



LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

PORTUGAL

Communicated by the Government of Portugal

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

INDEX

	<u>Page</u>
E/NL.1984/19 Decree-Law No. 430/83	2
E/NL.1984/20 Governmental Decree No. 71/84	18

* Note by the Secretariat: The present document is a direct reproduction of the texts communicated to the Secretariat.

We shall now justify some of the adopted solutions.

Everybody agrees that drug trafficants must be severely punished, and in this point our legislation is outdated.

But severe penalties are not deterrent enough and more efficient ways of detecting the trafficants must be found. That is why such measures as are used for terrorist organisations, are foreseen namely international cooperation for the search of organisations operating in several countries and a special attention is given to fortunes accumulated by suspects of drug traffic, in order to seize them and have them handed up to the State.

We are now aware that there is a close relationship between drug traffic and organized and violent crime, and even with white collar crime. The funds obtained through such traffic are sometimes "purified" and invested in normal business areas.

Although repression must take place together with many other measures, the action of the police is very important, because it creates instability in the drug's black market. That is why we now undertake some procedural innovations.

3. An effective way to reduce the drug offer is to conduct an efficient investigation on drug traffic and related crimes, but the solution to find an end to such crimes is in the reduction, and eventual disappearance of drug consumers.

Many problems occur in the field of drug consumption.

A recent report of an United Nations special agency states that the struggle against drug abuse is mainly a struggle against the degeneration and destruction of human beings.

Toxicomania deprives the society of the contributions that drug consumers might give to their community. So, the social costs of drug consumption are very high, specially when one considers the violence, the crimes and the erosion of social values it causes.

Drug consumption is more and more related to criminality, in a broader sense.

Should drug consumption, even if occasional, be permitted?

If a drug addicted is severely ill, how shall he or she be treated? And what is there to do if he or she refuses medical treatment?

If compulsive treatment must be followed, where shall it take place?

E/NL.1984/19

MINISTRIES OF THE JUSTICE AND OF THE HEALTH

DECREE-LAW N. 430/83 - DECEMBER 13

In December 1971 Portugal ratified the 1961 Convention on Drugs - The word narcotics has more often been used instead - and, in April 1979 became a part to the 1971 Convention on Psychotropic substances.

But, up to this moment, our country has not adapted its law and institutions adequately to the struggle of international community against drug traffic and consumption.

This is one of the most dangerous threats of our days: the traffic and consumption of drugs and psychotropic substances.

With this decree we hope to overcome such a gap.

A special institution - the Gabinete de Planeamento e Coordenação do Combate à Droga, Drug Prevention Bureau - has the task of putting into practice the obligations deriving from the above mentioned conventions.

By this Decree the control over the black market of psychotropic substances is reinforced, and the consequent penalties are altered.

The penal procedures are also altered in order to improve the investigation of such cases, and measures are taken in order to care for the health of drug addicts.

This decree coordinates the work of many public and private institutions that care for drug addicts, specially the Center for Drug Prophylaxy and the Instituto de Reinserção Social, Institute for Social Rehabilitation.

Hence the work started some years ago, in collaboration with the United Nations staff, comes to an end. Recommendations of international organisations and foreign experiences were carefully followed, namely the Italian, French and Swiss.

These are some of the matters we must answer, being conscious of the seriousness of the situation and also of the small amount of money available to face it.

We must also bear in mind the causes of drug consumption and the way to prevent it, in different social groups.

People are now aware that the ecstasy produced by drug consumption is an illusion, and that it is accompanied by many dangers, as drunkenness and tobaccoism also are.

The remedy will be an education towards a healthy life, where school, family and the whole environment helps the development of a balanced personality. What matters here is our entire habitat, our quality of life.

The differentiation between hard and light drugs is gradually being abandoned, not only because it is difficult to do so from a medical point of view, but also because drug effects depend not only on the type of drug but also on the quantity consumed and on the characteristics of the consumer.

Drug consuming is reprobable because of the breach of the individual responsibility towards the whole society, in the first place.

But the drug addicted must not be considered as someone not in need of medical assistance. So, all efforts must be made in order to treat and protect him or her, and thus the whole society.

That is why family therapy is encouraged, and in such circumstances repressive actions should not take place.

Even if the addicted ends up with a judicial process due to drug consumption or other crimes, the penal measures taken shall encourage him or her to undertake the suitable medical treatment.

But a delicate problem arises when the toxidependent refuses treatment, in spite of being usually incapable of a free decision. We are referring to those who are still in conditions to refuse the treatment, knowing that for a successful group or individual therapy the collaboration of the patient is fundamental.

Here the decision points for the compulsive treatment, by judicial decision and for a certain period of time, as stated in the Portuguese Constitution, article 3.. Such treatment shall be performed by experts in special institutions. However, due to the shortage of such institutions, treatments may take place in separate areas of prisons, under the supervision of doctors and experts of the Center of Drug Prophylaxy, who work in collaboration with the Institute for Social Rehabilitation.

4. The reinforcement of the control over narcotic drugs and psychotropic substances, specially over medicines which contain them, is essential, in national and in international terms, because of their non therapeutic use.

The medical prescription and sale, in pharmacies, of such medicines must be strictly ruled, in order to restrain their illicit use or traffic. Doctors and pharmacutists have an essential role here in order to protect the health of the population.

New legislation on such matters, is now being prepared, as well as those concerning the cultivation, production, traffic and similar operations, and consultation of the concerned authorities is now taking place.

Individuals and societies who do not comply with the mentioned legislation shall be promptly punished with fines.

With these measures the Government fulfils another measure prescribed in its program, and tries to fight against a threat to so many families in our Country.

So,

Under the authorisation given by the Law n. 12/83, of the 24th of August, and in the terms of article 21, n. 1, b) of the Constitution, the Government states:

CHAPTER I

General Provisions

Article 1

(International Law)

The rules stated in this decree shall be interpreted in accordance with the international conventions on narcotic drugs and psychotropic substances ratified by Portugal.

Article 2

(Substances and preparations this decree concerns)

1. The substances and preparations this decree concerns are listed in the four schedule herewith, made according to the criteria stated in the following articles.

2. These schedules may be altered by a joint decision of the Minister of Justice and the Minister of Health, and will be up-dated according to the modifications approved by the United Nations.

3. The cultivation, production, manufacture, use, trade, distribution, importation, exportation, traffic or possession, no matter in what circumstances, and the use of the substances and preparations mentioned above, are conditioned to the established in this decree and in the regulation of the Ministers of Justice and Health.

4. This regulation will rule the accomplishment of this decree, will specify the limits of the exceeding amount of cultivation, the quotas of manufacture, the entities and companies authorised to purchase such substances and preparations, the conditions of delivery, the due registrations, the necessary information and communications, the reports to be handed, the characteristics of the packages and labels, the taxes due to the concession of the authorizations and the fines for breaking the rules, as established in this Law.

Article 3

(General criteria to elaborate the schedules)

1. All substances or preparations which fall under the rules of control stated in International Conventions on narcotic drugs and psychotropic substances already ratified or to be ratified by Portugal, as well as their respective modifications, are considered drugs, as well as other substances included in the list herewith.

2. The distribution in tables of the substances and preparations under control, reported in article 2., shall take into account the probability of being lethal, the intensity of the symptoms of abuse, the risk of withdrawal symptoms and the degree of dependence.

3. Tables I and II will include in general terms, the substances mentioned in the 1961 Convention on narcotic drugs and in the 1971 Convention on Psychotropics, which will embody respectively, Tables I, II and IV of the first convention, and Tables I, II and III of the second one.

Article 4.

(Specific criteria)

1. Table I-A will include opium and other components from which natural opiates could be obtained from the poppy (*Papaver somniferum*); alkaloids with narcotic and analgesic effects that could be obtained from the poppy; substances

obtained from such products by means of chemical transformation; substances obtained by means of synthesis, similar in their chemical structure and effects to the opiates mentioned above; other products that may be used in the synthesis of opiates.

Table I-B will include coca leaves and alkaloids that stimulate the central nervous system which may be obtained, through chemical processes, from the above mentioned alkaloids or by means of synthesis.

Table I-C will include hemp (*Cannabis Sativa*) and derived products, substances obtained by means of synthesis and which have a similar chemical structure and similar pharmacological effects.

2. Table II-A will include any natural or synthetic substance able to produce hallucinations and severe sensorial distortion.

Table II-B will include substances of the amphetaminic type producing stimulant effects on the central nervous system.

Table II-C will include substances of the barbiturate type of short action, quick absorption or assimilation, as well as other substances of hypnotic non barbiturate type.

3- Table III will include those preparations containing the substances listed in table I-A, when such preparations, due to their consumption and components, in quantitative and qualitative terms may create addicts.

4- Table IV will include slow action barbiturates with improved anti-epileptic effects and substances of anxiolytic type that, due to their consumption and to their components, in quantitative and qualitative terms, may create addicts.

5- The substances included in the tables shall be named by their common name designation and their chemical name.

6- Other substances for preparations may be included in the tables, even if they are not dangerous on their own, but may be combined for the manufacture of narcotic drugs.

Article 5

(International contracts and obligations)

1- The Bureau for Drug Prevention is responsible for looking after the national observation of the International Conventions and Treaties ratified by Portugal, or that Portugal

might ratify concerning narcotic drugs and psychotropic substances.

It also has the task of centralizing international information concerning the observance of obligations deriving from such conventions or treaties, and maintain due contacts with the Commission on Narcotic Drugs of the United Nations Economic and Social Council, with the International Agency for any control as well as with the Council of Europe and other International organisations.

2- To comply with the international obligations mentioned above, specially in what concerns statistics, information and the calculation of the needs of narcotic drugs to import, the Bureau for Drug Prevention may demand the necessary data from the Health Department or any other national service.

3- Such data and information will be used according to the criteria of the Bureau for Drug Prevention.

4- The Bureau for Drug Prevention must also supply the interested departments with the data and information coming from international organisations.

CHAPTER II

Article 6

(Conditions and authorizations)

1- The Health Department is the only national authority able to establish conditions and give authorizations concerning the activities foreseen in article 2 - n.3, within the frames of the national necessities, and the prevailing medical, veterinarian, scientific and didactic interests.

2- Before examining any demand of authorisation the Health Department will hear the Bureau for Drug Prevention and will send it a copy of the demand.

If needed, the Health Department shall consult the adequate Departments of the Ministry of Agriculture, Forests and of the Ministry of Industry and Energy or the Ministry of Trade and Tourism.

3- The authorization given by the General Director of the Health Department shall be published in the official journal (Diário da República). It shall establish the conditions the applicant shall observe, and the latter may lodge a litigious

appeal of this decision; if a hierarchical appeal is lodged, it will have a reversional effect.

4- Each authorization shall only be valid for one year.

5- The above stated shall not interfere with the specific competence of the Ministry of Trade and Tourism, concerning the licencing of the international trade.

Article 7

(Scope of the Health Department)

1- The Health Department shall supervise the licit cultivation, production, manufacture, wholesale, distribution, importation, exportation, transit, acquisition, sale, delivery and storage of the substances and preparations listed from Table I to Table IV.

2- For such, the Health Department may ask the Bureau for Drug Prevention to demand the necessary staff from its Planning sector. This staff shall work there for a period not longer than 3 years, independently of collaboration in occasional tasks, if necessary.

3- While supervising the activities mentioned above in n. 1, inspections may be performed in companies, stores or other places, and legal papers may be asked for.

4- The infractions detected, shall be reported to the authorities for further investigation or punishment, depending on the cases.

5- By means of a joint decree of the Ministries of Justice, Health, and Agriculture, Forests and Food, the culture of plants from which narcotic substances may be obtained may be forbidden, in order to protect public health and to prevent drug traffic.

The same may apply to the manufacture, preparation or trade of narcotic substances or preparations.

6- The General Director of the Health Department or the General Director of the Bureau for Drug Prevention shall report the circumstances and facts that justify the above mentioned measures.

Article 8

(Nature of the authorizations)

- 1- The authorizations are of a personal character and are not to be used by anybody else, no matter the circumstances.
- 2- If a company has several branches or stores, a specific authorization for each of them is required.
- 3- The applicant shall indicate in his petition who is responsible for the working out and up-dating of the records, as well as for the observation of the prescribed obligations.

Article 9

(Subjective requirements)

- 1- The authorizations shall only be given to companies or entities whose owners or legal representatives are morally and professionally idoneous.
- 2- Whenever asked for by the Health Department, the Bureau for Drug Prevention shall gather the information above mentioned in collaboration, if needed, with the entities under its control, bearing in mind the rights, freedoms and quaranties of the citizens.

Article 10

(Caducity of the authorizations)

- 1- The authorizations shall lapse when the company, or authorized entity ends its activities, changes its legal name, or when its legal representative or owner dies.
- 2- Should its legal representative or the owner die, the authorized activity may procede, temporarily, for a period up to 3 months.
- 3- If a mere substitution of a representative takes place, the authorization will be suspended for a period no longer than 60 days. Afterwards following the stated in articles 8 and 9, it shall be or not be maintained.

Article 11

(Revokement or suspension of the authorization)

- 1- The Health Department shall revoke the authorization as soon as the requirements on which it was based no longer exist.
- 2- The revokement or the suspension for a period up to six months may take place, pending on the seriousness of the matter, in case of a technical accident, disappearance or deterioration of substances or preparations, or any other irregularity presenting a significant risk for the public health. The same shall apply in case of illicit supply.

This penalty may also be imposed if the titleholder of the authorization does not accomplish to due obligations.

- 3- Ministerial despatches of revokement or suspension are to be published in the official journal.

Article 12

(Effects of the revokement of the authorizations)

- 1- In the case of a revokement of the authorization, Health Department may authorize, pending request by the interested person, the return of the stocks of substances and preparations listed in tables I to IV to the persons who have supplied them, or their cessation to other entities, authorized companies or pharmacies.
- 2- The return or cessation must be required within thirty days from the day the revocation was published, or from the day of the communication of the confirming ministerial despatch, or the day the sentence was passed.
- 3- During the above mentioned period, the existing stocks shall be listed and sealed in the company by order of the Director of the Health Department, who may order the destruction or sale of the products, in case of risk to the public health or of illicit supply of the market.

The revenues shall be handed to the owner, after deducting the charges.

Article 13

(International transit of people)

1- People passing the borders may carry with them the substances and preparations listed in tables I-A, II-B, II-C, III and IV in quantities enough for 8 days of personal use.

In such cases a due medical certificate is required.

2- The Drug Prevention Bureau or the Health Department may ask for a medical corroboration of the doses required in the above mentioned case.

Article 14

(Transportation)

1- The international transport of small doses of the substances and preparations listed in tables I-A, II-B, II-C, III and IV in ships, aeroplanes or any other means of conveyance is allowed in order to supply first aid cares during the trips.

2- The substances must be carried safely, in order to avoid robbery or embezzlement.

3- Such substances and preparations, mentioned in n. 1, shall be submitted to the laws of the country where they are registered, independently of the right of the portuguese authorities to verify, inspect or control the means of conveyance, if necessary.

Article 15

(Specifications of the medical prescriptions)

1- The substances and preparations listed in the four tables mentioned in article 2, n. 1, shall only be supplied to the public by medical prescription, containing the following specifications.

2- The Health Department in collaboration with the Drug Prevention Bureau, after consulting the Medical Society and the Pharmaceutical society, shall approve the books of prescriptions with coupon books and different colours.

One will be for the prescription of narcotic substances and the other for the prescription of psychotropic substances.

3- The prescriptions shall bear the name and address of the prescribing doctor, his or her inscription number in the

Medical Society and, in marking ink, the name, address, sex, age, number of the identity card or birth certificate of the patient or owner of the animal in need, as well as the common or trade name of the medicine, the unitary dose, the global quantity, an indication of the period and ways of treatment, the date and signature of the doctor.

Article 16

(Special duties of the chemist)

1- Under the circumstances stated in n. 4 only a chemist or substitute may prescribe the substances or preparations listed in schedules I to IV. He or she shall verify the identity of the buyer and note in the prescription the name, date and number of his or her identity card or any other identification references, such as the driving licence or the passport of foreigners. The date of delivery of the substances shall also be noted and signed.

2- The chemist shall refuse to dispense a prescription which does not comply with what stated in article 15.

3- A prescription shall only be dispensed up to 10 days after the date of issue, and can only be used once.

4- Should a chemist be substituted in the above mentioned obligations, he or she will still be responsible for the faults committed, and so, shall respond as an accomplice.

This shall not apply if he or she can prove his or her innocence, or if the substitute is found guilty.

5- The chemist shall have a regular stock of the substances or preparations mentioned in number one and keep the prescriptions for a period of 5 years at least, in terms that shall be stated in a future decree.

Article 17

(Control of the prescriptions)

1- The Ministry of Justice, through the Bureau for Drug Prevention and the Ministry of Health, through the Health Department, shall collaborate permanently in order to control the prescriptions mentioned in the preceding articles.

2- The state or private Health services shall report to the Health Department every three years mentioning, the narcotic substances used in medical treatments.

Article 18

(Exception for urgent cases)

In urgent cases the chemists may, under their own responsibility and for immediate use, supply the substances or preparations listed in tables I to IV without medical prescription, providing that the quantity sold is below the maximum dose that can be consumed at the time.

Article 19

(Interdiction of delivery to minors or demented persons)

1- The delivery of the substances and preparations mentioned in the four tables to obvious demented persons is prohibited.

2- The delivery of the substances and preparations mentioned in tables I-A, II-B and III to minors is also prohibited.

3- If the minor does not have anyone to represent him or her, the delivery may be made to the person who caters for him or her, or has the task of educating or looking after him or her.

Article 20

(Pharmaceutical publications)

The Publications concerning pharmaceutical products shall mention, under the letter E (for "estupefacientes") all the substances and preparations listed in tables I-A and III, and under the letter P (for psychotropics) the ones listed in tables II-B, II-C and IV.

Article 21

(Urgent communications)

1- The theft or loss of substances and preparations listed in the tables mentioned in article 2 shall be communicated to the local Police and to the Health Department immediately by the person in charge, who must report the facts, the quantities and characteristics of the lost substances and preparations, as well as all the available proof.

2- The same applies for the theft, destruction or loss of the records required by this decree, and of the papers for medical prescriptions.

CHAPTER III

Prevention, traffic and penalties

Article 22

(Prevention)

1- In the terms of the decree 365/82, passed on the 8th of September, the Bureau for Drug Prevention has the task of assuring the planning, coordination and integration of the activities of the Center for Drug Prophylaxy, as well as the activity of other public or private Departments with similar tasks.

2- The prevention of the traffic and illicit possession of substances and preparations listed in this decree's tables is within the scope of the Departments foreseen in article 6 of the decree 365/85.

3- The Center for Drug Prophylaxy and its regional departments shall perform the prophylaxy related to the illicit use of substances and preparations mentioned above in paragraph 2, and collaborate with the courts in the treatment of drug addicts.

4- The army, school directors, health authorities, directors of prisons and reformatories, of companies, cultural, sport or similar societies, and all interested persons shall collaborate with the departments mentioned in numbers 1, 2 and 3.

With that aim they should put into practice the preventive measures issued by such departments and inform regularly about the sanitary conditions of their service or company.

Article 23

(Illicit activities and traffic)

1- Whoever cultivates, produces, manufactures, prepares, offers, sells, distributes, buys or receives in any circumstances, provides, transports, imports, exports, trafficates or possesses without authorization, the substances

and preparations listed in tables I to III shall be punished with imprisonment from 6 to 12 years, plus a fine ranging from 50.000\$00 to 5.000.000\$00.

Article 24

(Traffic of small quantities)

1- If the above mentioned acts concern only small quantities of the substances and preparations listed in tables I to III, the penalty shall range from 1 up to 4 years in prison, plus a fine from 20.000\$00 up to 1.500.000\$00.

2- If the substances and preparations are the ones listed in table IV, the penalty shall be imprisonment up to 1 year, plus a fine of 10.000\$00 up to 500.000\$00.

3- Small quantities mean those not exceeding the necessary dose for individual consumption, for a day.

Article 25

(Traffican-t-consumer)

1- If the deeds mentioned in article 23 are meant only for personal consumption, the penalty shall be imprisonment up to 1 year, plus a fine of 5.000\$00 up to 200.000\$00.

2- If the substance or preparation is listed in table IV, the imprisonment prescribed above may be substituted by a fine or a measure of semi-detention or week-end detention, as foreseen in the Penal Code.

The enforcement of the sentence may also be suspended, as the same Code provides, if the sentenced, being a drug addict, submits himself or herself to medical treatment, as stated in article 36.

Article 26

(Abuse of professional activity)

1- The penalties foreseen in articles 23, n.2 and n. 3, and 24 shall be imposed upon doctors who prescribe recipes or deliver the mentioned substances or preparations for non therapeutic purposes.

2- The same penalties shall be imposed on chemists or their substitutes who sell or deliver such substances for non-therapeutic purposes.

3- The chemist or substitute who supplies any prescription, not observing the established in article 16 numbers 1, 2 and 3, shall be punished with imprisonment up to 1 year and a fine ranging from 20.000\$00 up to 1.500.000\$00.

4- The delivery of substances and preparations violating the established in article 19 shall be punished with imprisonment up to 1 year, plus a fine of 10.000\$00 up to 200.000\$00.

Article 27

(Aggravation)

The penalties foreseen in articles 23 and 24 shall be increased by a quarter in their minimum and maximum limits if:

a) The substances and preparations were delivered or were meant for minors or mentally retarded persons;

b) The substances or preparations were distributed to a large number of persons;

c) The defendant obtained or was seeking a large amount of money;

d) The defendant was a doctor, chemist or agent with the task of preventing or repressing such deeds;

e) The defendant made use of arms, masks or any disguise to commit the offense, in order to achieve any benefits or impunity for himself or herself or other persons;

f) If the defendant penetrated secretly into a chemist or any establishment where such substances and preparations are stored or by means of breaking in, scaling or using a false key, if more serious penalties do not apply.

g) The deed was perpetrated by two or more persons;

h) A false document was used to obtain the substances or preparations, if a heavier penalty does not apply for the falsification.

Article 28

(Criminal gangs)

1- Whoever promotes, creates or supports a group or organisation of two or more persons who work towards the practice of any of the deeds foreseen in article 23 shall be punished with imprisonment ranging from 10 up to 16 years, and a fine from 50.000\$00 up to 20.000.000\$00.

2- Whoever shall collaborate, directly or indirectly, support or become a member of any group, organisation or association mentioned above in n.1, shall be punished with 8 up to 14 years of imprisonment, and a fine from 50.000\$00 up to 10.000.000\$00.

3- A penalty of 12 up to 18 years imprisonment shall apply to whoever shall lead such groups, organisations or associations.

Article 29

(Encouragement of the use of narcotic and psychotropic substances)

1- Whoever shall encourage a person to make an illicit use of the substances or preparations listed in tables I to III or induce, in private or in public, the use of such substances or preparations, shall be punished with imprisonment ranging from 1 up to 3 years and a fine from 20.000\$00 up to 1.500.000\$00.

2- Whoever shall facilitate the illicit use of the substances and preparations listed in tables I to III in other circumstances than the mentioned above shall be punished with the same penalty.

3- For the cases foreseen in the precedent numbers, if the substances and preparations are those listed in table IV, the penalty shall be imprisonment up to 1 year and a fine from 10.000\$00 up to 200.000\$00.

4- The penalty's maximum and minimum limits shall be increased of a third if:

a) The deeds were committed against a minor, a mentally retarded person, or a person in care of the defendant for treatment, education, instruction, watching or guarding purposes;

b) The defendant is an agent with the task of preventing or repressing this type of infractions.

Article 30

(Consumption in public or meeting places)

1- Whoever, being the owner, manager, director or having a lease under any title for a hotel, café, tavern, club, meeting or entertainment place, agrees and does not avoid such places to be used as meeting places for people to consume

illicitly the substances or preparations listed in tables I to IV, shall be punished with imprisonment of 2 up to 6 years, plus a fine of 50.000\$00 up to 10.000.000\$00.

2- The consentment is presumed when, after an authority's search in such places, with apprehension of substances and preparations, a second search takes place and the same substances are apprehended again, even if the consumers remain unidentified.

3- Whoever, having access to a building, enclosed yard or suitable vehicle, converts it or allows it to be converted into a meeting place for persons who usually consume the substances and preparations mentioned in n. 1 in an illicit way, shall be punished with imprisonment from 2 up to 4 years, plus a fine of 20.000\$00 up to 1.500.000\$00.

4- Under the conditions stated in n. 2, the investigation authority shall report to the concerned district governor or to the administrative authority who allowed the opening of the establishment, in order to close it.

This shall be born in mind in the sentence, and shall not exceed a period of 5 years.

Article 31

(Attempt, attenuation or exemption of the penalty)

1- The attempt to commit the crimes foreseen in articles 23, 24, 25, 26 n^o. 3, 28 and 29 is punished.

2- Concerning the crimes foreseen in articles 23, 24 and 28, if the offender voluntarily gives up the deed, diminishes or removes the danger it causes, helps in the search of proof against other offenders, in order to capture or identify them, specially in the case of groups, organizations and associations, the penalty may be attenuated or even dispensed.

Article 32

(Crimes committed by means of neglect)

If any of the crimes foreseen in articles 23, 24, 25, 26, 28, 29 and 30 are committed by means of neglect, the penalty shall be imprisonment up to 1 year plus a fine of 10.000\$00 up to 500.000\$00.

Article 33

(Qualified disobedience)

1- Whoever shall attempt against a fiscalization or refuse to exhibit the documents foreseen in this decree to the authorities, shall be punished for the crime of qualified disobedience, if a heavier penalty does not apply.

2- In the same penalty incurs whoever does not comply with the obligations stated in article 21.

Article 34

(Accessory penalties)

In case of sentencing for the practice of any of the crimes foreseen in articles 23, 24, 25, 26, 28, 29 and 30, the court may:

a) Interdict the sentenced to leave the country, and, if it applies, forbid him or her to drive or to pilot aeroplanes or ships for a period no longer than 5 years.

b) Interdict a specific activity or profession for a period up to 5 years.

2- If a foreigner is sentenced for the crimes prescribed in n^o. 1 of this article he or she shall be expelled from the country for a minimum period of 5 years.

3- In case of sentencing for the crime foreseen in article 30, independently of the interdiction of an activity or profession, the court shall order the establishment or public place to be closed for a period ranging from 1 up to 5 years, bearing in mind the established in n^o. 4 of the mentioned article.

4- If the defendant is not guilty, the establishment shall be re-opened immediatly.

Article 35

(Loss of objects or product of crime)

1- The sentencing for any of the crimes foreseen in article 23, 24, 25, 26, 28, 29 and 30 shall determine the loss of all the substancies and preparations that were used to commit the

crime, as well as the loss of all the tools related to the crime, taking into consideration the rights acquired of good faith by third parties.

2- All objects, rights and advantages resulting from the crime, such as furniture, buildings, aeroplanes, ships, vehicles, bank accounts or any other property shall be declared lost and vested to the state, honouring the rights acquired of good faith by third parties.

CHAPTER IV

Consumption; treatment of drug addicts

Article 36

(Punishment of the consumers)

1- The acquisition or illicit possession of the substances and preparations listed in tables I to IV, for personal consumption, under circumstances other than those stated in article 25, shall be punished:

a) With imprisonment up to 3 years and a fine up to 90 days. Should the offender be an occasional consumer, the court may dispense him or her with the penalty, as stated in article 75 of the Penal Code, or give him or her an admonition.

b) With a fine up to 30 days if the substances and preparations were meant for therapeutic purposes.

In this case the court may also give the offender a warn or send him or her free.

2- If gathered evidence or a medical statement show that the offender is a drug addicted, the punishment might be suspended as stated in the Penal Code, if he or she submits voluntarily to medical treatment, or is confined to an appropriate establishment.

This shall be proved in the days and ways the court decides.

3- If necessary, the special legislation concerning youngsters from 16 up to 21 years old shall be observed.

4- If during the period of the sentence the drug addict does not submit himself or herself to medical treatment or does not obey the court's orders, article 50 of the Penal Code shall apply.

5- Once the suspension of the penalty is revoked the latter shall take place in appropriate quarters of the prison, separated from the other inmates or in a detention center, if a corrective measure is applied.

6- In the cases foreseen in the previous numbers, the Center for Drug Prophylaxy, in collaboration with the Institute for Social Rehabilitation shall assist the drug addicted. For such, the judge shall send them a copy of the sentence, as well as of the dispatch revocating the suspension.

Article 37

(Spontaneous treatment)

1- Individual and anonymous treatment shall be guaranteed to whoever may use illicitly, for personal consumption, the substances or preparations listed in tables I to IV, and whoever asks for the assistance of the Center for Drug Prophylaxy or any other private specialized institution or doctor.

2- Dealing with a minor, interdicted or unable person, the assistance, whenever asked for by their legal representatives, shall be performed in the above mentioned conditions.

3- The doctors, technicians and all the personnel assisting the patient are bound to professional secrecy and are not obliged to answer the court or to inform the police about the treatment undertaken in the circumstances foreseen in this article.

4- Independently of the situation foreseen in the previous number, any doctor may report to the Center for Drug Prophylaxy the cases of narcotic or psychotropic abuse known due to his or her professional duties, whenever the assistance or treatment are found to benefit the patient, or his or her family or the community.

Article 38

(Dispensing of trial)

1- In the cases foreseen in article 36 n.1 the Public Prosecutor may abstain from pleading if the following circumstances take place all together:

a) The defendant is under 21 years old at the time of the events;

b) The defendant has never been on trial before for the same facts;

c) The defendant makes a written statement, read before the judge, assuring he or she will not to practice the same facts again;

f) In any case the substances and preparations meant or used to practice the crime shall be apprehended and vested to the state by order of the investigating judge.

Article 39

(Measures of treatment for drug addicts)

1- A measure of treatment shall be prescribed to whoever becomes a drug addicted, consuming any of the substances and preparations listed in the tables herewith.

This measure shall be imposed in a separate procedure, and might be accumulated with the interdiction to drive or to pilot aeroplanes or ships for a period no longer than 5 years.

2- The court might offer the patient a treatment after he or she has been examined by a doctor or expert belonging to the Center for Drug Prophylaxy.

This treatment shall be supervised by this Center or any other entity and, according to the doctor's opinion, may take place in a special institution, be performed at home or in an ambulatory system, and shall last as long as necessary for the recovery of the drug addicted.

3- Should the patient refuse to undergo a voluntary treatment or interrupt it for no justified reason, the court shall order him or her to be confined to a special institution, or if this does not exist, to be confined in the conditions prescribed in article 36, n. 5 for a period up to 6 months, which

might be extended to 1 year, except if the patient suffers from a mental disease.

4- In urgent cases, the court may sentence provisionally any of the measures prescribed above, as long as the defendant or his or her legal representative, assisted by a legal adviser is heard, after being submitted to a medical examination.

5- The competence to impose the non-voluntary measures and the regime of treatment foreseen in this decree, prevails over the ones concerning the confinement or obligatory treatment prescribed in the mental health law.

Article 40

(Dispensing the treatment)

1- If the drug addict is already under medical treatment, the public prosecutor may abstain from promoting the treatment mentioned in the previous article.

2- The doctor or establishment responsible for the treatment shall inform on its gradual developments every 3 months, as stated in the next article.

3- Shall the treatment be interrupted for no justified reason, or are there doubts about its results, the procedure concerning the measure shall proceed.

Article 41

(Treatment)

1- The Center for Drug Prophylaxy or the institution in charge shall report every 3 months to the court on the gradual developments of the patient. This shall be kept confidential, and the Center may suggest suitable measures, including the end of the prescribed treatment, or its replacement by any form of voluntary treatment.

2- The Institute for Social Rehabilitation shall act the same way in the areas within its scope.

3- After receiving the information mentioned above, the court shall decide upon the maintenance, modification or end of the imposed measures.

4- What has been stated in this article applies also, with the due adaptations, to the drug addicts referred to by the Penal Code in its articles 86 to 88.

Article 42

(Drug addicted awaiting trial under prison or serving a sentence)

If the state of drug addiction is revealed while the person is in prison, awaiting trial or serving a sentence, it shall be reported by the police or by the prison officers to the public prosecutor, in order to have him or her transferred to a prison where due assistance can be performed, independently of the measures prescribed in this Decree and of the urgent measures to be followed in case of serious poisoning.

These shall be performed by a doctor or in any hospital.

CHAPTER V

Related legislation

Article 43

(Related penal legislation)

Lacking specific statements in this decree, the general part of the Penal Code and complementing legislation shall apply.

Article 44

(Competent jurisdiction to determine the confinement)

The measure of treatment established in article 39 shall be imposed on the drug addicted following the rules of the security procedure, and shall pass its terms in the court of the area where the sentenced has his residence, or in the court for the execution of sentences, if he or she lives in Lisbon, Porto, Coimbra or Évora.

Article 45

(Measures for minors)

If the person undergoing a measure of treatment is a minor, it is a task of the Juvenile's Court to impose the measures prescribed in this Decree, independently of the measures to be taken by the common courts, concerning special legislation for youths from 16 up to to 21 years old.

CHAPTER VI

Special rules of procedure; extradition

Article 46

(Penal procedure)

The investigation and preliminary instructions for the penal prosecution shall follow the rules stated in the Code of Penal Procedure and complementary legislation, with the following specifications.

Article 47

(Criminal investigation)

1- The investigation concerning the traffic of the substances and preparations listed in the tables article 2 refers to, is an exclusive task of the Police for Criminal Investigation (Policia Judiciária).

2- By means of the planning group mentioned in article 6 of the Decree 365/82, passed on the 8th of September, all the police authorities shall combine their actions in order to make the best use of their resources, bearing in mind each one's specialized field and place of work.

Article 48

(Imprisonment, search in public places and transports)

1- All illicit activities mentioned in article 23, n. 1 are to be understood as included in article 1, n. 2, f) of the Decree 477/82, passed on December the 22nd.

2- Should there be suspicions of the practice, in public places, or transports of the infractions foreseen in this decree, the police or judiciary authorities shall at once set about a personal and luggage search, as well as the necessary apprehension.

Article 49

(Analysis and destruction of the substances)

1- The apprehended substances and preparations shall be analysed as soon as possible by order of the proper authority.

2- After the laboratorial analysis, the expert shall separate, label, pack, weight and seal two samples, if the drug is in enough quantity, and do the same to the remaining, if there is any.

One of the samples shall be locked in the quarters of the investigating authority until a final decision is reached; the other shall be attached to the file whenever it is sent to court.

3- After the report of the laboratorial analysis is attached to the file, the judge or public prosecutor, according to the stage of the trial, shall, in 5 days, order the destruction of the remaining drug.

This shall be executed within 30 days.

Until its destruction, the drug shall be kept in a strongbox.

4- The destruction shall be done by incineration and in the presence of a magistrate, of the officer in charge of the file, a qualified laboratorial technician and a representative of the Health Department. A written document of this destruction shall be made.

5- The Drug apprehended in different processes may be destroyed in the same incineration.

6- After the sentence the court shall ask for the sample kept by the investigation authority and command its incineration, and the same applies to the sample attached to the file.

This destruction shall be performed under the Court's Control and be put in writing.

7- The Bureau for Drug Prevention may ask the judge to supervise the cession of the apprehended substances for didactic purposes or for criminal investigation, specially for dog training .

A term may be imposed for the devolution of the drugs, or the trustee may be authorized to destroy it as soon as it is no longer necessary. A report of this shall be included in the file.

Article 50

(Information concerning the fortunes of traffic suspects or offenders)

1- Information may be gathered on the fortune, bank deposits or any other belongings of individuals highly suspected or accused of the practice of traffic of narcotic substances, in order to have these elements confiscated, if there is evidence that they were achieved with the product of criminal activities.

2- Private or public Banks and financial Institutions, and registration offices or fiscal departments shall not refuse to give such information, if the demand is made on an individual and concrete basis, with references to the pending file.

3- The demand shall be made in writing by the investigating judge or ordered by him or her, or by the investigating authority, with the judge's permission.

4- Precatories shall be answered if they fall under conventions or treaties ratified by Portugal or, if not, in a reciprocity basis.

Article 51

(Traffic of narcotic drugs or psychotropic substances)

1- The investigating judge or the General Attorney may command the Polícia Judiciária (Police for Criminal

Investigation) not to interfere with individuals carrying narcotic drugs or psychotropic substances through Portugal, in order to identify - in collaboration with other countries' authorities - the largest number of participants in the different phases of traffic and distribution.

This, however, shall not interfere with the criminal prosecution as stated in the Portuguese law.

2- The authorisation shall be given, when asked for by the country of destination, providing that:

a) the route the suspects are supposed to follow is well known, as well as their identity;

b) the safety of the substances is assured, in order to prevent losses, by the authorities of the countries of transit and destination;

c) the authorities of the countries of transit and destination assure that their legislation punishes the offenders, and that a due criminal prosecution shall take place;

d) the judicial authorities of the countries of transit and destination engage themselves to communicate as soon as possible the results of the operations and the details of each of the offender's deeds, specially those who operated in Portugal.

3- Even though the above mentioned authorization is given, the Polícia Judiciária (Criminal Police) shall interfere if dangerous situations occur, if the foreseen route is altered, or if by any other circumstances difficulties to the future capture of the offenders and the confiscation of the substances arise.

If this interference was not previously communicated to the authority which gave the authorization, it shall be made within 24 hours, in writing.

4- If the countries of transit or destination do not comply with such obligations, future demands may be refused.

5- International contracts shall be made by the Polícia Judiciária (Criminal Police) through the National Interpol Bureau.

6- The authorization demands mentioned in n. 1 and 2 shall be presented to judges in the courts for criminal investigation of Lisbon, Porto or Coimbra.

Article 52

(Non-punishable conduct)

1- If an investigating officer, on duty and for investigation purposes accepts, directly or through a third party, narcotic drugs or psychotropic substances, he or she shall not be punished if his identity was kept secret.

2- Such facts shall be reported in the file within 24 hours.

Article 53

(Samples asked for by foreign authorities)

1- Samples of substances and preparations apprehended by request of foreign authorities may be sent even during the trial, for scientific or investigation purposes.

2- For such the Bureau for Drug Prevention, after consulting the Health Department, shall report the demand to the competent public prosecutor who, through that Bureau, shall satisfy the request.

Article 54

(Communication of the decisions)

The Courts shall send to de Bureau for Drug Prevention and to the Health Department a copy of their decisions on criminal files concerning the offenses foreseen in this decree.

Article 55

(Extradiction)

1- Extradiction shall be imposed for the crimes foreseen in this decree, as stated in the Decree 437/75, passed on August the 16th.

2- In the case no treaties or conventions exist to apply to the international transmission of judicial documents relating to processes about drug traffic, specially the answer to precatories or demands of extradition shall be made directly to

the addresses given by the countries in a reciprocity basis. If required, such documents may be also sent through diplomatic channels.

CHAPTER VII

Minor offenses

Article 56

(General rule)

1- Deeds violating the obligations and conditions stated in article 2 n.3 and 4 shall be considered as administrative offenses (contra-ordenações) and punished with fines (coimas).

These obligations and conditions are to be determined in a regulation.

2- Decree 433/82, passed on the 27th of October shall apply to the situations not foreseen in this decree and regulation.

Article 57

(Fines)

1- The fines shall range from 10.000\$00 up to 5.000.000\$00

2- In case of neglect the fine shall not be superior to half of the maximum foreseen.

3- The fines to be imposed upon societies or similar entities may reach the maximum of 10.000.000\$00, in case of dole and 5.000.000\$00, in case of negligence.

Article 58

(Apprehension and other accessory sanctions)

1- In the "contra-ordenação" procedure the objects used to its practice may be apprehended and the court may, as well, decide:

Article 61

(Revocatory provision)

a) the revocation or suspension of the authorization for the activity;

b) the interdiction of the professional practice or activity for a period up to 3 years.

2- If the same deed is qualified as a crime, the offender shall be punished accordingly, independently of the accessory sanctions foreseen for the administrative offense (contra-ordenação).

Article 59

(Competent entity; cadaster)

1- The Director of the Health Department shall have the task of imposing the fines and accessory penalties determined in the regulatory decree.

2- The Health Department shall organize the record of individuals or societies authorized to perform the activities mentioned in article 2, n. 3.

This record shall list all the sanctions imposed.

CHAPTER VIII

Final Provisions

Article 60

(Yearly report)

1- The Director of the Bureau for Drug Prevention shall present to the Minister of Justice a report relating to the previous year. This report shall mention the illicit traffic, the results of the measures adopted to fight it, the epidemiology of the abuse of substances and preparations under control and the prevision of future tendencies and needs, as well as the measures to be adopted.

2- A copy of the report shall be sent to the Cabinet of the Minister of Health.

This Decree revokes:

a) Decree n. 41718, of July the 7th, 1958;

b) Decree n. 48153, of December the 23rd of 1967;

c) Articles 58, 59, 67 and 117 of the Decree 48547, of August the 27th of 1968 in what relates to narcotic drugs and psychotropic substances except the stated in the following article:

d) Decree 420/70 of September the 3rd;

e) Law 21/77 of March the 23rd, except the stated in the following article;

f) Decree 71/80 of September the 1st;

g) Decree 71/82 of March the 3rd;

h) Governmental Decree 318/82 of March the 24th.

Article 62

(Enforcement)

1- This Decree and the tables herewith shall come into force on the day following its publication, except for articles 6 to 20 (included) and the provisions of chapter VII. Until the publication of the Governmental Decree mentioned in n. 2 regulating this part, the former regime shall apply. (1)

2- The Governmental Decree shall be published within 30 days.

Passed by the Council of Ministers on October the 4th
of 1983.

Promulgated on November the 22nd, 1983

To be published

The President of the Republic, António Ramalho Eanes.

Countersigned on November the 23rd, 1983

The Prime Minister, Mário Soares.

E/NL.1984/20

MINISTRIES OF THE JUSTICE AND OF THE HEALTH

GOVERNMENTAL DECREE N. 71/84

September the 7th, 1984

In its article 62 the Decree n.430/83, passed on the 13th of December - which foresees measures against the traffic and consumption of drugs and psychotropic substances - establishes that the development of certain rules necessary for its enforcement, would be made through Governmental Decree.

The framing of this Governmental Decree shall observe the established in article 2 n.4 of that Decree which, besides a general rule, includes specific matters to deal with, concerning the control of the licit market and the use of drugs for medical and scientific purposes.

The rules now published do not wish to repeat unnecessarily concepts belonging to the Decree, in order to shorten its length, without damaging its clarity.

In the meantime, we have to bear in mind the recent laws which introduced structural reforms, within the scope of the Ministry of Health, intercepting the competences of the Gabinete de Planeamento e Coordenação do Combate à Droga, Bureau for Planning and Coordination of the Fight against Drugs, as established in article 5 of the Decree 430/83. Furthermore, with the extinction of the Direcção Geral da Saúde, Health Department, and the creation either of the Services for Primarily Health Care or, specially, of the Pharmaceutical Services, there was a transition of the attribution of competences which could no longer be ignored. Hence, the references made in the Decree 430/83 to the Health Department are now reported in this Decree to the General Direction of Pharmaceutical Services, according to the same adaptations deriving from those legal texts issued by the Ministry of Health.

So,

In accordance with article 2, n.4 of the Decree 430/83 of the 13th of December,

The Government states, in accordance with article 202, c) of the Constitution, as follows:

(1) Revoked - see article 62 n.2 of the Regulation n. 71/84 of September the 7th, 1984, published in the Diário da República n. 208.

GENERAL PROVISIONS

ARTICLE 1

(Scope; interpretative rule)

1 - The cultivation, production, manufacture, employment, trade, distribution, importing, exporting, transit, possession by any means, and use of the substances and preparations mentioned in articles 2, 3 and 4 of the Decree 430/83 of December the 13th and tables therewith are submitted to the conditions, authorizations and supervision foreseen in that Decree and in this Governmental Decree.

2 - The rules stated in this Decree shall be interpreted in accordance with the Decree 430/83, of December the 13th, and with the international conventions on narcotic drugs and psychotropic substances that Decree refers to.

ARTICLE 2

(Bureau for Planning and Coordination
of the Fight against Drugs)

The Bureau for Planning and Coordination of the Fight against Drugs has, as specific goals, the following competences, according to the Decree 430/83 of December the 13th:

a) In collaboration with the General Direction of Pharmaceutical Services (DGAF), to survey the enforcement of the conventions on drugs and psychotropic substances, and maintain the necessary international contacts;

b) In collaboration with the General Direction of Pharmaceutical Services, to supply the international organizations with statistical data, information, reports and previsions on the necessities of drugs, according to the conventions, using the settled formularies.

c) To guarantee the planning, integration and coordination of the preventive actions mentioned in article 22 of the Decree 430/83;

d) To divulge, inside the country, the information and data gathered;

e) To collaborate with the General Direction of the Pharmaceutical Services in the supervision and control of the licit use of drugs and psychotropic substances, according to article 7 n. 2 of the above mentioned Decree;

f) To collaborate with the General Direction of Pharmaceutical Services in the supervision and control of the prescriptions relating to drugs and psychotropic substances;

g) To present a yearly report and comply with the other obligations established in that Decree.

ARTICLE 3

(Pharmaceutical Services)

Within the scope of the Decree 430/83, of December the 13th, the competences of the General Direction of Pharmaceutical Services are as follows:

a) To supply the due authorizations and impose conditions on the activities mentioned in article 1 of this Decree;

b) To supervise the mentioned activities, being able to ask, whenever necessary, for the collaboration of the Bureau for Planning and Coordination of the Fight against Drugs;

c) To vouch for the accomplishment of international obligations, namely the conventions and protocols on drugs and psychotropic substances, in collaboration with the due services of the Ministry of Justice;

d) In collaboration with the Bureau for the Planning and Coordination of the Fight against Drugs, to assemble all data concerning drugs and psychotropic substances, in order to prepare the reports and formularies to be sent to international organizations, according to the conventions;

e) To prepare and approve the pattern of the prescription books, in collaboration with the Bureau for Planning and Coordination of the Fight against Drugs, consulting the Medical and the Pharmacy Societies and the National Pharmacy Association;

f) To supervise the use of the prescriptions, according to article 17 n. 1 of the same Decree;

g) To approve the patterns of the registration books and divulge the rules to attend to fulfill and maintain them;

h) To prepare the files concerning administrative offenses (contra-ordenações), organize the record of individuals and collective persons who are authorized to pursue the activities referred to in article 1, n.1 and take note of the sanctions they endure;

1) To accomplish with all the other obligations imposed by that Decree.

CHAPTER II

AUTHORIZATIONS

ARTICLE 4

(General rules)

1 - It lies within the competences of the General Director of the Pharmaceutical Services to issue the decisions of authorization, revocation or suspension of the activities foreseen in article 1, n.1.

2 - Such authorizations shall only be granted if the necessities of the country justify them, and as long as the use of the substances or preparations is limited to medical, scientific or educational aims, bearing in mind the exceptions foreseen in the conventions.

3 - For the purposes of article 6 of the Decree 430/83 the conditions stated in number 2 and 3 shall only be observed concerning demands presented by individuals or corporations not authorized yet to perform the activities foreseen in this Decree.

4 - Whenever necessary, in all other cases, the General Direction of Pharmaceutical Services may ask the Bureau for Planning and Coordination of the Fight against Drugs to supply information, taking always into consideration the technical controls imposed by the law.

5 - The General Direction of Pharmaceutical Services is due to send the Bureau for Planning and Coordination of the Fight against Drugs a complete list of the individuals or corporations authorized to pursue any of the activities mentioned in article 1. As to the corporations, the names of the members of the directive boards, and any change there might occur, shall be included in these lists as well.

ARTICLE 5

(Authorization requests)

1 - The authorization requests for any of the activities foreseen in this Decree shall be presented in official paper, with duplicates in common paper, addressed to the General Director of the Pharmaceutical Services, and the requesting entity, being an individual or a corporation shall be identified by means of an identity card, identification card or any similar document for corporations, besides any other legal requirements.

2 - In the requests formulated under article 4 n.3, the persons responsible for making the records, updating them and comply with other obligations which may be imposed, shall be mentioned, and shall declare that they assume such responsibility.

3 - A specific requirement shall be presented for each delegation or deposit.

4 - The applicant and the individuals mentioned in n.2 shall enclose their criminal record; the corporations shall present the criminal records of the persons who represent it.

5 - The requirements which do not fulfil all the specifications shall be refused whenever, after a delay of no more than 30 days, they have not been completed.

ARTICLE 6

(Subjective requirements)

1 - The moral and professional integrity of the applicants shall be checked by their criminal record, the administrative offenses they committed, as well as by information obtained by the Bureau for Planning and Coordination of the Fight against Drugs. When gathering these information, the rights, liberties and guaranties of the citizens shall be respected, bearing in mind exclusively the public concern for health and the struggle against the traffic of drugs and psychotropic substances.

2 - The applicant has the right to accede all the information mentioned above, notwithstanding its confidential nature, being able to contest them, as well as to contest the way they were gathered.

ARTICLE 7

(Communications of granting or authorization refuse)

1 - The authorizations are personal, and may not, at any title, be handed to or used by others.

2 - General authorizations granted to individuals or corporations to pursue the activities foreseen in article 1 are valid for a year and are considered renewed for the same period as granted, if the General Direction does not assume another position until 60 days before the end of such period.

3 - Each specific authorization shall only be valid for the period stated in the communication, which shall not exceed 1 year.

4 - The communication article 4 n.3 refers to shall be published in the second serial of the official journal, and state the special conditions to be observed by the applicant, in addition to those deriving from the Decree 430/83, of December the 13th, and from this Decree, and the date of publication of the communication will determine the start of the period of the authorization.

5 - The communication of refusal shall be notified to the applicant personally, or by registered mail.

6 - A litigious appeal before the administrative courts may be handed over, at once, contesting the decisions of the General Director of the Pharmaceutical Services; an optional hierarchical appeal may be presented to the Minister of Health, with reversional effects.

ARTICLE 8

(Caducity of the authorization)

1- Should the titular of the authorization, the representative of the society or the authorized entity die, the application to proceed with the activity authorized according to article 10 n.2 of the Decree 430/83, of December the 13th shall be presented within 30 days from the death. The application shall be refused if presented afterwards.

2 - The publication of a governmental order establishing the prohibition of cultivation of certain plants or bushes, the manufacture, preparation or sale of certain substances or preparations, according to article 7 n.5 of the Decree 430/83, of December the 13th, entails the automatic caducity of all the authorizations granted,

3 - The established in article 12 of the Decree 430/83, of December the 13th, applies, with the due adaptations, to the cases of caducity.

ARTICLE 9

(Revocation and suspension of the authorization)

1 - The authorization granted shall be revoked as soon as the requirements mentioned in articles 4 n.2, 6 and 7 n.1 are no longer accomplished, notwithstanding the infliction of the applicable administrative sanctions.

2 - The orders of revocation or suspension shall be published in the second serial of the official journal (Diário da República).

3 - An appeal with immediate effects may be handed over contesting the decisions of the General Director of the Pharmaceutical Services mentioned in this article. The optional hierarchical appeal to the Ministry of Health may have reversional effects.

ARTICLE 10

(Effects of the revocation of the authorization)

If in the request mentioned in article 12 of the Decree 430/83, of December the 13th, the devolution of the substances or preparations to the supplier, or the cession to other authorized entities, enterprises or pharmacies is asked for, these entities shall issue a declaration to go with the requirement, in case it is granted. This requirement is also to be accompanied by a list specifying those substances or preparations.

ARTICLE 11

(Communication of the authorizations)

The authorizations granted shall be simultaneously communicated to the applicant and to the Bureau of Planning and Coordination of the Fight against Drugs, in order to be spread to the Polícia Judiciária (Criminal Police), Polícia de Segurança Pública (Police for Public Security), Guarda Nacional Republicana (National Police), Guarda Fiscal (Customs Police) or the Direcção Geral das Alfandegas (Customs Services), specifying which of these authorities are to become especially responsible for the control of the authorized operations, and in what terms.

CHAPTER III

CULTIVATION, PRODUCTION AND MANUFACTURE

ARTICLE 12

(Cultivation)

1 - Whoever wishes to apply for an authorization for the cultivation of the vegetal species included in tables I and II for medical or scientific investigation purposes shall ask the DGAF for it.

2 - The requirement shall include, besides the data mentioned in article 5:

- a) If the cultivator is not the applicant, his or her complete identification and address;
- b) Location and area of the land to be cultivated.
- c) Quantity and name of the species to be planted or seeded;
- d) Expected quantity to obtain, its use and destination;
- e) Place where it will be stored and conditions of safety while awaiting to be delivered to the official department in charge of collecting it.

3 - Shall the authorization to cultivate species under a special regime of control, foreseen in conventions ratified by Portugal, be granted, the proper department or departments shall be created to perform such measures of control, or these shall be added to the competences of existing specific departments, taking also into consideration the remaining rules foreseen in the conventions.

ARTICLE 13

(Surplus)

1 - Surplus of productions shall be tolerated, under 10% of the authorized quantities, as long as a participation to the DGAF is made within 15 days from the time it was acknowledged.

2 - The surplus shall be taken into consideration in the quantities to be produced the following year.

3 - The non authorized surplus shall be apprehended by the DGAF, and its destiny shall be the foreseen in article 49 of the Decree 430/83, of December the 13th, if not used for licit purposes. The collaboration of the police authorities may be asked for, in case of need, through the Bureau for Planning and Coordination of the Fight against Drugs.

4 - Shall the interdiction of cultivation foreseen in article 7, n.5 and n.6 of the Decree 430/83 of December the 13th imply the destruction of existing cultures, the State shall compensate the authorized entities or societies for their expenses.

ARTICLE 14

(Extraction and manufacture)

1 - Whoever may request an authorization to extract alkaloids from vegetal species included in tables I-A, I-B and I-C, or to manufacture them by synthesis, for medical or scientific research aims, shall present the request before the 31st of October, relating to the following year.

2 - The authorization for the manufacture of the substances mentioned in the table II-A may only be granted for scientific investigation purposes.

3 - Whoever wishes to extract, transform or manufacture substances and preparations included in tables I to IV shall do the same, within the same period, without prejudice of the stated in the previous number.

4 - The request shall point, besides the data referred to in article 5, the following:

- a) Graphic description of the places ment to the manufacture and deposit of the substances manufactured or to be manufactured and the respective conditions of safety;
- b) Identification and professional qualifications of the technician in charge;
- c) Nature and quality of the raw materials required for the manufacture;
- d) Substances and preparations to be manufactured, quantities to be produced, destination and procedure of extraction.

5 - The authorization to manufacture is also valid to acquire raw materials, store them and sell the resulting products, as long as it is made to authorized companies.

6 - The use by the industry of the substances included in tables I, II-B and II-C for other purposes than medical or scientific may only be authorized if the applicant proves that he or she is able to perform adequate technics of denaturation or is able, by any other means, to avoid abusive uses of the substances or products of onimous effects, as well as the practical possibility of their recover.

7 - The order granting the authorization shall state the conditions allowing the DGAF to avoid accumulation of drugs in higher quantities than the necessities of the market and the normal functioning of the company.

ARTICLE 15

(Quotas for manufacture of substances)

1 - According to the international obligations deriving from the conventions, the DGAF shall establish each year, during the month of November, the quantities of the substances included in tables I, II (except II-A) and IV that may be manufactured or sold by the authorized companies during the following year, after having heard the Bureau for Planning and Coordination of the Fight against Drugs.

2 - The established quantities may be increased during the very same year, for which they were foreseen being an attribution of the DGAF to limit the manufacture of certain substances and preparations at any moment and whenever special conditions so determine.

3 - The establishment of the quotas, in accordance with n.1 and their modification shall be published in the Diário da República (official journal).

4 - The stated in article 13 n.4 shall apply to the interdiction of manufacture.

CHAPTER IV

WHOLE SALE AND DISTRIBUTION

Article 16

(Authorization for whole sale)

1 - Whoever wishes to obtain a whole sale authorization for the substances included in tables I,II,(except II-A) and IV shall apply to the DGAF.

2 -The appliance shall mention, besides the data established in article 5, the following:

a) Address of the establishment, deposit or storehouse where the trade is to be performed;

b) Places ment for the placement, storage, expedition or delivery of the products;

c) Security measures adopted or to be adopted;

d) Substances or preparations to be sold.

3 - The order that grants the authorization shall state the conditions allowing the DGAF to avoid accumulation of drugs and psychotropic substances in higher quantities than the necessities of the market and the normal functioning of the company.

ARTICLE 17

(Sale and yielding of substances and preparations)

1 - The sale or yielding of substances or preparations included in tables I to IV (except II-A) to entities or individuals authorized in accordance with the previous articles, to state owned hospitals, either civil or military, or to legally authorized entities and pharmacies is made by means of a written request, dully signed and legalized, to be detached from a book of a model approved by the Bureau for Planning and Coordination of the Fight against Drugs and the DGAF.

2 - The formalities mentioned above do not apply to the sale or cession of the preparations included in table III to State owned Hospitals, either civil or military, or to pharmacies, when performed by whole sale authorized companies.

3 - The dispatch of samples of substances or preparations included in tables III and IV to medical doctors by the manufacturers may only be done through a request, following terms to be established by the DGAF.

4 - The remittance of substances or preparations included in tables I and II is always forbidden.

ARTICLE 18

(Requests)

1 - The request article 17 n.1 refers to shall be presented in duplicate. The applicant shall keep the first for himself and handle over the second to the supplier. To each one shall be attached, respectively, the invoice and the copy of it.

2 - Each request shall be used for only one type of substance.

ARTICLE 19

(Delivery procedures)

1 - The delivery of the substances and preparations included in tables I to IV (except II-A) shall only be performed by one of the following ways:

a) Personally, to the titular of the authorization, the pharmacist or representatives of either of them, or to the entities referred to in article 17 n.l, in which case his or her name shall be noted in the request, as well as the address and number of the identity card.

b) Through private mail or travel agencies.

2 - In the case of substances referred to in table I, if the quantity exceeds 1 Kg, the transportation shall only take place after a due communication to the nearest police authority.

3 - The communication mentioned above shall state the names of the supplier and of the addressee, the means of conveyance and the nature and quantity of the substances to be transported.

4 - The communication shall be made in triple, with three days in advance. A copy is to remain with the police authorities and another to be sent by these authorities to those with jurisdiction over the area of the destination; the third shall go with the goods and must be sent back to the supplier by the addressee.

5 - The request and the copy of the invoice shall be kept by the supplier for a period of two years, as well as the delivery document if the transportation was made by means of an agency or private mail. The applicant shall keep the original of the invoice for the same period.

ARTICLE 20

**(Medical or scientific investigation purposes;
provisions for means of conveyance)**

1 - The DGAF may authorize the supply of substances and preparations included in tables I-A, II-B, II-C and IV:

a) To private or official idoneous departments for research or teaching purposes, in which case the supply may be authorized for other substances mentioned in all the other tables;

b) To merchant ships, aeroplanes and other means of international public transport, to provide first aid cares in

accordance with article 14 of the Decree 430/83, of December the 13th. The request shall be signed by the ship's physician or, in his or her absence, by the physician of the respective company, and mention the name and number of the ship or aeroplane, the department and location where they are registered or any other identifying references.

2 - The request or demand shall mention the security measures taken, and the name of the person in charge to keep and maintain the substances and preparations, who shall declare the assumption of such responsibility.

3 - The substances or preparations kept shall not exceed the indispensable quantities to normally accomplish the authorized goals.

4 - The general conditions being observed, the Centre for Studies of the Drug Prophylaxy may be authorized to supply the substances included in the table I-A to perform treatment through substitute drugs.

5 - Treatment by substitute drugs may only be performed with the authorization, and under the control, of the Centre for Studies of the Drug Prophylaxy.

CHAPTER V

IMPORT, EXPORT AND TRANSIT

ARTICLE 21

(Import, export and transit)

1 - The import, export or transit of substances or preparations included in tables I, II and IV may only be performed by entities or companies authorized to cultivate, manufacture, manipulate or wholesale such substances or preparations, or to use them for teaching or scientific investigation purposes.

2 - An authorization shall be granted for each operation and may concern lower quantities than the established.

ARTICLE 22

(Import and export requests)

1 - The export or import request regarding substances and preparations included in tables I, II and IV shall mention, besides the items referred to in article 5, the following:

a) Name of the substance or preparation and common international denomination, if it has one;

b) Quantity to be exported or imported;

c) Identification of the exporter, in case of importation, and identification of the addressee;

d) Period when the import or export shall take place, means of transport or expedition used and the customs where it will pass.

e) Percentage of alkaloids contained in the substances or preparations, if they are not pure alkaloids or are composed medicines.

2 - With the request for an export authorization shall also go the title of the importation authorization, issued by the authorities of the country of destiny of the goods.

ARTICLE 23

(Notice to the customs)

After the due authorization for the import of the substances or preparations listed in tables I, II and IV, a notice shall be sent the customs where they are to pass, notwithstanding the stated in article 11.

ARTICLE 24

(Forbidden export)

1 - The export of the substances and preparations included in tables I, II and IV, addressed to a bank or postal order box different from the mentioned in the authorization order, is forbidden.

2 - The export, under a despatch manner, to a customs office is also forbidden, unless the Government of the importing country certifies in the authorization order that it agrees with such deposit.

3 - In case of despatch to a customs office, as mentioned above, the authorization order shall mention that the remittance is made to that destination.

4 - Whoever may export the substances and preparations referred to in n.1 shall procede in order to prevent the opening of the package without damaging its stamp.

ARTICLE 25

(Request for transit authorization)

1 - The authorization request for the transit of the substances or preparations included in tables I, II (except II-A) and IV through Portuguese territory, besides the conditions mentioned in article 5, shall be held together with the import authorization issued by the authorities of the country, to which they are to be sent and with the export authorization issued by the authorities of the country from which they originate.

2 - If the request for a change of the country of destination other than the previously stated is granted, it shall be submitted to the exportation conditions.

ARTICLE 26

(Customs' control obligations)

1 - The customs where the import, export or transit operations take place shall identify and control the goods, according to the specifications mentioned in the authorization order.

2 - Whenever the customs collect samples of the substances or preparations included in the 4 tables, they shall report the event, as well as the results achieved, to the DGAF.

3 - The customs authorities shall take all the precautions to avoid the embezzlement of the substances or preparations to goals other than the mentioned in the copy of the authorization order, annexed to the goods.

4 - No forwarding of drugs or psychotropic substances in transit shall be submitted to any operation that modifies its nature, when stored in a customs deposit, without the authorization of the exporting country.

ARTICLE 27

(Other conditions)

Other conditions or restrictions to the import, export or transit of the substances or preparations included in tables I to IV may be imposed, in accordance with the international conventions ratified by Portugal, by a joint order of the Ministers of Finances and Planning, Justice and Health.

CHAPTER VI

PRESCRIPTIONS, DELIVERY AND CONTROL

Article 28

(Medical prescriptions)

1 - The supply to the public, for treatment purposes, of the substances and preparations mentioned in the tables annexed to the Decree 430/83, of December the 13th, may only be performed through a medical prescription, following the specific requirements stated below.

2 - Having previously heard the Medical and the Pharmaceutical Societies and the National Association of Pharmacies, the DGAF shall, in collaboration with the Bureau for Planning and Coordination of the Fight against Drugs, approve two patterns of prescription books and a tallon-book with different colours, one for the prescriptions of the substances and preparations listed in table I-A and the other for the substances and preparations listed in tables II-B, II-C and IV.

3 - The preparations listed in table III shall be submitted to a specific regime, which will be established by a joint order of the Ministers of Justice and Health.

4 - The preparations which include the substances listed in table IV in such a minor quantity that does not justify a medical prescription shall be listed in an order of the Ministers of Justice and Health.

5 - The back cover of the prescription books shall point out the respective tables, indicating the substances it includes (active principles).

6 - The prescriptions shall be numbered and state, in the face, in print, the words of article 15 n.3 of the Decree 430/83, so as to allow an easier and faster fulfillment.

7 - The prescriptions shall be issued in triple, and the physician shall keep the counterfoil for a period of three years, in an accessible archive.

8 - The DGAF shall approve special models of prescription books, with the due adaptations of the designations stated in article 15 of the Decree 430/83, for the State or private owned health services with private pharmacies or stores, after hearing the General Direction of Hospitals and the entities mentioned in n.2.

ARTICLE 29

(Supply of prescriptions)

1 - The pharmacist who supplies a prescription of drugs or psychotropic substances shall verify the identification of the buyer and note in the prescription his or her name, number and date of the identity card or driving licence or, if the buyer is a foreigner, his or her passport number. The date of delivery shall be clearly written and signed.

2 - The pharmacist may accept other documents for the identification of the buyers, as long as they bear his or her picture. In such cases, his or her signature is required, and if he or her does not know how to sign, the pharmacist shall indicate such circumstance.

3 - The pharmacist shall refuse to dispense a prescription of drugs or psychotropic substances if it does not comply with the following conditions :

- a) Is not issued in the model approved by the DGAF;
- b) There are doubts about its genuinity;
- c) Was issued more than 10 days before;
- d) Was already delivered before.

4 - In the case foreseen in b) the pharmacist shall contact the prescribing physician, on the patient's account.

5 - Only in cases of total impossibility of the pharmacist shall his or her substitute deliver this type of prescriptions, without prejudice of the responsibility article 16 n.4 of the Decree 430/83, of December the 13th, refers to.

6 - The Pharmacies shall keep the original of the prescriptions for a period of 3 years, in a chronological order, from the date of delivery.

7 - The pharmacist who delivers a prescription in the terms mentioned in article 19 n.3 of the Decree 430/83, shall ask the person who claims to be in charge of the minor to sign the back of the prescription; if he or she cannot, or does not know how to sign, the foreseen in n.2 shall apply.

8 - Dealing with private or State owned health services with private pharmacies or deposits, the Health Minister may determine, through a ministerial order, a specific regime for the cases foreseen in n.l.

(ARTICLE 30)

(Private and Public Health Services)

1 - The Public and privately owned Health Services shall send the DGAF, every three months, a list of the drugs used in medical treatments, according to the model approved by the DGAF.

2 - The services mentioned above shall point out the public official responsible for storing and keeping such medicines.

3 - The records mentioned in chapter VII shall be done by these services.

ARTICLE 31

(Distribution and control of the prescriptions)

1 - The patterns of the prescription books shall be attributed exclusively to the Imprensa Nacional-Casa da Moeda (National Printing Department), which shall supply them whenever the Bureau for Planning and Coordination of the Fight against Drugs requests so.

2 - The distribution of the prescription books shall be performed by the Bureau for Planning and Coordination of the Fight against Drugs, which shall also collect the costs and the distribution fees from the users.

3 - The Public or privately owned pharmacies and health services shall send the DGAF, until the 8th of the month following the month it refers to, a duplicate of each prescription of drugs or psychotropic substances delivered which, after being eventually analysed, shall be sent to the Bureau for Planning and Coordination of the Fight against Drugs by the DGAF within 15 days from the day they were received.

4 - When an abnormal individual consumption of drugs or psychotropic substances takes place by means of medical prescriptions, or any other abnormal event is verified, the Bureau for Planning and Coordination of the Fight against Drugs or the DGAF shall report the fact to the Medical Society.

CHAPTER VII

SECURITY AND REGISTRATION

ARTICLE 32

(Common provisions)

1 - The patterns of the record books mentioned in this Decree shall be approved by the DGAF, and its pages numbered and signed by the same services, with opening and closing terms.

2 - The records shall not bear empty spaces and the corrections must be signed and made by a chronological order, with sequential numbers.

3 - The producers that manufacture the substances or preparations included in tables I, II and IV shall keep the records for a period of 5 years from the date of the last entry.

4 - In all other cases, the period of retainance of the records shall be of 2 years from the date of the last entry.

5 - The records shall be controlled by the DGAF.

ARTICLE 33

(Entry records)

1 - All entries of substances and preparations included in tables I, II and IV shall be registered in the respective books.

2 - Every year, each record book shall be closed in December the 31st, and the total of the substances or preparations stored and used during the year shall be mentioned in the end, as well as any difference relating to the records of previous years.

ARTICLE 34

(Entry records for the manufacturers)

1 - The company or entity authorized to manufacture the substances and preparations included in tables I to IV, (except II-A) shall mention in their record books besides the entries the passage to the stage of manufacture.

2 - The logging out of substances entering the manufacture stage shall mention their respective entries.

3 - The substance resulting from the manufacture, even if through synthesis, shall be registered as an entry, with references allowing it to be related to data inscribed in the manufacture record.

4 - The variations in the quantities of existing substances shall be accounted in a different column, connected to the record of the operation that originated it.

ARTICLE 35

(Specific record for the manufacture cycle)

1 - The companies or entities authorized to manufacture substances or preparations included in tables I to IV shall also have a manufacture record book.

2 - The book mentioned above shall include the following items: complete identification of the product, quantity and origin of the raw materials used, mentioning their name and date of the entry in the manufacture sector, as well as the quantity and lot number of the resulting products.

ARTICLE 36

(Prescription record in pharmacies)

1 - The pharmacies shall have a special record book for prescriptions delivered relating to substances and preparations included in tables I, II (except II-A) and IV. This shall mention the number of the prescription, the prescribing physician, the buyer's identification and the date of delivery, and shall be closed each year in December the 31st by the person responsible for it.

2 - The supply of substances and preparations according to article 18 of the Decree 430/83, of December the 13th, shall be recorded aside, discriminating the identity of the patient, the dosage of the medicine and the date of delivery.

3 - Within 10 days the pharmacist, identifying himself or herself and the patient, shall report to the DGAF the supplies performed according to the aforesaid, mentioning the information article 28 n.6 refers to. The DGAF shall report such cases to the Bureau for Planning and Coordination of the Fight against Drugs.

ARTICLE 37

(Reports on damages or losses)

1 - The loss, robbery or invalidation of record books shall be immediately, or within 24 hours, reported in writing to the local police authority and to the DGAF by the entity responsible for it, and all the facts shall be stated, as well as the numbers of the stolen documents.

2 - The robbery or loss of prescription books in the conditions mentioned above shall be reported to the local police authorities and to the Bureau for Planning and Coordination of the Fight against Drugs.

ARTICLE 38

(Security obligations)

1 - The State owned military or civilian hospitals, clinics, private hospitals, pharmacies and entities or companies authorized in accordance with this Decree, to store substances or preparations listed in tables I to IV shall adopt the adequate security measures against its loss or robbery.

2 - The services or entities above referred to are to adopt the security measures imposed by the DGAF, after hearing the Bureau for Planning and Coordination of the Fight against Drugs and, optionally, the respective associations.

3 - In case of not complying with those security obligations, besides the administrative penalty to be imposed the authorization granted may be revoked.

CHAPTER VIII

PUBLICITY, LABELS AND PACKAGES

ARTICLE 39

(Interdiction of publicity)

Publicity relating to the substances and preparations included in tables I to IV is forbidden, except for scientific information purposes and advertisements in specialized magazines.

ARTICLE 40

(Labels and packages)

1 - The DGAF may establish the security characteristics for opening the packages used for packing the substances and preparations included in tables I to IV.

2 - The labels on the packages of the substances or preparations to be sold, that are included in such tables, shall obligatory mention the quantity, in weight or volume, of the substances they include and the common international denomination divulged by the World Health Organization, besides any other obligations stated in other legal texts.

3 - The directions for use that might accompany the package shall state the composition, therapy, dosage and, obligatory, the side effects of the product, specially if it creates addiction.

4 - A double red stripe shall be printed on the packages of the substances or preparations included in tables I and II; the outer packages of such substances shall not bear those stripes.

CHAPTER IX

OTHER PROVISIONS

ARTICLE 41

(Surveys)

1 - A survey to any company, establishment or place where drugs or psychotropic substances are to be found may take place at any moment, and the due documents and records may be asked for, and cannot be refused.

2 - Before the survey takes place, the public official shall identify himself or herself by means of a special identification card, which shall mention his or her survey powers, or of a credential issued by the DGAF.

3 - Shall the surveyed entity refuse to show the documents or records, the collaboration of the police authorities may be asked for to pursue the inspection, the due procedures having to be taken, in order to maintain its usefulness, notwithstanding the established in article 33 of the Decree 430/83, of December the 13th.

4 - The infractions detected shall be reported to the entities with competence to pursue the investigation, preparation of the file or imposition of sanctions. In the case of administrative offenses, the report must be done within 24 hours.

5 - After each inspection a written report shall be presented and filed at the DGAF or, pending on the case, filed in a criminal procedure or a procedure relating to an administrative offense (contra-ordenação).

ARTICLE 42

(Duty to inform)

All entities or companies authorized to pursue activities mentioned in article 1 are obliged to supply the DGAF, with all the information this service requests within a reasonable by it established time.

ARTICLE 43

(Persons in transit)

The confirmation of the medical need to use the substances and preparations referred to in article 13 of the Decree 430/83, of December the 13th, by persons crossing the portuguese borders, may be asked for by the local Health Officer or, in his or her absence, by any physician enrolled in the Medical Society.

ARTICLE 44

(Cooperation in the prevention)

1 - The preventive actions article 22 n.4 of the Decree 430/83, of December the 13th, mentions shall be planified at a national level and based, if possible, on epidemiological studies.

2 - The Bureau for Planning and Coordination of the Fight against Drugs shall divulge the measures to be adopted by the entities mentioned in that article 22 n. 4, after hearing them.

3 - The information to be supplied by those entities shall be transmitted by the Bureau for Planning and Coordination of the Fight against Drugs, through the adequate means.

ARTICLE 45

(Registration of files)

1 - A separate registry shall be organized by the Arquivo Central de Registos e Informações da Polícia Judiciária (Central Register of the Criminal Police), to file all the cases foreseen in article 38 of the Decree 430/83, of December the 13th, where the public prosecutor did not prosecute or did not ask for a measure of treatment to be imposed in accordance with article 40 of that same Decree.

2 - All public prosecutors shall report to the Criminal Police, by means of an approved paper, the decisions issued in accordance with articles 38 and 40 of the Decree 430/83.

3 - The record n.1 refers to shall only be made available to the public prosecutor for him or her to ponder upon the prosecution or the measure of treatment, and it cannot be called for by the Criminal Police for other purposes.

4 - For the purposes article 38 of the Decree 430/83 refers to, if to the claims concerning the crimes foreseen in article 36 of that same Decree the summary procedure (processo sumário) applies, these claims shall be forwarded to the public prosecutor of the competent Court.

ARTICLE 46

(Reports and list of prescriptions)

1 - The entities and companies authorized to produce, manufacture, trade, import or export substances or preparations included in tables I, II and IV shall send the DGAF each year, until the 15th of January, a report concerning the following items:

- a) Conclusions achieved with the closure of the entry book;
- b) General name and quantity of the raw materials used during the year in the manufacture of pharmaceutical or industrial products;
- c) Name and quantity of the pharmaceutical or industrial products sold during the year, specifying the establishments and pharmacies;
- d) Imported or exported quantities;
- e) Name and quantity of the existing substances and preparations on December the 31st.

2 - The companies authorized to manufacture the preparations included in table III shall send the DGAF, within the same period, the name and quantities of the raw materials used, as well as their distribution by the preparations where they were included.

3 - The entities or companies authorized to manufacture the substances and preparations listed in tables I, II-B and II-C shall also send the DGAF a report, within the first 15 days after each period of three months, concerning the nature and quantity of the raw materials received and of those used in the manufacture process, the list of the substances or preparations obtained and of those sold during the previous period of three months, and a balance, if there is one.

4 - If the above mentioned report deals with raw opium or coca leaves, the title shall be expressed in active principles.

5 - The pharmacies shall send the DGAF, within the first 15 days after the end of each period of three months, a copy of the record article 36 n.1 refers to, mentioning the prescriptions delivered which included substances or preparations listed in tables I, II and IV; after eventually examining them, the DGAF shall send the Bureau for Planning and Coordination of the Fight against Drugs a copy of the record within 15 days.

CHAPTER X

TAXES

ARTICLE 47

(Tax amount)

1 - Taxes relating to general authorization requests for the activities foreseen in this Decree shall be as follows:

- a) For cultivation, production, manufacture or whole sale - 4 000\$00;
- b) For importing or exporting - 6 000\$00;
- c) For transit - 5 000\$00.

2 - The taxes relating to specific requests for specific operations shall be established in accordance with the Decree n. 48 322, of April the 6th, 1968, and its up-datings.

3 - No extra fees or stamps shall be charged besides the taxes and the official paper.

4 - The State Departments, either civilian or military, shall be exempt from the payment of any fees, official papers or taxes.

ARTICLE 48

(Collection and eventual use of taxes)

1 - Taxes established in the previous articles shall be collected, by means of official stamps, after the authorization request is granted.

2 - A joint despatch of the Ministers of Finances and Planning, Justice and Health may determine another way to collect the taxes, and use their value for the payment of the costs of the automation of the control of prescriptions, in conditions still to be established.

CHAPTER XI

ADMINISTRATIVE OFFENSES AND FINES

ARTICLE 49

(General Provision)

1 - The violation of the obligations foreseen in this Decree shall be punished with a fine (coima) , according to articles 56 to 59 of the Decree 430/83 of December the 13th and other legal provisions that may apply according to the explanations of the following articles.

2 - If the same deed constitutes also a crime, the offender shall be punished for it notwithstanding the application of the sanctions foreseen for the administrative offense.

ARTICLE 50

(Corporations or similar associations)

1 - If the administrative offense was committed by a body of a corporation or of an association with no legal personality, but within its powers and representing the interested party, the corporation or association shall endure the corresponding fine, notwithstanding the individual responsibility of the offender.

2 - Fines applicable to the corporations or associations mentioned above shall have their maximum raised to the double.

ARTICLE 51

(Use of the authorization for different purposes)

1 - Whoever, having been granted the authorization for the practice of any of the activities foreseen in article 1, uses the substances or preparations listed in tables I to IV, or the authorization itself, for other purposes than the authorized ones, shall be punished for that administrative offense with a fine ranging from 10 000\$00 up to 5 000 000\$00.

2 - The same fine shall apply to the violation of the special conditions established in the authorization order, issued in accordance to article 7 n.4.

ARTICLE 52

(Unauthorized activity)

The continuation of the activity authorized before, beyond the time mentioned in article 10 of the Decree 430/83, is an administrative offense punished with a fine of 10 000\$00 up to 1 000 000\$00.

ARTICLE 53

(False or incorrect information)

Whoever applies for the authorization to pursue the activities foreseen in article 1, mentioning incorrect or false information in order to achieve it, shall be punished for that administrative offense with a fine ranging from 10 000\$00 up to 1 000 000\$00.

ARTICLE 54

(Surplus; false or absent declaration)

The absence of the declaration of surplus, in accordance with article 13, or the deliberate false or incorrect declaration is an administrative offense, punished with a fine ranging from 10 000\$00 up to 1 000 00\$00.

ARTICLE 55

(Absence of request; samples)

1 - The delivery of the substances and preparations listed in tables I to IV without the written request article 17 refers to, or to other persons than the ones mentioned in article 19 is an administrative offense, punishable with a fine ranging from 10 000\$00 up to 500 000\$00.

2 - The delivery of samples of the substances and preparations listed in tables III and IV, which require a prescription, to physicians without a request is an administrative offense, punished with a fine of 10 000\$00 up to 100 000\$00.

3 - A similar sanction, although aggravated, endures anyone who delivers samples of the substances and preparations included in tables I and II.

ARTICLE 56

(Forbidden exports; modification procedures)

1 - The export of substances, violating the established in article 24 n^o1, 2 and 4 is an administrative offense, punished with a fine of 10 000\$00 up to 1 000 000\$00.

2 - The same sanction shall apply to the violation of the foreseen in article 26 n.4.

ARTICLE 57

**(Books, documents and registrations;
fulfilment and maintenance)**

1 - The absence of fulfilment of the record books and documents foreseen in this Decree, or their deliberate incorrect or false fulfilment is an administrative offense, punished with a fine ranging from 10 000\$00 up to 2 500 000\$00.

2 - It is an administrative offense punished with a fine of 10 000\$00 up to 500 000\$00 not to preserve the books, documents or copies in accordance and within the time limits established in this Decree.

3 - The irregular fulfilment of the books and documents referred to in n.1 is an administrative offense, punished with a fine ranging from 10 000\$00 up to 250 000\$00.

ARTICLE 58

(Security duties)

1 - Whoever is responsible or in charge of the security of the substances or preparations listed in tables I to IV and through his carelessness, or by not accomplishing with the security measures foreseen by the DGAF and the Bureau for Planning and Coordination of the Fight against Drugs is responsible for their theft or loss shall be punished for that administrative offense with a fine of 10 000\$00 up to 500 000\$00.

2 - If the packing conditions imposed by the DGAF, according to article 40 n.1 or n^o2,3 and 4, are not observed, that administrative offense shall be punished with a fine ranging from 10 000\$00 up to 250 000\$00.

3 - The absent or delayed communication article 19 n^o2 and 3 refers to, to the police authorities, is an administrative offense, punished with a fine of 10 000\$00 up to 100 000\$00.

ARTICLE 59

**(Absence of delivery of documents
or control elements)**

Not delivering the prescriptions for control or not complying with the established in article 36 n.3, not delivering the information in accordance with articles 42 and 44 n^o2 and 3 and not delivering the reports and documents article 46 refers to are administrative offenses, punished each with fines ranging from 10 000\$00 up to 100 000\$00.

ARTICLE 60

(Publicity)

Publicity relating to the substances and preparations listed in tables I to IV, beyond the context of this Decree, is an administrative offense, punished with a fine of 10 000\$00 up to 2 000 000\$00.

ARTICLE 61

(Competence to sentence the fines)

1 - The sentence of the fines and other sanctions foreseen in this Decree lies within the competences of the General Director of the Pharmaceutical Services.

2 - The DGAF is competent to investigate the files concerning the administrative offenses, being able to ask for the collaboration of the Bureau for Planning and Coordination of the Fight against Drugs, in accordance with article 7 n.2 of the Decree 430/83, of December the 13th.

ARTICLE 62

(Destiny of the fines)

1 - The fines collected shall vest to the State.

2 - The fines may however be given the destiny foreseen in article 48 n.2, in which case the regulations applying to them shall be established by that ministerial despatch.

CHAPTER XII
FINAL PROVISIONS

ARTICLE 63

(Time of enforcement of the new measures)

1 - The enforcement of the new measures foreseen in articles 17, n.1 and 18 (request books), 28, n.2 to 7 (prescription books), 32, n.1 (register books), 38 n. 2 (security measures) and 40 (packages and labels) of the present Decree shall take place within a year, starting from the day of its enforcement.

2 - The rules in force today shall apply until the above referred enforcement takes place.

3 - The preparatory period for the automation of the control of prescriptions shall also be of 1 year, and it shall be ruled by a joint despatch of the ministers of Justice and Health, to be published in the Diário da República (official journal).

ARTICLE 64

(Revocatory provision)

1 - The Decree 12 210, of August the 24th, 1926, is revoked.

2 - With the enforcement of this Decree, the foreseen in article 62 of the Decree 430/83, of December the 13th, does not apply anymore, although the temporary provision established in article 63 must still be kept in mind.

Mário Soares, Carlos Alberto da Mota Pinto, Rui Manuel Parente Chancelerelle de Machete, António Manuel Maldonado Gonelha

Promulgated on July, 27th, 1984

To be published

The President of the Republic, António Ramalho Eanes

Countersigned on July, 27th, 1984

The Prime Minister, Mário Soares

Schedule of controlled substances and preparations
(Art. 2, 3 and 4 of Law-Decree n.º 430/83, of December 13)

Schedule I-A

Acetyldihydrocodeine
Acetylmethadol
Acetorphine
Alphacetylmethadol
Alphameprodine
Alphamethadol
Alphaprodine
Allylorodine
Anileridine
Benzylmorphine
Benzethidine
Betacetylmethadol
Betameprodine
Betamethadol
Betaprodine
Bezitramide
Dioxaphetyl butyrate
Ketobemidone

Clonitazene	Fentanyl	
Codeine	Pholcodine	Noracymethadol
Codeine-N-oxide	Furethidine	Norcodeine
Codoxima	Heroin	Norlevorphanol
Desomorphine	Hydrocodone	Normethadone
Dextromoramide	Hydromorphinol	Normorphine
Dextropropoxyphene	Hydromorphone	Norpipanone
Diampromide	Hydroxyethidine	Opium (raw opium)
Diethylthiambutene	Isomethadone	Opium, mixed alkaloids of
Diphenoxylate	Levochenacylmorphan	Oxycodone
Difenoxin	Levomethorphan	Morphine-N-oxide
Dihydrocodeine	Levomoramide	Pethidine
Dihydromorphine	Levorphanol	Pethidine intermediate A
Dimepheptanol	Methadone	Pethidine intermediate B
Dimenoxadol	Methadone intermediate	Pethidine intermediate C
Dimethylthiambutene	Metazocine	Piminodine
Dipipanone	Methyl-desorphine	Piritramide
Drotebanol	Methyldihydromorphine	Proheptazine
Ethylmethylthiambutene	Metopon	Properidine
Ethylmorphine	Myrophine	Propiram
Etonitazene	Moramide intermediate	Racemetorphan
Etorphine	Morpheridine	Racemoramide
Etoperidine	Morphine	Racemorphan
Phenadoxone	Morphine, methylbromide and other morphine derivatives with	Sufentanil
Phenampramide	Morphine-N-oxide	Thebacon
Phenazocine	Nicocodine	Thebaine
Phenomorphin	Nicodicodine	Tilidine
Phenoperidine	Nicomorphine	Trimeperidine

Schedule I-B

The isomers of the substances included in this Schedule where the existence of these isomers is possible with specific chemical designation, save if expressly excluded.

Every form of any ester or ether of the substances included in this Schedule, except where otherwise scheduled.

Any salt of the substances mentioned in this Schedule, including the salts of esters, ethers and isomers hereabove referred to, where the existence of such preparations is possible.

Coca leaf - The leaves of the *Erythroxylon coca* (Lamarck), of the *Erythroxylon novagranateuse* (Morris), of *Hicronymus* and its varieties of the *Erythroxylaceae* family, and the leaves of other species of this genus, from which cocaine may be obtained, either directly or chemically; the leaves of the coca bush except those from which all ecgonine, cocaine and any other ecgonine alkaloids have been removed.

Cocaine - Methyl ester; methyl ester of benzoylecgonine

D-cocaine - Dextro-isomer of cocaine

Ecgonine, acid - Its esters and derivatives transformable into ecgonine and cocaine

Every salt of these compounds shall be included in this Schedule where the existence of such preparations is possible.

Schedule I-C

Cannabis - Flowering or fruiting tops of the Cannabis Sativa L. plant from which the resin has not been extracted, by whatever name they may be designated.

Resin cannabis - The separated resin, either raw or purified, obtained from the Cannabis plant.

Cannabis oil - Separated oil, either raw or purified, obtained from the Cannabis plant.

Also to be included in this Schedule is every salt of these compounds, where the existence of such preparations is possible.

Schedule II-A

Bufotenine

Diethyltryptamine - DET

Dimethylheptylpyran - DMHP

Dimethyltryptamine - DMT

Dimethoxymethylamphetamine - DOM, STP

Dipropyltryptamine - DPT

Ethylcyclidine - PCE

Phencyclidine - PCP

(+)-Lysergide - LSD, LSD-25

Mescaline

Parahexyl

Psilocybine

Psilocine

Rolicyclidine - PHP, PCPY

Phencyclidine - TCP

Also to be included in this Schedule is every salt of these substances, where the existence of such preparations is possible.

Schedule II-B

Amphetamine

Dexamphetamine

Phendimetrazine

Phenmetrazine

Phentermine

Methamphetamine

Methylphenidate

Tetrahydrocannabinol - The following isomers : 6^a(10^a),
6^a(7), 7, 8, 9, 10, 9(11).

Also to be included in this Schedule is every derivative or salt of the above substances, where the existence of the same is possible, as well as every preparation in which these substances are associated with other compounds whatever action these may have.

Schedule II-C

Amobarbital

Cyclobarbital

Glutethimide

Mecloqualone

Methaqualone

Pentobarbital

Secobarbital

Also to be included in this Schedule is every salt of these substances, where the existence of such preparations is possible.

Schedule III

1. Preparations that, although being derived from narcotics, constitute no great risk of being used and/or abused, by virtue of their quantitative composition.
2. Preparations containing acetyldihydrocodeine, codeine, dihydrocodeine, ethylmorphine, pholcodine, nicocodine, nicodicodine and norcodeine if containing one or more other components and the quantity of the narcotic substance used does not exceed 100 mg. per dosage unit and its concentration, in non-divided form, in the pharmaceutical preparations does not exceed 2,5 per cent.
3. Cocaine preparations containing in the maximum 0,1 per cent of that substance, calculated in base cocaine, as well as opium and morphine preparations containing not more than 0,2 per cent of morphine expressed in anhydrous base morphine since one more or various other component, whether active or inert, exist in those preparations and the cocaine and opium or morphine included cannot easily be recovered or are not present in such a proportion that may constitute a danger to the public health.
4. Difenoxyin preparations containing in dosage units not more than 0,5 mgrs. of difenoxyin expressed in the basic form, when at least a quantity of atropine sulphate equivalent to at least 5 per cent of the difenoxyin has been added.
5. Diphenoxylate preparations containing in dosage units not more than 2,5 mgrs. of diphenoxylate, expressed in the basic form, when at least a quantity of atropine sulphate equivalent to at least 1 per cent of the diphenoxylate has been added.
6. Opiated ipecacuanha powder with the following composition:
10 per cent powdered opium
10 per cent powdered ipecacuanha root
80 per cent any inert powder containing no controlled drug
7. Propiram preparations containing not more than 100 mgrs. of that substance per dosage unit if associated with at least the same amount of methylcellulose.
8. Oral administered preparations not containing per dosage unit more than 135 mgrs. of base dextropropoxyphene salts or compounds with a concentration not exceeding 2,5 per cent of the preparations in a non-divided form, whenever these preparations do not contain any controlled substance under the Convention on Psychotropic Substances, 1971.
9. The preparations corresponding to any of the formulas mentioned in this Schedule and mixtures of the same preparations with any uncontrolled drug.

Schedule IV

Anfepramone

Barbital

Benzphetamine

Ethchlorvynol

Ethinamate

Phenobarbital

Mazindol

Meperbamate

Methylphenobarbital

Methyprylon

Pipradol

Lefetamina, SPA

Also to be included in this Schedule is every salt of these substances, where the existence of such preparations is possible.