



Evaluation of the pilot project 'Drug Treatment Court' at the Ghent Court of First Instance

1. Introduction

On 1 May 2008 the Ghent Court of First Instance introduced the pilot project 'Drug Treatment Court' (DTC) with the consent of the former Minister of Justice. This project centralizes all drug-related cases and is aimed at problematic drug users who also committed drug-related crime.

The Institute for International Research on Criminal Policy (IRCP), integrated in the Department of Criminal Law and Criminology, and the Department of Orthopedagogy of the Ghent University carried out a process evaluation of this pilot project. In addition to this, the section Research & Development of the Service on Criminal Policy carried out a quantitative evaluation.

1.1. Why a Drug Treatment Court?

Through the years, it became clear that a reaction from the police, the Public Prosecutor's Office and the courts towards drug users should be the *ultimum remedium* (last resort). They are, after all, not the appropriate actors to provide solutions for a social phenomenon such as drug use. Besides, they are no longer capable of doing so due to the growing overload of the criminal law system in general and the prisons in particular. Alternative measures should therefore refer as many drug users as possible to (drug) treatment, where the root of the problem can be tackled. Therefore, several referral possibilities for (drug) treatment were established at different levels of the criminal justice system.

In 2005, the court district Ghent introduced the project *Proefzorg* at the Prosecution level whereas the Drug Treatment Court was introduced at sentencing level (court) in 2008.

1.2. How does the Drug Treatment Court work?¹

The Drug Treatment Court is a specialized chamber within the Court of First Instance that offers the accused the possibility to work on his/her (drug) issues under supervision of that chamber. Within the Drug Treatment Court, the Public Prosecutor's Office and the judge are specialized in drug issues and each hearing is attended by a liaison. That liaison is a social worker who establishes a link between the justice department and the (drug) rehabilitation services. The liaison assists the accused/client to find the most appropriate type of rehabilitation. The liaison also assists the client in his/her the referral within the drug treatment domain.

A case is monitored through different hearings: an introductory hearing, an orientation hearing, a follow-up hearing and a closing hearing.

The accused is summoned to an *introductory hearing*. When the accused recognizes the accusation, of and the drug issue itself, the judge examines whether the accused is willing to take on his problem. If

¹ For a detailed explanation of its functioning, we refer to the attached brochure 'The Drug Treatment Court'.

not, the case will be prosecuted. Otherwise, an appointment will be made with the liaison attending the hearing on the day of the introductory hearing.

Together with the liaison, and with or without additional support from the justice centre, the accused/client has to develop a treatment programme that does focus on the drug issue as such and on all relevant life domains (such as work, debts, residence).

The liaison informs the accused/client about the existing drug treatment possibilities (e.g. ambulatory or residential) and together they develop a treatment programme adjusted to the specific needs of the accused/client.

Two weeks after the introductory hearing, the accused/client attends an *orientation hearing* during which he presents and clarifies the elaborated treatment programme. All actors involved will discuss and evaluate this programme. If the programme is accepted by the Court, the execution of the programme will be monitored. The liaison will continue to assist the accused/client during the execution of the programme.

The accused/client has to appear before Court at least every two weeks during the first month. After the first month, he has to appear at least once a month, during the *follow-up hearings*. Those hearings allow the actors (judge, Public Prosecutor's Office, lawyer) to closely monitor the accused/client during a six to ten month period. The treatment programme can be adjusted to the needs of the accused/client or adapted when the programme is not working properly.

The sentence, and the conditions that can be imposed, are determined during the *final hearing*.

2. Process evaluation results (Departments of Penal Law and Criminology (Brice De Ruyver, Freya Vander Laenen and Charlotte Colman) and Orthopedagogy (Wouter Vanderplasschen)).

2.1. Method

The qualitative evaluation of the project consists of a process evaluation. After all, the DTC implies a new approach because the experiences and the perspectives of all parties concerned are important.

The process evaluation is based on four methods: a literature study, a case study, interviews and a focus group.

Based on this first evaluation, we can describe the experiences of all parties involved and identify the strengths and weaknesses of the project.

Since this is no impact evaluation, we can neither judge the effectiveness of the DTC project nor make a comparison with probation, which is situated on the same level of the criminal justice system.

2.2. Process evaluation results

Overall, all actors concerned are satisfied with the DTC but they recognise some weaknesses.

Strengths

The professionals and the clients of the DTC are satisfied

An analysis of the actors' experiences with regard to their core tasks shows that all parties are satisfied with their role within the DTC. Moreover, the DTC project encourages the relationship between the justice department and the treatment services.

In general, the clients of the DTC hold a favourable view of the project as well. They consider the DTC to be an opportunity to get their lives back on track. They emphasize the interactive character of the DTC. The clients of the DTC also appreciate the humanity of the judge. Finally, they attach great importance to the liaison, especially because of the relationship of mutual trust they can establish with that liaison.

The liaison is the cornerstone of the DTC project

The new actor, the liaison, is without a doubt the cornerstone of the DTC project; without which the project would never succeed.

The interviews with all parties concerned show that the position as 'liaison' constitutes an important link between the justice department and the (drug) treatment services. The liaison ensures that the judge imposes conditions adjusted to the possibilities of the client or the treatment services. After all, the liaison and the client prepare an individual programme taking the latter's specific situation into account. The drug use as such as well as problems affecting other aspects of life (that maintain or even strengthen the drug use) are dealt with.

The complexity of the clients' problems requires a versatile approach

A case study of one out of three DTC cases shows that the treatment programme covers multiple aspects of life. Apart from having problems with illegal drugs and alcohol, many clients are unemployed, have mental health problems and debts. The steps taken by the clients towards treatment and counselling (e.g. starting ambulatory drug treatment, following a training course with the Flemish Public Employment Service (VDAB) and accepting debt mediation) help to diminish their problems, contribute to their social reintegration and could lead to a reduced sentence. Clients are responsible for proving those commitments before the judge by presenting attendance certificates.

Successfully executing the predetermined programme is difficult: about one in three initiated DTC programmes have a positive outcome. Although this might seem limited, it does indicate that the DTC has improved the lives of a substantial number of problematic drug users that otherwise would have received a traditional judgement. In this respect, we believe it would be of interest to carry out comparative research into the effects of a traditional settlement in court compared with an alternative settlement in the DTC in the future.

The justice department takes the reality of drug use into account

Unlike in traditional court hearings, the judicial actors also take into account the reality of drug use and the possibility of relapse during a drug treatment programme. After all, relapse is inherent to the drug issue. Through the DTC, the judge tries to actively counter the periods of relapse that problematic

users experience, keeping in mind that a relapse does not necessarily entail an immediate suspension of the DTC programme.

Weaknesses

DTC requires more time at short notice, but will probably gain time on the long term

Throughout the interviews and the focus group, the different actors stress that they spend more time on a case during DTC hearings than during traditional hearings (especially in case of probation). Nevertheless, this is considered to be meaningful given its long-term effects (decrease of drug use and crime, improvement of other aspects of life). However, a comparison of the follow-up periods of probation and DTC cases has shown that the follow-up period applied for probation is longer than the one for DTC cases. This difference indicates that it is difficult to estimate which form of settlement, traditional or probation, will require more time and energy in the end.

The task of the liaisons is not sufficiently clear

The tasks of the liaisons should be more clearly described: its harmonization with the other actors and especially with the social workers of the Justice House, does not always provide sufficient clarity for the actors in the field. The same goes for the professional secrecy of the liaisons in relation to the social workers of the Justice House and the judge. Some care providers wonder *which information the liaisons (might) pass on to the justice department*.

Moreover, we notice the heavy workload of the liaisons, especially during the early stages of the programme when the treatment plan is being drafted. Still, the liaisons consider their task to be worthwhile, precisely because it allows for a personalized assistance.

The DTC project – unintentionally – further pressurizes the capacity of the treatment services

For some years now, the Ghent region is confronted with the limitations of its already extensive rehabilitation possibilities. The referrals proceeding from the DTC project further pressurize the treatment capacity. Currently, several drug treatment centres are faced with waiting lists, which might hamper the referral of clients of the DTC project. This contradicts the aim of the DTC to realize a speedy and efficient referral procedure. If the capacity issue cannot be solved in the short term, the DTC project could become a victim of its own success. After all, the efficiency of the DTC is depending on the speed and the quality of its referrals.

What have we learned?

Can the DTC project be extended to other court districts?

The process evaluation has shown that the availability and the accessibility of the treatment network constitutes an important precondition for adequate referrals from the justice department to the (drug) treatment services.

The current capacity issues that these services face in the Ghent region, indicate that districts with limited (drug) rehabilitation possibilities will not be able to handle a possible additional influx of DTC clients. These regions therefore need to expand their existing drug rehabilitation possibilities *before* the DTC project can be extended to other districts.

More and clearer communication, especially about the role of the liaisons

Both at the start and during the project, there is extensive communication between the justice department and the (drug) treatment services. Nevertheless, we notice that some uncertainty still exists about the structure and the aim of the project and about the role of the liaisons in particular, especially within the (drug) treatment services. Many care providers do not (yet) consider the liaisons to be care providers, which has led to confusion about the professional secrecy of the liaisons. These conclusions indicate that both the communication and the consultation between the concerned actors within the DTC can be improved.

Therefore, all treatment services in the region should be informed about the DTC project even more thoroughly. It is important that the information is extended beyond the management level, and filters through to the care providers dealing with DTC clients.

The social workers of the Justice House play an important role

The quantitative part shows that 40% of the cases have (a) pending judicial measure(s) (mostly probation or conditional release). It is therefore important to actively involve the social worker of the Justice House in the DTC project since they monitor probation and conditional release. Moreover, the attendance of this actor during the hearings of the DTC would stimulate the cooperation with the liaisons and would avoid overlap in the assistance of the client. Moreover, would this social worker of the Justice House attend the final hearing, the proposed probation measures could be adapted to the needs of client and it could give the social workers of the Justice House the opportunity to continue monitoring the clients after the final hearing.

A positive first evaluation

The process evaluation shows strengths and weaknesses. It is clear that the different actors assess the DTC project positively. Consequently, there is still a lot of motivation to continue and optimize the project.

Nevertheless we would like to stress the *explorative nature* of this evaluation. Further research and especially an *impact assessment* are indispensable to judge the *effectiveness* of the DTC project.

3. Quantitative evaluation (Criminal Policy Department - Saaske De Keulenaar and Stefan Thomaes)

The quantitative evaluation of the pilot project has been realized by the Direction Research, Development and Statistics of the Service on Criminal Policy. The evaluation was carried out by means of a database composed in consultation with the actors involved in the pilot project.

3.1 A successful project?

Between May 2008 and December 2009, **280** cases were presented in the Drug Treatment Court (DTC)². For **148** cases (53%) a rehabilitation programme was initiated. This did not happen in **132** cases (47%). In only 12 of those 132 cases (9%) the accused was unwilling to accept the rehabilitation offer and in 26 cases (20%) the judge decided during the introductory or orientation hearing that the accused was not eligible to appear before the DTC. In 76 of the 132 cases or almost 60%, no

² Ongoing cases that were started at the end of 2009 were not taken into consideration since no information is available on the progress of those cases. In case of joined cases, only the main case will be taken into account.

rehabilitation programme could be offered since the accused was absent during the introductory hearing and in one case the accused pleaded innocent, which meant that one of the conditions for appearing before the Drug Treatment Court was not met.

57 out of the **148** DTC cases with an active rehabilitation programme were still ongoing at the end of 2009. Moreover, 41 out of the 91 completed rehabilitation programmes had a positive outcome while 30 cases saw their rehabilitation programme prematurely suspended because the predetermined conditions were not respected. It is remarkable that in 20 out of the 30 cases (67%) four or more DTC hearings did take place (63% in the cases where the conditions were respected), so it can be concluded that in many cases the programme is working well for a long time but that the accused pulls out along the way. In six cases a rehabilitation programme had been initiated, but it turned out that the accused was not willing to subscribe to rehabilitation. Fourteen cases did not provide any information on whether the conditions were respected or not.

Cases without a rehabilitation programme	132
Unwilling to initiate a rehabilitation programme	12
Not accepted by the Court during the introductory or orientation hearing	26
Absent during the introductory hearing	76
Pleaded innocent during the introductory hearing	1
Reason unknown	17
Cases with a rehabilitation programme	148
Closed cases	91
Conditions respected	41
Conditions not respected	30
Rehabilitation programme initiated but lack of willingness	6
No information on whether the conditions were respected or not	14
Ongoing cases	57

3.2 Who appears before the DTC?³

The persons accused appearing before the Drug Treatment Court are mainly males (158 men against 37 women) who are older than 21 and younger than 41 years. The great majority speaks Dutch, has a permanent residence and was already subject to a judgement in the past.

³ The data below refer to 234 cases. 46 cases from 2008 without a rehabilitation programme were not taken into account since the data could not be verified.

In 40% of the cases (97 of the 234 cases) the persons accused have an open judicial status. In most of the cases, this concerns probation or conditional release and to a lesser degree community service or electronic monitoring.

The drug that is most commonly used by the persons accused is heroin, followed by cocaine, amphetamines and cannabis. Liquid XTC, LSD, alcohol and medication hardly appear. Information concerning the frequency, the principal methods and the duration of use is not provided for all cases, since only the information included in the official reports has been taken into account for these variables. The available information⁴ shows that more than half of the persons accused use daily and one-third use two to six days per week. Moreover, inhaling or smoking and injecting are the most commonly used methods and the overall majority of the persons accused use between less than a year and five years.

3.3 Why is a case brought to the DTC?

The referral of an accused to the Drug Treatment Court is mainly a result of the conclusion that the accused is an addict who committed serious drug-related crime (100 cases); that the accused committed a drug offence (76 cases) or that the *Proefzorg*-treatment failed⁵ (74 cases). The Drug Treatment Court is only referred to in 6 cases as a result of failed negotiations.⁶

3.4 Why does an accused appear before the DTC?

An accused appears before the DTC after committing drug offences, drug-related crime or both. In about 50% of the cases (120 cases) the court only had to give its judgement on one or more drug offences. Furthermore, one-third of the cases (76 cases) consisted of one or more drug offences combined with drug-related crime. In 15% of the cases (35 cases) only drug-related crime occurred. When looking at the drug offences in detail, it becomes clear that in every drug offence case, drug possession occurs as well. Possession is followed by dealing as the most common drug offence. The most common drug-related crime is theft, and particularly normal theft, burglary and robbery.

3.5 How does the rehabilitation programme work?

The quantitative study also comprises an analysis of the rehabilitation programmes (78 unique programmes). For this, only the closed cases of 2008 and 2009 were taken into account seeing that no information was available for rehabilitation programmes of the ongoing cases.

First of all, the frequency of the contacts between the liaison officer and the DTC client (telephone conversations, e-mails, personal contacts, ...) expressed in hours were analysed. A maximum of ten contact hours between the liaison officer and the accused is applied in 60% of the programmes. Apart from the contacts between the liaison officer and the accused, the evaluation also studied the type of contacts between the rehabilitation services and the accused. In 40 cases ambulatory rehabilitation is

⁴ Frequency of use: information unknown in 40% of the cases - most commonly used method: information unknown in 60% of the cases - duration of use: information unknown in 30% of the cases.

⁵ *Proefzorg* aims at giving the Public Prosecutor's Office more scope to channel the offender - who confesses the facts committed on the basis of an addiction or an illness - to the assistance in a smooth, efficient and adequate way.

⁶ In a number of cases, a combination of the reasons for referral to the DTC as mentioned above are given.

concerned, while 11 cases follow a residential track. In 15 cases, no rehabilitation programme was developed.

The study also looked at the subjects that were tackled during the rehabilitation programme. Besides the client's specific addiction issue, which occurs in every programme, a reasonable amount of time is also invested in the psychological health of the person involved (87% of the plans), in judicial matters (75%) and in financial subjects such as debts (84%), employment (68%) and income (68%).

In order to realize the rehabilitation programme, one or more partners within the rehabilitation field are contacted in the framework of the Drug Treatment Court. In total 242 rehabilitation partners were engaged in 62 rehabilitation programmes. This equals an average of 3.9 partners for each rehabilitation programme. An appeal is made to a wide variety of partners. A distinction is made between the following categories: ambulatory drug rehabilitation, minorities and drug rehabilitation, residential treatment of drug addicts, services linked to the justice department or active within prisons, housing, employment and activation, the medical sector, financial control and the remainder category 'other partners'.

3.6 Which judgement is pronounced?

The most common sentences are: fines, imprisonment, community service and confiscation. About 10% of the cases is suspended. The available data show that the judge very often suspends the case when the conditions of the rehabilitation programme have been respected. 13 out of the 41 cases in which the conditions were respected have been suspended, compared to 6 out of the remaining 136 cases. It should also be noted that community service occurs much more in cases with a rehabilitation programme (68% compared to 32%). Confiscation also occurs much more often when a rehabilitation programme existed (71% against 29%). The inverse conclusion holds true for imprisonment and fines. If no rehabilitation programme exists, fines (57% against 43%) and imprisonment (61% against 39%) occur much more frequently.

3.7 Duration of a DTC case

This study also examined the duration of a DTC case. The number of hearings and the time passed between the date of the introductory hearing and the date of the final judgement have been looked at as well. In 70% of the cases with a completed rehabilitation programme, the number of hearings vary from one to six. When looking more closely at the cases with a completed rehabilitation programme during which the conditions were not respected, it becomes clear that in about two-thirds of those cases four or more orientation or follow-up hearings took place. It can therefore be concluded that in many cases the programme is working well and that the persons accused drop out more towards the end of their treatment. A study of the ongoing cases with a rehabilitation programme shows that 82.5% of those cases already had four or more orientation or follow-up meetings by the end of 2009. This percentage is much higher in comparison with the closed cases whether the conditions were respected or not, notwithstanding the fact that those cases are still ongoing and that it is very likely that more hearings are still to come.

To determine the duration of a DTC case, the time between the date of the introductory hearing and the date of the final judgement was taken into account as well. In 83.5% of the cases with a

rehabilitation programme, the final judgement follows 8 months after the introductory hearing. 95% of the cases without a rehabilitation programme are closed within 2 months.

3.8 Conclusion

On the basis of the quantitative analysis it can be concluded that the pilot project 'Drug Treatment Court' has reached its goal and can therefore be considered as an added value within the criminal justice system. The data show that in about 70% of the cases dealt with by the Drug Treatment Court - leaving defaults out of consideration - a rehabilitation programme is developed and that those programmes are successfully completed in about 50% of the cases in the sense that the conditions are respected. When the conditions are not respected, the persons accused drop out more towards the end of the programme in two-thirds of the cases. We therefore believe that it would be useful to continue the work of the Drug Treatment Court.

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