible within the sphere of national sovereignty.

In practice, the diametrically opposed interests of the Commission and Council have led to a kind of power struggle. While this obviously manifests itself in various areas, it seems to be more pronounced in drugs policy than elsewhere. Several authoritative insiders observe that drugs policy is an attractive area, politically speaking. It may be a sensitive issue, but it is above all a policy area that holds out scope within the EU: "Drugs are easy". The theme has gradually evolved into a fixed item in EU policy, including foreign relations. And precisely because it crops up everywhere, all the time, and because it is a dynamic policy area, it is also a means of gaining influence and expanding bureaucratic power.[81]

However, there is another dimension to this power struggle over drugs. Behind the competition between the Commission and the Council is something else: a difference of approach to the problem. For if drugs becomes a health issue, it will mean that the Commission will gain more influence. Through its powers in health care the Commission has a point of access from which it can make its influence felt. So the Commission has an interest in fostering a health-based approach to drugs. If the emphasis ends up more on the law enforcement side, on the other hand, the Council will have a greater say.

3.6 Power and the democratic deficit

When we come to consider which of these parties has most say on drug-related issues, the answer seems perfectly simple. It is of course the Council, which takes all the important decisions within the EU. But the *European Council* – the six-monthly summit of heads of government – also plays a significant role. Formally speaking, the European Council is responsible for defining the broad outlines of policy, while the Council makes the actual decisions. However, the lines between them are not so clearly demarcated, as the guidelines announced at these summits exert considerable influence on the drugs activities of other forums within the EU. So it is fair to say that the European Council effectively determines policy. The European Council has gradually expanded its powers in recent years, doubtless in part because it is composed of the holders of the highest political office, who are used to taking a lead without worrying too much about any restrictions imposed from below.

When we are discussing the Council and its influence on drugs policy, the individuals concerned are not so much the Ministers who make the formal decisions, but all the groups of officials that do the preparatory work. As already noted, these groups exist in all three pillars. In the second pillar drugs do not come up as a separate issue, but as part of dialogues with third countries. They are discussed more explicitly in the other two pillars, particularly in the third.

Since decisions on subjects in the third pillar and the Horizontal Group are taken by unanimity, it is essential to reach a consensus, which is generally done in official preliminary consultations.[82] These may take place in Coreper or in the official working groups set up under Coreper, composed of officials from national ministries. This means that a certain bureaucratic power has gradually developed within the Council. The journalist Arendo Joustra, who worked as a EU correspondent for several years, makes a number of interesting observations on decision-making in his book *Het Hof van Brussel* ("The Court of Brussels"). He identifies the fifteen permanent representatives who make up Coreper as the most powerful group in the EU's capital.[83] According to Joustra, the real decisions are taken at this meeting of

ambassadors, partly because the Council of Ministers has gradually reduced the time it sets aside for actual negotiations.[84] Within the decision-making process, Coreper can be seen as a channel through which all decisions reached by lower-ranking working groups have to pass before they go to the Council. Joustra has counted more than 140 working groups that meet annually to discuss some 600 proposals. As Coreper has to shape all decisions into manageable portions for the Ministers, it plays a crucial role and is responsible for an estimated 85% of all decision-making.[85] Joustra's book quotes one Permanent Representative as saying that if you want good decision-making, it has to be kept out of the hands of the politicians. The PRs can reach agreement more easily, as they can negotiate behind closed doors, enabling them to deviate from their national governments' positions.[86] After all, negotiations are all a matter of give and take, sometimes on the basis of the principle "you scratch my back and I'll scratch yours", in which one country's support in a specific issue can be reciprocated in a different one. Another important point is that negotiators have to avoid digging in their heels: too much obstinacy will damage your position. And precisely because Coreper's members have to reach agreement, they must display a measure of political flexibility, which may mean ignoring their government's instructions.

The same applies to some extent to the lower-ranking working groups, which try to reach agreement before a proposal goes to Coreper. As European integration advances, and the Council has to decide on an ever-expanding range of issues, it is becoming unworkable for either the Council or Coreper to hold lengthy discussions, making it ever more important for agreement to be reached beforehand. In other words, the real decision-making is increasingly taking place in these working groups. Joustra quotes a doctoral dissertation that concludes that the real power in Brussels lies with the officials.[87] Since the working groups too meet behind closed doors, their members have a similar discretion in the positions they adopt.

You might expect that the position adopted by an official at a meeting has been determined beforehand in consultation with the relevant member state. You might also assume that the member state will have gone through the appropriate channels of political debate in order to formulate that posi-

tion. The reality is often quite different, however. In numerous groups representatives adopt positions that correspond only partly, or not at all, to that of their national governments. Officials may adopt a position on the basis of personal convictions or because of the position adopted by someone else. They may be guided by their own personal history and end up pursuing some policy as a private hobby, or they may be inclined to forge a swift agreement if they get along well.[88] Another contributory factor is the distance between the staff at the Permanent Representation and the national governments. If officials spend most of their time in Brussels instead of at their national ministries, where they are constantly confronted with their country's policy, a gap may open up between a member state's policy and the positions presented in Brussels on its behalf. Officials who have been based at the Permanent Representation for a long time have a certain power and experience on the basis of which they believe they have the right, or obligation, to deviate from their country's policy.

Discrepancies of this kind often become clear when there is a shift in national policy, for instance when there is a change of government, or a new minister. This creates an awkward situation for the officials representing the country in international organisations, who are at a loss to know what line to pursue. It sometimes leads to representatives in Brussels adopting positions that lag behind changes of policy in their country or are diametrically opposed to domestic trends. The reasons may be pragmatic: the representative may assume that the new policy will catch on very slowly and hence opt for what seems a familiar middle road. Or he may disagree with the new policy, or judge that the time is not ripe for it. There is yet another possibility. Member states do not always realise that their new policies have to be communicated to their representatives in Brussels. It is not always clear to a representative's fellow negotiators who they are speaking to: does this person represent the present government or the last one? For all these reasons it may be some time, after a change of government, before new policy lines filter through to Brussels, which may lead to peculiar, obscure debates in the Council's working groups.

For instance, the change of government in Germany was not immediately reflected by changes in the German positions defended in Brussels. And

the shifts that took place in national drugs policy in Belgium and Portugal were not presented within the EU. It cannot be assumed that such changes will be reported in the official working groups in Brussels. When France argued in favour of a harmonisation of drugs policy, to rid the EU of the liberal approach of the Dutch, it received support at official level from the Spanish and the Portuguese, even though the trend in their own countries was closer to Dutch than French policy. Meanwhile, the Dutch officials in the K4 Committee initially endorsed the harmonisation of drugs policy, whereas the Netherlands did not support this idea at all. And when President Chirac called and lost an election, and had to carry on with a left-wing government, it was some time before France started adopting different positions in Brussels.

All this makes it clear that there are serious flaws in the harmonisation between member states and their representatives in Brussels. It seems possible that some countries do not have inter-ministerial preparatory consultations. This has everything to do with a member state's administrative culture. Weak administration, or a lack of administrative scrutiny in the country concerned, may be extended to Brussels. This gives representatives considerable freedom in the positions they adopt.

But there is another reason for this discrepancy. It has to do with the lack of clarity in decision-making procedures and the so-called democratic deficit of the EU. In his *L'esprit des lois*, Montesquieu expounded his theory of the separation of powers. This dogma is based on the belief that the only way to guard against the abuse of power is by ensuring that it is kept in check by another power, since all power that is not counterbalanced has the tendency to degenerate.

As this chapter has shown, there is no such balance between the Council, the Commission and the Parliament. For some time now, academics, journalists and others have been seriously criticising the undemocratic way in which the EU is being fashioned. If even people who work for the EU have difficulty understanding its structure and its procedures, this shows just how difficult it is to put proper controls in place, especially since the decision-making takes place behind closed doors. Deirdre Curtin, Professor of the Law of International Organisations at Utrecht University, has said of

the EU decision-making process, "One of the most significant problems of the Maastricht Treaty is that citizens are increasingly confronted with the undemocratic nature of the Union".[89] According to her, not only has decision-making become more opaque since Maastricht, but the legal status of certain decisions is also unclear.

This problem is most acute in the third pillar, where the legal force of decisions, according to Curtin, appears to have been left vague on purpose, making it possible for countries to enter into binding agreements on an ad hoc basis.[90] This is particularly unsatisfying, Curtin continues, as "the whole idea behind the third pillar was to remove decisions on a number of sensitive issues from the legal vacuum and to institutionalise them, and to introduce a measure of coherence into the activities conducted in this area."[91]

Another of Curtin's examples is the lack of scrutiny of the preparatory negotiations conducted along the road to a resolution. The Council does not inform Parliament until *after* a decision has been taken – a procedure that Curtin calls an insult to democracy.[92] She also refers to multilateral conventions as instruments that are not conducive to transparency. As an example she cites the Europol Convention, which was not made public until the member states had already signed it – when it was too late for a debate.[93] The only solution to this problem, in Curtin's opinion, would be to make it mandatory to inform national parliaments about all draft decisions that would be binding on the state, and to obtain their prior approval.[94]

For first-pillar issues, reasonable controls are in place: the Commission is subject to the scrutiny of the European Parliament, which also possesses the right of codecision in a growing number of policy areas. The democratic deficit chiefly applies to Council decisions in the second and third pillars. Where the second pillar is concerned this is hardly surprising, since defence and diplomacy are traditionally areas of government that fall partly outside the range of democratic control.[95] But the third pillar is a different matter altogether. Decisions on cooperation between the police and judicial authorities have a direct bearing on citizens' rights and obligations.

It is often assumed that democratic legitimacy is safeguarded in the Council. The EU booklet *Building the European Union* states this as a matter of fact, explaining that at every meeting of the Council, representatives of

the member states, usually Ministers, are present, who are accountable to their national parliaments and public opinion.[96] This is a very optimistic view, as it takes for granted that democratic legitimacy is guaranteed solely by virtue of the fact that politicians are elected.

In reality, decision-making is more complex and less transparent, and there is little or no direct democratic control. As this chapter has described at length, most decisions are actually made not by Ministers but by officials. They are prepared behind closed doors in Council working groups, which have considerable freedom, thus creating a certain bureaucratic power.[97] It is far from certain that the positions adopted in official groups arise from substantive considerations and discussion. This brings us to another aspect of the democratic deficit, namely the lack of a "public space" or forum in which to debate European affairs. The sociologist Abram de Swaan has said, "Democracy is only possible by virtue of public debate in which public opinion can be formed. And that debate is only possible if a climate of openness exists in which people can air their feelings and thoughts."[98]

The democratic deficit is perhaps most acute in relation to decisions made by the six-monthly summits, the European Council. As in the case of the Council, the consultations and decision-making of the European Council take place in a completely closed environment. Although formally speaking the agreements made at these summits do not possess legal force but are merely intended to map out contours, chapter 4 will show (in particular in 4.4) that they have a decisive impact on policy decisions.

3.7 Summary

This chapter has shown that drugs are discussed in a great many forums within the EU. The Commission alone conducts a wide range of activities in this area. Though several Directorates-General are involved, coordination is in the hands of the Directorate-General for Justice and Home Affairs. The Commission's powers lie chiefly in first-pillar matters such as health (including drugs prevention), development cooperation, precursors and money laundering. In recent years it has raised the drugs issue with increasing frequency in the EU's external relations; drugs have become a routine

part of talks with third countries, which are required to take certain measures as a prerequisite for cooperation. This applies not only to EU applicant countries but to the developing world as well, with Latin America and the ACP (African, Caribbean and Pacific countries) being designated priority regions. In general, the Commission's activities in relation to drugs are rather diffuse. This is partly because it bears responsibility for different aspects of the issue, and as a result its activities may appear to lack coherence.

The Council too is active on many drug-related fronts at once. It may be the most obscure of the EU's major institutions, but it is nonetheless probably the most important, as it is responsible for decision-making. Directly under the Council comes Coreper, composed of the member states' Permanent Representatives to the EU, which prepares the decision-making. But in practice the member states try to reach agreement earlier still, in the Council's working groups, which consist of officials from the member states. In drugs policy the most important Council group is the Horizontal Group on Drugs, set up in 1997, which coordinates this policy area. Everything to do with drugs has to pass through this Group before it goes to Coreper. Although it has been a horizontal, or cross-pillar, group from the outset, the third pillar has long played a dominant role. In 1999 the Horizontal Group's cross-pillar structure became more tangible, as it started paying attention to first and second pillar issues. Like the Commission, the Council is very active in incorporating drug-related issues into the EU's external relations. It conducts dialogues about drugs measures with numerous countries and regions, in second as well as third-pillar talks.

The European Parliament has also taken an active interest in drugs in recent years, and has set up various committees of inquiry. The EP is in effect the only place within the EU apparatus in which real debate, sometimes heated debate, takes place, as different positions are aired there in public. The positions adopted within the EP have changed quite a bit in recent years, partly because of Sweden's accession, and it is not clear how they will develop. However, Parliament has only limited powers in this area. It has the power of codecision (i.e. together with the Council) only in relation to health issues, money laundering and precursors. In other drug-related

issues its function is purely advisory. This restriction also applies to the parliamentary committee that discusses drugs most frequently, the third-pillar committee on Citizens' Freedoms and Rights, Justice and Home Affairs.

The many ways in which the theme is raised within the Commission, the Council and the Parliament have caused some to comment that drugs could not possibly be discussed more often than they already are. Within the numerous forums all sorts of agreements are made and measures announced, but none of it is coordinated. So "policy" is made in all sorts of ways, but the sum total of all the policy measures and the interaction between them displays little if any coherence.

The chief "growth area" in all this activity is in the EU's external relations. Drugs prevention receives a great deal of emphasis in talks with third countries, and measures are more or less imposed on them. The EU adopts the position that such talks should be based on a balanced approach – that is, balancing supply and demand reduction measures and taking the third countries' interests into account. But it is questionable whether this works out in practice, and whether the measures taken are not primarily a matter of law enforcement. The documents make great play with this "balanced approach", creating the impression that it is in the third country's interests. But this too is open to question; one cannot help but get the impression that the agreements are made largely with a view to reducing the flow of drugs to the EU. In any case, given the wider issue of poverty in many Southern countries, and the small budget that the EU makes available for this balanced approach, ensuring the effectiveness of demand reduction measures is fraught with difficulty. What is more, most of these measures are third-pillar (law enforcement) rather than first-pillar (health and development cooperation) activities. Finally, one may question the legitimacy of the EU's imposition of policy on countries, especially since the criminal law regime on drugs has actually been slackened in many EU countries.

There is another factor at work within the EU when it comes to drugs policy. A power struggle is going on here – a battle for competence between the Commission and the Council. Given the Commission's powers in health issues, it would benefit from a health-oriented approach to the drugs problem. Leaving aside this substantive difference, there is also a more general

tussle for ascendancy going on, with both Commission and Council trying to gain the upper hand in drugs policy. This is partly a consequence of the process of change: the EU is still "under construction" and powers have not yet solidified. Another factor is that before Maastricht the Commission was the most active institution in this policy area, while since then the Council has moved to the fore. Furthermore, many forums view the drugs problem as an excellent vehicle for expanding their influence, precisely because it is discussed in so many different places.

At the moment, the institution that has the greatest say on drugs is the Council. Among other things this means that law enforcement currently takes precedence over a health-oriented approach, since the Council's drug-related activities are heavily biased towards the third pillar. The European Council, the six-monthly summits of heads of state and government, is also highly influential. Although formally speaking it only issues guidelines, its pronouncements have a major impact on policy.

In conclusion, given the way in which decisions are made, a certain bureaucratic power has arisen within the EU. The real decisions are increasingly made in closed official working groups, whose members possess a substantial margin of discretion in the positions they adopt. This sometimes produces a discrepancy between the drugs policy of a country and the positions that are put forward on that country's behalf in Brussels. Not only is the decision-making process hard to grasp, it is also questionable to what extent the decisions that eventually emerge from official working groups represent the end result of a real debate on content. This decision-making process bears the hallmark of a democratic deficit. The groups meet behind closed doors, and public debate is simply not part of the equation.

4 THE DYNAMICS OF EUROPEAN DECISION-MAKING ON DRUGS

4.1 Introduction

This chapter will discuss in greater detail the dynamics of European decision-making on drugs and try to explain it. The first question to be dealt with is why drugs should figure so prominently on the EU's political agenda. The two reasons most often cited are the need to tackle organised crime, for which drug trafficking is an important source of income, and the need to respond to European public opinion, which surveys show to be concerned about drug-related crime. These two points are said to have driven European politicians to take action. Section 4.2 will discuss both in detail.

But there are other reasons too. It will become clear that drugs are viewed as an "attractive" political theme, because they easily lend themselves to populism. In other words, labelling drugs a problem is politically expedient. It is to a large extent this political expediency that sends the issue to the top of the EU's political agenda (in words, if not in action) and ensures that it is constantly raised in talks with third countries. But the situation is more complex still. Once drugs have been identified as a major policy issue, a bureaucratic dynamic comes into play to preserve this prioritisation. For the drugs issue can also serve as an instrument to increase bureaucratic power: individuals or forums that have brought the drugs problem within their field of competence have increased scope to expand this power. So drugs serve a useful purpose not only for politicians but also for the officials in charge of implementation.

4.2 Drugs on the political agenda

The need to tackle organised crime

It is often claimed, both in policy documents and in interviews, that the main reason for the prominence of drugs on the EU's political agenda is the close relationship between drugs and organised crime. Drug trafficking is one of the primary activities and sources of income of organised crime, not only in Europe, but worldwide. The UN estimates the turnover in the international drugs trade at US $ 400 billion. This means that drugs represent 8% of world trade – a figure comparable to the automobile industry – and constitute a key sector of the global economy. Criminal organisations derive their income from a variety of sources, but drugs appear to be among the most important.

As the EU is concerned about the growing influence of organised crime, it has declared drug trafficking a priority policy area. Policy documents regularly refer to drugs as one of the biggest threats facing society. The threat is greater still, they go on, with the forthcoming accession of countries from Central and Eastern Europe, making it more urgent still to tackle organised crime.

The constant repetition of this line of reasoning is rather curious, since its logic is far from watertight. It is certainly true that organised crime takes a keen interest in traffic in illicit drugs. This is obviously because it is such a lucrative sector. Drugs became a part of youth culture a few decades ago, and since then they have spread and acquired a fixed place in Western societies. The large majority of recreational users, including a great many adults, choose to use drugs and are willing to take certain risks related to their illegality. For many of these recreational users there is little difference between smoking cannabis, in particular – the most popular illicit substance – and drinking alcohol. Their consumption is part of their normal lives, and does not dominate it.

Then there is a small group of problem or compulsive drug users, for whom drugs occupy a prominent place in their everyday lives. They persist in this habit for a variety of reasons, in spite of the harm it may cause, for instance to their health. It is impossible to make any sweeping generalisa-

tions about the causes or underlying reasons for this problem drug use, nor would it be appropriate here.[99] It may be noted, however, that specific population groups account for a disproportionately large share of the addict population. Many addicts come from minorities and other vulnerable groups, often from poor inner-city neighbourhoods. What is more, a sizeable proportion of female addicts may be former victims of sex abuse.[100] Some male addicts have connections with a criminal subculture, in which criminal behaviour and drug use have become part of a certain lifestyle.[101] Finally, a relatively large number of problem drug users have psychological problems or a psychiatric disorder.

In spite of the many anti-drugs measures that have been taken nationally and internationally, the demand for drugs has not declined. On the contrary, it has become more differentiated in comparison to the 1960s and 1970s. This trend is related to the advent of synthetic drugs, the composition and hence effect of which can easily be varied. As the demand for the drugs that are currently illicit is unlikely to diminish, there will always be suppliers interested in operating in this market, whether in an organised framework or not. Socio-economically disadvantaged groups or individuals with few opportunities for advancement see drug trafficking as a way of improving their position. Look at Albania, for instance, the poorest country in Europe. Over the past few years Albanian heroin networks have rapidly become major suppliers in the European market. The crime this generates is in part a direct result of the illegality of drugs. As long as there is a big demand for illegal drugs, and while the current approach is maintained, operating in this market will always be financially attractive. The reasons that the EU advances for continuing the fight against drugs crime are little more than a circular argument: the crime that arises from criminalising drugs is presented as a reason for continuing to criminalise them. The fact that the current approach in a sense actually generates drugs crime is seldom brought into discussions on policy.

Occasionally a lone voice is raised within the EU that questions or nuances the current drugs policy, such as the EP's 1992 Cooney Report on drug trafficking and organised crime. The Report noted that the financial profits from drug trafficking enable criminal organisations to corrupt gov-

ernment structures at every level and sometimes to impose conditions on those who are responsible for making political decisions. It also alluded to several instances in which clandestine agreements had come to light between criminal groups and secret services and other state agencies. Current policy had scarcely had any impact, it went on; it had not even reduced the quantity of drug trafficking in the EU. The Cooney Committee therefore wondered whether such a reduction could be achieved by trying harder, or whether it was time to explore a new approach. Without answering this question, it called for a cost-benefit analysis of current drugs policy, an analysis that would include the consequences of the fight against drugs. However, in a resolution adopted in response to the Cooney Report, the European Parliament rejected legalisation and called upon member states to conform to the UN conventions. This basically put an end to all discussion, as it confirmed a general desire to continue as before. No evaluation of drugs policy was commissioned.

A fresh, modern appraisal of the phenomenon of organised crime would also be useful. Contrary to what is regularly suggested by politicians and the media, organised crime is not a "hostile power infiltrating civilised Western culture".[102] A better premise, deriving from the criminological literature, is that organised crime comes from society's demand for illegal goods and services; it provides a provisional solution for problems that have been neglected or poorly regulated by government.[103] In other words, crime fills up the gaps that arise in between pieces of legislation.

International drugs policy and general attitudes to crime are unlikely to change within the foreseeable future. Organised crime will always exist, and for the time being drugs will remain a welcome and substantial source of income for it. This is obviously a problem for individual countries and for the EU, especially in the light of people's increasing mobility, the unstable situations in Central and Eastern Europe, and the growth of criminal activity both targeting and within the EU. Notwithstanding the seriousness of the problem of organised crime, it is legitimate to inquire whether it is truly as serious as it is suggested within the EU. Several people whose work within the EU involves tackling organised crime stated when interviewed for this book that they believed that politicians have rather exaggerated the prob-

lem of organised crime and the seriousness of drug-related crime. It therefore appears that the problem has been given higher priority on the political agenda than it merits on purely objective grounds.

Public concern

Another, related reason that is given for the EU investing so much in the battle against drugs is that the European public is so concerned about it. European politicians and people who work in the field regularly cite opinion polls indicating the great public concern about drugs. The booklet *The European Union in action against drugs* gives an overview of the EU's anti-drugs initiatives. The question of why the EU is taking these measures is answered in its introductory chapter: the "active approach" to drugs, it explains, is "in response to European citizens' concerns" as reflected in answers to a questionnaire on a variety of issues.[104] The results of the poll on "fears among European citizens" cover an entire page at the beginning of the pamphlet, with fears about "increase in drugs/organised crime" topping the list. Other surveys supposedly reflect similar anxieties. Given the regularity with which these polls are cited and the importance that is evidently attached to them, it is worth dwelling on them here in detail.

The ranking order of public fears is determined by presenting interviewees with a number (ranging from 10 to 30) of possible areas of concern and asking them whether they are personally worried about each one in turn. According to the 1996 poll cited in *The European Union in action against drugs*, 69% of interviewees had fears about an "increase in drugs/organised crime".[105] This was slightly higher than the percentage who feared "more taxes" (68%), and the "loss of small farms" (62%). In a similar poll of fears held in 1997 (*Eurobarometer* 47),[106] increased drug trafficking and organised crime came second (65%), after tax increases (68%). In a subsequent questionnaire held at the end of 1997, EU citizens were asked which of various policy areas they thought should be given priority. The first two places were taken by "reducing unemployment" (92%) and "fighting poverty and social exclusion" (89%). In joint third place came "fighting organised crime and drug trafficking" and "maintaining peace and security in Europe" (88%).[107] Finally, in 1998 people were asked what policy areas should have priority in

the European Parliament. Reducing unemployment clearly led the field at 52%, followed by "tackling drug trafficking and crime" (36%) and in third place "protecting the environment and consumers" at 27%.[108]

These polls lead to the conclusion that organised crime and drug trafficking rank among the constants in the concerns and fears of the general public. Nonetheless, the way in which the drugs theme is dealt with in these questionnaires is open to criticism. To begin with, given the way the questions are formulated, it is hardly surprising that fears about an "increase in drugs/organised crime" or "organised crime and drug trafficking" end up with a high score. People are being asked here about not one but two phenomena at the same time, whereas most of the other questions relate to a single issue. One would expect this ill-considered formulation to yield a high score. The answers also need to be seen in perspective. In the two questionnaires about public fears, the increase in drugs, drug trafficking and organised crime had to compete with the issue of higher taxes. One would be justified in concluding that the level of public concern in the prosperous EU is rather low. Citizens appear to have "luxury worries" rather than real anxieties.

More important than this criticism of the content of questionnaires and the political weight attached to them, however, is the question of whether the explicit concerns they reflect justify EU policy on drugs. After all, EU politicians point to them as a primary reason for their active anti-drugs policy. The preface to the EU drugs booklet states "The fight against drugs is of more fundamental importance today than ever before. Drugs are a source of pain, suffering and social isolation for too many people, especially the young. Though we cannot dispense with punitive measures, we must try to understand the underlying social malaise and the reasons behind this scourge if we are to develop a comprehensive strategy to combat it."[109]

This seems a rather curious line of reasoning, and strictly speaking it is untenable. For what the polls express is concern about crime. If you want to reduce this concern, you should surely focus on law enforcement, or better still, take steps to deprive criminals of the basis for their existence. After all, criminal organisations prosper under current policy, and it is far from clear than tightening it up would do them much harm.[110] In other words, if tack-

ling organised crime were really the main aim, it would make more sense to try a different approach altogether.

First among the measures listed, it should be added, is "action on drug users". This is puzzling. Why take action against drug users if citizens are concerned about organised crime? To put it differently, can people's fears about an increase in organised crime, which is in part funded by drugs, justify the pursuit of a more active drugs policy? The only way these two phenomena can be linked is by assuming that taking action against drug users will reduce the demand for drugs, which would make drug trafficking less attractive for criminal organisations. But there are no facts to back up this assumption. There is nothing to suggest that taking action against users has ever led to less or less frequent drug use or that it has reduced dealers' profits.

The same EU booklet on drugs policy also examines the public's opinions on drug use.[111] According to the Eurobarometer survey, the public believes that "the consumption of drugs can lead to":

	Total	**15-24 year-olds**
Health problems	97%	97%
Problems with the law	96%	95%
Social problems	96%	95%
Poverty	96%	95%
Violence	94%	91%
Prostitution	93%	88%
Suicide	92%	90%
Aids	89%	90%

These figures supposedly reflect public opinion on the risks of drug use. The figures in this table, however, are so improbably high as to call in question their validity and representativeness. The answers should probably be interpreted as meaning that most adults and young people consider that such consequences are conceivable; they cannot be ruled out.[112] The above list can therefore scarcely be regarded as giving a reliable picture of the public's views about drugs. The main problem here, of course, is the woolly phrase "can lead to", which is so suggestive as to invite an affirmative response.

4.3 The political use of drugs

Some European politicians are said to have been surprised, even shocked, about the degree of public concern about drugs reflected by the various opinion polls. But given the formulation of the questions, the presentation of the results, and the way in which EU policymakers respond to them, it is legitimate to ask whether drugs are really such a problem, or whether they have largely been made into one. The answer probably lies somewhere in between. In any case, it is important to note that policymakers' responses to the public's real or projected anxieties help to shape the drugs problem. By focusing on what are perceived as the dangers of drugs, as discussed in the previous section, they create the impression that they are taking them seriously and acting accordingly. In this way they validate the poll findings, although not a single expert would maintain that drug use is likely to have the consequences listed in the above table.

This raises the question of the role and responsibility of leaders and politicians. Should politicians respond objectively to unrealistic anxieties and place them in perspective, of should they go along with the *vox populi*? On the one hand, politicians should have the courage and sense of responsibility to resist the tide of emotion by adopting a more objective, rational point of view.[113] On the other hand, they must take the public's concerns seriously and take initiatives based on their political responsibility, for instance by placing the subject on the political agenda. This will reassure citizens that their voices have been heard. But just how far politicians should go is the key question, as the slippery slope of populism is never far away.

For it is undeniable that the idea of drugs can strike fear into the general public and create a sense of insecurity. This is particularly true of older people who have no experience of drugs, parents who are worried about what their children may encounter, and members of small communities. The same paradox can arise with drugs as with immigrants: the more unfamiliar something is and the less likely one is to come across it, the more fear it provokes. Big city dwellers are more familiar with the phenomenon and can often put it in perspective. A questionnaire held in eleven European cities

on drug problems, policymakers and public opinion revealed that people who do not encounter drug-related nuisance are more in favour of strong law enforcement measures than those who *are* confronted with it.[114] What is more, people who have themselves tried illicit drugs favour a health-oriented approach rather than punitive measures – even more so if they have some experience of drug-related nuisance. And since young adults and relatively well-educated people have in general experimented more with drugs than people of older generations and those with less education, the former are more in favour of a health-oriented approach than the latter.

The fact that drugs can provoke feelings of unease, especially among people who have had little or nothing to do with them, makes them a potent political issue. By emphatically referring to drugs as a problem or by magnifying the problems that do exist – whether deliberately or not – politicians exploit and inflame these fears. Noam Chomsky has remarked that one of the most traditional and clearest ways of controlling people in societies is by frightening them, something easily achieved with the drugs issue.[115] People in politics set out to acquire power to achieve certain ends,[116] and drugs can serve a useful role in this endeavour. The subject has ranked high on the political agenda in the United States for many years. In the 1996 presidential election, the Republican candidate Dole used the rise in experimental drug use among young people as one of his main weapons against Clinton. As the economy was doing well and unemployment and violent crime were on the wane, the opposition needed other ammunition with which to attack Clinton. By accusing Clinton of being "soft on drugs" and presenting himself as "tough on drugs", like Reagan and Bush before him, the Republican hoped to win votes. Clinton's answer was to "out-tough Dole on drugs": he adopted an even more rigorous approach, which he underscored by appointing four-star general Barry McCaffrey as drugs czar, coordinator of national drugs policy.

The political use of drugs in Europe is somewhat more muted, but it certainly exists. In France the phrase *discours de securité* refers to the bold and uncompromising rhetoric that politicians adopt when speaking about certain problems or threats to society, such as violence, terrorism or drugs. The chief spokesman is generally the Minister of the Interior, a job that therefore

tends to go to a forceful, unyielding individual. By claiming that he will tackle the problem or "evil" rigorously, and by creating a strong police presence in the streets, he sets out to reassure certain sections of the community. This presents the image of a politician who takes his responsibilities seriously and protects the general public. The far right Front Nationale has used this *discours de securité* skilfully in recent years, attracting voters away from traditional right-wing parties, which have therefore been obliged to respond in kind. This is part of the explanation for President Chirac's rigid stance on drugs and his unflagging efforts to harmonise European drug policy along French lines.

In Swedish politics too, drugs became a major election theme in the 1980s and 1990s, with parties trying to outdo one another in the severity of the punitive measures they advocated. As a result, Sweden now has the harshest anti-drugs legislation in the EU.[117] Throughout this process, drugs were increasingly labelled as a problem, although prevalence statistics and other indicators did not point to a growing problem. In their book on the harsh anti-drugs policy of several Scandinavian countries, Bruun and Christie call drugs and drug addicts "the ideal enemy".[118] Starting from the premise that no phenomenon is a problem until it is labelled as such, they posit that the drugs issue has acquired the role of the perfect social problem because of the lack of any power or influential lobby arguing an alternative point of view. The authors list several characteristics of the perfect social problem: there is no one standing up for the "enemy"; the fight against the problem confers prestige; the battle is largely paid for by underprivileged groups; and the lifestyle of the majority is not disrupted by it. Finally, the problem can be used to explain all manner of social ills, such as problems associated with young people, crime, poverty and violence.

It would be going too far to suggest that the EU's drugs policy can be entirely explained in this way. Nonetheless, this approach can clarify the role that drugs sometimes play in our society. There is a distinct mechanism at work in the EU tending towards a demonisation of drugs on political grounds. Given the remoteness of EU decision-making to ordinary citizens, as reflected in questionnaires and above all in EP parliamentary elections, EU leaders and policymakers have even more need than their national counter-

parts of themes with which they can enhance their image and reach the electorate. Drugs, with all the fears and insecurities they may arouse among the general public, are undoubtedly a good vehicle for populism. And partly for this reason, drugs and drug use are now regarded by definition as a problem in EU politics – so much so that it has become quite customary for EU drugs documents to start out by identifying drugs as a major threat to society or even to humanity.[119]

4.4 The genesis of political agendas

The above discussion has shown that drugs rank high on the EU's political agenda. Let us now turn to look at the precise mechanism that puts them there. Which individuals or forums are actually responsible? From the many interviews conducted in the course of researching this book, and from numerous EU documents, it is clear that politicians bear primary responsibility. The European Council and the rotating six-monthly Presidency are particularly significant, since the country holding the Presidency is expected to take political initiatives during its term of office. The following section will show that the drugs issue is a useful theme that enables politicians to tackle national issues through EU channels.

The European Council

Every six months, and sometimes more frequently, the government leaders meet at what is called the European Council, chaired by the President of the European Commission. The venue is the country holding the Presidency. The Presidents of Finland and France are the only heads of state in the European Council, and they are accompanied by their prime ministers. The heads of government are accompanied by their foreign ministers, and the foreign relations Commissioner is generally also in attendance.

The European Council initially had no formal status. But this changed, partly as a result of its own gradual appropriation of more powers, with the entry into force of the Amsterdam Treaty on 1 May 1999. Officially, it is the Council of Ministers that takes the EU's actual decisions, with the European Council only issuing guidelines for future action. However, these terms are

relative and fairly flexible: while the European Council cannot make legally binding decisions, its pronouncements have an enormous influence on policy. In part this is undoubtedly because the heads of government are at the top of the pyramid and are therefore accustomed to having a great deal of power. Sometimes the European Council does actually make formal decisions, in particular when the Council of Ministers has failed to reach agreement.

Where drugs are concerned, the European Council plays a key role in mapping out the political course to be followed, for instance by proposing new initiatives or calling for some matter to be investigated. Its proposals often have far-reaching consequences and help determine the dynamics of the EU's political agenda. Section 2.3 discussed this mechanism in relation to the period before the Maastricht Treaty: it was at the Strasbourg European Council in 1989 that President Mitterrand proposed the establishment of the anti-drugs committee CELAD. Although the committee had a poorly defined status and was set up outside EU structures, it played an important part in the development of the EU's policy on drugs. CELAD prepared the first and second Action Plans to Combat Drugs that were adopted at the European Councils of Rome (1990) and Edinburgh (1992) respectively, and it was CELAD that launched the EMCDDA.

At the Cannes European Council of June 1995 the heads of government decided that an annual progress report on drugs should be presented at future summits. Since then drugs have been a recurrent theme at every European Council. Although the heads of government arrive at such agreements jointly, the President's influence is crucial, as he determines the agenda. The Cannes European Council was hosted by President Chirac of France, who attached great political importance to the drugs issue and was highly instrumental in setting the new trend. Chirac enjoyed the support of Chancellor Kohl of Germany as well as the British and Irish Prime Ministers.

It was this same European Council that adopted in broad outline the new European Global Plan of Action in the Fight against Drugs (1995-1999). The heads of government asked the "national drugs experts" to work out the details. The original plan contained 66 measures, 15 of which related to public health. However, these latter 15 were not adopted at the summit. So all the measures that were adopted had a punitive slant, as a result of which

the special group of national drugs experts effectively became a third-pillar group. (It was from this body that the Horizontal Drugs Group would eventually be formed.) The 15 health-related measures of the original plan were subsequently adopted at the Madrid European Council of December 1995, but under the Italian Presidency they were later moved to the drugs prevention action plan 1996-2000.

Although the drugs prevention action plan is officially part of the implementation of the Plan of Action in the Fight against Drugs, in fact the two operate separately. Basically, then, two distinct anti-drugs plans were created: a cross-pillar Plan of Action that in practice was strongly oriented towards the third pillar and ran from 1995 to 1999, and a first-pillar drugs-prevention programme that started a year later and ran from 1996 to 2000. Hence the agreements made at successive European Councils were at the root of the distinction that was introduced between health-related and punitive aspects of drugs policy. Since health aspects were initially excluded from the Plan of Action, their implementation started a year later. This also affected the working groups: in the Horizontal Drugs Group, for instance, for instance, health matters were somewhat marginalised for a long time.

The Madrid European Council of December 1995 adopted yet another anti-drugs measure. Jacques Chirac and John Major, with the support of the Dutch prime minister Wim Kok, launched a Plan of Action for the Caribbean. At Spain's request Latin America was later added, leading to the creation of the Coordination and Cooperation Mechanism on Drugs for the Caribbean and Latin America. The Caribbean is the region in which international cooperation is furthest advanced, including consultations with the UNDCP and the US . At Madrid it was also proposed that the drugs problem would in future be incorporated into the EU's foreign policy.

At the Florence European Council of June 1996, the heads of government called for research to be carried out on the harmonisation of drugs legislation. Later, in Madrid, this was changed into a study of the *desirability* of harmonisation. In Florence, France had submitted a memorandum on a European social model advocating the harmonisation of national legislation on drugs. As we have seen, the question of harmonisation was raised several times after that. This European Council too decided to engage in third-pillar cooperation with Russia and the other New Independent States.

At the Dublin European Council of December 1996, Chirac and Major proposed a Plan of Action on Drugs for Central Asia, focusing on ways of curbing production and trafficking. This summit also agreed on the importance of defining an EU strategy on organised crime, and established a High-Level Group to map out the main policy outlines in an action plan. At the Amsterdam European Council of June 1997 this plan was adopted and a Multidisciplinary Group created to implement it. One of the plan's recommendations was to inaugurate a pre-accession pact on organised crime; countries wanting to join the EU would have to meet certain conditions, including signing the UN drugs conventions.

At the Cardiff European Council of June 1998, the main outlines of EU drugs strategy were determined for the period after 1999. The European Council then asked the Council of Ministers, the Commission and the EP to work out the details. The Commission responded with its Action Plan to Combat Drugs 2000-2004. Meanwhile, the Council responded with a separate document on EU Drugs Strategy after 1999, added to which the Parliamentary Committee on Citizens' Freedoms and Home Affairs issued a report of its own and adopted a number of resolutions. The next stage is for the reports issued by the Commission and the Council to be discussed at a European Council. However, so many measures have been announced that it is unclear – especially in view of the limited budget – what they will amount to in practice. It is equally unclear which body will bear final responsibility for implementing one or more of the plans.

This overview demonstrates the European Council's immense influence on the EU's political agenda. Although its decisions are formally non-binding, in practice it often functions as the highest body in the European Union. With their guidelines and agreements, the heads of government meeting at the European Council do much to determine the EU's political priorities and to ensure that the drugs issue ranks high on the list.

The Presidency

The system whereby each member state in turn holds the Presidency of the EU for six months at a time also has considerable influence on policy. During this period the country presides not only over the Council of Ministers

but all the EU's other forums as well. The Presidency is primarily of importance in the second and third pillars, since it is the member states that take the initiatives there. Many insiders describe the Presidencies as crucial to the setting of priorities. What is at issue here is far more than mere chairmanship. The Presidency draws up agendas for meetings and prepares documents that create a framework for discussion, and is expected to make a variety of proposals. In practice other countries leave a great deal to the Presidency, and their own interventions tend to be rather passive unless a country knows from the outset that it is fiercely opposed to a particular proposal.

Every Presidency is eager to enhance its image during these six months. After all, it will be a long time before the opportunity comes around again – seven years with the current fifteen member states, and after enlargement it will be longer still. So any good Presidency needs a few striking initiatives. This image building has two sides to it. One is impressing other member states with the country's vision and vigour. Of equal importance, however, is bolstering the country's image in relation to public opinion and the media at home. Particularly since "Europe" is remote from the experience of many of its citizens, it is important for the country to come up with some resounding new proposals. This is reinforced by the close scrutiny of politicians, and above all of the media, in the home country. So it makes good political sense for the Presidency to raise some important national themes within a European framework; it shows the people at home the importance of the Presidency and brings "Europe" closer to their world. Drugs are a useful theme when it comes to image building. Several Presidencies have prioritised the drugs problem in recent years, as a result of which the issue appears to have undergone a degree of inflation.

We have already discussed France's persistent concern with the drugs issue. The authors of *The Gentlemen's Club* identify France as one of the main countries (after the US and the UK) that have actively pursued the cause of international drugs control.[120] Unlike the UK, say, which has tended to favour regulation, France emerges as a traditional advocate of a total ban on drugs.[121] It has consistently argued this position in international forums and has made a series of proposals in this line. In 1971 President Pompidou launched the Pompidou Group within the Council of Europe, which Presi-

dent Mitterrand took as his inspiration almost twenty years later, in 1989, when he inaugurated CELAD at the Strasbourg European Council.

Mitterrand's successor Jacques Chirac has likewise proved a passionate advocate of a harmonised European policy on drugs, based on a ban and strict punitive measures. It should be added that Chirac is also, or perhaps primarily, motivated by personal and electoral considerations. His family history has given the President a fierce aversion to drugs and to a liberal approach such as that of the Netherlands. At the same time he hoped to use the issue to gain a political victory in a classic theme in French politics, as discussed in the previous section. At the Cannes European Council the French Presidency placed drugs on the political agenda by launching the European Global Plan of Action in the Fight against Drugs (1995-1999). This was the summit that inaugurated the periodic progress reports that made drugs a fixed theme at every European Council. The French President has regularly sought to keep drugs on the European agenda since then, generally by advocating harmonisation. French politicians have emphasised the importance of the EU harmonising drugs policy so strongly that many French people evidently assume that the decision to do so has already been taken.[122]

Ireland accorded great importance to the drugs issue during its Presidency, during which no fewer than 28 proposals were adopted concerning it. This should be seen in the context of the national political situation. A sharp rise had been reported in the use of drugs, particularly of heroin, among the Irish population, which is very young in EU terms. Added to this was Ireland's outdated drugs legislation, which the Presidency sought to modernise by making agreements at European level. Opinions were further inflamed by the murder of a journalist who had been investigating drug trafficking in Ireland, which galvanised Dublin's political circles. All in all, drugs had become a hot item in Ireland, and by adopting an active stance on drugs during its EU Presidency, Ireland could move forward on this sensitive domestic issue.

Meanwhile, agreements on harmonising drugs policy were concluded in the K4 Committee. While originally advocated by France, the plans had enjoyed Ireland's support. They were later revoked as the Netherlands refused

to sign up to them. Then the Dublin European Council of December 1996 decided (albeit in response to a French-British proposal) to launch an action plan for Central Asia, focusing on the fight to curb the production and trafficking of drugs. Preliminary steps were taken at this summit towards formulating a EU strategy on organised crime. Finally, at the Dublin European Council the results were presented, and the recommendations adopted, of a report on the comparability of drugs legislation.

The Netherlands too used its Presidency to tackle a domestic problem. The agreements on the harmonisation of drugs policy that had originally been reached in the K4 Committee could have forced the Netherlands to change its policy on cannabis. That the Dutch Ministry of Justice had endorsed them without consulting the Health Ministry was partly related to the competition between the two ministries in this policy area.[123] While the Netherlands was able to correct this later on, it had blotted its copybook in the eyes of other member states. To prevent any recurrence of this embarrassing lack of coordination between ministries, the Dutch Presidency proposed the launch of a Horizontal Drugs Group.

One of the conclusions of the working conference on the comparability of legislation that presented its results at the Dublin European Council was that there was no need to harmonise legislation on drugs. However, delegates agreed that it might be useful to develop a control system for synthetic drugs. The Netherlands was worried that this might eventually lead to a largely punitive system, which might compel it to alter its drugs policy. It therefore proposed an early warning mechanism for new synthetic drugs. Since the Netherlands was known not only for its liberalism in relation to drugs but also as a major producer of synthetic drugs, it also hoped that this move would ingratiate it with other member states. By taking an initiative on synthetic drugs it demonstrated that it was taking the problem seriously.

The UK Presidency likewise prioritised the fight against drugs – at least, it appeared to do so in the documents drafted during its six-month term. In retrospect this was largely a matter of rhetoric, however: the UK did little about drugs in terms of specific measures or agreements. It seems very likely that the UK too referred to the subject as a priority in order to score political points at home. The UK's primary achievements in the sphere of drugs were

the preparations for UNGASS (at which the EU however failed to make a strong political statement) and the drafting of the Drugs Strategy Plan 2000-2004. The European Councils of Cardiff and Vienna had asked the Council, the Commission and the Parliament to develop a post-1999 plan for EU action on drugs. The Council's response was largely formulated by the Horizontal Group. All in all, the activities and priorities of the British Presidency seemed very much aimed at the press and public opinion in the outside world. Some documents actually say as much. One reference to UNGASS described it as a "politically useful document, to ensure maximum media impact".[124] This comment probably relates to the style of government adopted by New Labour under Tony Blair, which accords considerable political importance to public relations and media policy.

Finally, under the Austrian and German Presidencies, drugs retained their prominent place on the agenda, but less so than in previous Presidencies. Some shifts of emphasis emerged in these twelve months. Demand reduction was accorded a more prominent place than before during Austria's Presidency, a trend consolidated by Germany.

4.5 Drugs and the dynamics of bureaucracy

We have seen that organised crime and public concern about drugs – leaving aside the question of how great that concern really is – have forced European politicians to define drugs as a problem and as a priority on their political agendas. Sometimes a country will accord the issue prominence within the EU partly to satisfy domestic public opinion. It may do so during its Presidency or its head of government may raise the matter at the European Council.

But there is another mechanism at work in this process, and that is the power of EU bureaucracy. Although politicians determine the broad outlines of policy, they are far less involved in implementation and in the arduous process of forging compromises between the fifteen member states. As was described in chapter 3, this task lies largely in the hands of officials from the member states who belong to the Council's working groups in Brussels, or those who work directly for the EU, whether for the Commission or the

Council. The EU's committees and working groups have mushroomed to such an extent as to compromise the transparency of decision-making. This proliferation is to a large extent due to the process of "comitology", whereby the Commission is assisted by committees of experts from the member states when it is formulating measures to implement legislative acts.[125] A grand total of 330 committees could be counted in 1993. Given these officials' key role in the negotiation and decision-making process, they can be said to possess a certain bureaucratic power. This is strengthened by the superior knowledge of these officials, who have permanent jobs, in comparison to politicians with their rotating jobs. Max Weber wrote that it is the bureaucracy, the officials, that constitute the real power behind the throne of every large organisation.[126]

The power of officialdom is exemplified by the Council secretariat. The Maastricht Treaty gave the EU competence in a number of new policy areas, and the role of the Council, and hence its secretariat, has steadily grown in importance since then. Strictly speaking this secretariat ought to be nothing more than a body of officials whose task it is to support the Council and its working groups. Yet its strategic position in the Council's apparatus has given it substantial influence on policy. One of its tasks is helping the Presidency prepare documents, which in itself provides scope for exerting influence – especially since the Presidency changes every six months, while the secretariat is a permanent body with a finger in every pie. It should be borne in mind that the officials of the country holding the Presidency have generally had little or no experience with it. Even if the country has held the position before, it will have been at least seven years ago, and its experienced officials will have gone on to fresh pastures. To the newcomers the secretariat is a tower of strength, with its thorough knowledge of key aspects of policymaking and the Presidency: it is familiar with the policy areas and different member states' attitudes to them, and it knows how to make compromises and formulate texts. In practice, the Presidency will tend to delegate some of its tasks to the secretariat.

For the secretariat – even more than for Coreper – compromise is the all-important goal. While Coreper has to navigate between a country's national interests and a possible compromise within the EU, the secretariat is total-

ly single-minded. Little concerned by the interests of individual member states, it adopts a totally pragmatic attitude. Some people working within the EU feel that it on occasion abuses or overstretches its mandate. Countries are sometimes aggrieved by a sense that the secretariat takes too little account of them. What is more, the secretariat's approach, geared as it is towards results and rapid decision-making, sometimes provokes irritation at the Commission, which may feel that it has been passed over.[127] Once the Commission is involved in a decision, documents have to be processed by the slow wheels of its machinery, and the European Parliament too might have to be given a say. It is precisely because of the Commission's circuitous and time-consuming procedure that the Council often prefers to keep files in its own hands, manoeuvring them through the appropriate channels with informal telephone calls. That this goes faster is undeniably true, but results are achieved by bypassing what are essentially democratic safeguards. What is more, the secretariat's key role tends to reduce to a minimum all deviations from the safe middle course, diminishing the likelihood of any innovative proposal.

Sections 3.5 and 3.6 discussed the power struggle between the Commission and the Council, the outcome being that the Council now has more say where drugs are concerned. It also described the decision-making procedure and the issue of bureaucratic power. Some indeed claim that the officials hold the real power in Brussels; the Permanent Representatives to the EU have been called the "fifteen wise men" of Europe.[128] While politicians are responsible for putting drugs on the EU's political agenda, it is officials who keep them there. A political decision on drugs in the EU sets in motion an inexorable bureaucratic mechanism from which the issue, once sucked in, is unlikely to emerge in the foreseeable future. Whenever the European Council announces some new initiative, it triggers a process at the Commission or the Council – or both, as in the case of the dual documents spun by the announcement of the EU drugs strategy. The Commission feels obliged to make a proposal in the spirit of the announcement, a proposal that will then be discussed not only in diverse departments of the Commission's Directorates-General, but in several of the Council's working groups as well.

As noted above (in 3.5), the power struggle between Commission and Council in this policy area is related to the fact that the EU's different institutions are still under construction. Drugs are not so much a problem that needs tackling in its own right as a means for the institutions to expand their power. This is quite obvious in the case of the Commission, which seizes on the issue or particular aspects of it to exert and extend its influence. The Council, on the other hand, tries to keep things as much as possible in its own hands. This power struggle is also influenced by the EU's administrative culture. One spokesman who has worked within the EU for many years commented on its "Latin" style of administration, and equated it with the style inculcated by the *École Nationale d'Administration*.[129] This basically means focusing on survival – always trying to be one step ahead of everyone else.

Once a body has acquired a foothold of competence in one drug-related theme, it has an opportunity to expand it to others, or to similar policy areas, to which the multi-faceted drugs issue serves as something of a portal. Conveniently, it can rest assured that drugs will remain on the political agenda, since they belong, like unemployment, to the class of permanently insoluble problems – although, as argued above, this applies only as long as the consumption of certain psychoactive drugs is seen by definition as a problem. And since they provide politicians with so much scope to "score" (in which sense drugs have been likened to child pornography), there is sure to be a steady stream of proposals. For the officials concerned, this means that though ever-present, this field is never dull; on the contrary, it is always a busy and topical policy area with a certain imaginative appeal. Most officials find it more interesting than a traditional EU policy area such as agriculture, for instance. Working on the Declaration of Cochabamba, for instance (a drugs agreement concluded between the EU and the Rio Group in 1995) is more exciting than negotiating agriculture subsidies. And there are other things that make drugs an attractive policy area. The prestige attached to working for a good cause, for one thing. Ambitious officials or diplomats also regard it as a useful stepping-stone in their careers. The multi-faceted nature of the drugs problem means that they gain experience in several different areas and make numerous international contacts – ideal for anyone building up a network. Drugs also provide an opportunity to

travel, especially now that the EU is making so many agreements on drugs control with countries all over the world.

For all these reasons, it is in the interests of the many groups and individuals that concern themselves with the drugs issue in the EU, and vie for competence in the area, to keep things as they are. Neither the constant discussions nor the agreements with third countries have led to any substantial improvements. Drugs as a problem is pumped around the EU's bureaucracy without the effectiveness of the measures and agreements ever being demonstrated. But although a solution to the problem seems as far away as ever, this does not lead to despondency or to a debate on a possible change of course, since change would not be in the interests of those concerned. On the contrary – for individuals and groups within the EU that concern themselves with drugs, the issue fulfils a certain function, and they have a stake in preserving the status quo.

4.6 A vicious circle

Max Weber wrote at length about bureaucracies and the way they operate. Though dating from the early 20th century, many of his analyses can be applied to present-day society and the way it is governed. In particular, his insights into the significance of bureaucracy, the mechanisms at work in it and the potential dangers it poses, especially to democracy, are still extremely valuable today. Bureaucracy was originally created as means of furthering justice and equal rights. But it gradually developed a dynamic of its own and made its influence felt in an increasing number of places in society, eventually becoming an apparatus that was no longer amenable to control.[130] Weber used the term *Schicksal* (fate) in connection with such mechanisms: human beings set in motion social developments that they are later unable to control. He also believed that a fully-fledged bureaucracy is one of the most indestructible of all social structures.[131]

The attitude to drugs within the EU has set in motion such a strong internal dynamic that the likelihood of a different approach to the problem being adopted in the foreseeable future is very slim. Officials have a certain amount of leeway in the confidential Council working groups, which

sometimes leads to a discrepancy between national policy and the positions adopted by the country's representatives in Brussels. The fact that changes in a member state's national policy do not automatically filter through to the meetings held in Brussels is part of the internal dynamic. Some officials interviewed for this book were unaware of all sorts of developments in other member states because those countries' representatives had said nothing about them. Some had not even heard about the policy of tolerating soft drugs adopted by Belgium – even though its government is in Brussels! And yet they regularly travel to Brussels to discuss drugs policy in the EU member states. One gets the impression that within these forums, a specific, almost ritualistic approach to the drugs problem is mandatory. People want to continue along the familiar path without getting into fundamental questions about the point of it all.

Examples of other self-perpetuating systems are not hard to find. Such a system becomes so complex, it consists of so many participants with their own interests, that the entity as a whole not only sustains itself but acquires its own momentum and gradually expands. One example is the military industrial complex in the United States – the system of the arms industry together with the employment it generates and the powerful lobby that keeps the industry great. A more recent example is the prison industrial complex in the United States.[132] This industry has grown to such an extent, and combines so many different interests, that it too has become self-sustaining. Following a wave of privatisations, prisons have become a major branch of industry that has quite simply developed into an attractive growth market. Prison companies have to compete for the contract in a particular state. Since their goal is to make a profit, the product is supplied for as low a price as possible (resulting in cheap prisons, sometimes in camps) for a maximum yield (with prisoners working on the roads in chain gangs, for instance). As these companies look on prisoners as profit-making factors, they have an interest in keeping their jails full. And since increasing numbers of jails are private companies, a large commercial and employment interest has been generated in maintaining and even expanding prison numbers. The interest that should really be at stake, that of creating a peaceful society and preventing people from ending up in jail, and if they

do end up there of ensuring that they are rehabilitated as well as possible, is no longer of prime importance in this situation.

Of course there are many differences between the commercialised US prison system and the way in which the EU tackles the drugs problem, but the mechanism at work is basically the same. So many parties are now involved in every aspect of policy in the EU today that a sort of perpetual motion machine has been created. Changing any part of it is becoming increasingly difficult. The situation can endure, since there is no holistic vision or central orchestrating agency. The development of a holistic vision is impeded by the fact that so many parties are involved in the current policy, especially since they all pursue their own ends and sometimes obstruct each other. Understandably, the results are insubstantial and incoherent. Another part of the bureaucratic dynamic is that what counts for those involved is not the end result but their own role, the link they form in the chain. The larger the organisation and the more people join a system, the stronger are the interests in favour of preserving the status quo.

EU booklets sometimes assert that the EU's bureaucracy is not really that big – that it has no more officials than a city the size of Stockholm. However, there is a big difference between the work and dynamics of a local authority such as that of the city of Stockholm and those of an international organisation such as the EU. Local authorities concern themselves with highly practical matters. If these are not carried out, the people responsible will be called to account. Since numerous channels connect local authorities to those involved with day-to-day practicalities, shortcomings generally come to light quite soon. Take refuse collection, for instance. If a city adopts an inadequate policy on refuse collection and the system breaks down, those in charge will soon face repercussions. In the EU, on the other hand, there is a large gap, and plenty of background "interference", between officials and everyday life: there are no clear, direct channels connecting them. The EU's administrators are far higher up the hierarchy. Their responsibilities have to do with defining broad lines of policy, distributing money to other organisations in different countries, and in general delegating and contracting out a great many tasks. As a result, if something fails to work properly, it will not be noticed straight away; in fact it may not be noticed at all, with the result that no one will be called to account.

To stay with rubbish for a moment, let us look at a fictional example of European refuse collection policy. Suppose that the EU is planning to harmonise refuse collection throughout the Union. Perhaps politicians have decided that closer integration means that countries must have identical refuse collection systems. They might advance practical reasons as well: perhaps some noxious virus has originated from bacteria found in household rubbish. The risk to public health could be so great that the Council of the EU decides that refuse collection, transport and incineration in all EU countries must henceforth conform to strict European rules. Before this policy can be implemented, of course, a comprehensive list will be needed of the refuse collection services in all member states. The next step is to perform a feasibility study to find out whether harmonisation is possible. Part of the work is contracted out to specialist consultancies. Gradually, hundreds of people and numerous forums become involved in the project. Working groups of experts are created, largely first-pillar groups since it is a public health matter. But the third pillar is also involved, as the police and judiciary bear joint responsibility for enforcement, to guard against refuse being taken to illegal dumps inside or outside the EU. And to prevent illegal transports of contaminated refuse to countries outside the EU the second pillar will also come into action, as agreements must be made with third countries. So eventually all sorts of people will be working on the many aspects of the problem, from collection services, transport and incineration to safety, research, public health and enforcement.

The point is that by this time, something has been set in motion that is almost impossible to stop. So many people are working on the project, and so much money is being invested in it, that substantial interests are now involved. The fact that there are money and power to be distributed generates competition between different parts of the EU's bureaucracy. If harmonisation breaks down, for instance because it turns out to be insufficiently tailored to local conditions, this will not lead to a rapid rethink of the whole approach. The problems will be most obvious at local level, and the EU is unlikely to be called to account. Even if certain clear-headed individuals conclude at some point that it would be better, after all, for refuse collection to be regulated at national or local level, the harmonisation plan

is unlikely to be ditched, since too many interested parties would oppose such a move. The harmonisation project would by then be many people's livelihood, which they would not want to lose. What is more, when a project involves such large numbers of people, in the EU as well as in member states, it becomes hard to determine who is really in charge. Added to this, perhaps, is the fact that the heads of government have nailed their colours to the mast of harmonisation, something that has received extensive media coverage throughout Europe. Since heads of government hate suffering a loss of face, they will not want to consider throwing the whole project overboard, especially with a view to forthcoming elections.

The fictional situation sketched above provides a good illustration of the way in which the drugs issue is dealt with in the EU. Numerous individuals and forums have become dependent on the current approach through their work, and they have therefore become part of the system that preserves it. They automatically oppose any change, for fear of losing their jobs. They are imprisoned, as it were, in the machinery of their bureaucratic system. The British historian Theodore Zeldin once commented on the EU in general, "Brussels is full of intelligent, well-meaning people. If you talk to them they are full of ideals, but they are prisoners of the system."[133] A clear indication of this, where drugs are concerned, is the lack of any debate on the policies pursued. It is quite unclear whether all the measures that are in place have any impact, and this issue is rarely discussed. This is quite odd, when you consider the heavy burden drug-related measures place on the police and judiciary, the poor results that have been achieved with crop replacement projects, the fact that the supply of drugs seems to be increasing rather than diminishing, and the criticism that has been levelled of international drugs policy, from academic circles in particular.[134] Although some of those involved, EU officials as well as representatives of member states, do feel that the current policy is not the answer, and that it creates problems of its own, they rarely air these views with other EU colleagues; it appears to be impossible to debate the matter.

One reason for the absence of any debate on drugs policy is the general lack of expertise on the subject. Most of those involved in decision-making know little about drug use and the different patterns of consumption; they

are barely acquainted with standard works on drugs, or the literature on the history of drug use and regulatory control. This lack of knowledge makes a discussion of the drugs problem among officials a rather dreamlike or surrealistic affair to anyone who does possess expertise on the subject.[135] Some of the people interviewed for this book who are well-read in the drugs field (and they count as rare exceptions) complained of the lack of expertise of most of their colleagues – the EU's bureaucracy contains too few specialists and too many ill-informed technocrats. The latter's eagerness to come to grips with the drugs problem sometimes produces absurd proposals. For instance, one working group drew up a list of substances that needed to be banned because they were used in the production of drugs – it included oxygen!

Another aspect that becomes clear when we look at specific measures is that EU decision-makers are ill-informed about what is being done outside the Brussels machinery. In fact their approach lags behind developments in many EU member states, especially at local level. Numerous authorities throughout the EU have opted for a pragmatic approach, for instance by according low priority to investigations of drug use. And while several EU member states have shifted the emphasis of drugs policy towards health aspects, the EU itself still focuses primarily on containment, for instance by trying to reduce the supply from third countries. The underlying hope and belief is that reducing drugs production will diminish the supply and hence the consumption of drugs. These measures too are taken without any debate on their likely effectiveness, and without taking on board the United States' longer experience in this field. For the US has focused on supply reduction for many years without making any impression on the drugs market or consumption levels. Nor have its crop replacement projects been at all successful. Yet none of this is really taken into account by the bureaucrats in Brussels.

Another characteristic feature of the drugs issue is that all manner of pronouncements can be made, for instance about the dangers of drugs, without advancing any corroborative evidence. References to the literature are few and far between in EU documents. The problem with many bureaucrats is that the drugs issue is too remote from their world, enabling them to for-

mulate all sorts of ideas that have little to do with reality. Their views may be influenced by their age and position in society, which may mean that virtually the only time they are confronted with the issue is at meetings. In their lives, drugs exist solely as a problem that needs to be tackled.

In consequence, it is taken for granted at every meeting that drugs are by definition a problem, regardless of the substance concerned or the mode of consumption. They are discussed almost exclusively in terms of the harm they cause. It is assumed that all drug users will have problems of some kind, which totally discounts the fact that most people who use drugs do so because they attribute positive qualities to them. The men and women sitting around the conference table seem to be ignorant even of the fact that the vast majority of drug users do not get into difficulties. The distinction between use and abuse is seldom made, nor is any attention paid to the fact that many drug users are adults. The general lack of expertise is reflected in the "solutions" that are put forward. For instance, various documents propose compulsory treatment for addicts as an alternative to a custodial sentence. They deal with treatment rather glibly as a sure-fire solution, without adducing any proof of its effectiveness. These discussions also fail to take into account the background factors in the lives of problem drug users and the functions drugs may fulfil for them.

Given all these omissions, the fact that bureaucrats automatically discuss this whole policy area in terms of problems is probably not so much because of any intrinsic characteristics of drugs, but quite simply because the drugs issue has been classified as a problem in an institutional or bureaucratic sense. As this interpretation is of a different order from the way in which drug use is perceived by experts, discussions of drugs in the EU are suggestive of a *virtual* problem. Since the drugs issue has been accorded this specific role, there is no room for a different perspective. For instance, drugs are seldom discussed – although a cautious change of attitude is perceptible here – in terms of the wider framework of public health, taking on board the fact that tobacco and alcohol constitute a greater health hazard than the use of illegal drugs. One isolated exception was the Cooney Report, commissioned by the European Parliament, which stated explicitly that cannabis was less harmful than tobacco and spirits. Yet when Parliament convened in

a plenary session to respond to the report, it ended up emphasising the need to retain the ban on drugs. Similarly, nothing was done with the Cooney Report's proposal for an evaluation of drugs policy.

The distinctive, almost ritualistic way in which drugs are discussed within the EU, with all knowledge of the subject being superfluous, does in fact serve a purpose. Not, of course, in the sense that it brings a solution any closer, but for those involved and the bureaucracy as a whole it is convenient to keep things as they are. This raises the question of how this situation came about, and why drugs acquired this role. One probable explanation is that drugs have for many decades served as a scapegoat for social ills.[136] In this connection they have been defined as the ideal problem. One insider observed, "With drugs you can always find some horrifying story to tell. That will immediately get plenty of people in high places on your side." Other interviewees noted that the end of the Cold War heightened the need for a new common enemy. The drugs theme fits the bill perfectly.

One important feature of the "ideal problem" is the lack of power or a lobbying group. Hosts of unfounded claims are made about drugs. This would be impossible in any other policy area, since interest groups such as unions or employers, which are so crucial to Brussels politics, would immediately protest. So the drugs issue contrasts sharply with other European policy areas, which have strong interest groups such as the European Round Table of Industrialists and the agriculture lobby.[137] Users' organisations do exist in some countries, but the authorities of the EU and its member states scarcely listen to what they have to say. This is probably precisely because their members openly admit to using drugs, which automatically stigmatises them and deprives them of credibility. NGOs too are excluded from the circles involved in formulating policy and drafting documents, even though many are active in drugs issues, in Brussels and elsewhere. This exclusion is another factor that helps ensure that drugs can continue, for the time being, to play the role that has been assigned to them.

This unique role that drugs have acquired in EU politics is probably also related to the big gap that exists between ordinary people and politicians. Many citizens are unaware of the significance of EU politics, as is clear from the low turnout at EU elections. Politicians therefore need themes that will

close the gap. This sometimes leads them to make inflated claims for what they are doing. Some insiders have pointed out that the difference between rhetoric and reality becomes clear when you look at the budgets earmarked for drugs. "The EU has defined almost the whole world as a priority area, and yet the total amount made available for anti-drugs activities comes to about 20 million ECUS. What can you do with that? Nothing." This difference between rhetoric and reality is further underscored by the fact that the modest drugs budgets have actually been lowered, not raised, in recent years. For the North-South cooperation on drugs, by which the politicians set such great store, an annual € 10 million was available several years ago, but in 1997 this budget was cut to € 8.9 million. If the problem were truly as serious as is claimed, more money would be set aside to tackle it.

4.7 International cooperation in the fight against drugs

This chapter will conclude with a discussion of two extra-European organisations that influence trends in EU policy. One is the UN drugs agency, which recently opened offices in Brussels, and the other is the Dublin Group, a relatively obscure, informal forum in which the industrialised Western countries discuss the fight against drugs.

UNDCP

The external organisation that has most influence on EU policy is the United Nations Drug Control Programme (UNDCP), which comes under the UN Office for Drug Control and Crime Prevention.

The UN member states are represented in the Commission on Narcotic Drugs (CND). The CND maps out the main contours of UN drugs policy, which are later confirmed by the UN's Economic and Social Council. The UNDCP is the administrative and executive branch of UN drugs policy. It also acts as the secretariat for the International Narcotics Control Board, an independent agency that monitors compliance with the drugs conventions.

The three UN drugs conventions are generally regarded as the basis for international drugs policy. They are the Single Convention on Narcotic Drugs (1961), the Convention against Psychotropic Substances (1971) and

the Convention against Illicit Trafficking in Drugs and Psychotropic Substances (1988). Many countries, and certainly all EU member states, have signed these conventions, whereby they commit themselves to prohibiting the specified drugs and to actively pursuing the fight against them. The conventions further state that the production, manufacture, possession and use of drugs must be limited to medical and scientific purposes.[138] The UNDCP tries to get as many countries as possible to sign the conventions. The stated rationale is that the UN conventions are the basis for international action, and so the more countries sign and implement them, the more effectively the fight against drugs can be fought. A few years ago the EU too adopted the policy of encouraging all countries to sign the drugs conventions, and has made it a condition for any country wanting to sign a treaty with the EU or enter into some relationship with it.

In 1998 it was ten years since the last UN drugs convention had entered into force. To mark the occasion, a United Nations General Assembly Special Session (UNGASS) was held in June of that year, devoted specifically to the drugs problem. The UNDCP presented this three-day session as the supreme drugs summit. Although officials had reached agreement beforehand on all the matters tabled for debate, great importance was attached to the summit: witness the presence of eight heads of government and 23 heads of state, all of whom addressed the assembly, including the Presidents of the United States and France.

This mammoth assembly had been prompted in part by a specific development. Several Southern countries, led by Mexico, had asked for an evaluation and a cost-benefit analysis of international drugs policy. However, during the official preliminary consultations this idea received too little support from several Western countries (including the US) and the UNDCP itself. The evaluation was therefore dropped from the agenda. As a result, UNGASS largely ended up reaffirming its commitment to existing policy and its determination to intensify the fight against drugs. However, there were a few clear shifts of emphasis in comparison, for instance, to the Vienna drugs summit of 1990. While policy had previously centred almost exclusively on curtailing supply from the Southern production countries (supply reduction), there was now more emphasis, under pressure and protest from sever-

al of these countries, on ways of influencing demand in Northern consumer countries (demand reduction). In the CND, prior to UNGASS, the UN member states had already agreed on the guiding principles of demand reduction. One of them was to try to limit the adverse effects of drug use. This effectively incorporated harm reduction (though the term itself was never used) into UN drugs policy. UNGASS also concluded that production and consumer countries shared responsibility for the drugs problem, a conclusion that was formalised in the adoption of a Declaration on guidelines for demand reduction. The Southern production countries welcomed the principle of a balanced approach to demand and supply, with the "burden of blame" being distributed more equally. At the same time they asked Western countries to help fund their programmes to curb production and the transit of drugs through their countries, underscoring the relationship between the drugs problem and underdevelopment, or more specifically poverty.[139] Besides the Declaration on guidelines for demand reduction, UNGASS adopted five resolutions on synthetic drugs, precursors, judicial cooperation, money laundering and alternative development.

In spite of the consensus reached on a balanced approach to demand and supply, the UNDCP came in for a certain amount of criticism at UNGASS. The original objective of the agency's new Italian director, Pino Arlacchi, had been to eradicate the illicit cultivation of opium poppies and coca bush from the planet within ten years through the programme "Strategy for Coca and Opium Poppy Elimination" or SCOPE. The UNDCP had adopted as its slogan "A drug-free world. We can do it" and hoped for pledges of political and financial support at UNGASS. The preliminary consultations soon revealed that there was little enthusiasm for this unrealistic plan, however, which would have dealt the production countries a disproportionately hard blow; in the event, neither political support nor financial resources materialised. What is more, Arlacchi was criticised for his emphasis on punitive measures, with many Western countries advocating a more pragmatic approach based on public health and harm reduction. Several countries' representatives discussed drug use in the wider context of substances such as alcohol and tobacco. The Western countries outside the EU that advocated a health-oriented approach were Australia, Canada, New Zealand, Norway

and Switzerland. The EU countries favouring this approach were Austria, Belgium, Italy, the Netherlands and Portugal. Only France and Sweden continued to emphasise punitive measures, both of them warning of the dangers of trivialising cannabis use.[140]

More fundamental was the criticism levelled at UNDCP policy by outsiders. UN drugs policy has been the target of criticism for some time, both from scientific circles and from numerous NGOs that are working to achieve a change in drugs policy.[141] One of the charges is that the agency's point of departure, on the basis of the drugs conventions, is that continuing the fight against drugs is the only possible approach. There is little or no room to discuss alternatives such as decriminalisation or legalisation, or even harm reduction measures. What is more, the UNDCP has been accused of avoiding any discussion of the effectiveness of its work and of stifling open debate on the advantages and disadvantages of various policy options.[142] Some critics point out that the international ban on drugs itself has harmful effects. It gives rise to unnecessary health risks among addicts and human rights violations in the name of the fight against drugs, it overburdens police and justice systems and generates violence and corruption, and plays into the hands of criminal organisations and a huge black-market economy. In a word, some claim that the "cure" is worse than the disease. On the first day of UNGASS, an open letter signed by hundreds of politicians (including former presidents and prime ministers), professors and scientists, Nobel laureates, businesspeople, writers, intellectuals and other public figures was published in a two-page advertisement in the *New York Times*, addressed to UN Secretary-General Kofi Annan. The core of its message was: "We believe that the global war on drugs is causing more harm than drug abuse itself".[143] The criticism of UN drugs policy as formulated in the open letter picked up such momentum that it ended up actually overshadowing the UNDCP's plans in the media.

Since January 1999 the UNDCP has had offices in Brussels. It claims that it wishes to partner the EU and help it develop its drugs policy, for instance by contributing expertise. As the EU and the UN are the two largest international organisations in the world, they want to cooperate more. The UNDCP is particularly keen on this – partly, no doubt, because its director Pino Arlac-

chi is preparing for an expansionist drive. The UNDCP is still promoting its extremely ambitious plan to virtually eradicate the cultivation of coca bush and opium poppies within ten years. The UNDCP is the fastest-growing UN sector and its plans are not cheap to implement, which makes lobbying essential.

In this light, the decision to open an office in Brussels was probably motivated in part by the desire to gain easier access to the EU and its drugs prevention budgets. The UNDCP already gets 70% of its budget from EU countries. Italy is by far the biggest donor, providing almost half of the total contributions by EU countries and accounting for 31% of the UNDCP's overall revenue – twice the proportion contributed by the US .[144] This probably explains why Italians hold so many key positions at the UNDCP, not only at the headquarters in Vienna but at regional offices too. Another explanation for the opening of a UNDCP office in Brussels may be that the agency hopes to exert more influence on EU drugs policy from the Belgian capital, and to bring it more into line with UN policy, which is largely based on the American approach.

There are certainly clear differences between the policy currently pursued by the EU and its member states on the one hand, and the UNDCP on the other. Though EU countries provide the lion's share of the agency's funds, the UNDCP still declines to embrace the harm reduction approach explicitly; it takes it on board rather vaguely as part of demand reduction. Even the WHO, the UN agency whose primary responsibility is in the sphere of public health, does not yet consider harm reduction acceptable. Moreover, most of the UNDCP's budget is spent on punitive measures, and the agency systematically uses the word "abuse" for the consumption of all illicit drugs. All this is bound up with the strong influence of the US – an opponent of the harm reduction approach – on the UN's drugs policy. The US has no qualms about bringing pressure to bear on countries or UN agencies.[145] In contrast, most other Western countries, such as Australia, New Zealand, Canada and the countries of the EU, do consider harm reduction an important avenue to pursue, and some feel it should be the cornerstone of policy. In the EU only Sweden opposes the policy of harm reduction; in the other member states, especially in the major cities, it is accepted practice. With

the entry into force of the Amsterdam Treaty on 1 May 1999, harm reduction was placed on a somewhat firmer footing in the EU treaties.

So it would be fair to say that UN policy, which has only recently accepted demand reduction (and as part of this approach, harm reduction measures) alongside the existing policy on supply reduction, lags several years behind developments in most Western countries, with the US serving as the great exception to the rule. There is little likelihood of the UNDCP changing course under Arlacchi. His many years in law enforcement have clearly determined his approach to the drugs problem. As head of the UNDCP, his concern for demand reduction has been minimal. Instead he focuses on the fight against drugs, which he pursues with diligence, if not fanaticism, and some of the UNDCP's activities, such as its agreement with the Taliban in Afghanistan, have aroused controversy.

In spite of the differences between the UNDCP's policy and customary practice in the EU member states, the EU increasingly invokes the UN conventions. In justification, the conventions are presented as the basis of international drugs policy, and hence of the EU's activities in this area. The conventions are not open to discussion within the EU, and in internal documents they apparently play a useful role when member states fail to reach agreement, being a body of texts to which all countries have signed up. Some bodies and forums, especially second-pillar groups, want the UNDCP to play a bigger role in the fight against drugs. They claim that it is the ideal coordinating agency, and has proved its worth in the Caribbean. Other parties are less enthusiastic. The Commission in particular is unwilling to involve the UNDCP too much in EU policy. This partly has to do with a reluctance to give up too many of its powers, and partly with the difference between the UN's strong orientation towards punitive measures and the Commission's emphasis on health issues and development cooperation. The Commission may also be apprehensive about having any of the controversies associated with Arlacchi rub off on it.

The Dublin Group

Finally, there is a relatively little-known consultative body on international drugs control, the Dublin Group, named after the city where it was con-

vened for the first time. The Group was set up in response to a letter from US President Bush to Prime Minister Haughey of Ireland in the spring of 1990 proposing the launch of a transatlantic dialogue on the international fight against drugs. After some bilateral exchanges, and having gained the UK's support, Ireland, which held the EU Presidency at the time, submitted its proposal for a multilateral forum to CELAD, the European Committee to Combat Drugs, although CELAD had no formal status within the EU. Not long afterwards, in June 1990, the first meeting took place between CELAD and Australia, Canada, Japan, Norway, the United States and Sweden. Although CELAD has long ceased to exist, the Dublin Group continues to meet, with representatives of the member states' foreign affairs ministries taking CELAD's place as EU mouthpiece.

The Dublin Group has no firm status and no mandate. It is an informal group involving consultations between the donors of drugs programmes, the main theme being the progress made in the international war on drugs. The countries now taking part are the EU member states, Australia, Canada, Japan, and the US . The UNDCP also takes an active part in the consultations. In 1999 the G8 decided that Russia should also participate.

The Dublin Group meets in Brussels for two days every six months; once every three years it convenes in Washington. The secretariat of the Council of the EU takes care of its administrative work. Meetings discuss the production and trafficking of drugs and ways of curbing them, focusing on different regions in turn. The Group divides the world into eleven regions, with one member of the Group chairing talks on each region. Thus the US is responsible for Latin America, France for the Caribbean, the Netherlands for Eastern Europe, Sweden for Africa and so on. Each regional chair in turn reports on "his" region until a picture emerges for the whole world. The minutes of these meetings are not released into the public domain; they are only sent to the UNDCP and the foreign ministries of the participating countries.

In addition to this central Dublin Group there are numerous "mini-Dublin Groups" throughout the world, consultative bodies involving the same countries but at local or regional level. They issue regional reports and exchange information on drugs prevention in their own area. Mini-Dublin

Groups are based in towns and regions in production countries (Bogota, Lagos and Bangkok, for instance), but not in the countries of the Dublin Group itself. The consultations are conducted by embassy representatives.

Not all countries are persuaded of the usefulness of the Dublin Group, although the mini-Dublin Groups are valued more highly than the central one. Some countries are fairly indifferent, while others see no need for another international consultative platform, since the UNDCP already fulfils this role. Since the US is a firm advocate of this consultative framework, it is unlikely to be discontinued. Still, given the substance of recent discussions, and the adoption at UNGASS of the principle of a balanced approach to demand and supply, some may find it puzzling that Western countries are continuing to tolerate a consultative body that is so exclusively dedicated to the supply side of the drugs problem in non-Western countries.

Although the Dublin Group has only informal status and cannot make legally binding agreements, it has undergone immense expansion. There are by now about 70 regional mini-Dublin Groups around the world. Whether the central Group will retain its informal status remains to be seen. The history of international drugs control shows that decisions or measures are often prepared informally in meetings or consultative bodies without clearly defined powers, with agreements being formalised later on; this is a tradition stretching back to the Shanghai Opium Commission of 1909. The later history of international drugs control as related in *The Gentlemen's Club* contains several other examples of informal or unofficial documents or agreements that have ended up playing a decisive role in policy.[146] This same mechanism is visible within the EU: CELAD was formed outside the formal channels of the EU, and yet it played a key role in setting up more cooperation between member states in drug-related issues.

4.8 Summary

This chapter has tried to answer the question of why drugs figure so prominently on the EU's political agenda. One of the reasons often given is the need to tackle organised crime, which derives a significant proportion of its income from drugs. To fight organised crime, the EU has set up various

activities aimed at reducing both the trafficking and use of drugs. This approach is open to criticism, as it is based on a circular argument: the crime that arises from criminalising drugs is advanced as a reason to continue the fight against drugs. In spite of all the national and international measures that have been taken, the demand for drugs has not declined. And as long as the demand endures, there will always be individuals and organisations eager to operate in this extremely lucrative market.

Another important reason often given for the EU's investments in the fight against drugs is public concern. But the opinion polls supposedly reflecting this concern are highly questionable. Not only are the questions formulated in a woolly fashion, but the logical connection between the answers and the consequences in terms of policy are anything but clear.

On closer inspection, the reasons for the prioritisation of the fight against drugs within the EU turn out to be largely political. Since drugs can arouse feelings of insecurity among the general public, they are regarded as a politically attractive subject: the drugs problem is easy to sell, politically speaking. Examples abound in US politics, but in recent years this political exploitation of drugs has taken root in Europe too. Some observers suggest that this has to do with the gap between "Europe" and the electorate. Others say that drugs satisfy the need for a common enemy, particularly since the end of the Cold War. EU insiders claim that politicians often exaggerate the seriousness of the problem; the more politicised a subject becomes, the harder it is to discuss in rational terms. Inflating a problem and subsequently announcing measures to tackle it, perhaps accompanied by some resounding political rhetoric, can help invest one's actions with greater legitimacy. It is also a good way to reassure worried members of the public, to curry favour with them and hence to strengthen one's ties with the electorate.

This explains why drugs have acquired a specific function within EU politics. It also explains why it has become more or less standard for official EU documents to describe drugs as one of the foremost threats to society or humanity. In line with this emphasis, almost every European Council now includes a brief statement on drugs in its closing document, whether or not the subject has actually been discussed. This statement expresses the con-

cern of the heads of government about drugs and reassures the public that the matter has their full attention.

The rotating Presidency of the EU is another important agenda-setting factor. Every country is eager for its own Presidency to make a lasting impression, both at home and abroad. Making a few bold pronouncements about drugs, or announcing some new measures, may help to achieve this. What is more, holding the Presidency can give a member state an opportunity to tackle a national issue through EU channels.

While political considerations ensure that drugs are accorded a prominent place on the agenda, bureaucratic mechanisms keep them there. Fuelled by political decisions such as those by the European Council, one package of anti-drugs measures is soon amplified by another, giving the various working groups plenty to do. Several institutions and forums of the EU are engaged in a power struggle over this policy area. This is partly because drugs are such a multi-faceted issue that they provide groups with ample opportunity for expanding their powers. Many departments have become involved in aspects of the drugs problem, and yet there is no proper coordination. This complex, non-transparent structure generates confusion about where the responsibility for making decisions actually lies. This helps to ensure that the drugs issue remains a fixed item on the agenda, and that it is constantly pumped, as it were, around the structures of the EU.

One element of this bureaucratic mechanism is that drugs are treated as a problem by definition; there is little room for placing them in a wider perspective. In fact there is scarcely any debate at all about the policies that are pursued, and it is unclear if, and to what extent, they have any effect. Nor does anyone ever openly ask whether the problem they are addressing is an intrinsic one or one that has to some extent been fabricated and perpetuated. Many of those involved are imprisoned in the dynamic of their own bureaucratic structures. So many parties have become involved that drugs policy has become a kind of perpetual motion machine. One consequence of this is that people have an interest in preserving the status quo. Since drug use does not have a pressure group that is taken seriously and that could provide measured opposition, and since NGOs too are excluded from policy development, the situation can easily endure.

Since the solution seems to be as far away as ever, and no debate is conducted on the real issues, endless treaties and agreements are concluded that have gradually made it almost impossible to rethink drugs policy. Given the totality of the constraints in place, the only option is to carry on or intensify the fight against drugs. Since the EU has not really succeeded in reaching a consensus on the main emphases of policy, it often harks back to the UN drugs conventions, which all member states have signed. It has also stepped up international cooperation with the UN, and in some contexts the US, whether within or outside the Dublin Group. In consequence, international policy on drugs control has come to a standstill and the lack of debate persists, in spite of the fundamental criticism of it that has existed for years, and that was expressed with renewed force at the special session of the UN General Assembly on drugs in June 1998.

5 AN EU DRUGS POLICY?

5.1 Introduction

The previous chapters have described the ways in which the European Commission, Parliament and Council and the European Council address drugs policy. Forums in several institutions are involved in designing and implementing policy, but it is not clear which of them have most influence: there is an amalgam, as it were, of activities and responsibilities. Furthermore, the centre of gravity has shifted over the past decade: before the entry into force of the Maastricht Treaty the Commission played the primary role in developing drugs measures, whereas since Maastricht the Council has moved into the ascendancy.

Chapter 4 demonstrated that the drugs issue is "pumped" around the EU's bureaucracy. This shorter, final chapter will look at what the EU actually does. Following on from all the agreements that have been mentioned in the above pages, we shall be looking here at the EU's concrete drugs measures, both at Community and intergovernmental level. As this report focuses on decision-making and does not aim to describe all the EU's drug-related activities, the overview will be fairly concise.

Section 5.2 examines the question of the harmonisation of member states' drugs policies, which was on the political agenda for several years. Section 5.3 describes the two "joint actions" on drugs about which countries have reached agreement: mutual adjustments to their legislation and practices, and the early warning mechanism for new synthetic drugs. Section 5.4 discusses activities and strategies that are currently under development, and reviews the EU's drugs budget. This section also deals with the powers and activities of Europol and the EMCDDA. The work of these two agencies is not discussed in detail here, however, as their mandate is solely in implementation; they do not – yet – have any direct influence on decision-making.

Although this chapter describes measures agreed jointly within the EU, it should be emphasised that drugs policy does not yet belong entirely to the EU's sphere of competence. Whatever the EU does in this area is complementary to action taken by national governments; drugs legislation and many other related matters are still for member states to determine. Public health care is also largely a national policy area, on the basis of the principle of subsidiarity.

Section 5.5 will review the main points of this chapter and draw some conclusions. The study ends with some reflections on the future of European drugs policy.

5.2 Harmonisation of drugs policy?

The recurrent question of whether member states' drugs policy should be harmonised has led to political turmoil on several occasions. Indeed, politicians have spoken so much about it, and the question has generated so much media attention, that some EU citizens are under the impression that the decision to harmonise has already been made. Not so.

The practical difficulties of harmonisation become clear when we look at Germany, where substantial differences exist between federal drugs legislation and implementation by the *Länder.* In general, the southern *Länder* have a stricter regime than those of the north.[147] If a single country, with a single body of drugs legislation, cannot arrive at a uniform drugs policy in practice, how could this be achieved in the framework of the EU? Even in a country with a more centralised government, such as France, drugs legislation is not implemented in an identical fashion everywhere. There are substantial regional differences, in the policy pursued by the police as well as in investigation and prosecution practices, especially between urban and rural areas.[148]

The harmonisation debate arose in the negotiations on the implementation of the Schengen Agreement (see section 2.5). Although the EU countries had already decided in principle that complete harmonisation was not essential – provided that measures were taken to reduce imports and exports of drugs – France in particular continued to stress the importance of harmonising drugs legislation, and made no bones about the fact that its main target was the liberal policy pursued by the Netherlands. Since France

was not satisfied with the eventual compromise forged on Schengen, it decided to apply an exceptional provision to the Agreement along its northern border. France still sometimes conducts border controls there to stop drug smuggling it alleges is promoted by Dutch policy.

It is common knowledge that France's position was largely inspired by the determination of President Chirac. He not only seized virtually every opportunity to attack what he saw as the undue leniency of the Netherlands' policy, but he tried to gain support for his position from other EU leaders, and succeeded in the case of Chancellor Helmut Kohl and prime minister John Major. Within Council working groups in Brussels, the French proposals for harmonisation were supported by Spain, Portugal and Ireland. Other countries, notably Denmark, the Netherlands, Austria and Sweden, opposed the plan. However, France continued to raise the issue whenever it could, gradually arousing a certain irritation among other member states. In mid-1997 Chirac's bid to increase the majority of his right-of-centre government by calling an early general election misfired. To the surprise of many, the socialists won the election, as a result of which France acquired *cohabitation* rule.[149] Besides the personal loss of face this meant for Chirac, the changeover also clipped his wings. As the socialists' attitudes to drugs policy were less rigid, especially under the then state secretary for health Bernard Kouchner, a firm advocate of liberalism on drugs, Chirac no longer had the same scope to pursue his crusade.

The advent of France's *cohabitation* government is the main reason why drugs no longer figure so prominently on the EU's political agenda. France's position clearly changed after the election, and its representatives in Brussels received instructions from Paris to adopt a milder stand. This was partly because of the lack of support for harmonisation, which was a very sensitive issue in some countries. The new policy of the French was to leave the issue of harmonisation alone for the time being and to focus on problems that countries had in common and on finding workable solutions. France's increased flexibility, geared towards cooperation rather than confrontation, restored its credibility. It is simply not acceptable in the EU for a member state to harp on the same subject for too long, especially when it has become abundantly clear that its ideas enjoy too little support.

The policy line adopted in the EU was that harmonisation is no longer an objective, but that more of an effort will be made than in the past to resolve problems together. So harmonisation is not on the table at the moment, although it is not a dead issue. A new Presidency, perhaps (but not necessarily) France, could revive it. The most tangible result of the debate on harmonisation has been joint action on adjustments to member states' drugs legislation and practices.

5.3 Joint action

Alongside the EU's many different decision-making procedures, there is also provision for what is called a "joint action". The exact legal status of a joint action and the implications it may have are not yet entirely clear. Up to now, two joint actions have been taken on drugs, one on legislation and the other on an early warning mechanism for synthetic drugs.

Mutual adjustment of drugs legislation and practices

At the Florence European Council of March 1996, the heads of government called for a study on the desirability of harmonising drugs legislation. France had submitted a memorandum on a European social model at this summit, recommending the harmonisation of national drugs legislation.

However, shortly before the summit, the Task Force of the European Commission had already decided to take stock of member states' drugs legislation, and had enlisted the services of Brice De Ruyver of the University of Ghent for this purpose. His study, *Identification of differences in drug penal legislation in the member states of the European Union*, was subsequently discussed at a series of working conferences on drugs policy that were organised by the Commission, Council and Parliament in 1995 and 1996.[150] The discussions on comparability focused on implementation as well as the legislation itself. The conferences reached the conclusion that there was no need to harmonise drugs legislation, which displayed enough similarities and scope for action against drugs. Harmonisation would have no added value. The participants saw increased cooperation between member states, for instance in the fight against drug trafficking, as a better option: "It is

proposed to identify areas where greater cooperation would help to resolve the practical problems encountered by member states when applying the legislation. This approach is regarded as more effective and realistic than a possible harmonisation of national legislations. *More in-depth cooperation will lead to greater approximation in practice*".[151]

Since a study on the comparability of drugs legislation had already been launched in 1995, the Commission could easily respond to the Florence European Council's request. The results of the study were ready for presentation only six months later, at the Dublin European Council at the end of Ireland's Presidency in December 1996, which adopted its conclusions. However, in the meantime something else happened. During Ireland's Presidency, the question of harmonisation had been raised once again within the K4 Committee. Ireland had prioritised drugs and consistently taken an active role in this connection. It seems that France formulated the new proposal, and Ireland supported it. Agreements were then concluded in K4, a high-ranking Council working group (at DG level) on a joint action to harmonise legislation and practices on drugs. This aroused considerable alarm in the Netherlands and indeed triggered something of a row, as it would have had far-reaching consequences, possibly forcing the Netherlands to abandon its policy on cannabis.[152] In the end, the Dutch justice minister, under pressure from the national Parliament, was forced to withdraw the country's support for harmonisation, even though agreement had already been reached at official level.[153] A political compromise on mutual adjustments of drugs legislation and practices materialised in due course.

This compromise was the EU's first joint action on drugs. Today, it looks very much like a paper tiger. Though the document itself runs to 80 pages, one hears very little about it. Of course, this could always change.

Early warning mechanism

During the Dutch Presidency in the first half of 1997 it was decided to introduce an early warning mechanism to enable new synthetic drugs to be reported quickly as soon as they appeared on the market. The system includes a mechanism for rapid risk assessment, and for deciding whether or not to ban the new substance.

The early warning mechanism arose from one of the conclusions of the conferences on drugs policy mentioned in the previous section. While concluding that it was unnecessary to harmonise legislation, participants were concerned that legislation constantly lagged behind the appearance of new synthetic drugs. It was therefore thought advisable to make agreements on this particular issue. The fact that it was the Dutch Presidency that took the initiative to launch the early warning mechanism may be placed in the context of the Netherlands' fear of harmonisation. The proposal killed two birds with one stone: it deflected the danger of harmonisation while demonstrating goodwill towards the other member states. Given its reputation as a producer of synthetic drugs, it was sensible for the Netherlands to prove its willingness to take action.

The early warning mechanism is only intended for new synthetic drugs that appear on the market, not for every incidental occurrence of some new drug. It is implemented when some new substance is apparently being used regularly in more than one country. It starts with a round of information-gathering by the EMCDDA and Europol, which send out questionnaires to the "focal points" (the relevant public health services) and police or criminal investigation departments of member states. Their initial aim is to ascertain the extent of the phenomenon within the EU. Once the forms have been sent back, they compile the information supplied and send it to the Horizontal Drugs Group (HDG), which decides whether it should be passed on to the EMCDDA's scientific committee, which meets specifically to discuss such cases. If convened, this committee, which is composed of representatives of the member states, sometimes augmented with a number of special experts, makes an assessment of the situation. This assessment is not so much an advisory report as a presentation of the advantages and disadvantages of prohibiting the substance. It is sent back to the HDG, which makes the final decision on a ban. The Commission also has a role here; it studies the EMCDDA's assessment and prepares draft recommendations for the HDG, which may however choose to ignore them.

The early warning mechanism first went into action at the end of 1998. The substance MBDB, a milder variant of ecstasy, had been encountered in several countries and the HDG decided to test the system on it. When the

results of the initial information-gathering survey had been debated in the scientific committee of the EMCDDA, the committee delivered a nuanced verdict. On the one hand, since the substance was potentially dangerous, like ecstasy, there was something to be said for a ban. On the other hand, there was not really much need for a ban, since the substance was uncommon, its effects weaker than those of ecstasy, and at that stage nothing was known about whatever health risks it might pose. The scientific committee also noted that there were certain disadvantages to prohibition, since it would make it harder to monitor the use of MBDB and increase the difficulty of preventive measures. On the basis of this assessment, the Commission (represented by the Task Force drugs unit) decided that there were insufficient grounds to ban the substance and advised against it. The statement that there are certain disadvantages attached to prohibition, as posited by both the scientific committee of the EMCDDA and the Commission, represent a completely new trend in thinking within the EU.

Nevertheless, in December 1998 the Horizontal Drugs Group decided otherwise. A majority of the member states favoured a ban, with a minority opposing it. Since this Council group takes its decisions by unanimity, a compromise was agreed: the use of MBDB would be monitored for six months. In the event, the substance had virtually disappeared by the end of this period, and the majority then voted against a ban. So the final outcome was that no agreement was made at EU level to prohibit MBDB throughout the member states.

5.4 Action plans and strategies on drugs

The EU has produced a series of plans on drugs in recent years. CELAD had already prepared two such plans before the Maastricht Treaty, which were adopted at the Rome (1990) and Edinburgh (1992) European Councils, respectively. At the Cannes European Council of June 1995, the main contours of the European Global Plan of Action in the Fight Against Drugs (1995-1999) were adopted, after which they were redrawn several times.

In 1998 a start was made on developing EU drugs policy for the next few years. The Cardiff European Council of June 1998 adopted the basic princi-

ples of the EU drugs strategy for 2000-2004. The summit then called upon the Council, the Commission and the Parliament to elaborate the measures in detail. This led the Commission to formulate its European Union Action Plan to Combat Drugs (2000-2004). The Council presented its own EU Drugs Strategy Plan, in response to which the EP's Committee for Citizens' Freedoms and Home Affairs drew up a report and adopted some resolutions.

All these documents claim to map out the EU's future action on drugs. They refer to the EU's balanced approach to demand and supply reduction. The plans also emphasise preventive measures and international cooperation – in which context they comment on the shared responsibility of production and consumer countries. The documents exhibit certain differences of emphasis. For instance, the Council appears more concerned about the fight against production and trafficking, while the Commission tends to emphasise prevention and harm reduction.[154] The latter phrase turns up frequently in the Commission's Action Plan, but it does not occur in any of the different versions of the Council's Drugs Strategy. One new element of the plans is that an evaluation is to be performed of the existing drugs activities. The Commission's plan states that evaluations should be an integral part of the EU's approach to drugs.

It has already been pointed out that the existence of these two separate plans has caused confusion about the relationship between them – not just for outsiders, but also for people in the Commission and Council who are directly involved. Nor is it clear who bears ultimate responsibility for overseeing the implementation of either of these plans. This rather vague situation obviously contributes to the competition over drugs policy that exists between the Commission and the Council. Anyone who reads between the lines of either plan can see that both institutions consider themselves the appropriate coordinating body. The new Commissioner for drug-related matters, Antonio Vitorino (Justice and Home Affairs) is supposed to be developing a holistic approach to this policy area. However, the health aspects of drugs, in which area the Commission has most powers, continue to fall under the Health and Consumer Protection Commissioner, David Byrne. This makes it difficult for the Commission to develop either a holistic approach or any kind of central coordination. It is also unclear how much

freedom the Council will give the Commission to get on with this work. The likeliest outcome is that the Commission's Action Plan and the Council's Drugs Strategy will eventually be combined into a single document.[155]

Both the Council and the European Parliament can exert a certain influence over the subsequent trajectory; the EP has the power of codecision where health aspects are concerned, and can make recommendations in other areas. At the Tampere European Council (October 1999) the heads of government underlined the importance of addressing the drugs problem in "a comprehensive manner". They asked the Council to formally adopt the European Drugs Strategy before the Helsinki European Council of December 1999, and in the event the HDG and Coreper adopted it only one month later, in November 1999. This request seems to imply that the European Council wants the Council to take the leading role in formulating drugs policy. This is hardly surprising, given the history of the power struggle between the Commission and Council (see 3.5). Most member states, and their heads of government in the European Council, would far rather see the Council – composed of their own representatives – have most say in the EU's drugs policy. It is not inconceivable that the fact that officials working for the Council and its secretariat generally draft the conclusions of the European Council in broad outline may have played a role in the European Council's request.

It is hard to detect any consistent line in the EU's various action plans and strategies on drugs. Outsiders may imagine that such plans arise as a result of detailed discussions with frontline organisations, external experts and NGOs. The truth is rather different. They are basically bureaucratic products drawn up by a small circle of officials to whom it may seem a fairly routine job, amounting to a comprehensive list of possible measures and intentions in a variety of areas. The officials seek little contact with civil society or any other part of the outside world while working on them. The result is a wide-ranging and fairly inscrutable array of possibilities that is scarcely serviceable as a basis for specific measures. What it all ends up meaning in practice – certainly when the limited budgets are taken into account – will largely depend on where the emphases are placed.

As earlier chapters have shown, the EU and its politicians often exaggerate what they are actually doing. Judging by the statements of political leaders

and the high priority they claim to be according to the fight against drugs, you could easily get the impression that this is a cornerstone of EU policy and that large sums of money are set aside for it. The difference between political rhetoric and the reality of drugs policy is underscored by the size of the budgets. The sums earmarked for action against drugs are unimpressive and bear little relation to the priority EU politicians claim to accord to it. What is more, some of them were actually cut in 1997 relative to 1996, including the much vaunted North-South budget line, which went down from € 10 million to 8.9 million. The budget for health aspects too (including the drugs prevention programme) was slashed in the same period from € 6.5 million to € 5 million.

To get a good idea of the EU's activities in this area it is therefore wise to take the budgets into account. However, it is difficult to gain a clear picture of them, even for Commission and Council officials, since so many different budget lines are involved. Judging by available overviews, the EU has set aside about € 50 million annually for drug-related measures in recent years, about two-thirds of which is spent *within* the EU and one-third *outside* it.[156] In 1997 a total of € 53 million was available, 33.3 million of which (62%) was spent internally. More than half of this amount (€ 18.4 million = 55%) went to "Employment-Integra" rehabilitation programmes for drug addicts. As for the remainder of the 33.3 million: 19% went to the EMCDDA, 15% to relevant public health projects (including drugs prevention), 3% to third-pillar cooperation, 2% to controls on precursors and money laundering, and the remaining 6% to training and research.

Total annual expenditure on *external* drug-related measures has averaged about € 20 million in recent years. According to an EU survey for 1997, a little over half of this (€ 10.6 million = 53%) went to demand reduction programmes.[157] The rest was allocated as follows: institution building (15%), precursors (13%), demand reduction (5%), information (5%), alternative crop development (4%), combating money laundering (4%) and training (1%).

It is also worth noting the general approach to drugs as reflected in the activities of the EU. Drugs policy is generally discussed in terms of "supply reduction" and "demand reduction". The EU regularly states in its documents that it adopts a balanced approach to these two approaches. A third

term sometimes used is "harm reduction", which means shifting the emphasis away from drugs prevention to measures aimed at limiting drug-related damage. When this approach is adopted, it basically means that the phenomenon of drug use has been more or less accepted.

In the 1980s and 1990s, drugs policy EU-wide developed in the direction of harm reduction.[158] By the end of the 1990s this approach was accepted in almost all member states, particularly at local level, where drugs problems manifest themselves. The only member state that opposes harm reduction is Sweden, whose position explains why there are no explicit references to the term in EU documents. Still, the approach is gaining ground at EU level, sometimes as an element of demand reduction. Since the adoption of the guiding principles of demand reduction at UNGASS, the same now applies in the UN. Harm reduction is viewed as tertiary prevention, and as such as an element of demand reduction.

Aside from taking measures to reduce demand and supply, the EU is active in various other fields related to drugs policy. The following pages will discuss these other activities.

1. Information

The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and Europol's European Drug Unit (EDU) are responsible for gathering information about the drugs phenomenon in the EU. The member states' Reitox Focal Points supply the EMCDDA with the necessary data.[159]

The primary objective of the EMCDDA, which was founded in 1993, is to gather, process and publish reliable information on drugs and drug addiction and their effects. Having analysed the data, it distributes its findings to the countries of the EU. For the purpose of analysis and comparison, the epidemiological indicators in the different member states – indicators such as the prevalence of drug use and its impact on health – have to be harmonised. So improving comparability is one of the EMCDDA's main tasks. It contracts out some of its work to research schools. The EMCDDA issues annual reports on the drugs situation in the EU. Its 1998 report included applicant countries in Eastern and Central Europe for the first time. The Centre also publishes scientific studies of specific subjects such as epidemiological trends, synthetic drugs and demand reduction.

Although the EMCDDA is not allowed to pronounce on policy, some experts believe that it may eventually acquire responsibility for developing European policy on drugs. Among its recent tasks, as set forth in its 1998-2000 working programme, was the development of resources and methods for the comparison of national intervention, legislation, strategies and policy. The latter activity could be an initial step towards such an extension of the Centre's mandate.

2. Research and training

Biomed is a research programme (with annual funds of € 1 million) on the neurophysiological aspects of problem drug use. Several DGs and the EMCDDA also have budgets for projects that they contract out to research schools.

The EU has several other research programmes. The biggest is the Employment-Integra programme already mentioned, which accounts for more than half of the EU's internal drugs budget. A total of € 55.2 million was allocated to this budget line for the years 1997-1999 – about € 15 to 20 million a year. This programme supports about 230 projects focusing on the problems of drug users. Leonardo da Vinci is a vocational training programme, and is indirectly related to drugs in that it includes projects to combat social exclusion (funded from a budget of € 300,000). Youth for Europe is another programme that does not focus specifically on drugs, but supports a number of drug-related youth projects with funds ranging from € 100,000 to € 200,000.

3. Demand reduction

A significant proportion of the EU's demand reduction activities come under the joint drugs prevention programme. This Community programme currently has an annual budget of about € 5 million, with which it subsidises diverse drug-related health projects in the member states. The emphasis is on network building: cooperation among health workers from different countries, training for professionals, exchanges of experience and the formulation of best practice for reaching specific target groups.

Part of this programme is the annual European drugs prevention week. Advertisements in European newspapers call attention to the week and to

the programme's support for local drug prevention projects. Largely a symbolic event, the week advertises the EU's concerted efforts in this area. There is little evidence that Europe's citizens, and its young people in particular, pay any attention to this week or its message. Still, the week does fulfil a specific function, in that it gives those responsible for the programme a sense of being involved in a Community drug prevention policy.

In general, demand reduction and prevention appear to have become the main buzzwords of EU drugs policy in recent years. This reflects the fact that most member states have come to the conclusion that a punitive approach to users is not the answer to illegal drug use. The Austrian Presidency gave demand reduction a prominent place on the agenda, and the German Presidency followed suit. However, despite the frequent use of the term, it is still not entirely clear what it entails. Some people appear to use it a little glibly.

According to an EU survey for 1997, a little over half (€ 10.6 million = 53%) of the funds for external drugs programmes was earmarked for demand reduction.[160] This would mean that a very large proportion of the North-South and PHARE anti-drugs programmes belongs under this heading. But this is a distortion of reality. It implies that many of the measures involved in these programmes serve the interests of these third countries (i.e. reduce the demand for drugs there), a conclusion not borne out by the Commission's documents. The programmes are made up of a variety of elements, including adjustments to legislation, alternative crop development, law enforcement and demand reduction. But the emphasis is still squarely on the supply side – on measures aimed at ensuring that fewer drugs are produced and transported to the EU. (It may be added that "exported" demand reduction measures are of questionable usefulness, given the social, economic and psychological context of some of the countries involved.) It seems possible that as people lose faith in the efficacy of supply reduction, they are praising demand reduction as the new panacea, though not yet doing much about it.

Within the EU too, it proves easier to talk about demand reduction than to implement it. How can you reduce the demand for drugs without looking at the wider social and cultural context? Recreational drug use among young people appears to be closely bound up with international youth culture, and up to a point it is actually part of it. In spite of all the efforts that

have been made in the sphere of prevention, legislation and information, it has proven hard to influence this use. Even campaigns that greatly exaggerate the dangers of taking drugs do not have any effect.[161] On the contrary, drug use is in general increasing in the EU.[162]

Problem drug use, on the other hand, is bound up with a different set of factors, such as mental illness, and increasingly with socioeconomic factors such as social exclusion and marginalisation. While it is true that both the Council's Drugs Strategy and the Commission's Action Plan state that it is important to acknowledge the relationship between drug abuse and social exclusion and that instruments should be developed to prevent social marginalisation, as long as EU politicians fight shy of truly coming to grips with this relationship, demand reduction will be little more than an empty slogan. In any case, given the limited budget that is available at present, it is wishful thinking to expect that much progress can be made on this front.

The acceptance of the guiding principles of demand reduction at UNGASS, on the other hand, including harm reduction as a mode of tertiary prevention, can be expected to yield more concrete measures. Most member states have already developed harm reduction activities, such as needle exchange and methadone programmes. Little is done at EU level as yet, but this seems set to change over the next few years.

4. Supply reduction and law enforcement

The EU's activities in supply reduction and law enforcement take place in a variety of frameworks, one of the most important being Europol. Designed as a police service to structure cross-border investigations and police cooperation between member states, Europol was intended to streamline efforts to combat and prevent international organised crime, including terrorism and drug trafficking. It was some time before its exact mandate was clarified, and in the meantime Europol Drug Unit (EDU) was set up in 1995, specifically to combat drug trafficking and related money laundering. For several years this unit was the only truly operational part of Europol.

The EDU gradually secured more wide-ranging powers and started focusing on other offences, such as trafficking in radioactive and nuclear material, illegal immigration networks, the illegal automobile trade and related

money laundering. Later on it added trafficking in human beings to its list of concerns. When Europol became operational on 1 July 1999, it took over the EDU's work, and its working area was widened to include the fight against terrorism and counterfeiting.

Considering its extensive mandate, Europol was actually set up surprisingly quickly. The credit is often given to Chancellor Kohl, for many years the EU's informal leader, who was eager to get the agency on its feet as soon as possible. Equally surprising is the ease with which the EDU expanded its own powers. Europol's far-reaching powers caused quite a stir when they were announced in 1999. The agreement establishing the new agency provided for its officers to have a status approximating diplomatic immunity: the protocol was to exempt all personnel from prosecution on account of anything they said, did or wrote in the exercise of their duties.

Third-pillar cooperation also takes place in the Grotius, Falcone and Oisin programmes, which promote cooperation between the police and judicial authorities of the member states. All three are scheduled to run for several years, and their combined budget is about € 1.1 million. More in general, third-pillar cooperation – not just on drugs but in all areas -appears to have been stepped up considerably in the past few years. During the Finnish Presidency, agreements were made about increasing cooperation between police and judicial authorities, and this trend seems set to continue.

The Commission has a number of budget lines that are indirectly related to drugs. They are used for alternative crop development programmes, the aim being to reduce drugs production and hence the quantity of drugs entering the European market. The Commission funds several such projects in South America. In 1998 the Spanish Commissioner Marin met with the American drugs czar McCaffrey, which led to an agreement on a dramatic increase (in stages) in the budget for drug-related aid to South America, to € 70 million. Most of this money will come from development cooperation budgets. It is chiefly intended for alternative crop development programmes to reduce the cultivation of coca. This € 70 million has not yet been incorporated into the Commission's Action Plan to Combat Drugs, although the increase was agreed several months before the Plan's publication. Some elements of it are included in the Plan, however, including programmes in Peru

and Colombia. In Peru the Commission has made € 28 million available for a six-year alternative crop development programme. In Colombia a system is being funded to gain a better overview of the country and its drug production areas. This is a four-year programme with a budget of € 8 million. Not included in the plan are two alternative crop development projects in Bolivia, one budgeted at € 19 million and the other at € 11 million.

5. International cooperation

It has been noted several times in this study that where drugs are concerned, the EU is most active in the sphere of external relations. Third countries have to fulfil a number of conditions if they want some form of cooperation – including trade and development cooperation – with the EU. Taking drug-related measures is presented to third countries as one of the main conditions for cooperation.

When we look at the drug-related budgets, however, it becomes clear that the EU itself does not spend very much in this area. In the mid-1990s it budgeted about € 20 million annually for drug-related measures outside the EU. In 1998 this sum was increased to about € 24 million. Although PHARE's anti-drugs component saw its budget increased from € 5 million to € 11 million, cuts were made in various parts of it.

For 1997 and 1998 the budget for the special North-South drugs budget line was set at € 8.9 million. It is divided among four regions: Latin America, Asia, the ACP countries and the Mediterranean, in particular the Maghreb and Mashreq.[163] In 1996 the centre of gravity lay in Asia and Latin America (which accounted for 75% of expenditure), but a gradual budgetary shift has taken place since then towards the Caribbean and the Maghreb and Mashreq. The priority is on demand reduction, strengthening the police and judiciary, and stepping up controls on precursors.

The European Development Fund allocates part of its budget to drug-related projects. In 1997 € 6.2 million was made available for this purpose, but this was cut to € 5.4 million the following year. One-fifth of this money goes to African countries (primarily Guinea-Bissau, Zambia and Botswana), while the lion's share (79%) is earmarked for the Caribbean.

PHARE was set up to help applicant countries in their economic and political transition to EU membership. Its Multi-Beneficiary Drugs Programme provides assistance to the applicant countries in Central and Eastern Europe. Basically, these countries must have taken the same anti-drugs measures as those already taken by the member states; it is a key condition for accession. The Programme's annual budget was about € 5 million in the mid-1990s. In 1998 it was increased to € 11 million, because this was the first year in which the countries of Central and Eastern Europe were incorporated into the EMCDDA's data, as is clear from its annual report for that year. The general objective of PHARE's drugs programme is to strengthen the capacity of the participating countries to take action against drugs.[164] The idea is to develop a regional approach to drugs prevention, with the countries gradually adopting the EU acquis on drugs and cooperating more both within their own region and with the EU. Other priorities of the PHARE drugs programme in recent years included measures against synthetic drugs, stepping up controls (together with the UNDCP) on the Balkan route, which is one of the most important heroin routes in Europe, and developing a drugs prevention policy.

Finally, TACIS is a Commission programme for cooperation with Russia and the other New Independent States – the countries of the former Soviet Union. It embraces political, commercial, economic and cultural cooperation. Within the framework of TACIS, the Commission provides financial support for customs cooperation, partly to improve drugs detection technology and partly to help build and staff border checkpoints. The underlying objective is to stem the flow of heroin from Afghanistan and other countries. € 37 million was made available for customs cooperation for the years 1996-1998. Another € 6 million was made available for 1997 and 1998 to help the countries of Central Asia in their fight against the production and trafficking of drugs. In spite of the large sums of money that have been made available for the fight against drugs and related matters within TACIS, these efforts have failed to produce any results.

General remarks

Reviewing all these measures, it is clear that there is a strong emphasis on reducing the supply of drugs from third countries. Although the EU claims

to have adopted a balanced approach to demand and supply reduction, the specific measures it takes suggest otherwise: demand reduction – whether in the countries of the EU or in third countries – is still a slogan that amounts to little in practice. This may be partly because the problems involved are so complex. It is hard to come to grips with demand reduction without studying the socio-cultural and socioeconomic context. If the EU really wants to reduce problem drug use, it will have to consider wider social intervention instead of focusing narrowly on the drugs problem. This would mean, in particular, taking measures to prevent and reduce social exclusion.

Meanwhile, it is much simpler to take measures aimed at curbing supply. It is not only cheaper, but the EU does not have to do so much: it can "contract out" drugs measures by imposing them on other countries as conditions for development assistance and other forms of cooperation. In the relatively brief period that the EU has possessed competence in the field of drugs, it has made drugs control part of its foreign policy. It is easy for the wealthy EU to impose these demands. For the poorer countries that have to comply with them, it means they have to adjust their drugs legislation to suit the EU's wishes (or introduce such legislation if they do not yet have any). Decriminalisation, according to EU policy, is out of the question. For the rest, these countries have to take all sorts of measures to reduce the flow of drugs, such as setting up special institutions and taking action against precursors and money laundering. It is legitimate to question the EU's right to impose its own attitudes on these countries. This question is particularly relevant when it comes to countries where certain currently illicit drugs have a long cultural tradition, such as coca in South America, opium in Asia and cannabis in several continents. The EU takes no account of this; in its own fight against drugs, it demands that other countries outlaw the same substances as the EU and take action to curb their use.

With its supply reduction measures, the EU is more or less copying the US. The fact that an EU Commissioner pledged large sums of money for alternative crop development in Latin America after meeting with US drugs czar McCaffrey fits into this picture. Still, there are differences between the American and European approaches. While the US emphasises crop destruction, with alternative crops a secondary consideration, the EU prioritises the

introduction of alternatives, and is trying to make it attractive for farmers to switch from coca to other crops.

Given the past experience of the US in this field, these measures are unlikely to have much effect. After all, the US and the UN have been trying in vain to reduce supply by introducing alternative crops for several decades. The study *Unintended consequences: illegal drugs and drug policies in nine countries*, which was commissioned by a UN research institute, gives a picture of the inefficiency and failure of crop replacement programmes.[165] Since drug crops are so much more lucrative than any legal replacement, and since these countries, and especially their impoverished farmers, are weighed down by socioeconomic disadvantages, getting them to switch to other crops is extremely difficult. The political context should also be taken into consideration. In quite a number of drug-producing regions, it is not the authorities but guerrillas and paramilitaries who call the tune. Colombia provides a clear illustration. Drugs provide all sorts of organisations with a huge source of income that they would not find it easy to replace. The fact is that the global production of drugs has risen in recent decades, especially in the 1990s. If production is reduced in one area, it simply relocates. The difficulty of having any real impact on drugs production means that crop destruction is often accompanied by excesses such as militarisation, human rights violations and damage to the environment.

5.5 Summary and conclusion

This chapter has reviewed the EU's activities in relation to drugs. They are basically intended to complement action taken by member states. This certainly applies to public health matters, which are firmly governed by the principle of subsidiarity – health policy is for national governments to determine. This explains why the member states make more agreements on drugs in policy areas that come under the other two, intergovernmental, pillars, especially the third.

Views differ as to whether there is such a thing as an "EU drugs policy". Some say that EU drugs policy is the sum of the measures taken by the Commission, Council and Parliament, while others maintain that you cannot

speak of "policy" in an area that still falls primarily under the competence of the member states. Although the EU takes complementary measures, there is still no coherent holistic approach, and it is unclear which body would be responsible for developing one. However, the fact that the EU presented its *third* Action Plan to Combat Drugs in 1999 seems to suggest that the EU does have a substantial and influential policy on drugs. Many of the EU's citizens are under the impression that an EU policy on drugs already exists, or that its development is not far away. This assumption undoubtedly derives in part from the debate on the harmonisation of anti-drugs legislation and implementation, which received a lot of attention from politicians and in the media.

Harmonisation has not been achieved, however, as it proved too politically sensitive. What is more, a series of working conferences concluded that it was not necessary; stepping up practical cooperation between the member states was a more realistic and effective option. Cooperation will largely mean countries joining forces to devise solutions when faced with similar problems. This is the course set for the near future, although harmonisation may return to the agenda later on, if France or another country revives it.

The debate on harmonisation and efforts to achieve it in the K4 committee did have a concrete outcome, however: they led to the first two joint actions on drugs. The first involved mutual adjustments to legislation and practices, although this has remained something of a paper tiger. In 1997 a second joint action followed, an early warning mechanism for new synthetic drugs. This system makes it possible to react quickly to the appearance of any new synthetic substance on the market, to make a rapid risk assessment and decide whether or not the new substance should be banned. The first time the mechanism was used, for MBDB, a mild variant of ecstasy, the member states eventually decided against a ban.

The various action plans and strategies that the EU's institutions have produced are presented as an overview of the EU's anti-drugs measures from 1999 onwards. There is still an element of confusion here, however, as even those directly concerned are unclear about the relationship between the Commission's Action Plan to Combat Drugs and the Council's Drugs Strategy, and about which institution is ultimately responsible for implementation – both

institutions see themselves as the most suitable body to take the lead. This muddle can be traced back to the Cardiff European Council, in June 1998, which asked the Council, the Commission and the Parliament to elaborate the EU Drugs Strategy 2000-2004, after it had been adopted in broad outline. At the moment it looks as if the European Council would prefer the Council to take responsibility for coordinating drugs policy.

Politicians often claim that the EU accords high priority to the fight against drugs, leading one to assume that it is one of the spearheads of EU policy and that large sums of money are spent it. Yet a glance at the budgets reveals that much of this is pure rhetoric. The EU sings the praises of its anti-drugs activities, and an army of Brussels officials is hard at work in this sector, and yet the EU makes a mere € 50 to 55 million available for drug-related measures each year. The total *external* expenditure on drugs activities in recent years was about € 20 million a year. It is fair to say that these figures do not present the whole picture, however, as various other budget lines exist besides those discussed in the concise overview in this chapter, which are indirectly related to drugs.

EU documents refer to a balanced approach to supply and demand reduction in all sectors, including development cooperation. They increasingly stress the importance of demand reduction through preventive measures. As things now stand, this is largely a matter of words, not deeds. It is significant, however, that harm reduction has been incorporated into demand reduction since UNGASS in 1998, and this is likely to lead to more specific measures.

Ways of achieving demand reduction, in the sense of a decline in drug use, have yet to be worked out. Given the complexity of the issue, and its social, cultural and economic parameters, this is a difficult area to tackle. Recreational drug use among young people appears to be closely bound up with international youth culture, while problem drug use is increasingly bound up, besides factors such as mental illness, with socioeconomic factors such as social marginalisation. While both the Council's Drugs Strategy and the Commission's Action Plan to Combat Drugs acknowledge the link between drug abuse and social exclusion, as long as EU politicians are reluctant to come to grips with this wide-ranging social issue, there is unlikely to be any decline in problem drug use.

It is therefore easier for the EU to focus on efforts to limit the supply of drugs, in the hope that this may reduce drug use. Drugs measures are "contracted out" – imposed on other countries as a condition for cooperation. For all the EU's claims to have adopted a balanced approach to supply and demand reduction, the actual measures it takes are still heavily oriented towards supply reduction. What is more, if we compare policy developments within the EU with its external policy, a discrepancy emerges. While there is a clear trend within the EU towards decriminalisation, the EU insists that third countries take more punitive measures.

The question of whether a truly European drugs policy is likely to materialise in the future is hard to answer. For the time being, the accent is on leaving member states to pursue policies of their own. Whether this will change depends first and foremost on the success of further European integration and the form it takes, including political and military cooperation between member states. Not everyone is as optimistic about the realisation of this integration as Europhile politicians. In any case, the European landscape is changing, and it will change more dramatically still over the next few years, whatever else happens, with the advent of the new member states. The old debate about the future will undoubtedly flare up once again: should we head for a truly federal Europe with ever-increasing powers at Community level, or should the EU remain predominantly an intergovernmental Europe of states?

In drugs as in other policy areas, forging agreements and achieving harmonisation are easier said than done. Political debates often fail to address the issue of exactly *what* should be harmonised. After all, drugs policy has so many facets that it has to be discussed in all three pillars, which makes developing any kind of uniformity far from simple. Besides such practical difficulties, there are also questions of principle. Harmonisation is a politically sensitive issue. It is evidently going too far to harmonise policies that are closely interwoven with national cultures and traditions, such as the role of health care, the police, the criminal law, and legal drugs and medicine in society, and the way in which a society responds to deviant behaviour. In all debates on harmonising policy – not just on drugs – the key question is how far one should go. In Europe's long and turbulent history, its diversity has

always been its strength. In the 19th century, the Swiss historian Burckhardt warned of the "suffocating monopoly of power" by a single state. He held that the greatest threat to Europe was enforced uniformity, homogenisation, and that the continent should seek its salvation in pluralism.[166]

The future direction of drugs policy, harmonised or not, is therefore hard to predict, as it depends on numerous factors and trends. Unforeseen political developments may always prove influential, such as the advent of one or more heads of government who are personally committed to a more active approach to drugs, whether or not through harmonisation, and who urge the adoption of proposals to this effect at the European Council.

Another factor is the influence of the EU's inscrutable bureaucratic machinery on policy. This is related to the question of how the relationship between the Commission, the Parliament, the Council and the European Council will evolve. At present the drugs theme is pumped around the EU's bureaucracy without having much impact; yet there is no debate on the real issues and the effectiveness of different measures. Though many individuals working in the field are personally convinced that the current approach is a dead end, the EU's structures and the ritualistic way in which drugs are discussed within them leave little room for such views. This is partly because of the dynamics of the EU's bureaucracy. The EU's institutions and working groups have an interest in maintaining the status quo; for many of those involved, drugs are not so much a problem in need of an effective solution as a useful vehicle for scoring political points, or for expanding their sphere of competence. Whether the EU will start looking more closely at the real issues at stake in drugs policy will partly depend on the extent to which Brussels bureaucrats succeed in burying the hatchet of competence and pooling their resources in the three pillars.

The EU's drugs policy will also be influenced by other internal factors such as the activities of the EMCDDA and Europol, and the political conclusions attached to them. The advent of the EMCDDA has been a boon, as it has brought scientific expertise to bear on decision-making to a greater extent than before. That was clear, for instance, with the decision not to ban MBDB. The largely rational weighing of the evidence owed much to the EMCDDA's scientific assessment. Still, the gap between scientific views and the EU's

general approach to the drugs issue remains quite considerable. For the rest, Europe's future drugs policy will also depend on the implementation of third-pillar agreements on cooperation between police and judicial authorities and on the fight against organised crime. The Treaty of Amsterdam laid down rules for such cooperation in illicit drug trafficking, but the legal and practical implications are not yet entirely clear. Although third-pillar decisions are still taken by unanimity, there appears to be a slow development – partly because of the growing number of member states – in the direction of qualified majority voting.

External factors too may affect what happens. The history of international drugs control teaches us that drugs policy is often – perhaps primarily – influenced by emotional considerations. So it is far from certain that the EU's future drugs policy will be based on a dispassionate assessment of the facts. There is also the international political situation and the balance of power to be considered, in particular the dominance of the United States. The US has exerted immense influence on the policy pursued by the United Nations and its drugs agency, the UNDCP. For the past few years the UNDCP has been cooperating with the EU. But the policies it advocates lag behind those of the European member states; it focuses on punitive measures and is fairly reluctant to adopt and implement harm reduction measures. This applies even more strongly to the United States, which clearly opposes the harm reduction approach. In this respect the US is the main exception in the Western world, which displays a clear trend towards an approach based on harm reduction. Nonetheless, or possibly *because* of its loss of dominance in this policy area, the US has been seeking more cooperation with the EU on drugs than before.

Notwithstanding the influence of the US and – following in its footsteps – the UNDCP, it will probably be what happens in Europe itself that ultimately determines the future of European drugs policy. In particular, much will depend on policy development in the member states in the "front line", that is at local level. This is certainly not to imply that everyday practice will automatically be translated into policy in Brussels, where working groups have a dynamic of their own. In the long term, however, solutions adopted in the member states are bound to influence EU policy. This is conditional,

of course, on agreements between member states – especially in the third pillar – leaving enough room for countries to experiment and find out which approach works best. Given the importance of practical experience and the gap that already exists in this policy area between the EU's apparatus and everyday practice, it would be advisable to involve local authorities and NGOs (including users' organisations) more in the EU's policy development from now on.

The latter half of the 1990s witnessed great changes in drugs policy in EU countries. Local authorities in particular displayed a definite trend towards a more pragmatic approach to problem drug use. This is part of a longer trend that started in the late 1980s, in response to the advent of AIDS. To limit the spread of the epidemic, pragmatic measures such as needle exchange and methadone programmes became virtually essential. The 1990s this harm reduction approach spread, especially in the cities, where local authorities were most often confronted with the problems and sought workable solutions. The same pragmatic trend emerged in relation to recreational drug use. This may have been because experimental drug use increased in many countries in this decade, and it was clear that punitive measures had made no impact. The EMCDDA reports a clear shift in the direction of decriminalisation in most member states in 1998/1999.

This development is in line with the restructuring of the relationship between government and society that has been described by sociologists such as Anthony Giddens. The social role of the welfare state was transformed in the 1990s, and this change is set to continue. Citizens are becoming more autonomous, they take more responsibility and make more decisions for themselves. For policy, this may mean a shift of emphasis to local government level. Policymakers in drugs and other areas will have to take account of the declining role of central government and people's increasing right to self-determination. This could present Europe with a chance to reaffirm its diversity while developing a European drugs policy, and in so doing to distinguish itself from the United States.

NOTES

1 See e.g. the booklets *The European Union in action against drugs* (1997) and *The European Union and the fight against drugs* (1997).

2 The best known of these drinks, of course, is Coca-Cola, named after the two ingredients it initially contained with a stimulant effect, coca leaves and cola nuts.

3 For a detailed description, see David M. Musto (1987), op. cit. See also Christian Bachman & Anne Coppel (1989), *La drogue dans le monde*, pp. 267-274, and Marcel de Kort (1995), *Tussen patiënt en delinquent*, pp. 62-80

4 In their book *Crack in America* the American sociologists Reinarman and Levine survey drug scares in the US, describing them as "phenomena in their own right, quite apart from drug use and drug problems". They show how a particular drug is scapegoated and linked to a group that is seen as problematic, such as immigrants, ethnic minorities, or rebellious youth. The best known and oldest drug scare focused on alcohol. The 19th-century anti-alcohol movement blamed alcohol for a large proportion of the poverty, crime, violence and moral degeneration in the US. This culminated in Prohibition (1920-1933), which its advocates praised as a panacea for society's ills. The most recent and fiercest drug scare centred on crack cocaine in the late 1980s.

5 California had a large Chinese population, most of whom had been hired as contract labourers on the railways and goldmines. With the depletion of the mines and the completion of the railway lines came an economic recession in the last quarter of the 19th century. In the increasingly tight labour market the Chinese, who tended to work for low pay, were increasingly perceived as a threat to Americans of European origin.

6 Ibid. p. 7.

7 Musto (1973), p. 7. See also Reinarman & Levine (1997), op. cit. p. 7.

8 Ibid.

9 Reinarman & Levine point out (op. cit., p. 7) that marijuana was being described in completely different terms a few decades later. Instead of being labelled a drug that aroused violent tendencies, it was called a "drop-out" drug that would make users un-American, for instance by turning them against the Vietnam War.

10 When the US gained possession of the Philippine archipelago it was confronted with the use of opium among both the Filippino and Chinese population. In 1905 the US

Congress eventually decided to ban the use of opium by Filippinos with immediate effect, while the ban for the Chinese population would take effect three years later.

11 Gerritsen (2000), *The control of fuddle and flash: a sociological history of the regulation of alcohol and opiates.*

12 US businesses made handsome profits in the opium trade with China in the 19th century. However, Britain's position in this market was strengthened after the Second Anglo-Chinese Opium War, as it secured Hong Kong as a key transhipment centre for opium. Britain's gain was partly America's loss. So in the early 20th century the US could support the Chinese in their opium struggle without putting their own commercial interests in the balance. See Gerritsen (1993), op. cit. p. 71.

13 At the time Kettil Bruun was research director at the Finnish Foundation for Alcohol Studies, Lynn Pan was the coordinator of the International Research Group on Drug Legislation and Programmes in Geneva and Ingemar Rexed was the secretary of the Nordic Council on Criminology and a magistrate at Stockholm appeal court.

14 Ibid. For a description of the *Gentlemen's Club*, see pp. 122-129.

15 The Commission on Narcotics Drugs (CND) is the body in which member states are represented. It generally meets twice a year. This is where the general lines of UN drugs policy are outlined; they are later formalised by the Economic and Social Council (ECOSOC) of the UN. The UNDCP is the implementing and administrative organ.

16 The United Nations Office for Drugs control and Crime Prevention - UN/ODCCP (1999), *European-United Nations partnerships against perils*, p. 11. This page displays a table showing the sums of money that countries donate to the UNDCP.

17 The term "prison industrial complex" was coined by analogy with the military industrial complex, a similar though older system consisting of various actors that impact on and reinforce one another. Schlosser enumerates the active partners in the prison industrial complex as follows: "[...] politicians using fear of crime to garner votes, low-income rural areas clawing for new prisons as a cornerstone of economic development, private companies angling to share in the lucrative $35-billion-a-year prison industry, and government officials expanding their bureaucratic empires." See Eric Schlosser (1988), "The prison industrial complex", *The Atlantic Monthly*, pp. 51-77.

18 See e.g. a study conducted by the Washington Office on Latin America (1997), *Reluctant recruits: the U.S. military and the war on drugs*, or see Transnational Institute (TNI) et al. (1997), *Democracy, human rights, and militarism in the war on drugs in Latin America.*

19 According to a survey conducted by the American Management Association, 81% of companies tested their employees for drugs in 1996. Ten years earlier the percentage was 22%.

20 Besides *Crack in America* (see note 4), in which Reinarman and Levine look at several American drug scares, a classic Scandinavian study should also be mentioned

in this connection. Originally published in Norwegian, this book describes drugs as the ideal social problem or "the ideal enemy". For the German translation, see Christie & Bruun (1991), *Der nützliche Feind. Die Drogenpolitik und ihre Nutznieber.*

21 See my studies of 1996 and 1997 respectively: *Heroïne, cocaïne en crack in Frankrijk* and *The Swedish drugs control system*.

22 The EU member states refer to their representatives in Brussels not as ambassadors but as Permanent Representatives.

23 Werner Weidenfeld & Wolfgang Wessels (1997), *Europe from A to Z: Guide to European integration*.

24 This is an old debate about the future of Europe, in which France and the Netherlands frequently clashed; France (under President De Gaulle) was traditionally an advocate of a *Europe des Etats*, while the Netherlands (with Foreign Minister Luns) had a definite preference for a more federal structure.

25 The official title of the report it produced was *Report drawn up by the Committee of Enquiry into the Drugs problem in the Member States of the Community* (EP document A2-114/86).

26 See Hedy d'Ancona, "Het Nederlands drugsbeleid in West-Europees perspectief", in M.S. Groenhuijsen and A.M. van Kalmthout (1989), *Nederlands drugsbeleid in West-Europees perspectief*, pp. 168-169.

27 Ibid.

28 An approach that would later come to be known as "harm reduction".

29 This survey is partly based on the lucid account by P.H.S. van Rest & R.A. Visser (1996), in *Drugs: nationale aanpak, internationale grenzen*, pp. 166-167.

30 P.H.S. van Rest & R.A. Visser (1996), op. cit., p. 167. The title of the Resolution adopted in response to the Stewart-Clark Report was "Council Resolution on concerted action to tackle the drugs problem" (No. C 283/80, 10 November 1986).

31 Its French name was *Comité Européen de Lutte Anti Drogue*.

32 Georges Estievenart (1995), *The European Community and the global drug phenomenon: current situation and outlook*, p. 60.

33 See also Hilde Van Lindt (1995), *Construction of the European Union drugs policy: an interactive process*.

34 European Parliament, *Report drawn up by the Committee of Enquiry into the spread of organised crime linked to drugs trafficking in the member states of the European Community*, rapporteur Patrick Cooney, 1992.

35 Ibid. p. 4.

36 Ibid.

37 Ibid.

38 Ibid., p. 4.

39 Ibid.

40 R.A. Visser, "De Europese samenwerking bij de bestrijding van drugs", in Van Rest & Visser (1996), op. cit. p. 169.

41 Ibid.
42 Ibid., p. 170.
43 For a concise overview, see the article by Curtin (1995), op. cit. See also section 3.6 below.
44 With thanks to Ben van der Velden, who summarised this procedure clearly and concisely in his article in the daily newspaper *NRC Handelsblad* of 1 June 1999.
45 Formally speaking, subsidiarity means that in policy areas that do not come within the exclusive competence of the Community, the latter takes action only "if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community" (Article 3B of the Maastricht Treaty). The roots of this principle are in the papacy. In 1931 Pope Pius XI issued an encyclical against the rise of socialism and social democracy, which in his view threatened to monopolise the life of society. He therefore advocated a plural social structure governed by the principle of "subsidiarity". The term has been used in relation to the EU since the latter half of the 1980s.
46 For a description (in French) of how drugs policy works in practice in France, and the regional differences that occur there, see chapter 4 (pp. 101-111) of Tim Boekhout van Solinge, "Le cannabis en France" in Peter Cohen & Arjan Sas (eds.) (1996), *Cannabisbeleid in Duitsland, Frankrijk en de Verenigde Staten*. A brief summary in English can be found in Cedro's online library at cedro-uva.org.
47 Van Rest & Visser (1996), op. cit. p. 172.
48 This point is made by C.W.A. Timmermans, deputy Director-General of the Legal Service of the European Commission, in the article "De complexe procedures en de rol van de Europese Commissie daarin", in T.M.C. Asser Institute (1995), op. cit. p. 13.
49 For a clear survey, see Werner Weidenfeld & Wolfgang Wessels (1997), *Europe from A to Z. Guide to European integration*.
50 Previous action programmes were "Europe against cancer" in 1985, followed by "Europe against AIDS" in 1991.
51 European Commission, Directorate-General for Development (1995), *Lomé IV. Programming of the Second Financial Protocol* (Compilation of Sectoral Notes).
52 In a book including ample documentation, Lamond Tullis compiles nine case studies of the consequences of the traffic in illicit drugs. He focuses on Colombia, Peru, Bolivia, Mexico, Thailand, Laos, Myanmar (Burma), Pakistan and the US (the state of Kentucky). On pp. 122-127 Tullis surveys the inefficiencies or failures of crop replacement programmes in the nine countries. See Tullis (1995), *Unintended Consequences: Illegal Drugs & Drug Policies in Nine Countries*.
53 E.g. European Commission, Directorate-General for Development (1998), *Human & Social Development Issues*, No. 7, June 1998, "The European Union and the fight

against drugs in the ACP countries". (At the bottom of this four-page document is a note explaining that it is a "briefing paper" and not an official publication by the Commission). For a more official document, see European Commission, Directorate-General for Development (1995), op. cit.

54 European Commission, Directorate-General for Development (1998), *Human & Social Development Issues*, No. 7, June 1998.

55 On cannabis consumption in Jamaica, see e.g. Tim Boekhout van Solinge (1996), "Ganja in Jamaica".

56 European Commission, Directorate-General for Development (1998), op. cit. pp. 1 and 3.

57 Coreper is an acronym for "Comité des représentants permanents".

58 The term "K4" derives from the numbering of the Articles in the Maastricht Treaty that deal with the third pillar. Article K4 called into existence a coordinating committee composed of senior officials. In the renumbering occasioned by the Amsterdam Treaty, Article K4 became Article 36.

59 The composition of the group varies according to the subject under discussion. Nonetheless, the third pillar is generally represented far more strongly than the first.

60 Codro was eventually incorporated into the Horizontal Group in 2000.

61 Report, including key elements of a post-1999 EU drugs strategy, to the European Council on activities on Drugs and drugs related issues under the UK Presidency.

62 The official turnout (expressed as a weighted average) was 49.9%.

63 Weidenfeld & Wessels (1997), op. cit. p. 104.

64 The report's official title was *Report drawn up by the Committee of Enquiry into the drugs problem in the Member States of the Community* (EP document A2-114/86).

65 Cooney (1992), op. cit.

66 Resolution B3-0668/92 on the work of the Committee of Inquiry into Drugs Trafficking; see R.A. Visser, "De Europese samenwerking bij de bestrijding van drugs, in Van Rest & Visser (1996), op. cit. p. 169.

67 This term refers to the approach in which the drugs problem is seen as a "normal" social problem.

68 One key reason cited by several Scandinavian scholars for the emotional tone of Sweden's approach to drugs is that drugs have become a scapegoat for the demise of the welfare state, and the fight against drugs has come to be seen as a last stand to protect Swedish identity. This makes it hard for Swedish politicians to put the dangers of drugs into perspective, since presenting such views would damage their prospects. For a brief account, see section 4.5 of Tim Boekhout van Solinge (1997), *The Swedish Drug Control System*.

69 The reason why this debate was not conducted until October was that Parliament had not succeeding in doing so prior to UNGASS. In the end, the EP's position was not formulated until four months later, in October 1998.

70 European Union, the Council (1998b), *Draft Report on Drugs and Drug-related issues to the Vienna European Council*, p. 12.
71 Report, including key elements of a post-1999 EU drugs strategy, to the European Council on activities on Drugs and drugs related issues under the UK Presidency, p. 3.
72 Ibid., p. 4.
73 European Commission (1998), *Communication from the Commission to the Council and Parliament with a view to establishing a common European Union platform for the Special Session of the UN General Assembly on international cooperation in the fight against drugs*.
74 Report, including key elements of a post-1999 EU drugs strategy, to the European Council on activities on Drugs and drugs related issues under the UK Presidency, p. 13.
75 European Commission (1999), *Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: on a European Union Action Plan to Combat Drugs* (2000-2004).
76 European Union, the Council (1998a), op. cit. p. 17.
77 Ibid.
78 Weidenfeld & Wessels (1997), op. cit. p. 109.
79 Ibid.
80 This was the view of the President of the EP, the Spaniard Gil-Robles, the day after the EP had dismissed the Commission, in an interview with *Libération*, on 18 March 1998.
81 Chapter 4 will discuss the political exploitation of the drugs issue and the function it fulfils in greater detail.
82 There need not always be a consensus; in the case of a joint action a qualified majority is sufficient, although this decision - that a qualified majority will suffice in relation to a specific joint action - must first be approved by unanimity.
83 Arendo Joustra (1997), *Het Hof van Brussel. Of hoe Europa Nederland overneemt*, p. 72.
84 Ibid., pp. 72 and 75.
85 Ibid. p. 79.
86 Ibid., p. 83.
87 The dissertation quoted by Joustra is Jan van de Bos (1991), *Dutch EC policymaking: a model-guided approach to coordination and negotiation*.
88 The effect of personal relationships should not be overlooked. Consultations sometimes go better, and conflicts are sometimes resolved, because participants are friends - or even lovers.
89 D.M. Curtin (1995), "Enkele beschouwingen over de diversiteit en de rechtskracht van EU-besluiten", in T.M.C. Asser Institute (1995), *Diversiteit van de besluitvorming van de Europese Unie*, p. 1. Curtin is Professor of the Law of International Organisations at Utrecht University.

90 Ibid. p. 5.
91 Ibid. pp. 5-6.
92 Ibid. p. 6.
93 Ibid. p. 6.
94 Ibid. To date, the Netherlands is the only country in which an agreement of this kind has been concluded.
95 Max Weber wrote: "The tendency towards secrecy in certain administrative fields follows their material nature: everywhere that the power interests of the domination structure *towards the outside* are at stake (...) If it is to be successful, the management of diplomacy can only be publicly controlled to a very limited extent. The military administration must insist on the concealment of its most important measures." See H.H. Gerth and C. Wright Mills (1958), *From Max Weber: Essays in sociology*, p. 229.
96 European Communities (1996), *Building the European Union: Guide to the institutions of the European Union*.
97 See sections 4.5 and 4.6 below.
98 A. de Swaan, "Europa behoeft intellectueel debat". This article appeared on the opinions page of the daily newspaper *NRC Handelsblad* of 26 January 1999 and is an abridged version of a speech given by De Swaan to mark the departure of Hans van Mierlo, leader of the Democrats '66 political party, from Dutch politics.
99 For a good survey of different drugs and the way in which they are used, see e.g.: Andrew Weil & Winifred Rosen (1993), *From chocolate to morphine. Everything you need to know about mind-altering drugs*.
100 For a recent survey of the situation in the US, see e.g. S.C. Wilsnack et al. (1997), *Childhood sexual abuse and women's substance abuse: national survey findings*.
101 Here too, it is hard to generalise; the situation differs from one country to the next and even regionally. In Sweden, for instance, this link is very strong; a large proportion of intravenous amphetamine users are part of a criminal subculture.
102 Femke Halsema, "De carrousel van markt en misdaad", p. 44, in Femke Halsema (1995) *Ontspoord! Opstellen over criminaliteit en rechtshandhaving*.
103 Frank Bovenkerk (1996) "De ontdekking van de georganiseerde misdaad in Nederland" in *Hedendaags kwaad. Criminologische opstellen*, p. 24.
104 European Communities (1998), *The European Union in action against drugs*. The questionnaire cited is Survey no. 44, published in Eurobarometer 45 (1996).
105 Eurobarometer (1996), *Standard Eurobarometer. Survey no. 45*, held January-March 1996.
106 Eurobarometer (1997), *Standard Eurobarometer. Survey no. 47*, held January-March 1997.
107 Eurobarometer (1998), *Standard Eurobarometer. Survey no. 48*, held November 1997.
108 Eurobarometer (September 1998), *Standard Eurobarometer. Survey no. 49*, held April/May 1998.

109 Preface to *The European Union in action against drugs* (see note 104) by the then EU Commissioner Marcelino Oreja.

110 A harsher anti-drugs regime will probably be reflected in higher prices and larger profits.

111 Ibid. p. 7. The source quoted is Eurobarometer (1995), *Standard Eurobarometer. Survey no. 43*.

112 The question "Do you believe that driving a car (or mountaineering) can lead to a fatal accident?" would also lead to a preponderance of affirmative answers.

113 A clear example of this is President François Mitterrand's abolition of the death penalty when he came to office in 1981, while polls showed the French public wanted to retain it. Public opinion later changed, rejecting capital punishment.

114 Dirk J. Korf et al. (1998), "Urban drug problems, policymakers, and the general public", in *European Journal of Criminal Policy and Research*.

115 In an interview with the US cannabis magazine *High Times*, Chomsky described the American war on drugs as an instrument to control the population; see John Veit (1998).

116 This definition derives from Max Weber.

117 Tim Boekhout van Solinge (1997), *The Swedish drug control system. An in-depth review and analysis*.

118 Christie, N. and K. Bruun (1991), *Der nützliche Feind. Die Drogenpolitik und ihre Nutznieber*. The late Professor Kettil Bruun was a leading authority on alcohol in Helsinki. Nils Christie is Professor of Criminology at the University of Oslo.

119 See the Communication from the Commission to the Council and Parliament on UNGASS (European Commission [1998], op. cit.) and the summary of a communication from the Council to the European Council on drugs drafted under the Austrian Presidency: European Union, the Council (1998b), *Draft report on drugs and drug-related issues to the Vienna European Council*.

120 Bruun et al. (1975), *The Gentlemen's Club*. It cannot be ruled out that Pompidou was influenced by the US, which, as is well known, is the driving force behind international drugs control. When President Nixon placed the drugs issue near the top of the domestic political agenda in the early 1970s, it was soon increasingly being brought into diplomatic relations. Bruun et al. observe (p. 141): "Indicative of the importance attached to the drug issue is the appointment of a Cabinet Committee in International Narcotics Control in 1971 and the inclusion of the item of drug traffic control in negotiations at a high political level, such as those between Nixon and Pompidou". Without wishing to posit a causal relationship here, it is striking that in the year in which Nixon met with Pompidou to discuss the fight against drugs, Pompidou took the initiative to set up the European Pompidou Group.

121 Op. cit. p. 130.

122 The author has noticed this on many occasions when speaking to French audiences, on the basis of questions or comments from the floor.

123 Another factor was that the agreements had been made by the Ministry of Justice and not by staff of the Permanent Representation, who tend to take more account of the interests of all the ministries involved.

124 European Union, the Council (1998a), *Communication from the Council to the European Council*, p. 3.

125 Wim van der Voort (1997), *In Search of a Role. The Economic and Social Committee in European Decision Making*, p. 143.

126 Max Weber (1978), *Essays in Sociology. An outline of interpretive sociology.*

127 It should be noted, for the sake of clarity, that this refers to the period since Maastricht.

128 Arendo Joustra quotes from chapter 6 of the doctoral dissertation by Jan van de Bos (1991) on this subject; see Arendo Joustra (1997), op. cit.

129 The *École Nationale d'Administration* is the French civil service academy, attended by most aspiring top politicians and senior officials. The school, and the relationships and old boys' networks surrounding it, are famously influential on French government.

130 Noted by Patrick Dassen in an interview with *Folia*, the journal of the University of Amsterdam, published on 9 April 1999, about his doctoral dissertation on Weber, *De onttovering van de wereld. Max Weber en het probleem van de moderniteit in Duitsland 1890-1920*.

131 H.H. Gerth and C. Wright Mills (1958), *From Max Weber: Essays in sociology*, p. 228.

132 For a concise survey, see Eric Schlosser (1988), "The Prison-Industrial Complex".

133 This comment was attributed (in Dutch translation) to the historian Theodore Zeldin, fellow of St Anthony's College, Oxford, in an article entitled "Europa bestaat" ("Europe exists") by the journalist Marc Chavannes (1998) in the supplement "M" of the daily newspaper *NRC Handelsblad*, 19 December 1998, p. 57.

134 A clear example of this criticism was the open letter to Kofi Annan presented at UNGASS calling for an open debate on international drugs policy because the signatories believe that this policy does more harm than drugs themselves. See 5.6.

135 This was my impression on attending a meeting on the comparability of drugs legislation, an impression reinforced by the content of interviews and documents.

136 This has already been discussed in chapters 1 and 4.3.

137 The European Round Table of Industrialists (ERT), with its 45 members, is an important group. Founded in 1983, this informal think-tank sets out to influence the EU's political agenda. The ERT was one of the driving forces behind the Common Market and European Monetary Union. Its efforts are currently directed towards expediting enlargement with the applicant countries of Central and Eastern Europe. The agriculture lobby, of course, is the mother of all lobbies.

138 P.H.S. van Rest & R.A. Visser (1996), op. cit. p. 135.

139 Netherlands Ministry of Foreign Affairs (1998), *Betreft verslag SAVVN drugs* (8-10 juni 1998).

140 Netherlands Ministry of Foreign Affairs (1998), op. cit. The speeches by other Western government representatives (i.e. other than France and Sweden) scarcely mentioned cannabis.

141 These diverse NGOs include users' groups, organisations that promote harm reduction or legalisation, human rights groups and NGOs from production countries (e.g. farmers' lobbies) or Western NGOs that support their interests.

142 The NGOs had been assigned a fairly marginal place at UNGASS, in a separate UN building. This is quite unusual at the UN, and may be interpreted as an indication that the UNDCP did not want to engage in debate.

143 The signatories included Perez de Cuellar, former Secretary-General of the UN; George Schultz, former Secretary of State in the Reagan administration; Arias, former president of Costa Rica and Nobel peace laureate, and Emma Bonino, then EU Commissioner for Humanitarian Affairs. The letter and the list of signatories can be found at http://www.lindesmith.org/news/un.html

144 Italy's total contribution in the period 1971-1998 was almost $239 million, as compared to $103 million from the US. The total contributions of all EU countries in this period amounted to $535 million. See United Nations Office for Drug Control and Crime Prevention - UNODCCP (1999), European-United Nations Partnerships Against Perils, p. 11.

145 *The Gentlemen's Club* by Bruun et al. gives a lucid account of the United States' dominant influence on international drugs policy in the chapter entitled "The United States: the principal force" (pp. 132-148). The authors write (on p. 141) that it is common knowledge that the United States has pressured countries into signing the UN drugs conventions or into enacting drugs legislation. A recent example is the pressure that the United States exerted on the WHO to suppress publication of an international study showing that most cocaine users take this drug in a controlled fashion. The US is also said to have stopped publication of the data of a background study on cannabis (suggesting that this drug is less harmful than alcohol or tobacco) in a major WHO report on cannabis. The New Scientist released this story, which the WHO later denied in a press release. In the latter half of the 1990s the US pressured Australia into abandoning plans for an experiment with supplying heroin to known addicts.

146 Chapter 1 of *The Gentlemen's Club* discusses the history of the ban on cannabis. One is struck by the amount of anecdotal, uncorroborated evidence, sometimes even including personal experiences on the part of those involved in the decision-making process, that ends up playing a decisive role in policy development.

147 Stephan Quensel et. al. (1996), op. cit.

148 See Tim Boekhout van Solinge (1996), "Cannabis in Frankrijk", esp. chapter 4: "De uitvoering van het beleid in de praktijk".

149 *Cohabitation* refers to a situation in which the president and the prime minister are from opposing parties.

150 A report was drawn up on these conferences and published in a booklet: European Parliament, Spanish Presidency & European Commission (1996), *Conference on drugs policy. Summary of discussions and conclusions*. Brussels, 7-8 December 1995 - 25-26 March 1996.

151 Ibid. p. 36. The italics appear in the report.

152 Opinions differed on whether it would in fact have had such a dramatic impact. Some people believed that the Netherlands would only have had to *sign*. What mattered was that the Netherlands towed the European line on paper; how much it deviated from the European standard in practice was of lesser importance. But not everyone in the Netherlands saw it the same way; some commentators believed that the texts implied that the Netherlands would have to abandon its liberal policy on cannabis.

153 This incident was one of the factors underlying the launch of the Horizontal Drugs Group (HDG). Since then, drug-related issues can no longer be sent directly from the K4 Committee (now the Article 36 Committee) to Coreper or the Council, but have to pass through the HDG first.

154 However, it is hard to ascertain the effect of these differences in practice, as the plans are very wide-ranging and it is impossible to implement all of them. It should be borne in mind that these differences correspond to the differences in competence between the Commission and Council. The former has powers in relation to public health, while the Council, which deals with all aspects of the drugs issue, has exclusive competence in third-pillar matters.

155 The Feira European Council of June 2000 took note of the Action Plan, (the European Council cannot actually *adopt* proposals - only the Council of the EU can do that) and acknowledged a connection between the two documents: "The European Council endorses the EU Action Plan for Drugs as a crucial instrument for transposing the EU Drugs Strategy 2000-2004 into concrete actions which provide an effective integrated and multidisciplinary response to the drug problem".

156 These figures are taken from two surveys. One appears in the EMCDDA's annual report for 1998, *Annual report on the state of the drug problem in the European Union*, pp. 85-95, and the other comes from the European Commission (1999), [...] *on a European Union Action Plan to Combat Drugs* (2000-2004), pp. 61-63.

157 However, this amount and this percentage are of questionable accuracy. See 5.3 on demand reduction.

158 Drugs policy is developing in the direction of harm reduction in almost all Western countries, the main exception being the United States, where the punitive approach

still holds sway. A gradual shift towards harm reduction is also becoming visible in several non-Western countries, because of the health risks associated with drug use.

159 Reitox is a French abbreviation that stands for the European Information Network on Drugs and Drug Addiction.

160 See the financial overview in the EMCDDA's annual report (1998), op. cit. p. 94.

161 There are examples of such campaigns in France, for instance (although they are now changing) and in Sweden.

162 See p. 17 of the Commission's Action Plan to Combat Drugs. The same conclusion can be inferred from the prevalence figures of several different countries, as is noted in the EMCDDA's annual report.

163 The Maghreb - Arabic for "west" - consists of the countries of North Africa: Morocco, Algeria, and Tunisia (sometimes widened to include Libya and Mauritania). "Mashreq" means "east" and the term is used for the Arab countries of the Middle East, i.e. Egypt plus the countries of the Arab peninsula, with the exception of Israel.

164 The PHARE programme currently focuses on thirteen countries: Albania, Bosnia-Herzegovina, Bulgaria, Estonia, Macedonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovenia, Slovakia and the Czech Republic.

165 The study was commissioned by the Research Institute for Social Development; see Tullis (1995), *Unintended consequences: Illegal drugs and drug policies in nine countries*.

166 This passage has been taken from *Ach Europa!* by Hans Magnus Enzensberger (1989), quoted in W. Hansen (1990), *Hans Magnus Enzensberger over Europa*, p. 28.

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