

LAW NO. 11.343, OF 23 AUGUST 2006 CREATING THE NATIONAL SYSTEM FOR PUBLIC POLICIES ON DRUGS

THE PRESIDENT OF THE REPUBLIC Know All Men That the National Congress decrees and I sanction the following Law:

TITLE I

PRELIMINARY PROVISIONS

Art. 1 This Law creates the National System for Public Policies on Drugs - Sisnad; sets forth measures for the prevention of drug abuse, treatment and social reintegration of drug users and addicts; establishes norms to control the unauthorized production and illegal trafficking of drugs and defines crimes.

Sole paragraph. For the purpose of this Law, drugs are considered the substances or products capable of causing dependence, as specified by law or included on lists periodically updated by the Federal Executive Power.

Art. 2 Drugs, as well as the planting, cultivation, harvesting and exploitation of plants and byproducts from which drugs may be extracted or produced, are prohibited throughout the national territory, with the exception cases of legal or regulatory authorization, as well as what is set forth in the 1971 United Nations Vienna Convention on Psychotropic Substances, with respect to plants for strictly ritualistic-religious use.

Sole paragraph. The Federal Government may authorize the planting, cultivation and harvesting of the plants mentioned in the caput of this article, solely for medicinal or scientific purposes, in a predetermined location and period, with supervision, respecting the aforementioned exceptions.

TITLE II

THE NATIONAL SYSTEM FOR PUBLIC POLICIES ON DRUGS

Art. 3 The purpose of Sisnad is to promote, integrate, organize and coordinate activities related to:

- I - preventing of drug abuse, treatment and social reintegration of drug users and addicts;
- II - controlling unauthorized production and illegal trafficking of drugs.

CHAPTER I

PRINCIPLES AND OBJECTIVES

OF THE NATIONAL SYSTEM FOR PUBLIC POLICIES ON DRUGS

Art. 4 The principles of Sisnad are as follows:

- I – respect for basic human rights, especially with respect to the independence and freedom thereof;
- II – respect for diversity and specific qualities of the population;
- III - promotion of ethical, cultural and citizenship values of the Brazilian people, recognizing them as factors of protection against drug abuse and other related behavior;
- IV - promotion of national consensus, of full social participation, in order to establish the foundations and strategies of Sisnad;
- V – promotion of shared responsibility between the State and Society, recognizing the importance of social participation in Sisnad activities;
- VI - recognition of “intersectorality” of the factors related to drug abuse, the unauthorized production and the illegal trafficking thereof;

VII – integration of the national and international strategies for the prevention of drug abuse, treatment and social reintegration of drug users and addicts and to control the unauthorized production and illegal trafficking thereof;

VIII – definition with the bodies of the Federal Prosecutor’s Office and of the Legislative and Judiciary Powers aiming for mutual cooperation in Sisnad activities;

IX - adoption of a multidisciplinary approach that recognizes the interdependence and the supplemental nature of the activities related to drug abuse prevention, treatment and social reintegration of drug users and addicts, controlling the unauthorized production and the illegal trafficking of drugs;

X - observance of the balance between the activities related to drug abuse prevention, treatment and social reintegration of drug users and addicts and of controlling the unauthorized and illegal trafficking thereof, in order to guarantee stability and social well-being;

XI - observance of the guidelines and norms issued by the National Anti-Drug Council (Conselho Nacional Antidrogas) - “Conad”.

Art. 5 The objectives of Sisnad are as follows:

I – to contribute to the social integration of citizens in order to make them less vulnerable to behavior that puts them at risk of drug abuse, illegal drug trafficking and other related behavior;

II – to promote the creation and socialization of drug awareness in the country;

III – to promote integration between the policies for drug abuse, treatment and social reintegration of drug users and addicts and controlling unauthorized production and illegal trafficking thereof and the sectoral public policies of the bodies of the Federal Executive Power, Federal District, States and Cities;

IV – to ensure the conditions to coordinate, integrate and define the activities mentioned in art. 3 of this Law.

CHAPTER II

COMPOSITION AND ORGANIZATION

OF THE NATIONAL SYSTEM FOR PUBLIC POLICIES ON DRUGS

Art. 6 (VETOED)

Art. 7 The organization of Sisnad ensures central guidelines and decentralization of the activities conducted in its scope, at the federal, district, state and city levels and is a matter defined in the regulations of this Law.

Art. 8 (VETOED)

CHAPTER III

(VETOED)

Art. 9 (VETOED)

Art. 10. (VETOED)

Art. 11. (VETOED)

Art. 12. (VETOED)

Art. 13. (VETOED)

Art. 14. (VETOED)

CHAPTER IV

THE COLLECTION, ANALYSIS AND DISSEMINATION OF INFORMATION ON DRUGS

Art. 15. (VETOED)

Art. 16. The institutions operating in the area of healthcare and social services that help drug users and addicts must keep the competent body of the respective municipal healthcare system informed of the cases treated and deaths that have occurred, while protecting the identity of the people, according to guidelines issued by the Federal Government.

Art. 17. National statistical data on the control of illegal drug trafficking shall be included in the information system of the Executive Power.

TITLE III

ACTIVITIES RELATED TO DRUG ABUSE PREVENTION, TREATMENT AND SOCIAL REINTEGRATION OF DRUG USERS AND ADDICTS

CHAPTER I

PREVENTION

Art. 18. For the purpose of this Law, activities to prevent drug abuse are those intended to reduce the factors of vulnerability and risk and to promote and strengthen the factors of protection.

Art. 19. The activities to prevent drug abuse should observe the following principles and guidelines:

I – recognition of drug abuse as a factor that interferes with the quality of life of the individual and in his/her relationship with the community to which the same belongs;

II – adoption of objective concepts and scientifically based information as a form of directing the actions of the public community and private services and avoiding preconceptions and stigmatization of the people and of the services that help them;

III - strengthening of independence and individual responsibility in relation to drug abuse;

IV – sharing of responsibilities and mutual cooperation with the institutions of the private sector and with the different social groups, including drug users and addicts and their respective family members, by establishing partnerships;

V – adoption of different preventive strategies and strategies adapted to the specific socio-cultural characteristics of the different populations, as well as of the different drugs used;

VI - recognition of the “non-use”, “delayed use” and minimization of risks as desirable results of the preventive activities, when defining the goals to be achieved;

VII - special assistance for the most vulnerable groups of the population, taking their specific needs into consideration;

VIII - communication between the services and organization that conduct drug abuse prevention activities and the assistance network for drug users and addicts and their respective family members;

IX - investment in sporting, cultural, artistic, professional and other alternatives as a form of social inclusion and improvement of the quality of life;

X - establishment of policies on continued education in the area of drug abuse prevention for education professionals at the three (3) educational levels;

XI - implementation of drug abuse prevention education projects in the public and private teaching institutions, aligned with the National Curricular Standards and knowledge related to drugs;

XII - observance of the guidelines and norms issued by Conad;

XIII - alignment with the guidelines of the social regulatory bodies for specific sectoral policies.

Sole paragraph. The drug abuse prevention activities for children and adolescents must be in conformity with the guidelines issued by the National Council for the Rights of Children and Adolescents (Conselho Nacional dos Direitos da Criança e do Adolescente) - “Conanda”.

CHAPTER II

ACTIVITIES CONCERNING TREATMENT AND SOCIAL REINTEGRATION OF DRUG USERS AND ADDICTS

Art. 20. For the purpose of this Law, activities to assist drug users and addicts and their respective family members are those that aim to improve quality of life and reduce the risks and damages associated with drug use.

Art. 21. For the purpose of this Law, activities for the social reintegration of drug users and addicts and their respective family members are those oriented toward integration or reintegration thereof into social networks.

Art. 22. Treatment activities and those of social reintegration of the drug user and addict and their respective family members should observe the following principles and guidelines:

I - respect for the drug user and addict irrespective of any conditions, respecting the basic human rights, the principles and guidelines of the National Health care System and National Social Assistance Policy;

II - adoption of different strategies for treatment and social reintegration of the drug user and addict and their respective family members that consider their specific socio-cultural characteristics;

III - definition of an individualized treatment project dedicated to social inclusion and minimization of social and health-related risks and damages;

IV - multidisciplinary treatment for drug uses and addicts and their respective family members by multiprofessional teams, whenever possible;

V - observance of the guidelines and norms issued by Conad;

VI - alignment with the guidelines of the social regulatory bodies for specific sectoral policies.

Art. 23. The Union, State, Federal District [and] Municipal healthcare service networks shall develop programs to assist drug users and addicts, respecting with guidelines of the Ministry of Health and the principles set forth in art. 22 of this Law, with a mandatory adequate budget estimate.

Art. 24. The Union, States, Federal District and Cities must offer benefits to the private institutions that develop programs to put drug users and addicts referred by an official body back into the job market.

Art. 25. Civil nonprofit institutions working in healthcare and social assistance that help drug users and addicts may receive funds from Funad, contingent upon its budget and financial availability.

Art. 26. The drug user and addict who are incarcerated for a criminal violation or submitted to a security measure are guaranteed the healthcare services defined by the respective penitentiary system.

CHAPTER III

CRIMES AND PENALTIES

Art. 27. The penalties set forth in this Chapter may be applied individually or cumulatively, as well as substituted at any time, after hearing the Federal Prosecutor's Office and defense attorney.

Art. 28. The person who buys, holds, stores, transports or carries drugs for personal consumption, without authorization or in violation of laws or regulations shall be subject to the following penalties:

I - warning on the effects of drugs;

II - community service;

III - educational measure of participating in an educational program or course.

Paragraph 1 The person who plants, cultivates or harvests plants used to prepare a small quantity of a substance or product capable of causing physical or chemical dependence, for personal consumption, is subject to the same measures.

Paragraph 2 In order to determine whether or not the drug is intended for personal use, the judge must consider the nature and quantity of the substance seized, the location and conditions under which the action took place, the social and personal circumstances, as well as the conduct and criminal history of the offender.

Paragraph 3 The penalties set forth in subarticles II and III of the caput of this article shall be applied for the maximum period of five (5) months.

Paragraph 4 For repeated offenses, the penalties set forth in subarticles II and III of the caput of this article shall be applied for the maximum period of ten (10) months.

Paragraph 5 Community service shall be performed in community programs, entities that provide education or assistance, hospitals, similar public or private nonprofit establishments, preferably dedicated to preventing drug use or to the recovery of drug users and addicts.

Paragraph 6 To guarantee the fulfillment of the educational measures mentioned in the caput, in subarticles I, II and III, which the offender unjustifiably refuses, the judge may subject the offender, successively, to:

I - verbal admonishment;

II - fine.

Paragraph 7 The judge may ask the Public Power to make a health care establishment available to the offender, free of charge, preferably outpatient, for specialized treatment.

Art. 29. Upon imposition of the educational measure mentioned in subarticle II of paragraph 6 of art. 28, the judge, considering the culpability of the conduct, will determine the number of fine days, never less than forty (40) or higher than one hundred (100), attributing to each, according to the economic capacity of the offender, the value of one-thirtieth to three (3) times the value of the highest minimum wage.

Sole paragraph. The values resulting from the imposition of the fine set forth in paragraph 6 of art. 28 shall be credited to the National Anti-Drug Fund.

Art. 30. The statute of limitations for imposition and execution of the penalties is two (2) years, pursuant, with respect to interruption of the period, to arts. 107 et seq. of the Criminal Code.

TITLE IV

CONTROL OF THE UNAUTHORIZED PRODUCTION AND ILLEGAL TRAFFICKING OF DRUGS

CHAPTER I

GENERAL PROVISIONS

Art. 31. Prior issuance of a license, by the competent health authority, is essential to produce, extract, manufacture, transform, prepare, possess, store, import, export, re-export, ship, transport, exhibit, offer, sell, purchase, trade, assign or buy, for any purpose, drugs or raw material earmarked for preparation thereof, with observance of the other legal requirements.

Art. 32. Illegal crops shall be immediately destroyed by the law enforcement authorities, who will collect enough for expert examination, making a report of the conditions found, giving an outline of the location, ensuring the measures necessary to preserve the proof.

Paragraph 1 The drugs shall be destroyed by fire, within a maximum period of thirty (30) days, keeping samples necessary to preserve the proof.

Paragraph 2 The incineration set forth in paragraph 1 of this article shall be preceded by judicial authorization, after having heard the Federal Prosecutor's Office, and executed by the competent law enforcement authority, in the presence of a representative of the Federal Prosecutor's Office and of the competent health authority, by means of a detailed report and after an expert evaluation of the location to be incinerated.

Paragraph 3 If a crop is to be burned, there must be observance of, in addition to the precautions necessary to protect the environment, Decree no. 2.661, of July 8, 1998, to the extent applicable, without the need for prior authorization from the National Environmental System (Sistema Nacional do Meio Ambiente) - "Sisnama".

Paragraph 4 The land on which the crops are cultivated will be expropriated, pursuant to art. 243 of the Federal Constitution, in accordance with the legislation in force.

CHAPTER II CRIMES

Art. 33. Import, export, shipping, preparation, production, manufacture, purchase, sale, placement for sale, offering, storage, transport, carrying, keeping, prescription, administration, distribution for consumption or supplying of drugs, even without charge, without authorization or in violation of laws or regulations:

Penalty - imprisonment for five (5) to fifteen (15) years and payment of five hundred (500) to one thousand, five hundred (1,500) fine days.

Paragraph 1 The same penalties shall apply to the person who:

I - imports, exports, ships, produces, manufactures, buys, sells, places for sale, offers, supplies, keeps, transports, carries or holds, even without charge, without authorization or in violation of laws or regulations, raw material, input or a chemical product intended for the preparation of drugs;

II - plants, cultivates or harvests, without authorization or in violation of laws or regulations, plants that constitute raw material for the preparation of drugs;

III - uses a location or asset of any nature, of which he has ownership, possession, which he manages, protects or monitors, or consent for another person to use, even without charge, without authorization or in violation of laws or regulations, for illegal drug trafficking.

Paragraph 2 Inducing, instigating or helping someone abuse drugs:

Penalty - detention, for one (1) to three (3) years, and a fine of one hundred (100) to three hundred (300) fine days.

Paragraph 3 Offering drugs, casually and without the purpose of making a profit, to a person with which the same has a relationship, for use together:

Penalty - detention, for six (6) months to one (1) year, and payment of seven hundred (700) to one thousand, five hundred (1,500) fine days, without prejudice to the penalties set forth in art. 28.

Paragraph 4 For the offenses defined in the caput and in paragraph 1 of this article, the penalties may be reduced to one-sixth to two-thirds and may not be converted into penalties that restrict rights, as long as the person is a first-time offender, has a good criminal history, is not involved in criminal activities and is not part of a criminal organization.

Art. 34. Manufacture, purchase, use, transport, offering, sale, distribution, delivery for any reason, possession, holding or supplying, even without charge, of a machine, device, instrument or other object intended for the manufacture, preparation, production or transformation of drugs, without authorization or in violation of laws or regulations:
Penalty - imprisonment, for three (3) to ten (10) years, and payment of one thousand, two hundred (1,200) to two thousand (2,000) fine days.

Art. 35. Two or more people come together for the purpose of committing, repeatedly or not, any of the crimes set forth in arts. 33, caput and paragraph 1, and 34 of this Law:
Penalty - imprisonment, for three (3) to ten (10) years, and payment of seven hundred (700) to one thousand, two hundred (1,200) fine days.

Sole paragraph. The same penalties of the caput of this article shall apply to the person who associates himself with others to repeatedly commit the crime defined in art. 36 of this Law.

Art. 36. Financing or backing of any of the crimes set forth in arts. 33, caput and paragraph 1, and 34 of this Law:
Penalty - imprisonment, for eight (8) to twenty (20) years, and payment of one thousand, five hundred (1,500) to four thousand (4,000) fine days.

Art. 37. Cooperation, as an informant, with a group, organization or association committed to committing any of the crimes set forth in arts. 33, caput and paragraph 1, and 34 of this Law:
Penalty - imprisonment, for two (2) to six (6) years, and payment of three hundred (300) to seven hundred (700) fine days.

Art. 38. Intentional prescription or administration of unnecessary drugs to a patient, or doing so in excessive doses or in violation of laws or regulations:
Penalty - detention, for six (6) months to two (2) years, and payment of fifty (50) to two hundred (200) fine days.

Sole paragraph. The judge shall communicate the sentence to the Federal Council of the professional class to which the offender belongs.

Art. 39. Piloting a vessel or aircraft after using drugs, putting the safety of others at risk:
Penalty - detention, for six (6) months to three (3) years, in addition to seizure of the vehicle, revocation of the respective license or prohibition from obtaining the same, for the same period incarceration applied, and payment of two hundred (200) to four hundred (400) fine days.

Sole paragraph. The penalties of imprisonment and fine, applied cumulatively with the others, shall be of four (4) to six (6) years and of four hundred (400) to six hundred (600) fine days, if the vehicle mentioned in the caput of this article is for collective passenger transport.

Art. 40. The penalties set forth in arts. 33 to 37 of this Law are increased from one-sixth to two-thirds, if:

I - the nature, origin of the substance or of the product and the circumstances of the event prove the transnationality of the offense;

II - the offender commits the crime taking advantage of a public position or during an educational mission, family power, custody or surveillance;

III - the crime was committed in or in the immediate vicinity of prisons, teaching establishments or hospitals, headquarters of student, social, cultural, recreational, sport or assistance entities, of collective work locations, places where shows or entertainment of any nature take place, where services for treatment of drug addicts or of social integration are offered, military or police units or in places of public transport;

IV - the crime was committed with violence, grave threat, use of a firearm, or any other process of individual or collective intimidation;

V - trafficking between the States of the Federation or between them and the Federal District is characterized;

VI - the crime committed involves or is intended to affect a child or adolescent or a person with, for any reason, a diminished or impaired capacity for understanding and decision-making;

VII - the offender finances or backs the crime.

Art. 41. The charged or accused who cooperates with the police investigation and criminal process in the identification of the other co-offenders or participants of the crime and in the total or partial recovery of the product of the crime, in the event of a conviction, shall have his penalty reduced from one-third to two-thirds.

Art. 42. When defining the penalties, the judge, based on art. 59 of the Criminal Code, shall consider the nature and quantity of the substance or of the product the personality and the social conduct of the offender.

Art. 43. When defining the fine set forth in arts. 33 to 39 of this Law, the judge, pursuant to art. 42 of this Law, shall determine the number of fine days, attributing to each, according to the financial condition of the accused, a value no lower than one-thirtieth and no higher than five (5) times the highest minimum wage.

Sole paragraph. The fines, which in a cumulation of offenses will always be imposed cumulatively, may be increased up to tenfold if, by virtue of the financial situation of the accused, the judge considers them ineffective, even if applied to the maximum.

Art. 44. The crimes set forth in arts. 33, caput and paragraph 1, and 34 to 37 of this Law are non-bailable and are not eligible for probation, pardon, exemption, amnesty and release on own recognizance, and conversion of their penalties into restricted rights is prohibited.

Sole paragraph. The crimes set forth in the caput of this article are eligible for parole after two-thirds of the penalty is served, which cannot be granted to a repeat offender.

Art. 45. The offender who, because of addiction to or under the influence of drugs, as a result of an act of God or force majeure, was, at the time of the action or nonfeasance, whatever the criminal violation, fully incapable of understanding the illegal nature or making a decision based on said understanding, shall not be penalized.

Sole paragraph. Upon acquitting the offender, recognizing, by force of an expert report, that the same presented, at the time of the fact set forth in this article, the

conditions referenced in the caput of this article, the judge may order, in the sentence, that the same receive the appropriate medical treatment.

Art. 46. The penalties may be reduced from one-third to two-thirds if, under the circumstances provided in art. 45 of this Law, the offender did not have, at the time of the action or nonfeasance, the full capacity to understand the illegal nature of the fact or to make a decision based on said understanding.

Art. 47. Upon sentencing, the judge, based on an evaluation attesting to the need to send the offender for treatment, conducted by a healthcare professional with specific jurisdiction as set forth by law, shall order that said treatment occur, pursuant to art. 26 of this Law.

CHAPTER III

PENAL PROCEDURE

Art. 48. The procedure related to the cases for crimes defined in this Title is regulated by this Chapter, with secondary application of the Code of Criminal Procedure and Penal Execution Law.

Paragraph 1 The person who commits any of the acts set forth in art. 28 of this Law, unless there is a cumulation of the offenses set forth in arts. 33 to 37 of this Law, shall be processed and tried as set forth in arts. 60 et seq. of Law no. 9.099, September 26, 1995, which regulates the Special Criminal Courts.

Paragraph 2 With respect to the conduct set forth in art. 28 of this Law, arrest in flagrant delicto shall be ordered, thus the author of the crime must immediately appear in court or otherwise assume the commitment to appear, drawing up a detailed report and arranging for the requests for the necessary exams and expert reports.

Paragraph 3 In the absence of the judicial authority, the measures set forth in paragraph 2 of this article shall be taken immediately by the law enforcement authority, wherever the offender is found, and detention of the offender is prohibited.

Paragraph 4 After the procedures mentioned in paragraph 2 of this article, the offender shall be submitted to examination of corpus delicti, if he so requests or if the law enforcement authority deems appropriate, and then released.

Paragraph 5 For the purpose of art. 76 of Law no. 9.099, of 1995, which regulates the Special Criminal Courts, the Federal Prosecutor's Office may motion for the immediate application of a penalty set forth in art. 28 of this Law, to be specified in the motion.

Art. 49. With respect to the conduct listed in arts. 33, caput and paragraph 1, and 34 to 37 of this Law, the judge, when the circumstances so require, shall use the instruments to protect those who cooperate and witnesses set forth in Law no. 9.807, of July 13, 1999.

Section I

Investigation

Art. 50. In the event of an arrest in flagrant delicto, the law enforcement authority shall immediately notify the competent judge, sending him a copy of the report, which will be shown to the Federal Prosecutor's Office within twenty-four (24) hours.

Paragraph 1 For the purpose of drawing up the report on the arrest in flagrant delicto and establishing the materiality of the crime, a report on the nature and quantity of the drug, signed by an official expert, or in the absence thereof, a reliable person, is sufficient.

Paragraph 2 The investigator who signs the report mentioned in paragraph 1 of this article will not be prevented from participating in the preparation of the final report.

Art. 51. The police investigation shall be concluded within a period of thirty (30) days if the accused is in prison and ninety (90) days if the accused is free.

Sole paragraph. The periods set forth in this article may be doubled by the judge after hearing the Federal Prosecutor's Office, by means of a justified petition by the law enforcement authority.

Art. 52. After the periods mentioned in art. 51 of this Law, the law enforcement authority, sending the records of the investigation to the judge:

I – shall briefly explain the circumstances of the crime, justifying the reasons that caused them to classify the offense, indicating the quantity and nature of the substance or of the product seized, the location and the conditions under which the criminal action took place, the circumstances of the arrest, the conduct, competence and criminal history of the offender; or

II – shall request that the same be returned in order for the necessary actions to be taken.

Sole paragraph. The records shall be sent without prejudice to the additional investigations:

I – necessary or useful to fully explain the crime, the result of which must be sent to the competent judge no more than three (3) days before the trial;

II – necessary and useful to specify the assets, rights and values had by the offender, or that are in the name of the same, the result of which must be sent to the competent judge no more than three (3) days before the trial.

Art. 53. In any phase of the accusatory procedure related to the crimes set forth in Law, by means of judicial authorization and after having heard the Federal Prosecutor's Office, in addition to the investigation procedures set forth by law, the following procedures are also permitted:

I – the infiltration by offenders of police, in investigative duties, constituted by the pertinent specialized bodies;

II – no police action taken against people in the Brazilian territory holding drugs, their chemical precursors or other products used to produce them, in order to identify and charge more members of trafficking and distribution operations, without prejudice to the applicable penal action.

Sole paragraph. In the case of subarticle II of this article, the authorization shall be granted as long as the likely itinerary and identification of the authors of the crime or of participants are known.

Section II

Criminal Instruction

Art. 54. After the court receives the records of the police report from the Parliamentary Investigation Committee or pieces of information, they shall be shown to the Federal Prosecutor's Office for the same to, within a period of ten (10) days, take one of the following measures:

I – request a dismissal;

II – request the necessary actions;

III – outline the charges, list up to five (5) witnesses and request other applicable proof.

Art. 55. After the charges are filed, the judge shall order service on the accused to offer a prior written defense within a period of ten (10) days.

Paragraph 1 In the response, containing the defense and exceptions, the accused may make preliminary arguments and arguments for the defense, offer documents and justifications, specify the proof he intends to produce and list up to five (5) witnesses.

Paragraph 2 The exceptions shall be processed separately, pursuant to arts. 95 to 113 of Executive Decree no. 3.689, of October 3, 1941 – Code of Criminal Procedure.

Paragraph 3 If the response is not presented in time, the judge shall appoint a defense attorney to offer within ten (10) days, showing him the briefs upon appointment.

Paragraph 4 After the defense is presented, the judge shall make a decision within five (5) days.

Paragraph 5 If deemed necessary, the judge shall, within a maximum period of ten (10) days, order the prisoner appear, conduct investigations, tests and expert examinations.

Art. 56. After receiving the charges, the judge shall set the day and time of the hearing, order service of summons on the accused, notification to the Federal Prosecutor's Office, of the assistant, depending on the case, and shall request expert reports.

Paragraph 1 With respect to the conduct listed as an infraction of arts. 33, caput and paragraph 1, and 34 to 37 of this Law, the judge, upon receiving the charges, may decree preventive severance of the accused from his activities, if he is a public employee, notifying the respective body.

Paragraph 2 The hearing referenced in the caput of this article shall take place within the thirty (30) days following receipt of the charges, unless an evaluation for drug addiction is ordered, then it shall take place in ninety (90) days.

Art. 57. In the hearing, after the accused and witnesses are questioned, the representative of the Federal Prosecutor's Office and the defense attorney, successively, will be allowed to make their closing arguments for twenty (20) minutes each, which may be extended for an additional ten (10), at the discretion of the judge.

Sole paragraph. After proceeding to the questioning, the judge shall ask the parties if any fact remains to be clarified, asking the corresponding questions if deemed pertinent and relevant.

Art. 58. After the arguments, the judge shall render his decision immediately or in ten (10) days, ordering the case therefore adjourned.

Paragraph 1 Upon rendering his decision, the judge, if there is no dispute, in the course of the case, on the nature or quantity of the substance or of the product, or on the regularity of the respective report, shall order that the process proceed as set forth in art. 32, paragraph 1, of this Law, preserving, for any counterevidence, the fraction set.

Paragraph 2 The judge may adopt the same procedure, in a well-founded decision and, after hearing the Federal Prosecutor's Office, when the quantity or value of the substance or of the product so indicates, preceded by the preparation and entry into record of the toxicology report.

Art. 59. In the crimes set forth in arts. 33, caput and paragraph 1, and 34 to 37 of this Law, the defendant may not appeal without surrendering himself to prison, unless he is a first-time offender with a good criminal history, so recognized in the sentence.

CHAPTER IV

SEIZURE, COLLECTION AND DESTINATION OF THE ASSETS OF THE ACCUSED

Art. 60. The judge, by own motion, at the request of the Federal Prosecutor's Office or by means of representation of the law enforcement authority, after hearing the Federal

Prosecutor's Office, having sufficient proof, may order, during the course of the investigation or penal action, the seizure and other preventive measures with respect to the goods and real estate or values considered products of the crimes set forth in this Law, or that constitute benefits gained from the perpetration thereof, proceeding pursuant to arts. 125 to 144 of Executive Decree no. 3.689, of October 3, 1941 – Code of Criminal Procedure.

Paragraph 1 If any of the measures set forth in this article are decreed, the judge shall give the accused the chance, within five (5) days, to present or request the production of proof of the illegal origin of the product, asset or value subject to the decision.

Paragraph 2 After the illegal origin of the product, asset or value is proven, the judge shall decide whether or not to release it.

Paragraph 3 No request for restitution will be considered without the personal appearance of the accused. The judge may order the actions necessary to preserve the assets, rights or values.

Paragraph 4 The writ of search and seizure of assets, rights or value may be suspended by the judge after hearing the Federal Prosecutor's Office, when the immediate execution thereof may compromise the investigations.

Art. 61. Where producing evidence of the facts is not compromised and public or social interest is proven, with emphasis on art. 62 of this Law, by means of authorization by the competent judge, after hearing the Federal Prosecutor's Office and notification of Senat, the assets seized may be used by the bodies or entities that work to prevent drug abuse, in treatment and social reintegration of drug users and addicts and to control unauthorized production and illegal trafficking of drugs, exclusively in the interest of said activities.

Sole paragraph. When the authorization concerns vehicles, vessels or aircrafts, the judge shall order the transit authority or equivalent body to register and control the issuance of a temporary registration and license in favor of the institution granted use of the same, which shall not be responsible for paying prior fines, fees and taxes, until the final rendering of the decision ordering the loss thereof to the Union.

Art. 62. The vehicles, vessels, aircrafts and any other means of transport, the machinery, fixtures, instruments and object of any nature, use to commit the crimes defined in this Law, after legal seizure, shall remain the custody of the law enforcement authority, with the exception of weapons, which shall be collected pursuant to specific legislation.

Paragraph 1 When public interest is proven with respect to the use of any of the assets mentioned in this article, the law enforcement authority may use them, under its responsibility and with the objective of the preservation thereof, by means of judicial authorization, after hearing the Federal Prosecutor's Office.

Paragraph 2 After the seizure mentioned in the caput of this article takes place, and said seizure concerns cash or checks issued as payment order, the law enforcement authority in charge of the investigation must immediately ask the competent judge to order the notification of the Federal Prosecutor's Office.

Paragraph 3 When notified, the Federal Prosecutor's Office must ask the judge for a provisional remedy to convert the cash seized into legal tender, depending on the case, compensation of the checks issued after the investigation began, with certified copies of the respective notes, and deposit the corresponding sums in a judicial account, entering the receipt into record.

Paragraph 4 After the appropriate penal action is filed, the Federal Prosecutor's Office, by means of a separate petition, shall ask the competent judge for a provisional remedy to proceed with the disposition of the assets seized, except for those the Union, through Senad, indicates to be used or put in the custody of the law enforcement authority, intelligence bodies or military bodies involved in drug abuse prevention and operations to control unauthorized production and illegal trafficking of drugs, exclusively in the interest of said activities.

Paragraph 5 Excluding the assets indicated for the purposes of Paragraph 4 of this article, the petition for disposition must contain a list of all the assets seized, with a description and specification of each asset and information on who has custody and the location thereof.

Paragraph 6 After disposition of the assets is requested, the respective petition shall be considered separately, which records will be handled independently in relation to those of the main penal action.

Paragraph 7 After the petition for disposition is Considered, the concluded records shall go to the judge who, after verifying the instrumentality between the offense and the objects used to commit said offense and risk of loss of economic value over time, shall order the assessment of the assets listed, inform Senad and notify the Union, the Federal Prosecutor's Office and the interested party, the later, if necessary, by published notice within a period of five (5) days.

Paragraph 8 After the assessment and resolution of any discrepancies related to the respective report, the judge, by sentence, shall homologate the value attributed to the assets and shall order them sold at auction.

Paragraph 9 The amount verified after the auction shall remain in a judicial account until the end of the respective penal action, at which time it will be transferred to Funad, along with the values mentioned in paragraph 3 of this article.

Paragraph 10. The appeals filed against the decisions rendered during the course of the procedure set forth in this article shall only have a remanding effect.

Paragraph 11. With respect to the assets indicated as set forth in paragraph 4 of this article, when the authorization concerns vehicles, vessels or aircrafts, the judge shall order the transit authority or equivalent body to register and control the issuance of the temporary registration and license in favor of the law enforcement authority or body granted use of the same, which shall not be responsible for paying prior fines, fees and taxes, until the final rendering of the decision ordering the loss thereof to the Union.

Art. 63. After rendering the judgment on merits, the judge shall decide on the loss of the product, asset or value seized or declared unavailable.

Paragraph 1 The values seized as a result of the crimes listed in this Law and that were not subject to provisional remedy, after the order that they be lost to the Union, shall be reverted directly to Funad.

Paragraph 2 Senad is responsible for disposing of the assets seized and not auctioned as a preventive action, which were already lost to the Union.

Paragraph 3 Senad may sign collaboration agreements in order to immediately comply with paragraph 2 of this article.

Paragraph 4 After the final sentence, the judge of the case, by own motion, or at the request of the Federal Prosecutor's Office, shall send Senad a list of the assets, rights and values declared lost to the Union, indicating where the assets are located and the entity or

body in possession thereof, so that they may be earmarked pursuant to legislation in force.

Art. 64. The Union, by means of Senad, may sign an agreement with the States, with the Federal District and with organizations dedicated to drug abuse prevention, the treatment and social reintegration of users and addicts and working to control unauthorized production and the illegal of drugs, in order to free up the equipment and funds collected thereby in order to implement and execute the drug-related programs.

TITLE V

INTERNATIONAL COOPERATION

Art. 65. In conformity with the principles of non-intervention in national affairs, of legal equality and respect for the territorial integrity of the States and the national laws and regulations in force, and in following with the spirit of the United Nations Treaties and other drug-related international legal documents to which Brazil is party, the Brazilian government shall cooperated, whenever requested, with other countries and international organization and, when necessary, ask them for cooperation in the areas of:

I - exchange of information concerning legislations, experiences, projects and programs dedicated to the activities of drug abuse prevention, treatment and social reintegration of drug users and addicts;

II - exchange of police intelligence on the production and trafficking of drugs and connected crimes, especially weapons trafficking, money laundering and deviation of chemical precursors;

III - exchange of police and judicial information on manufacturers and traffickers of drugs and their chemical precursors.

TITLE VI

FINAL AND TEMPORARY PROVISIONS

Art. 66. For the purpose of the sole paragraph of art. 1 of this Law, until the terminology of the list mentioned in the rule, drugs are called narcotic, psychotropic, precursor and other substances under special control, of SVS/MS [Health Surveillance Department of the Ministry of Health] Directive no. 344, dated May 12, 1998.

Art. 67. The liberation of funds set forth in Law no. 7.560, of December 19, 1986, in favor of the States and the Federal District, shall depend on their compliance with and respect for the basic guidelines contained in the agreements signed and on the provision of data necessary to update the system set forth in art. 17 of this Law, by respective law enforcement.

Art. 68. The Union, States, Federal District and Cities may create tax incentives and other for individuals and legal entities that collaborate in drug abuse prevention, treatment and social reintegration of drug users and addicts and in controlling unauthorized production and illegal trafficking of drugs.

Art. 69. In the event of bankruptcy or extra-judicial liquidation of companies or hospital, research, teaching or similar establishments, as well as healthcare services that produce, sell, purchase, consume, prescribe or supply drugs or any other in which these substances or products exist, it is incumbent upon the judge presiding over the proceedings to:

I - order, immediately upon gaining knowledge of the bankruptcy or liquidation, the facilities sealed;

II - order the competent health authority to take urgent measures to receive and deposit the drugs collected;

III - notify the Federal Prosecutor's Office, to follow the case.

Paragraph 1 The bidding for disposition of substances or products not mentioned in subarticle II of the caput of this article may only allow participation of legal entities legally authorized in the area of healthcare and scientific research that prove the legal use of the product to be auctioned.

Paragraph 2 With the exception of what is set forth in paragraph 3 of this article, the product not auctioned shall be, immediately after the auction, destroyed by the health authority in the presence of the State Drug Councils and the Federal Prosecutor's Office.

Paragraph 3 Any pharmaceutical specialties among the products auctioned off and not sold, that can be use therapeutically, will be kept in the custody of the Ministry of Health, which will use them in the public health network.

Art. 70. The processing and trial of the crimes set forth in arts. 33 to 37 of this Law, if characterized as an international crime, are under the jurisdiction of the Federal Courts. Sole paragraph. The crimes committed in the Cities with no federal courts shall be processed and tried in the federal court of the respective district.

Art. 71. (VETOED)

Art. 72. Whenever appropriate or necessary, the judge, by own motion, by means of representation of the law enforcement authority, or by a motion of the Federal Prosecutor's Office, shall order, within the limits of his jurisdiction and a set forth in paragraph 1 of art. 32 of this Law, the destruction of the drugs related to cases already closed.

Art. 73. The Union may enter into agreements with the States to prevent and control illegal drug trafficking and drug abuse.

Art. 74. This Law shall enter into effect forty-five (45) days after its publication.

Art. 75. Law no. 6.368, of October 21, 1976,[1] and Law no. 10.409, of January 11, 2002 are hereby revoked.

Brasília, August 23, 2006; 185th year of Independence and 118th of the Republic.

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This text does not replace the text published in the D.O.U. of 8.24.2006.