



Decriminalization in Europe: 10 voices beyond Portugal and the Netherlands

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Introduktion

Det pågår en intensiv debatt om hur vi på bästa sätt kan minska konsumtionen och dödligheten av narkotika. Inte alltför sällan lyfts avkriminalisering som en möjlig metod av komma åt problemen och nästan alltid hänvisas då till Portugal eller Nederländerna. Däremot är det sällan man hör något om de övriga europeiska länder som också avkriminaliserat. Siffror, uppgifter och slutsatser florerar i debatten och används som underlag för politiska utspel - men vet vi egentligen hur ser situationen ser ut?

Detta PM sammanfattar situationen i tio länder i Europa som avkriminaliserat narkotika. Vi har här exkluderat Portugal och Nederländerna, men istället valt att göra en fördjupad rapport om Portugal (läs rapporten: Avkriminalisering av narkotika. Vad kan vi lära av Portugal [här](#)) då det på många sätt är ett intressant land att följa.

Vi har skrivit detta med syftet att få en bättre överblick och kunna jämföra lagstiftningen mellan länderna, men även för att följa hur konsumtionsnivån och den narkotikarelaterade dödligheten i respektive land förändrats efter att de avkriminaliserat.

Några slutsatser är väldigt tydliga: Det är alltid svårt att göra jämförelser mellan länder, då rapporteringen sker med olika frekvens och skilda mätmetoder. Vi ser även att definitionen av avkriminalisering skiljer sig kraftigt åt mellan länderna. Bland de länder som avkriminaliserat visar några på en minskning av konsumtion och dödlighet och andra på en uppgång av desamma. Att dra lättvindiga slutsatser om avkriminalisering som metod är därmed inte möjligt. Däremot är det intressant att se närmare på vad andra insatser inom förebygg, vård och behandling har gett för resultat i andra länder och vad vi kan lära av dem.

Background

In the drug policy debate, decriminalization often comes up as one solution to the problems caused by drugs. Two countries often mentioned are Portugal and the Netherlands but what about the European countries beyond them? This report is written based on curiosity. Why did the countries decriminalize, how does the model of decriminalization work in their countries and what are the main challenges?

In this report we refer to drugs as illicit drugs and not alcohol or tobacco.

Method in general

This report consists of two main parts. The first part is a survey of most, but not all, countries in Europe that has decriminalized drugs in one way or another (except Portugal and the Netherlands). The second part is an analysis done from the survey as well as other statistics, such as drug related death and drug consumption. These parts are followed by the country responses, which gives a view of the laws, sanctions and drug situation in each country.

The survey is conducted by different respondents. Most of them have been suggested by Movendi International (formally known as IOGT International) and World Federation Against Drugs. It is a response from the country, but not an official one. In one case, Spain, the answer is based on an interview, while the rest are written answers to the questions sent out (Appendix 1). The report is not a scientific study, but more of a descriptive report of the current situation in those European countries that have decriminalized drugs.

Analysis: In general

| Country | Decriminalized since | Sanction not criminal | Limit personal use cannabis | Only cannabis? | Comments from the responses |
|-------------|----------------------|---|-----------------------------|----------------|---|
| Belgium | 2003 | If prosecutor chose it will be: 1 st time: fine 15-25 euro 2 nd : 26-50 euro 3 rd : 50-100 euro + prison | 3 gr, 1 plant | Yes | No study of the effects. More restrictive the last years. |
| Czech Rep | 2013 | Warning or fine up to 600 euro | 10 gr, 5 plant | | Police remains restrictive |
| Croatia | 2010 | Fine 650-2600 euro or prison 90 days. If addicted: treatment 3-12 m. If experimental: compulsory psych treatment 1-24 m. First time? No fine/prison. | | | Personal use has increased as the limit to criminal levels are hard to solve. |
| Estonia | 2002 (01/09) | Fine, detention or drug treatment | | | Improved situation, but hardly not because of sanction but because of prevention, treatment and inst cooperation. |
| Georgia | 2018 (30/07) | In public places: fine 250-400 \$ | 70 gr, no plants | Yes | The new law wasn't welcome because of thoughts of increasing consumption. |
| Italy | 2006 | 1-3 m or 2-24 m of one or more of suspension driving license, firearms, passport or tourist permit. | 5 gr | | |
| Luxembourg | 2001 | Cannabis criminal fine up to 2500 euro. And/or prison at workplace. Other drugs: prison and criminal fine. | | Nothing | Has really not decriminalized! Prison is no longer a sanction. Prepares to legalize. |
| Slovenia | 1978 | Fine 20-200 euro | | | |
| Spain | 1982 | 600 euro or more. If under 18 that could be substitute to an educational programme. | | | |
| Switzerland | 2012 | If use, then fine 90 euro. If fine is not paid in 30 days, then criminalized. If possession personal use: nothing | 10 gr | Yes | Use → fine Possession → nothing Differences in cantons |

Figure 1 Decriminalization, when and how it works.

Analysis

To begin with, the definition of decriminalization of drugs is not as clear as one might initially think. It is not possible in any of the countries to use drugs freely, without any sanctions. There are different models and the meaning of decriminalization also differs. For example, the meaning might in some countries be equivalent to only excluding imprisonment.

Notably, all countries (in this report) that have decriminalized drugs still have sanctions and in most of the countries there are different kinds of fines, misdemeanours or administrative fees when someone is discovered with drugs. Some stress that these fines only are sanctioned in public places. The question remains if a country is really decriminalized, if people still get a fine (even though they are not registered in any criminal records)?

Three countries mention that they can exchange fines for treatment or different kinds of educational programmes or include these as part of the fine (Croatia, Estonia and Spain).

Some of the countries mention that it is difficult to make the distinguish between personal use and a person planning to resale the drugs to others. The amount allowed for possession seems to have a bearing on how effectively the police can do their work. Some countries also seem to have become more restrictive since the decriminalization came in to force.

Luxembourg is included in the report as the country is sometimes referred to as one that has decriminalized drugs and the government is now planning for legalizing cannabis. But looking at their drug policy it is clear that this is not the case. Luxembourg is an example of a country that has decriminalized in the sense that they have excluded imprisonment from their sanctions. The same applies to some states in the United States. Their definition of decriminalizing drugs has been to exclude imprisonment as a sanction.



All countries in the report still have sanctions when someone is discovered with drugs.

Analysis: Drug Related Death

| Country | Year. (Closest year when the country decriminalized and reported to EMCDDA) | Drug related death. (Closest year to when the country decriminalized and reported to EMCDDA) | Year. (Latest year reported to EMCDDA) | Drug related death. (Latest year reported to EMCDDA) | Increase/decrease in percent | Only cannabis? |
|--------------|---|--|--|--|------------------------------|----------------|
| Belgium | 2003 | 97 | 2014 | 61 | -37,1 | Yes |
| Czech Rep | 2010 | 55 | 2017 | 42 | -23,6 | |
| Croatia | 2013 | 48 | 2017 | 65 | +35,4 | |
| Estonia | 2002 | 86 | 2017 | 110 | +27,9 | |
| Georgia | 2018 | - | - | - | - | Yes |
| Italy | 2006 | 551 | 2017 | 294 | -46,6 | |
| Luxembourg | 2001 | 18 | 2017 | 8 | -55,6 | Nothing |
| Slovenia | 1997 | 13 | 2017 | 47 | +261,5 | |
| Spain | 1985 | 140 | 2016 | 483 | +245 | |
| Switzerland* | | Ca 120-140 | | Ca 120-140 | +0 | Yes |

Figure 2 Drug related death. Note that the figures do not take in to account the level of population in each country. This is in absolute level. Note that Luxembourg has not really decriminalized.

*Switzerland is not reporting to EMCDDA but the answer from our contact is that drug related death has been approximately 120 -140 deaths per year since their decriminalization of cannabis and the mortality is mainly opioid-related.

One argument in the debate is that decriminalization of drugs would reduce drug-related deaths. To investigate this thesis, we compare the number of drug-related deaths reported to the European Monitoring Centre for Drugs and Drug Addiction, EMCDDA, the year a country decriminalized with the latest year reported.

It is important to note that the decriminalization could have started 1st of January as well as in September, meaning the numbers are not fully comparable. We also can not follow the changes over the years, but only at two occasions. We used the figures reported to EMCDDA in absolute numbers and does not take into consideration any changes in population. Notably, Belgium rarely reports to EMCDDA, why the latest trends are not in the comparison. Latest figure is from 2014.

However, figure 2 shows that the number of drug-related deaths both increases and decreases after decriminalization of drugs. Excluding the countries that have only decriminalized cannabis, a drug not associated with drug-related deaths (as well as Luxembourg, that has not decriminalized), the number of drug-related deaths mostly increase after decriminalization. The thesis that decriminalizing drugs leads to a decrease in drug-related death does not seem to be correct, at least not when comparing death rates in general.

Analysis: Consumption

| Country | Year. (Closest year when the country decriminalized and reported to EMCDDA) | Consumption level year percent. (Closest year to when the country decriminalized and reported to EMCDDA) | Year. (Latest year reported to EMCDDA) | Consumption level year percent. (Latest year reported to EMCDDA) | Increase/decrease |
|-------------|---|--|--|--|-------------------|
| Belgium | 2004 | 5,0 | 2013 | 4,6 | -0,4 |
| Czech Rep | 2010 | 10,4 | 2017 | 8,9 | -1,5 |
| Croatia | 2012 | 5,0 | 2015 | 7,9 | +2,9 |
| Estonia | 2003 | 4,6 | 2008 | 6,0 | +1,4 |
| Georgia | 2018 | | | | |
| Italy | 2005 | 11,2 | 2017 | 10,2 | -1,0 |
| Luxembourg | 1998 | 4,0 | 2014 | 4,9 | +0,9 |
| Slovenia | 2007 | 3,1 | 2012 | 4,4 | +1,3 |
| Spain | 1995 | 7,3 | 2017 | 11,0 | +3,7 |
| Switzerland | 2012 | 6,3 | 2016 | 7,3 | +1,0 |

Figure 3 Level of consumption per year. Note that Luxembourg has not really decriminalized.

| Country | Month. (Closest year when the country decriminalized and reported to EMCDDA) | Consumption level month percent. (Closest year to when the country decriminalized and reported to EMCDDA) | Month. (Latest year reported to EMCDDA) | Consumption level month percent. (Latest year reported to EMCDDA) | Increase/decrease |
|-------------|--|---|---|---|-------------------|
| Belgium | 2004 | 3,0 | 2013 | 2,6 | -0,4 |
| Czech Rep | 2010 | 4,2 | 2017 | 2,0 | -2,2 |
| Croatia | 2012 | 2,9 | 2015 | 5,0 | +2,1 |
| Estonia | 2003 | 1,4 | 2008 | 1,4 | +0 |
| Georgia | 2018 | | | | |
| Italy | 2005 | 5,8 | 2017 | 5,5 | -0,3 |
| Luxembourg | 1998 | 4,0 | 2014 | 2,2 | -1,8 |
| Slovenia | 2007 | 3,1 | 2012 | 4,4 | +1,3 |
| Spain | 1997 | 4,0 | 2017 | 9,1 | +5,1 |
| Switzerland | 2012 | 3,2 | 2016 | 3,1 | -0,1 |

Figure 4 Level of consumption per month. Note that Luxembourg has not really decriminalized.

Will decriminalization of drugs lead to an increase in consumption? We compared the consumption level reported to EMCDDA for yearly as well as monthly consumption the year a country decriminalized and the latest year reported.

Note that the decriminalization could have started 1st of January as well as in September, meaning the numbers are not fully comparable. We also can not follow the changes over the years, but only at two occasions. Notably some countries do not report that often to EMCDDA and the latest trends could therefore be missing, for example Estonia 2008, Slovenia 2012 and Belgium 2013.

What does research say about decriminalization and an increased risk of higher consumption? There are different studies pointing in different directions but in *"The Drug Policy and the Public Good"*, Thomas Babor (2018), it is stated that "The evaluation research record once seemed fairly consistent for cannabis without any clear-cut case in which a reduction in the amount or form of enforcement against use or possession resulted in a substantial change in consumption of the drug, and a number of cases where there was no measurable change in consumption at all. However, later studies do find significant effects, and the new studies tend to be stronger methodology."

Figure 3 and 4 shows that the consumption level might increase or decrease after a country has decriminalized drugs. This could mean that the level of consumption is not affected by decriminalization or that we simply cannot be sure of the impact it has. The culture and the implementation of decriminalization could be factors to take in consideration. Looking at the monthly consumption levels in these countries, they are either constant or increasing. The Czech Republic seems to be the exception. Note that Luxembourg has not really decriminalized but has a decrease in monthly consumption of almost 45 per cent since they excluded imprisonment from their sanctions.

Countries in the study

Belgium

Respondent: Kalle Dramstad; Head of European Policy, IOGT-NTO Sweden

Why did the policy change? What was the reason for the country to decriminalize?

In 2001 the Federal Drug Note recommended that the repression of drug users is the ultimum remedium. If possible, prevention, early intervention and treatment have the highest priority. The decriminalization of cannabis in 2003 is based on this recommendation.

How is the law of decriminalization constructed?

Link: https://justice.belgium.be/fr/themes_et_dossiers/securite_et_criminalite/drogues/cannabis

Holding or growing cannabis remains punishable by fine or prison. Consumption is classed as "low prosecution priority" as long as the person is over 18, carries less than 3 grams (limit for personal use) or has maximum 1 cultivated female plant and isn't linked to other circumstances such as public disorder, or carrying cannabis in a school, where students assemble, hospital, prison etc.

How is the law implemented in practice?

Link: https://justice.belgium.be/fr/themes_et_dossiers/securite_et_criminalite/drogues/cannabis

The detention of an adult carrying cannabis deemed to be for personal use without aggravating circumstances will result in a simplified police report which will then be sent to the prosecutor who can decide to act on it should the prosecutor be able to motivate this decision. The simplified report is sent as a list every month to the prosecutor (normal reports are sent directly).

In case the prosecutor decides to act on it there can be a fine: Fine: First time 15-25 EUR, Second time in a year 26-50 EUR, Prison for 8-30 days and a fine of 50-100 EUR in case of the third time within a year of a second fine. All fines need to be multiplied with 5,5.

Until 2014 there is normally not a seizing of the cannabis when discovered at low quantities for personal use without aggravating circumstances. However, often the police asked people to "voluntarily" dispose of the product.

In 2015 a new circular letter by the Minister of Justice was sent that stipulates that there is a mandatory seizing even for low quantities of cannabis for personal use without aggravating circumstances.

Since several years Attorney-general sent out circular letters which stipulates that under specific circumstances, like music festivals, an alternative procedure can be followed: on many music festivals people who are caught with illegal substances are given an "immediate amicable settlement". This is a fine that must be paid immediately in order to avoid prosecution. A reason for using the immediate amicable settlement is that in Belgium the drug related offences are processed in the justice district where one is officially registered and not in the district where the offence took place. So, for minor drug offences districts often dismissed the offence leading to a situation of impunity. Also, people with a foreign nationality escaped prosecution because their offences were dismissed. It is important to notice that it is part of the freedom of each Attorney-general to decide upon this. So, this policy is not implemented in the whole of Belgium but only in the justice region which falls under the jurisdiction of the Attorney-general.

Has the decriminalization fulfilled the reason to implement the law?

There is little evidence to answer this question. In the meantime, the political climate and the coalition government has changed and there is a tendency to switch back to a more repressive climate (certainly in some cities – as part of a local policy/answer to drug problems).

What are the main challenges? And what can we learn?

The first version of the law of 2003 had to be revised because a Belgian court judged in 2004 that the concept of a "quantity of cannabis for personal use" is too vague. In 2004 circular letter by the Minister of Justice defined personal use as the possession of maximum 3 grams of cannabis or 1 cultivated female plant.

Due to unclear communication concerning the law of 2003 a lot of people interpreted the law wrongfully as a legalization of cannabis use for personal use.

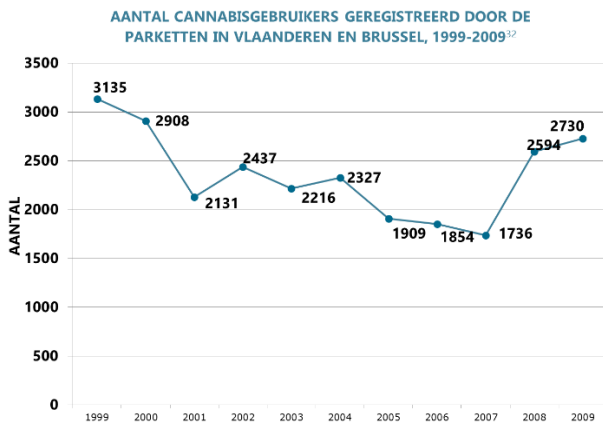
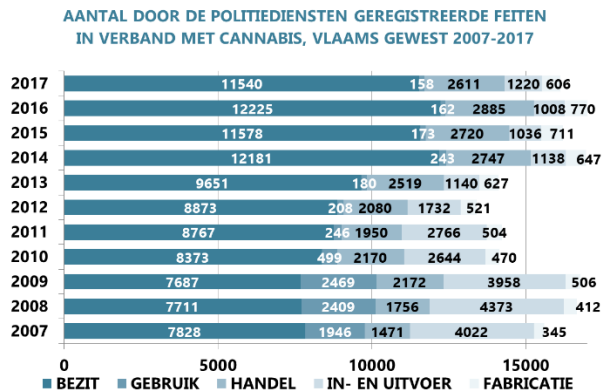
There are still interpretation differences:

What is public disorder? The last years mere consumption in the public space is seen as a form of public disorder.

Cannabis social clubs use the principle of one female plant ownership to organize communal grow shops. Not clear if this interpretation is legally valid.

Anything else you want to add?

In Flemish region, we see an increase in the number of registered cases concerning cannabis between 2007 and 2017. The first part is about possession, the second about use and the others trade, dealing, etc.. We see an increase in cases since 2014.



Here we see the number of drug users, registered by the attorney generals between 1999 and 2009, which shows the decrease between 2001 and 2007, after which the interpretation of the cannabis policy has become again stricter and stricter.

Croatia

Respondent: Sanja Mikulić; Head of Service for combating drugs abuse, Croatian Institute of Public Health

A new Criminal Code was adopted in 2011. It, inter alia, amended the provisions regarding the criminal offence of drug abuse. The criminal offence of drug abuse under Article 173 was transferred to the title regarding criminal offences against human health and split into two articles. The first one regulated unauthorized possession, manufacturing and circulation of drugs (Article 190) and the second one facilitating drug use (Article 191). A significant novelty is a wider scope of application of the Article to substances banned in sport (doping). The sanction for the possession of drugs for personal use was reduced from one year to six months in prison. It was justified with the fact that this was a very specific criminal offence aimed to sanction a socially unacceptable lifestyle. In practice, such offences were, in comparison to other, usually treated very mildly, namely they were not sanctioned at all or they were sanctioned only as misdemeanours or less serious criminal offences. The legislator believed that

the criminal prosecution of the possession of even the smallest quantity of drugs was not in compliance with the European criteria in the field. Paragraph 2 regulated the unauthorized manufacturing, processing, import and export of drugs when they are not for sale. A lower prison sentence of up to three years was provided for in such cases. Paragraph 3 regulated the manufacturing, processing, transport, import, export, procurement and possession of drugs intended for trafficking or other distribution and unauthorized sale, transport and other distribution. This was the reason for a significantly higher prison sentence in comparison with paragraphs (1) to (2), namely from one to ten years in prison.

Following numerous suggestions, by courts, the prison sentence was reduced from 3-15 to 1-10 years. The regulations provided for the qualifying form of the offence with a relatively wide scope of qualifying circumstances with a sentence from 3 to 15, i.e. from 5 to 20 years. The offence was graded by severity. The explanation for the requests to reduce the punishment was that the punishment was disproportionate to the severity of the offence and it was not balanced in comparison with possible sanctions for other offences.

Several new qualifying circumstances were introduced (selling to children, selling in specific places or the perpetrator is a particular person, or a child is used for distribution or the offence has been committed by an official in connection with their service or public authority). The working group which drafted the proposal for the above Act suggested that Article 173(1), namely, possession for personal use, be lifted as a criminal offence since it was largely believed that misdemeanour liability was sufficient for such behaviour, and that it was more appropriate than criminal liability. It did not have the stigmatizing effect, it did not lead to the entry of addicts or occasional drug users into the criminal records which might have an adverse effect on social reintegration, whereas the Misdemeanour Act provided for more flexible treatment options. This would also save financial resources because there was many criminal proceedings related to the possession of drugs, and a significant proportion of prison population is made of persons convicted of this offence. The Ministry of Justice, as the sponsor, at that time took the position that such behaviour should be subject to criminal liability in order to ensure an even stronger preventive effects on the prospective drug users.

The 2012 amendments to the Criminal Code also addressed the part related to drug abuse. The possession of drugs for personal use was deleted as a criminal offence. The arguments to stipulate only misdemeanour, and not criminal liability, for the possession of drugs for personal use were the following.

Criminal prosecution or the possession of even the smallest quantity of drugs for personal use was not in compliance with the European criteria in the field. Over the past years, there has been a trend in the EU to decriminalize possession of drugs for personal use, or to make it subject to misdemeanour liability. Council Framework Decision of 25 October 2004 stipulates that Member States should decide by themselves how they are going to regulate and punish the possession of drugs for personal use (as a misdemeanour or a criminal offence). The Decision does not constitute a guideline on how it should be dealt with in national legislation.

The modern-day criminal law no longer aims to punish one's "lifestyle", namely wandering, alcohol use, drug use, prostitution and the like. If there is a sanction for such offences, then it is usually at the level of misdemeanour (enough to express the social unacceptability of such behaviours). Criminal liability is considered disproportionate as proportionate sanctions are required by the European Convention on Human Rights.

The statistics of the Croatian State Attorney's Office also suggested that the possession of drugs for personal use should only be regarded as a misdemeanour. The state attorney's offices usually did not initiate criminal proceedings by referring to the principle of opportunity. In

pending cases courts usually applied the concept of insignificant offence. In addition, this would disburden courts and state attorney's offices and allow them to focus more on the severe forms of criminal behaviours.

The fact that the possession of drugs for own use remained in misdemeanour legislation did not affect other forms of this criminal offence in terms of criminal prosecution. The criminal law still covered all other, more severe modes (selling, organization of sale, unauthorized cultivation and manufacturing, facilitating drug use, provision of drugs to a child).

The aim of the above amendments is to achieve the exclusive nature of the criminal law, i.e. distinguish the perpetrator of criminal offences of drug abuse (manufacturing, trafficking, offering) from drug users. The amendments described above are expected to have significant impact on the disburdening of the penal system and saving of assets. A more flexible misdemeanour procedure shall enable quicker inclusion of drug users and addicts into the treatment and rehabilitation system.

Pursuant to the Drug Abuse Prevention Act and its latest amendments, possession of drugs for personal use is a (non-criminal) misdemeanour is punishable by a fine of EUR 650 - 2,600 (HRK 5,000-20,000) or by imprisonment up to 90 days. As well as the fine or imprisonment up to 90 days, an offender who is addicted to drugs will be given a measure of obligatory treatment in a medical institution or in an institution for social care, lasting from three months up to one year. If offender is an experimental drug user, with a fine or imprisonment up to 90 days, will be given measure of compulsory psychosocial treatment in institutions lasting from one month to two years. If the offence is committed for the first time, offender who is addicted to drugs or is an experimental drug user can be given a measure of obligatory treatment or compulsory psychosocial treatment without fine or imprisonment up to 90 days

On the other hand, possession of drugs with the intent to distribute them is sanctioned pursuant to the provisions of the Criminal Code. The assessment of whether a quantity is intended for personal use or further sale is made by state attorneys and courts on a case-by-case basis.

Pursuant to the Criminal Code, if the perpetrator of a criminal offence is also an addict, in addition to community work, the court may impose special obligations and protective supervision (probation), including treatment or continuation of treatment of alcohol, drug or other addiction in a health care institution or withdrawal in a therapeutic community. The security measure of compulsory treatment may be imposed by the court for any type of addiction, if there is danger that the person will commit a more severe addiction-related criminal offence in the future.

Sentencing practice relies on an individual approach that considers different elements, e.g. previous convictions of the defendant, aggravating and mitigating circumstances in a specific case, the possibility of mitigated punishment and other available legal instruments. There is no general rule about convictions and punishments besides the sentences imposed by law.

In the context of the current trends, around 8,000 criminal offences of drug abuse are reported annually, but there are also over 5,000 misdemeanours covered by other acts which provide for unauthorized manipulation of drugs, mostly marijuana.

In the general structure of drug related criminal offences since 2013 illicit manufacturing and circulation of drugs participates with 75-80%, whilst facilitating drug use makes up the remaining part. If looking at the total number of reports related to all drug offences (misdemeanours and criminal offences), misdemeanours – primarily drug possession – participate with around 70% in the last three years. This is comparable with the data before the decriminalization,

when the proportion of criminal offence related to possession gradually grew and reached 70% of all reported drug abuse criminal offences in 2012.

The upward trend in the number of drug misdemeanours offenses has continued since 2013 and was halted in 2018. The number of reported drug criminal offenses has been stable over the indicated period.

Since regulations which govern drug abuse offences do not stipulate different penalties which would vary by type of drug or defined quantity of drugs which can be assumed as small or large the main challenges are on the police, state attorneys and courts on assessment of whether a quantity of drugs related to committed drug offences is intended for personal use or further sale.

Czech Republic

Respondent: Kristina Sperkova; president Movendi International (formally known as IOGT International)

When and what

Many years ago, the police gave up issuing warnings to everyone who took a toke on a joint. Unable to stop the practice, the government decided it should at least regulate it. Since 2010, Czech authorities have no longer treated possession of narcotics or psychotropic substances in small quantities as a criminal offense, but rather as a misdemeanour subject to a maximum fine of €600.

Dealing drugs is still a criminal offense, but cannabis growers, cocaine smugglers and meth labs have been earning good money again since 2010.

The new Czech Criminal Code, which came into force in January 2010, introduced a brand-new significant feature into the Czech legal system – the differentiation between cannabis and other narcotic drugs and psychotropic substances. Therefore, lower penalties were set for offences related to cannabis.

The year 2014 witnessed substantial changes in the legal framework governing the issue of addictive substances and precursors. This leads to two separate laws, Act No. 272/2013 Coll., on drug precursors, and Act No. 273/2013 Coll., amending Act No. 167/1998 Coll., on addictive substances and on changes to some other laws, as amended. It causes a distinction to be made between the legal regulations governing addictive substances on one hand and drug precursors on the other hand.

The Criminal Code defines 6 drug law crimes:

- section 283 – unauthorised production and other handling of narcotic and psychotropic substances and poisons,
- section 284 – possession of a narcotic or psychotropic substance or poison,
- section 285 – unauthorised cultivation of plants containing a narcotic or psychotropic substance,
- section 286 – manufacturing and possession of an article for the unauthorised production of a narcotic or psychotropic substance or poison,
- section 287 – promotion of drug use,
- section 288 – production and other handling of substances with hormonal effect.

Under the new Criminal Code, a crime consists of any illegal act which the Criminal Code designates as a crime, and which displays the features stated therein, regardless of the given act's endangerment of society

Possession of drugs for personal use and cultivation of plants and mushrooms containing a narcotic or psychotropic substance "in a small quantity" are excluded from criminal prosecution.

According to the provision of subsection 30(1) (j) of the said Act, a misdemeanour has been committed by whoever "without authorisation possesses in a small quantity for their own use a narcotic or psychotropic substance". Possession of such a substance in a quantity greater than small is qualified as the crime pursuant to the provisions of section 284 of the Criminal Code.

Cultivation of such plants or mushrooms in a quantity greater than small shall be qualified as the crime pursuant to the provisions of section 285 of the Criminal Code. For both misdemeanours, offenders face a fine of up to CZK 15,000, although they may also be sanctioned by a warning and forfeiture of an item of property.

Cultivation and distribution of cannabis is still a criminal offence punishable by one to eight years of imprisonment (depending on the quantity). The exception for amounts not "greater than small" applies to cannabis as well. Possession for personal use of such an amount is only a misdemeanour punishable by a fine but not by imprisonment. The Czech Supreme Court ruled that amount "greater than small" of herbal cannabis equals 10 grams of dry matter.

The goal of the law change was to separate illegal market with marijuana from the illegal market with more dangerous substances such as meth or heroin. Czechs are talking about different health impacts of different drugs.

Another reason was to avoid criminalization of drug users – especially less risky drugs (marijuana) and the third reason was to decrease expenses connected with the criminalisation of marijuana use (800 000 cannabis users for medical purposes in Czechia).

Law

The law brief overview as of 2017

- Unauthorized possession of drugs for own use is always illegal and punishable: in small quantities in offense proceedings; in quantities larger than small in criminal proceedings. The entities that are authorized to keep drugs are defined by law (such as medical facilities, pharmacies, laboratories, etc.). Therefore, even if the drug user or addict holds the drug, it is always an infringement.
- Under the Act on Addictive Substances (Act No. 167/1998 Coll.), A fine of up to CZK 15,000 (600 EUR) may be imposed for unauthorized possession of a small amount of any drug for personal use.
- Unauthorized possession of cannabis for personal use in quantities larger than small may be punishable by imprisonment of up to one year, disqualification or confiscation or other property.

- For the unauthorized possession of a narcotic or psychotropic substance other than cannabis in quantities greater than small, there is a sentence of imprisonment of up to two years, disqualification or confiscation of the thing or other property value.
- Unauthorized cultivation of plants or mushrooms containing drugs for own use is always illegal and punishable. In small quantities (or exclusively for alternative treatment) in offense proceedings; in quantities larger than small in criminal proceedings.
- Penalties of up to CZK 15,000 may be imposed for unauthorized cultivation of plants or mushrooms containing drugs for personal use in small quantities.
- Unauthorized cultivation of cannabis for personal use in quantities larger than small may be punishable by a term of imprisonment of up to six months, a fine or confiscation of an item or other property value.
- For unauthorized cultivation of mushrooms or other plants other than cannabis for own use in quantities larger than small, there is a longer term of imprisonment, up to one year, a fine or forfeiture of the thing or other property value.
- The court may impose higher than the above-mentioned penalties in the case of committing the above-mentioned crimes "to a greater extent" or "to a large extent".
- The law only uses the categorisation into cannabis and other drugs, or cannabis plants and other plants and fungi containing drugs, for keeping and growing for own use in the amount larger than small. Any other forms of illicit treatment (e.g. sale, import, export) are legally penalized regardless of the type of drug. Practice, however, distinguishes in imposing penalties based on different types of drugs

To sum it up: Currently, it is not criminal to grow up to 5 plants (up to 0,3% THC) for industrial, technical, and gardening use and to have up to 10 g of dry marijuana top buds (dry matter). But it is considered a minor offense.

If the plants have more than 0,3% THC, it is a criminal act.

Trends in Czech society. What about legalisation?

Former national coordinator of the Government's council for narcotic policy (antidrug policy/ antidrug coordinator), Jindrich Voboril, has resigned from his position after 8 years (2010 – 2018) and nowadays speaks for strict control/regulation of marijuana. He claims that the worst solution is absolute legalization/free market and that the second worst solution is prohibition of marijuana. He sees a good example in the Netherlands and Uruguay (his most favourite) that has very strict rules regarding marijuana such as "collective" growing of marijuana only if registered, retail monopolies, only registered customers can purchase only limited monthly amount. He sees it as a mean to decrease the use and scale down the illegal market.

Currently, any legalisation is out of discussion. The government is conservative and social democrats have taken more conservative stand on this issue than they used under former leadership. The party that supports and drives the conversation about legalisation is Pirate Party. Formerly they were suggesting the same approach/changes as in Colorado, but they have backed a bit and now promote "only" legalisation of growing for personal use (5 plants) and 30g of dry cannabis for personal use (except of minors). They also stress the importance of medical marijuana for certain condition. Czechia has just (30.10.2019) approved a possibility to have cannabis medicine paid by / covered by insurance companies but under strict conditions and thorough follow-up.

The current national coordinator Jarmila Vedralova (replaced Voboril) does not want to make any mistake as she sees that problems with alcohol are not solved by the regulation and wants to make sure that the government knows much more about the effects of different legal steps before they move towards legalization (if they do).

Facts from Czechia:

- Every fifth young person (15 – 34) has tried marijuana and 37% of youth 15 – 16 years old has tried marijuana.
- Czechia – main producer of meth (261 out of 291 illegal labs in Europe are in Czechia)
- Czechia is one of the leading countries in marijuana research in the world (after Israel)
- Alcohol use – 600 000 ppl
- Smokers – 2,5 million

Structure:

Main responsibility: The Government Council for Drug Policy Coordination

The Council submits proposals for measures and activities pertaining to the drug policy to the Government, coordinates and evaluates the implementation of drug policy, and checks whether, and to what extent, the tasks ensuing from the National Strategy and the Action Plans are fulfilled.

The Government declares its support for the UN International Conventions on Drugs, the Political Declaration and the Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, the conclusions of the Dublin Conference, and the Health for All in the 21st Century policy promoted by the World Health Organisation. The National Drug Policy Strategies build upon the objectives and measures laid down in the EU Drugs Strategy.

Interventions

Currently, the main political framework and document guiding the drug policy in Czech Republic is the National Drug Policy Strategy for 2010-18 (I haven't found a newer one). The drug policy strategy is based on four pillars of the drug policy: (1) Primary Prevention; (2) Treatment and Social Reintegration; (3) Harm Reduction, and (4) Drug Supply Reduction and Regulation.

In 2014 the Government approved a new concept of drug policy. In December 2014, the issues of alcohol and gambling were incorporated to the National Drug Policy Strategy for the Period 2010-2018. The second revision was approved in January 2016 and emphasised the problem of tobacco control.

Following the revisions the National Drug Policy Strategy defines four general objectives: (1) to reduce the level of experimental and occasional use of addictive substances, particularly among young people and to reduce the level of gaming among children and youth; (2) to reduce the level of problem and intensive use of addictive substances and problem gambling; (3) to reduce potential risks related to the use of addictive substances and problem gaming to individuals and society, and (4) to reduce availability of addictive substances, particularly to young people and to strengthen the regulation of gambling.

Medical Cannabis

Act No. 50/2013 Coll., amending Act No. 378/2007 Coll., on pharmaceuticals, Regulation No. 463/2013 Coll., on the lists of addictive substances, and Act. No. 634/2004 Coll., on Administrative Fees, introduces the option of using cannabis for therapeutic purposes in the Czech

Republic. Medical cannabis use is only possible in line with Ministerial Notice No. 236/2015 Coll., establishing the conditions for prescribing, preparation, distribution, supply and use of individually prepared medicines containing cannabis for therapeutic use, amending Notice No. 221/2013 Coll. Limits of medical cannabis for 1 patient are currently, compared to the original 30g, 180g per month. GPs can't prescribe, only various specially qualified doctors, such as oncologists and psychiatrists, and only for over-18s only. This Notice increased allowable values of delta-9-THC to 21% and CBD to 19%. The indications were extended (using cannabis for treatment of dermatoses or chronic pain in connection with glaucoma) and other medical professions have been included to prescribe cannabis.

Effects

- The liberal drug policy has benefited consumers and the state, which no longer must devote a great deal of time and energy to pursuing every minor infraction. But the new policy has not made genuine progress in the fight against the illegal production of drugs
- Prices of marijuana are falling. Nowadays 10 grams of weed cost €60 (\$78).

The number of convictions for drug-related offences increased after the changes in the new Czech Criminal Code

Interestingly, most respondents to a survey recognise that the number of drugs offences remained the same. The increase in prosecutions might be explained by the fact that law enforcement officials do not share the liberal attitude of society to cannabis use, and show a more repressive and punitive approach, although they appreciate the fact that the new legislation distinguishes between cannabis and other drugs, and introduced the offence of the illegal cannabis cultivation.

The law enforcement professionals also observed that juveniles are increasingly more involved in drug-related crimes. Statistics show that there are increasing numbers of foreigners convicted of drug offences in the Czech Republic, in particular Vietnamese whose numbers of convictions of drug-related offences increased almost nine-fold from 2008 to 2013 (It is Vietnamese who mass-grow cannabis green houses in Czech Republic)

According to a 2014 survey, 9 per cent of cannabis users in the Czech Republic cultivated their own cannabis. A large proportion of cannabis users (44 per cent) declared that they got their cannabis for free. However, cannabis production is shifting from small and isolated groups towards large-scale production.

Mood

Czech society can be described as tolerant towards cannabis. There is extensive public action expressing support towards further liberalization of cannabis. The Million Marijuana March, supporting the full legalization of cannabis, has taken place in the Czech capital Prague every year since 1998. In 2003 the march was fully legal for the first time, i.e. reported to the authorities in advance and properly advertised. The numbers of participants increased from a few hundred in 1999 to 15,000 in 2009 and then decreased again to 5,000 in 2015.

Another significant public action, which has taken place every year since 2009, is the Canafest – an international fair, which offers not only the possibility to buy seeds, fertilisers and other necessary tools for cannabis cultivation from various international sellers, but also pro-

vides the visitors with extensive technical/scientific background such as various lectures about the medical use of cannabis given by leading authorities in their fields.

Estonia

Respondent: Lauri Beekmann; head of NORDAN

Why did the policy change? What was the reason for the country to decriminalize?

With Estonia, and perhaps with other Eastern European countries, it is important to remember that in the 1990-s these states were building up their legal system. Much that was developing over decades in other democratic countries in Europe, had to be done fast in post-Soviet countries. Mistakes were made and laws needed to be changed. The Penal Code is an Estonian law on the subject of offenses, and it entered into force on 1 September 2002. Before the Penal Code, the Criminal Code defined these matters and the first is mostly based, of course, on the latter. The Penal Code lays down the concepts of crime and misdemeanour. And it also provides for the possibility of prosecution of a legal person who has committed a crime or misdemeanour. So, based on Criminal Code, until 2002, the use, acquisition or possession of a small amount of illicit narcotic drug without the purpose of giving or selling was already a criminal offense in Estonia. Since the Penal Code that is not a criminal offense anymore. However, under the Penal Code, the supply of narcotic drugs to a minor and the inducement of a minor to use narcotic substances are punishable as a criminal offense. On the one hand, it partially decriminalized consumption and possession, making it a misdemeanour rather than a criminal offense. On the other hand, penalties for narcotics offenses involving juveniles were increased.

In 2002, Estonia experienced the first wave of fentanyl poisonings. And that might have been the reason why in 2004 the Code was once again amended so that the penalties for most illicit drug offenses were increased, in some cases to life imprisonment, and the minimum sentences for aggravated circumstances were raise.

How is the law of decriminalization constructed?

At present, possession or consumption of a small number of illicit drugs in Estonia is punishable by a fine or detention, while the misdemeanour may be terminated for reasons of expediency. Possession or handling of illicit drugs other than for personal use, regardless of quantity or substance, is a criminal offense. For example, the illicit transfer, manufacture, acquisition or possession of a small amount of a drug is punishable by up to 3 years' imprisonment in the absence of aggravating circumstances. Large scale illegal handling is punishable by up to one to ten years' imprisonment in the absence of aggravating circumstances. The transfer of a small amount of illegal narcotic drugs by an adult to a minor is punishable by up to 5 years' imprisonment in the absence of aggravating circumstances. Inducing to drink is punishable by up to three years' imprisonment and inducing a minor to use one to ten years' imprisonment.

Also see the Penal Code from § 183–190.

<https://www.riigiteataja.ee/en/eli/ee/516052019002/consolide/current>

Cannabis is not differentiated by law in Estonia from other drugs.

In 2009, it was agreed to extend the use of drug treatment as an alternative sanction to substitute financial penalties, direct treatment to terminate criminal proceedings, apply it to community service or conditional release with electronic surveillance, and terminate misdemeanour

for expediency and substitute punishment for addiction treatment. In 2011, several laws were amended in Estonia to provide alternative addiction treatment instead of imprisonment.

Substitution treatment is possible as a substitute punishment if the prison sentence is between six months and two years and the offender has consented to this alternative punishment. Alternative addictive treatment should last from 18 months to 3 years. In some cases, the duration of the alternative treatment may be longer than the probable term of imprisonment.

How is the law implemented in practice?

Drug law offence (DLO) data are the foundation for monitoring drug-related crime and are also a measure of law enforcement activity and drug markets dynamics; they may be used to inform policies on the implementation of drug laws and to improve strategies.

Over 5 800 reports on DLOs (criminal offences and misdemeanours) were made in 2017, which is an increase compared with previous years. Around 7 out of 10 reported DLOs were related to use and possession. http://www.emcdda.europa.eu/countries/drug-reports/2019/estonia/drug-laws-and-drug-law-offences_en

Has the decriminalization fulfilled the reason to implement the law?

It seems that what happened in 2002 in Estonia, wasn't so much of a liberalisation of the existing regulation but an attempt to improve and develop the almost non-existent framework. Drug prevention, treatment and rehabilitation didn't exist almost at all. As I also showed, while some of it was decriminalized, punishments for most of it, became actually more severe.

When we compare the situation in 1990's or 2000's the situation is improved a lot but the main reason for this is not so much the legal basis and how it has changed, but probably the whole system, that includes prevention, treatment, institutional cooperation etc.

What are the main challenges? And what can we learn?

As it is known, Estonia has the highest rate of drug-related deaths per million people. In 2017, 110 drug-induced deaths were reported. Toxicological results attributed the vast majority of these deaths to overdoses of synthetic opioids, mainly fentanyl (in 28 cases fentanyl's only) and other fentanyl's, such as carfentanyl (reported in 15 cases). The mean age at drug-induced death has increased in recent years, although even in 2017 one fifth of victims were younger than 25 years. Compared with 2016, overdose death cases are more widely spread throughout the country. http://www.emcdda.europa.eu/countries/drug-reports/2019/estonia/drug-induced-deaths_en

Fentanyl is currently the biggest problem and the main reason for drug deaths.

In 2017 the police seized some big dealers, temporarily creating a fentanyl shortage on the market. Because of the so-called supply difficulties, people who have used fentanyl so far started to use everything they could find on the market - opioids, stimulants and hallucinogens. The result was a cocktail under which people's behaviour became more unpredictable and at times more aggressive. New fentanyl analogues, such as carfentanyl, are also on the market, with a higher risk of overdose.

Georgia

Respondent: Ergin Beceren; Georgia Green Crescent

Why did the policy change? What was the reason for the country to decriminalize?

Before the legalization of cannabis Georgia had a strict anti-drug policy as the offenders could have been jailed up to 14 years. Beginning in 2013 there were some calls from opposition politicians to decriminalize cannabis. The protests were held outside the Parliament building calling for decriminalization of drugs, including cannabis. On 30 July 2018, the Constitutional Court of Georgia ruled that marijuana can only harm the user's health making that user responsible for the outcome. The responsibility for such actions doesn't cause dangerous consequences for the public. So the use and possession of cannabis was legalized but the cultivation and sale of the drug still remained illegal as well as the public consumption and the use in the presence of children.

How is the law of decriminalization constructed?

Georgia's Criminal Code defined repetitive use of marijuana and possession of more than 70 grams of dried cannabis as a crime for which individuals can face punishment that doesn't include imprisonment. Still the law kept ban on consumption of marijuana:

- ✓ In public places
- ✓ In public transport
- ✓ Within, and on the property of educational institutions, as well as the venues designated for individual under 18
- ✓ During work activity for certain professions (medical professions, teachers and public servants)

In addition, being under the influence of marijuana while driving, as well as selling remained criminal offences.

How is the law implemented in practice?

Smoking in public places was punishable by a fine of 800-1200 lari (250-400\$).

Individuals younger than 21 found smoking marijuana were fined 500 and 1500 lari (200-500\$)

Inciting minors to using drugs is a criminal offence and was punishable by imprisonment of 6 to 10 years.

Driving under the influence of marijuana was punishable by a fine or one year's imprisonment.

Most severe penalties were applying to the promoting of drugs, including marijuana. The citizen might have to pay between 5 000 and 10 000 lari and a juridical individual between 10 000 and 20 000 lari.

Has the decriminalization fulfilled the reason to implement the law?

The legalization of marijuana, in other words, "the law" didn't work out in Georgia. The supporters of the law stated that their aim wasn't to make marijuana accessible for everyone, but to reduce the number of drug addicts. But still the marijuana should be legalized only for medical purposes.

What are the main challenges? And what can we learn?

Though the legislative changes were made to the drug policy still it is a complex issue. Majority of the people don't know that only marijuana is legalized in Georgia, not cocaine or heroine.

In short, the new "law" wasn't welcomed because it would be an important factor in increasing the number of drug users. Prevention and rehabilitation are the most important steps for improving the drug situation in the country. The most vital point is that drug laws should focus on treatment and prevention.

Anything else you want to add?

We would like to share with you the treatment program:

Treatment of patients with drug addiction-the aim of the program is to reduce the harm caused by drug use .

Inpatient detoxification and primary rehabilitation-during mental and behavioural disorders caused by opioids, stimulants and other psychoactive substances.

Financing of the program -100% without co-payment

- Providing of replacement therapy and provision of delivery substitute pharmaceutical products in Tbilisi and other regions of Georgia. Financing -100% without co-payment
- Psychosocial Rehabilitation. Financing-100% without co-payment
- Purchase of substitute pharmaceutical products.

Recent Developments (According to the Ministry of Justice of Georgia)

- Adoption of the law "On New Psychoactive Substances"
- Separation of the illegal selling of narcotic drugs
- Liberal regime on marijuana and cannabis
- National Drug Situation Monitoring Center

Anti-Drug State Strategy (2013) and Action Plan (2019-2020)

The content of the program: identification of the problem, implementation of pragmatic and realistic strategy; formation of balanced policy, fight against stigma and discrimination. The program based on 4 pillars: Prevention, treatment and rehabilitation, harm reduction and supply reduction.

Italy

Respondent: Andrea Zapparoli; Presidenza del Consiglio dei Ministri, Dipartimento Politiche Antidroga

Why did the policy change? What was the reason for the country to decriminalize?

In 2006 a decree of the Ministry of Health introduced the quantity of drug for personal use. The amount of drugs for personal use is important for the application of art. 75 of Presidential Decree 309/90. (Cannabis: 5 g.)

How is the law of decriminalization constructed?

According to Art. 75 DPR 309/90 (Italian drug law):

1. Anyone who illegally imports, exports, purchases, receives for whatever reason or otherwise possesses narcotic or psychotropic substances for any personal use, is subjected, for a period of two months to a year, if they are narcotic or psychotropic substances included in the Tables

I and III provided for in Article 14 (opium, cocaine, amphetamine, barbiturates...) and for a period of one to three months, in the case of narcotic or psychotropic substances included in Tables II and IV provided for in the same article (cannabis, benzodiazepine...), to one or more of the following administrative sanctions:

- a) suspension of the driving license, of the certificate of professional qualification for driving motor vehicles and of the certificate of suitability for driving mopeds or prohibition of obtaining them for a period of up to three years;
- b) suspension of the license to carry firearms or prohibition to obtain it;
- c) suspension of the passport and any other equivalent document or prohibition to obtain them;
- d) suspension of the permit of stay for tourism reasons or prohibition to obtain it if non-EU citizen.

How is the law implemented in practice?

When police find somebody using drugs or in possession of drugs for personal use, the person is sanctioned pursuant to art. 75 dpr 309/90.

Luxembourg

Respondent: Kalle Dramstad; Head of European Policy, IOGT-NTO Sweden

Why did the policy change? What was the reason for the country to decriminalize?

Government declaration when the law was changed in 2001 (https://gouvernement.lu/dam-assets/fr/actualites/communiqués/2004/12/22drogues/Rapport_drogues.pdf) page 46-47

"We can practice the ostrich policy as much as we want, but we do have a substantial drug problem in Luxembourg. We will not be able to solve it, it would exceed State capacity. But we can reduce it, frame it, make it more flexible, by helping from a mentality and attitude point of view, by not considering drug addicts as criminals but as sick, and by going as far as to modify our laws and the penalties there assorted. In concrete terms, this will mean creating treatment centres, to facilitate access to these treatment centres abroad, to create infrastructures where, under medical supervision, we will dispense heroin to addicts in order to stem crime due to supply, to develop programs based on methadone, to provide counselling centres for parents of dependent children and adolescents and to increase the number of prevention and information programs. In any case, there is no question of legalization of so-called soft drugs at the national level only. Suggestions and solutions at European level are necessary for that. We want to help the sick but to avoid any price drug tourism with all its consequences."

"The policy to be pursued in this area cannot lead to decriminalization of drugs. Regarding the position to be taken at European level, it is agreed that, in the event of European policy moving towards a certain liberalization, Luxembourg would not oppose it. In this context it is stated that our current legislation on drugs will not be changed except regarding the penalties for the consumption of soft drugs, which will be reduced so that the consumption of soft drugs is no longer punished with prison but fines. In the case of hard drugs, prison sentences may be replaced by sentences imposing an obligation of therapy."

How is the law of decriminalization constructed?

Law: <http://legilux.public.lu/eli/etat/leg/loi/2001/04/27/n1/jo> (only decriminalization of cannabis - <https://police.public.lu/fr/jeunesse/stupefiants.html>). Separation of Cannabis from other drugs (see article 7 A. vs. B.).

Cannabis:

Fine: Use, buying, selling, transporting or possessing cannabis, personal use (up to 2500 EUR fine)

Make possible for others to use Cannabis (for example: give/sell cannabis to someone or let someone use at your home)

- Fine and/or prison:

Use in front of minors or in schools or at workplaces (2500 EUR and/or up to 6 months)

Use with one or several minors (25 000 EUR and/or up to 2 years)

Other drugs:

Prison and fine for all types of activities, use transport, possession etc., increasing when done close to or with minors, in the workplace/school or the hardest if done by a teacher working in a school (also outside of school premises)

The sale, production, plantation, import, export or storage of all drugs are sanctioned by prison up to 5 years and a fine up to 1 250 000 EUR (Including cannabis, apart from personal quantities - *my interpretation of legal text)

What are the main challenges? And what can we learn?

From the [coalition agreement](#) laying out why they are now seeking to legalise cannabis:

Legislation on recreational cannabis will be developed. The main objectives will be to decriminalize, even legalize under conditions to be defined, production on the national territory as well as the purchase, possession and use of recreational cannabis for the personal needs of adult residents, to keep consumers away from the illicit market, to reduce in a determined way the psychological and physical dangers related to it and fight crime at the supply level. To this end, it is a question of establishing, under the control of the State, a chain of national production and sale thus guaranteeing the quality of the product. The proceeds from the sale of cannabis will be invested first and foremost in the prevention, awareness and care in the broad area of dependence.

Avoiding drug tourism is a large issue surrounding the implementation of the coalition agreement text on cannabis.

Étienne Schneider, Minister of Health of the Grand-Duchy of Luxembourg: My obsession is to solve this public health problem. We have seen clearly for forty years that our drug policy does not work. In Luxembourg as in other countries. We can forbid everything we want, drugs are sold and distributed everywhere, and the black market continues to explode.

We decided to challenge ourselves. We make the choice to legalize the production, distribution, consumption and possession of cannabis, especially if we observe what is being sold on the illegal market. It's shit! It's very dangerous! Regulating means better quality products. The goal is to come into force within two years.

We don't want Luxembourg to become the new Amsterdam. The idea is to restrict purchases to Luxembourgian residents [Link](#)

Slovenia

Respondent: Matej Košir; UTRIP

Why did the policy change? What was the reason for the country to decriminalize? (and the year if not in above)

Possession of illicit drugs is decriminalised in Slovenia since 1978 and since then de facto no drug user had been imprisoned based on possession of illicit drugs charges. There was always a discretion right of the judges to decide about sanctions and mostly there were administrative sanctions (warnings or fines).

How is the law of decriminalization constructed? How is the law implemented in practice?

Use of drugs is not mentioned as an offence and there is no alternative to punishment for use, as it is not an offence. Use of drugs per se not regulated by the law.

Possession of illicit drugs in any amount is punished by a fine of 200-625 EUR whereas possession of a smaller quantity of illicit drugs for one-off personal use is a misdemeanour, punished by a fine of 40 - 200 EUR. If a person voluntarily enters treatment or social security programme, they may be subject to more lenient punishment in accordance with the provisions of the Misdemeanour Act. Penalty does not vary by drug or by addiction factor. Dependent and casual users can benefit from more lenient punishment once they voluntarily agree to undergo treatment or social security programme.

Drug supply is punishable by 1-10 years imprisonment. It may be punished by 3-15 years with aggravating circumstances, which include supply to minor, mentally ill, person with a temporary mental disorder, drug dependent person, or when it is committed in educational or training institution, in prison or at public events, as well as when it is committed by a teacher, educator or civil servant. When performed by a member of criminal organisation: 5-15 years imprisonment. Criminal Code, art. 186. The law provides the possibility of suspending a prison sentence with imposition of probationary measures which include participation in treatment (if a prison sentence imposed by the court does not exceed two years of imprisonment or a fine, and the minimum punishment set in the law does not exceed 3 years). Penalty does not vary for different drugs, by quantity or for addiction.

Has the decriminalization fulfilled the reason to implement the law?

Policy is successful, because drug policy is not against drug users, but more against drug traffickers. Policy is based on destigmatisation, comprehensive & holistic support services for drug users and addicts, and human rights.

What are the main challenges? And what can we learn?

There are several intentions by several (legalization) groups (political and NGOs) to change the law in favour to commercialisation of cannabis products and plant, but until now they were not successful at political level (no regulation in this direction). There have been discussions in media and politics about this topic periodically and I'm pretty sure the topic will remain on the (political) agenda in the future. The positive aspect is that public health NGOs created very strong advocacy coalition (our institution is one of the leading partners) with strong scientific background and arguments, and to some extent also support in mainstream media (such as national TV and radio etc.).

Anything else you want to add?

The Ministry of Health supports (also financially) all activities against commercialisation of cannabis (like Canada or some US states or Luxembourg lately), so our advocacy coalition re-

ceives funding to present scientific arguments and act in media and other public actions and campaigns against commercialisation

Transfer of cannabis from group I to group II on the list of illicit drugs in 2014 (changes in 2017)

The Decree on the classification of illicit drugs (Official Gazette of the Republic of Slovenia, no. 45/14, 22/16 and 14/17), hereinafter referred to as the decree) enables the medical practitioner to prescribe drugs made on the basis of cannabinoids (synthetic, natural and the so-called medicinal cannabis) to patients with an indication for the use of such medicines. The decree stipulates that the use of cannabis for medicinal purposes is permitted in medicines in accordance with the Medicinal Products Act (Official Gazette of the Republic of Slovenia, no. 17/14) and the Pharmacy Practice Act (Official Gazette of the Republic of Slovenia, no. 85/16) and in accordance with the regulations and guidelines governing their prescription. Besides medicines based on synthetic and natural cannabinoids, the use of standardised buds or fertile tips of cannabis (medical cannabis) is enabled but not yet entirely realised in Slovenia.

By transferring cannabis from group I to group II on the list of illicit drugs, the legal basis for the use of this plant for medical purposes has been established, since in accordance with Article 3 of the Production of and Trade in Illicit Drugs Act only illicit drugs that are categorised in group II or III of the list can be used for such purposes. The entire plant, its extracts and resin have been transferred to group II, whereas the main purpose of the modification is to enable the use of standardised buds or fertile tips of cannabis, where resin has not been extracted, i.e. for medical purposes. The initiative for enabling the prescription of such products for treatment with certain indications was provided by the Medical Chamber in its report as of 21 September 2016. Based on the mentioned report and a wider discussion, the Health Care Committee of the National Assembly tasked the Ministry of Health to prepare appropriate legal bases for prescribing such products to patients. This is still in process by the Ministry of Health.

Spain

Interview by Peter Moilanen with Dr Joan Colom Farran, director of the Programme on Substance Abuse Agency of Public Health of Catalonia.

According to dr Farran Spain has never criminalized narcotic drugs but the year it was formalized was in 1982. The core of the system is that if you get caught by the police with the amount of personal use in public areas you get an administrative fine/ sanction of 600 euro or more. If you are under 18 year you can substitute the fine to an educational program that is not treatment but more of some meetings with professionals. Are you 18 years or above you only get the fine (earlier there was a possibility to choose treatment instead).

If you get caught with a possession of more than personal use the sanction is criminalized. The level of sanction then depends on the reason for the crime. If you are for example poor and in need of money the sanction is not that hard as if you are head of an organized activity that has done this for several years.

Switzerland

Respondent: Frank Zobel; Addiction Switzerland

Why did the policy change? What was the reason for the country to decriminalize?

After a failed attempt to reform the Swiss cannabis policy by the government (2004) and a rejected ballot initiative to legalise cannabis (2008), the Swiss parliament decided to change the way cannabis use was punished. One of the main reasons for this was that the number of cannabis use offences was constantly increasing and that local justice departments had too much work. Another reason was that the law was applied very differently within the country. In some places, cannabis users had almost no punishment in others they received heavy fines. Overall, the average sanction for cannabis use (a fine of 200-300 francs with additional court costs) were also seen as disproportionate to the level of the offence.

How is the law of decriminalization constructed?

The new law sanctions cannabis use by adults with an administrative fine of 100 Swiss Francs (about 90 euros). The fine is directly given by the police officer and needs to be paid within 30 days. If not paid, the old system applies (case send to the prosecutor).

How is the law implemented in practice?

The law was very badly written, and this had two major consequences. First, it allowed some regions to continue to sanction cannabis use through the judicial system and this didn't reduce the differences within the country which was one of the objectives of the new legislation. Secondly, the country's highest court has ruled that – according to the text of the law - cannabis possession of up to 10 grams cannot be punished anymore, although the drug will be seized. This applies not only to adults but also to minors. This means that in practice it is a big mess currently. If you use cannabis you get a fine, if you just possess cannabis you get nothing. It's absurd.

The law had no impact on cannabis use which remained stable over the years.

Has the decriminalization fulfilled the reason to implement the law?

No, but that is partially since it was badly written and that its objectives were weak.

What are the main challenges? And what can we learn?

From our point of view, decriminalization is not a good alternative because it solves only very few problems if any. Drug users shouldn't be punished at all and instead get help if they need it. The Portuguese model is the most interesting model of decriminalization because it seeks to help the persons in need and not to sanction users.

Appendix 1

The questions asked to the respondents:

Country: _____

- Why did the policy change? What was the reason for the country to decriminalize? (and the year if not in above)
- How is the law of decriminalization constructed (What happen if you get discovered? Any fee? Any dialogue with social services about treatment for example? Who has the power to detect? The police? At what level is it criminalized?)
- How is the law implemented in practice? (A Swedish example with our criminalization: according to the law you can get prison or fee but in practise prison is never to be condemned).
- Has the decriminalization fulfilled the reason to implement the law?
- What are the main challenges? And what can we learn?
- Anything else you want to add?