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PRESS RELEASE

PRISON

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SENTENCE SUSPENSION FOR MEDICAL REASON : THE NATIONAL AIDS COUNCIL EXPRESSES CONCERN OVER QUESTIONING OF THE CONCEPT IN THE BILL ON HANDLING REPEAT CRIMINAL OFFENCES

Two amendments to the bill currently under debate in Parliament on handling repeat criminal offences deal with sentence suspension for medical reason specific to the sentenced criminal. They pertain to the risk of repeat offences and the role of medical experts. In Conseil national du Sida's view, sentence suspension for incarcerated persons whose life prognosis is in the balance or whose health condition is not compatible with further imprisonment is a major step forward for patients' rights. Adopting the said amendments would considerably reduce the scope of a law that is not sufficiently enforced.

Amendment 74 bars enforcing sentence suspension in "cases where the said sentence suspension is likely to give rise to exceptional public disorder or if there is a particularly high risk of the sentenced person's repeating the offence". In other words, it calls into question the – already infrequent – use of sentence suspension for ill prisoners. Yet the enforcing judge already has, by virtue the law, full latitude in determining how appropriate it might be to suspend a sentence. Since 2002, only 191 prisoners have benefited from sentence suspension for medical reasons, whereas each year, excluding cases of suicide and last-minute transfers to hospital, around 120 people die in prison. In an opinion issued on 11 March 2003, the NAC came out in favour of actually applying sentence suspension for medical reasons and wished that the "public authorities at last take measures so that the legislation is applied to an extent worthy of the legislator's aspirations". Today, the NAC reasserts that position and feels that ratifying the amendment would come down to limiting, purely and simply the opportunity to receive care under decent, appropriate conditions.

Amendment 2 provides that "a medical check by an expert, intended to ensure that the suspension conditions are still fulfilled, must take place every six months". Once again under its 11 March 2003 opinion, the NAC requested effective enforcement of the law, through the participation of supervising medical experts, emphasising that the fundamental role of medical expert appraisal in enforcing" the said provisions. The NAC felt that there was a need to "harmonise the practices of medical experts in this area", as part of a joint analysis effort to ensure that the law would be applied across the country in an egalitarian manner. Today, the NAC repeats its call in favour of setting up working groups to establish the criteria for suspending sentence and enabling fair treatment.