



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.*

COLOMBIA

Communicated by the Government of Colombia

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 [...].

DECREE No. 1108 OF 31 MAY 1994
STANDARDIZING, COORDINATING AND REGULATING CERTAIN PROVISIONS
RELATING TO THE POSSESSION AND CONSUMPTION OF NARCOTIC
DRUGS AND PSYCHOTROPIC SUBSTANCES

MINISTRY OF JUSTICE AND LEGAL AFFAIRS

DECREE No. 1108 OF 31 MAY 1994

Standardizing, coordinating and regulating certain provisions relating to the possession and consumption of narcotic drugs and psychotropic substances

THE PRESIDENT OF THE REPUBLIC OF COLOMBIA,

in exercise of his constitutional and statutory powers, in particular those conferred by article 189 (11) of the Political Constitution,

HEREBY DECREES:

CHAPTER I

GENERAL PROVISIONS

ARTICLE 1. The purpose of the present Decree is to standardize, coordinate and regulate certain provisions of the Young Persons Law, the National Police Law, the Public Health Law, the Penitentiary and Prisons Law, the Code of Substantive Labour Law and the National Road Traffic Law, and other regulations laying down restrictions in respect of the possession and consumption of narcotic drugs and psychotropic substances, and to establish the criteria for undertaking relevant educational and preventive programmes.

ARTICLE 2. Specifically, the present Decree contains provisions regulating the laws and matters indicated below:

- 1. Comprehensive prevention of the consumption of narcotic drugs and psychotropic substances;**
- 2. The Young Persons Law and its provisions relating to the possession and consumption of narcotic drugs and psychotropic substances by children, pregnant women and nursing mothers;**
- 3. Law No. 115 of 1994 promulgating the General Education Law;**
- 4. The National Police Law;**
- 5. Law No. 18 of 1991 regulating the control of substances and practices prohibited in sport;**
- 6. The Penitentiary and Prisons Law and its provisions relating to the possession and consumption of narcotic drugs and psychotropic substances;**
- 7. Decree No. 2535 of 1993 promulgating regulations concerning weapons, ammunition and explosives;**
- 8. The Code of Substantive Labour Law and the Rules governing Public Servants;**

9. The National Road Traffic Law;
10. The Public Health Law;
11. The National Narcotic Drugs Statute;
12. The American Convention on Human Rights, adopted by Law No. 16 of 1972.

CHAPTER II

CONCERNING THE YOUNG PERSONS LAW

ARTICLE 3. Every child shall have the right to the protection, care and assistance necessary for ensuring appropriate physical, psychological, moral and social development, both before and after its birth.

ARTICLE 4. Under the terms of article 15 of the Young Persons Law, every child shall have the right to be protected against the use of addictive substances. Consequently, no child, pregnant woman or nursing mother may possess or consume narcotic drugs or psychotropic substances.

SPECIAL CLAUSE: By virtue of article 13 of the Political Constitution, the provisions contained in the present article shall also apply to incompetent persons in accordance with the Civil Code.

ARTICLE 5. Children, pregnant women or nursing mothers who possess or consume narcotic drugs or psychotropic substances shall be referred to the competent family welfare officer with a view to his deciding upon the imposition of the following protective measures, as appropriate:

In the case of children:

1. A warning or admonition to their parents or guardians;
2. The assignment of the child's personal care or custody to the nearest relative who is in a position to provide such care or custody;
3. A foster home placement;
4. Comprehensive care at a special protection centre;
5. Initiation of adoption formalities in the case of children who are declared to be in a state of neglect;
6. Any other measures whose purpose is to ensure the child's personal care, to provide for its basic needs or to remove the threats to its health or moral welfare;
7. The family welfare officer may, in connection with any of the protective measures, additionally require that the child comply with any of the rules of conduct referred to in article 206 of the Young Persons Law;

In the case of parents or persons responsible for the child's care, pregnant women and nursing mothers:

1. Participation in a State-run or community-based family guidance programme;
2. Participation in an alcoholics' or addicts' counselling, guidance or treatment programme, as appropriate;
3. Participation in a psychological or psychiatric treatment programme;
4. Any other activity that will contribute towards guaranteeing a suitable environment for the child's development.

SPECIAL CLAUSE: For the purposes of applying the protective measures provided for in the Young Persons Law, a child shall be deemed to be in an irregular situation if its mother or father or the person responsible for its personal care is addicted to narcotic drugs or psychotropic substances.

ARTICLE 6. Children, pregnant women and nursing mothers who are addicted to narcotic drugs or psychotropic substances shall, at the initiative of the judge or family welfare officer or person responsible for their personal care, undergo rehabilitation treatment in accordance with the relevant regulatory provisions. For such purpose, the treatment provided for the rehabilitation of children shall be applicable to pregnant women and nursing mothers.

For the purposes of applying the provisions of the Young Persons Law, children, unborn children and unweaned infants shall also be deemed to be in a state of neglect or at risk if their mother or father is addicted to narcotic drugs or psychotropic substances.

ARTICLE 7. In municipalities where there is no family welfare officer, the policing functions referred to in the present chapter shall be performed by the city magistrates acting in coordination with the competent authorities and with the assistance of the district attorneys; in cases where children are to be the subject of protective procedures, they shall be referred to the competent family welfare officer.

ARTICLE 8. In the adoption of the measures referred to in the present Chapter, the family commissioners shall cooperate with the family welfare officers in matters coming within their sphere of competence.

CHAPTER III

CONCERNING THE EDUCATION LAW

ARTICLE 9. For the purposes of the pursuit of educational aims, the possession and consumption of narcotic drugs and psychotropic substances shall be prohibited at all the country's educational institutions, both State and private.

Any heads or members of the teaching or administrative staff of educational institutions who detect cases of possession or consumption of narcotic drugs or psychotropic substances shall be obliged to report such cases to the authority of the educational institution; in cases involving children, the parents and family welfare officer shall be informed of the situation and the products in question shall be confiscated.

ARTICLE 10. Student regulations or conduct manuals shall contain express mention of the prohibition referred to in the preceding article and the penalties applicable to persons in breach thereof, subject to the provisions of the General Education Law.

The punitive measures shall include, *inter alia*, admonition, suspension and exclusion from the institution, and, in the application of such measures, account shall be taken of the seriousness of the breach and the procedure laid down in the manual itself.

SPECIAL CLAUSE: Pending the establishment of the supervisory board provided for in Law No. 115 of 1994, any authority or organization that serves in place thereof at educational institutions shall within a maximum period of 30 days adopt the measures specified in the present article, adapting for such purpose the corresponding regulations.

The departments of education of the local authorities shall be responsible for advising on and monitoring compliance with the provisions of the present article.

ARTICLE 11. Any heads or members of the teaching staff of educational institutions who detect cases of possession of, traffic in, or consumption of addictive substances among their pupils shall be obliged to inform the parents and the family welfare officer so that they can adopt the corresponding protective measures. Any non-compliance with this obligation shall be penalized in the manner provided for in the Education Law or Teachers' Statute, as applicable.

ARTICLE 12. Every educational institution, whether State or private, shall include comprehensive prevention courses in its curriculum, in accordance with the provisions of article 44 of the present Decree.

For such purpose, training programmes shall be conducted at educational institutions through seminars, workshops, meetings, special events, forums and internships that will make it possible to arrange discussion, mobilization, participatory and organizational activities concerning the cultural phenomenon of drugs and to develop school- and community-based schemes and projects as alternative forms of comprehensive prevention.

ARTICLE 13. At the primary and secondary education levels and in higher and informal education programmes, training courses in comprehensive prevention shall be implemented and briefings on the risks of drug addiction shall be programmed, in accordance with the relevant guidelines laid down by the Ministry of National Education and the Colombian Institute for the Promotion of Higher Education (ICFES), in coordination with the National Narcotics Department.

The principal strategy to be adopted shall be to encourage the involvement and mobilization of the educational community.

SPECIAL CLAUSE: In addition to implementing the training and prevention mechanisms referred to in the present article, the institutes of higher education shall set up prevention discussion groups with a view to confronting the risks of drug addiction.

ARTICLE 14. The Ministry of National Education shall permanently and continually strengthen, promote and channel comprehensive prevention activities through the educational system and shall provide the human, physical and financial resources for such purposes.

ARTICLE 15. In the exercise of their powers of inspection and supervision and in conformity with the provisions of article 169 of the General Education Law, the provincial governors and city magistrates, acting in coordination with the Ministry of National Education, shall monitor compliance with the provisions of the present chapter and shall impose appropriate sanctions in accordance with the statutory regulations.

CHAPTER IV

CONCERNING THE NATIONAL POLICE LAW

ARTICLE 16. The use and consumption of narcotic drugs and psychotropic substances in public places or places accessible to the public shall be prohibited in accordance with Decree No. 1355 of 1970 establishing policing regulations and other, supplementary regulations.

For the purposes of the present article, public places or places accessible to the public shall be understood to mean, *inter alia*, educational, welfare, cultural, recreational, leisure and sports centres, places where public entertainments and performances or similar events are held, vessels, aircraft and any public conveyances, public-sector buildings, restaurants, bars, inns, discothèques, hotels, parks, public squares and highways.

SPECIAL CLAUSE: The consumption of narcotic drugs or psychotropic substances shall in any event be prohibited, irrespective of where it takes place, if such act is performed in the presence of children, pregnant women or nursing mothers or if rights of third parties are affected.

ARTICLE 17. The owners, administrators or directors of public establishments or establishments accessible to the public shall eject any person who consumes narcotic drugs or psychotropic substances in such places. If they require assistance to do so, they shall apply to the relevant police authority. In cases involving children, the competent authority shall be notified, with a view to the imposition of the measures indicated in chapter III of the present Decree.

Any non-compliance with this obligation shall give rise to the temporary closure of the establishment, in the case of private enterprises, for a period not exceeding seven (7) calendar days.

In the event of a repeated breach, the establishment's permit or licence shall be suspended for up to thirty (30) calendar days.

ARTICLE 18. The owners, managers, administrators or licensees of hotels, restaurants, clubs, bars, hospitals, clinics or other establishments accessible to the public shall be obliged to inform the competent authorities of the presence of any persons possessing or consuming narcotic drugs or psychotropic substances.

ARTICLE 19. Any person who supplies or abets or tolerates the use or consumption of, narcotic drugs or psychotropic substances at his establishment shall be punished by the suspension of the establishment's permit or licence for up to thirty (30) calendar days, without prejudice to any penal sanctions that may be applicable.

In the event of a repeated breach, the permanent closure of the establishment shall be ordered.

ARTICLE 20. The police authorities shall impose the corresponding correctional measures on any persons who in private places or on private premises hold meetings at which narcotic drugs or psychotropic substances are consumed, thereby causing a disturbance of the public peace.

ARTICLE 21. Any person who, through the effects of consuming narcotic drugs or psychotropic substances, is found to be in a highly excited state that may give rise to the commission of an offence under the provisions of the National Police Law shall be temporarily detained by the relevant police authority.

ARTICLE 22. In accordance with article 110 of the National Police Law, the advertising of narcotic drugs and psychotropic substances shall be prohibited; furthermore, under the provisions of article 302 of the Young Persons Law, the media may not transmit or issue broadcasts or publications that encourage children to use such substances or arouse their curiosity to consume such substances.

CHAPTER V

CONCERNING LAW No. 18 OF 1991

ARTICLE 23. The use of narcotic drugs and psychotropic substances the effects of which are intended artificially to improve performance, reduce stress, diminish fatigue or increase muscle power in competitors shall be prohibited in all sports activities in the country, in accordance with the stipulations of article 1 of Law No. 18 of 1991, without prejudice to any other substances or practices prohibited by law.

ARTICLE 24. Any medical practitioner who, in the country or abroad, prescribes any such substances for the purposes indicated in the preceding article may not continue to practice medicine in the national territory, in accordance with the provisions of article 1 (1) of Law No. 18 of 1991.

ARTICLE 25. Any sportsman or sportswoman who consumes narcotic drugs or psychotropic substances for the purposes described in article 23 of the present Decree shall be liable to the penalties laid down in the disciplinary rules referred to in Law No. 18 of 1991.

For disciplinary purposes, the promotion, incitement to use or utilization of narcotic drugs or psychotropic substances in the practices referred to in article 1 of the aforementioned Law and any refusal to undergo tests required by competent bodies or persons, or any omission that impedes or hampers the proper conduct of such tests, shall be regarded as serious breaches of healthy competition and sportsmanship.

ARTICLE 26. Furthermore, under the provisions of article 8 of Law No. 18 of 1991, any trainer, manager or sponsor who persuades, advises, encourages or incites a sportsman or sportswoman to consume narcotic drugs or psychotropic substances shall also be liable to the penalties provided for in the disciplinary rules laid down by that Law.

CHAPTER VI

CONCERNING THE PENITENTIARY AND PRISONS LAW

ARTICLE 27. Prisoners at any penal institution shall be prohibited from possessing and consuming narcotic drugs and psychotropic substances in accordance with the provisions of Law No. 65 of 1993 promulgating the Penitentiary and Prisons Law.

ARTICLE 28. Any prisoner at a penal institution who possesses or consumes narcotic drugs or psychotropic substances shall, subject to a preliminary medical, psychological and psychiatric assessment, undergo treatment by the medical service at his place of imprisonment, with a view to his physical and psychological rehabilitation, without prejudice to any penal or disciplinary proceedings that may be applicable.

SPECIAL CLAUSE: In accordance with article 122 of the Penitentiary and Prisons Law (Law No. 65 of 1993), the substances referred to in the present article shall be confiscated.

ARTICLE 29. Members of the custodial and supervisory staff at any penal institution shall be prohibited from introducing, possessing and consuming narcotic drugs and psychotropic substances in accordance with the provisions of article 45 (c) of Law No. 65 of 1993 promulgating the Penitentiary and Prisons Law.

Any breach of the provisions set out in the preceding paragraph shall give rise to the dismissal of the staff member, without prejudice to any penal sanctions that may be applicable.

CHAPTER VII

CONCERNING THE REGULATIONS REGARDING WEAPONS, AMMUNITION AND EXPLOSIVES

ARTICLE 30. In accordance with the provisions of articles 33 and 34 of Decree No. 2535 of 1993, licences for the possession or carrying of weapons shall not be granted to any persons who, on the basis of the results of a psycho-physical aptitude test, are found to be addicted to narcotic drugs or psychotropic substances.

ARTICLE 31. If any persons are found to be in possession of or carrying weapons, ammunition or explosives or their accessories while consuming or under the influence of narcotic drugs or psychotropic substances, the weapons, ammunition, explosives or respective accessories shall be seized by the competent authority. Such persons shall be liable to a fine of up to the amount of the statutory minimum monthly wage, without prejudice to any penal sanctions that may be applicable.

ARTICLE 32. If any person recommitts any such offence or uses weapons, ammunition, explosives or their respective accessories while under the influence of narcotic drugs or psychotropic substances, such items shall be confiscated and the licence to possess or carry them shall be permanently withdrawn, taking into account the applicable regulations contained in Decree No. 2535 of 1993.

ARTICLE 33. For the purposes provided for in the preceding articles, the regulations and procedures laid down in articles 83 to 91 of Decree No. 2535 of 1993 shall be applied.

CHAPTER VIII

CONCERNING THE NATIONAL ROAD TRAFFIC LAW

ARTICLE 34. Any person discovered in the act of driving a motor vehicle while under the influence of narcotic drugs or psychotropic substances shall be taken by the officer investigating the case to the nearest traffic office for the purpose of undergoing scientific tests to establish his condition.

ARTICLE 35. Any person who drives a motor vehicle while under the influence of narcotic drugs or psychotropic substances shall be liable to a fine equivalent to twenty (20) times the current statutory minimum monthly wage and his driving licence shall be suspended for up to one (1) year. In addition, he shall be detained for up to twenty-four (24) hours and his vehicle shall be impounded.

ARTICLE 36. In accordance with the provisions of article 19 (4) of the National Road Traffic Law, a driving licence shall not be issued or renewed in the case of persons who, on the basis of the results of a physical, mental and psycho-technical aptitude test, are found to be addicted to narcotic drugs or psychotropic substances.

ARTICLE 37. Any person who after obtaining a driving licence is found to be or becomes addicted to narcotic drugs or psychotropic substances or recommitts the offence described in article 32 of the present Decree shall have his licence permanently withdrawn.

CHAPTER IX

CONCERNING THE CODE OF SUBSTANTIVE LABOUR LAW AND THE RULES GOVERNING PUBLIC SERVANTS

ARTICLE 38. All employees shall be prohibited from arriving at their place of work under the influence of narcotic drugs or psychotropic substances, and from consuming narcotic drugs or psychotropic substances at their place of work or inciting others to do so. Any breach of this prohibition shall constitute valid grounds for the unilateral termination of their contract of employment by the employer, in accordance with the provisions of article 62 (11) of the Code of Substantive Labour Law.

ARTICLE 39. Employers shall be obliged to stipulate in the internal employment regulations referred to in articles 104 to 125 of the Code of Substantive Labour Law the prohibitions indicated in the preceding article.

Any non-compliance with this obligation shall give rise to the imposition of the penalties provided for in the said Code.

ARTICLE 40. All public servants shall be prohibited from using and consuming narcotic drugs and psychotropic substances in the performance of their duties, in accordance with the stipulations of article 8 of Decree-Law No. 2400 of 1968 and the various rules regulating the civil service.

Any breach of the aforementioned prohibition shall be punishable in accordance with the procedure laid down in the relevant disciplinary rule.

CHAPTER X

OTHER CONTROL PROVISIONS

ARTICLE 41. Any person whose occupation entails a risk to others or who has a responsibility towards third parties may not use or consume narcotic drugs or psychotropic substances during the performance of his occupation, in accordance with the stipulations contained in the regulations and laws governing the practice of the trade or profession concerned.

For the purposes of the present Decree, such occupations shall be deemed to be performed by, among others, drivers of vehicles of any kind, vessel navigators, aircraft pilots, student pilots, flying instructors, machine and equipment operators, medical officers, dental surgeons and other health practitioners, persons who handle or are in charge of combustible or inflammable materials or substances, explosives or toxic, poisonous, corrosive or radioactive substances, persons who carry or transport weapons, air traffic operators and controllers, and in general technical aircraft ground maintenance and support staff.

ARTICLE 42. Any breach of the prohibition specified in the preceding article shall give rise to the imposition of the penalties of suspension, disqualification or permanent withdrawal of the licence or permit to practise the profession, occupation or trade concerned, in accordance with the relevant administrative or penal regulations.

ARTICLE 43. In addition to the measures provided for in the present Decree, any person who surreptitiously or forcibly incites, encourages, induces or coerces another to consume narcotic drugs or psychotropic substances or supplies narcotic drugs or psychotropic substances to another shall be liable to the penalties laid down in the relevant penal regulations, in particular article 35 of Law No. 30 of 1986 1/ enacting the National Narcotic Drugs Statute and establishing other provisions.

SPECIAL CLAUSE: If the quantity of narcotic drugs or psychotropic substances exceeds that stated as the dose for personal use, or if it does not exceed that amount but in such cases the person concerned possesses it with a view to its distribution or sale, such offence shall be subject to the penal sanctions laid down in article 33 of Law No. 30 of 1986.

CHAPTER XI

COMPREHENSIVE PREVENTION

ARTICLE 44. Comprehensive prevention is a process of human and social promotion and development pursued through the formulation and implementation of a series of policies and strategies aimed at preventing, forestalling and counteracting the causes and consequences of the drug problem.

The individual, his family, the community, society and the State shall all contribute to this comprehensive prevention effort in the performance of the obligations devolving upon them.

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ARTICLE 45. Under the terms of article 5 of Decree No. 2159 of 1992 and for the purpose of executing a policy for the comprehensive prevention of the consumption of narcotic drugs and psychotropic substances, the National Narcotics Department shall carry out the following measures:

1. Establishment and evaluation of the characteristics and magnitude of the problem in all its dimensions and manifestations;
2. Coordination of the formulation of programmes and projects for the implementation of comprehensive prevention activities on a local, regional or national scale, according to the nature of the problem;
3. Establishment of a network linking governmental and non-governmental institutions working in the area of comprehensive prevention, with a view to coordinating the different services that have been assigned to them;
4. Setting up of an ongoing training programme with the aim of increasing the number of persons involved in promoting comprehensive prevention;
5. Creation of communications systems, at the local, regional and national levels, to support the information-dissemination, educational and mobilization activities connected with the prevention programmes and projects.

ARTICLE 46. Under the terms of article 10 of Law No. 30 of 1986, radio stations and television stations operating in the country shall broadcast campaigns aimed at combating trafficking in and consumption of dependence-producing drugs for the duration and at the intervals determined by the National Narcotics Control Board in accordance with regulations to be issued by that body within a maximum period of 30 days following the promulgation of the present Decree. The Ministry of Communications shall continue to promote and develop the communications strategy with a view to overcoming the drug problem.

ARTICLE 47. The health sector, through the Ministry of Health, the regional health departments and local health services, shall undertake rehabilitation campaigns and programmes in accordance with the principles of contributory effort and subsidiarity at the respective levels of care.

CHAPTER XII

CONCERNING THE PUBLIC HEALTH LAW

ARTICLE 48. In accordance with the provisions of chapters II and IX of the present Decree and the terms of Law No. 9 of 1979 relating to occupational health and preventive medicine, for the purposes of preserving, maintaining and improving the health of public-sector and private-sector workers and of the population in general, employees and employers shall be obliged to:

1. Adopt ongoing programmes for the comprehensive prevention of the consumption of narcotic drugs and psychotropic substances;
2. Enforce the comprehensive prevention and protective measures referred to in the preceding subparagraph;

3. Grant the competent authorities every facility required to carry out any inspections and investigations that may be necessary.

Any non-compliance with the obligations set forth in the present article shall give rise to the imposition of the administrative or penal sanctions applicable in accordance with the provisions of article 577 of the Public Health Law.

ARTICLE 49. The present Decree shall enter into force on the date of its promulgation.

TO BE PUBLISHED AND IMPLEMENTED

Bogotá, 31 May 1994

(Signed)

FABIO VILLEGAS RAMIREZ
Minister of the Interior

(Signed)

ANDRES GONZALEZ DIAZ
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