

Drug Decriminalization in Portugal: A Health-Centered Approach

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Portugal enacted one of the most extensive drug law reforms in the world when it decriminalized low-level possession and use of all illicit drugs nearly a decade and a half ago. Results of the Portuguese experience demonstrate that drug decriminalization – alongside a serious investment in treatment and harm reduction services – can significantly improve public safety and health.

The Portuguese Decriminalization Model

In 2001, Portuguese legislators enacted a comprehensive form of decriminalization – eliminating criminal penalties for low-level possession and consumption of all illicit drugs and reclassifying these activities as administrative violations. A person found in possession of personal-use amounts of any drug in Portugal is no longer arrested, but rather ordered to appear before a local “dissuasion commission” – comprised of one official from the legal arena and two from the health or social service arenas – who determine whether and to what extent the person is addicted to drugs. The commission can refer that person to a voluntary treatment program, pay a fine or impose other administrative sanctions. While drug use and possession no longer trigger criminal sanctions, they remain illegal. Further, drug trafficking offenses remain illegal and are still processed through the criminal justice system.¹

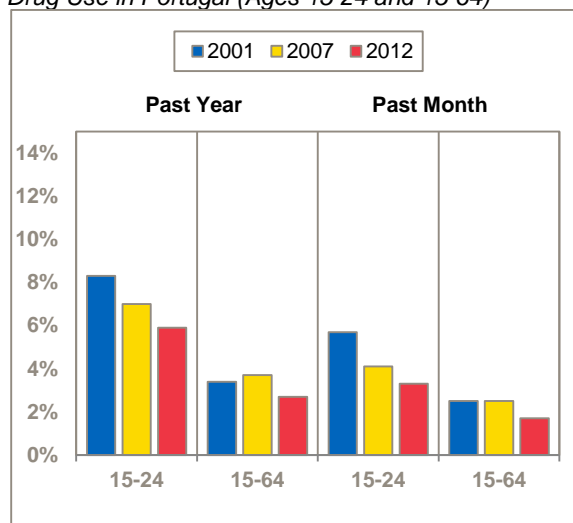
Benefits of the Portuguese Approach

Independent research² of the Portuguese policy has shown remarkably promising outcomes:

No major increases in drug use. Rates of illicit drug use have mostly remained flat. Slight increases in lifetime use of some drugs have occurred but appear to be part of a regional trend – and likely reflective of increased experimentation. Rates of drug use in the past year and in the past month have not changed

significantly or have actually declined since 2001.³ Portugal’s drug use rates remain below the European average⁴ – and far lower than the United States.⁵

Drug Use in Portugal (Ages 15-24 and 15-64)



Source: Balsa et al., Universidade Nova de Lisboa, 2013.⁶

Reduced problematic and adolescent drug use.

More importantly, adolescent drug use, as well as problematic drug use – or use by people deemed to be dependent or who inject – has decreased since 2003.⁷

A 2013 study of European Union member-states confirms that countries like Portugal that have decriminalized drug possession have not experienced increases in monthly rates of use – and in fact tend to have lower rates than countries with punitive policies.⁸

“Portugal remains among the countries with the lowest prevalence of use for most of the substances.”⁹

— Institute on Drugs & Drug Addiction, Portugal, 2013.

Fewer people arrested and incarcerated for drugs.

The number of people arrested and sent to criminal courts for drug offenses declined by more than 60 percent since decriminalization.¹⁰ Importantly, the number of people referred for administrative offenses under the new law has remained mostly constant (between 6,000 and 8,000 per year), “indicating no overall increase in the amount of formal contact that drug offenders are having with Portuguese police and so no net-widening.”¹¹ The vast majority (more than 80 percent) of cases that come before Portugal’s dissuasion commissions are deemed non-problematic and dismissed without sanction.¹²

The percentage of people in Portugal’s prison system for drug law violations also decreased dramatically, from 44 percent in 1999 to 24 percent in 2013.¹³ The overall quantity of illicit drugs seized by Portuguese law enforcement slightly increased, too¹⁴ – possibly a result of public safety resources newly freed up by decriminalization.¹⁵

“We came to the conclusion that the criminal system was not best suited to deal with this situation... The best option should be referring them to treatment... We do not force or coerce anyone. If they are willing to go by themselves, it’s because they actually want to, so the success rate is really high... We can surely say that decriminalization does not increase drug usage, and that decriminalization does not mean legalizing... It’s still illegal to use drugs in Portugal — it’s just not considered a crime. It’s possible to deal with drug users outside the criminal system.”¹⁶

– Nuno Capaz, Lisbon Dissuasion Commission, 2013.

More people receiving drug treatment. Between 1998 and 2011, the number of people in drug treatment increased by more than 60 percent (from approximately 23,600 to roughly 38,000).¹⁷ Treatment is voluntary – making Portugal’s high rates of uptake even more impressive. Over 70 percent of those who seek treatment receive opioid-substitution therapy, the most effective treatment for opioid dependence.¹⁸

Reduced incidence of HIV/AIDS. The number of new HIV and AIDS diagnoses have fallen considerably. Between 2000 and 2013, new HIV cases among people who use drugs declined from 1,575 to 78. The number of new AIDS cases declined from 626 to 74.¹⁹

Reduced drug-induced deaths. The number of deaths caused by drug overdose decreased from about 80 in 2001 to just 16 in 2012.²⁰

Reduced social costs of drug misuse. A 2015 study found that, since the adoption of the new Portuguese national drugs strategy, which paved the way for decriminalization, the per capita social cost of drug misuse decreased by 18 percent.²¹

“The decriminalization of drug use should be understood as only one element of a larger policy change that...might be best described as a public health policy founded on values such as humanism, pragmatism and participation.”²²

– European Monitoring Centre on Drugs & Drug Addiction, 2011.

Decriminalization, Treatment and Harm Reduction: A Health-Centered Approach

These positive outcomes are not solely attributable to decriminalization but also to a major expansion of treatment and harm reduction services, including access to sterile syringes, low threshold methadone maintenance therapy and other medication-assisted treatments.²³ Portuguese policymakers deserve praise for “creating the necessary infrastructure and making the required financial investment to enable the policy to be put into practice,”²⁴ as well as for eliminating most barriers to accessing vital services.²⁵

Portugal’s Drug Czar, Dr. João Goulão, states, “There is no doubt that the phenomenon of addiction is in decline in Portugal,”²⁶ which he believes is “the result of a set of policies that target reduction of both supply and demand, including measures of prevention, treatment, harm reduction and social reinsertion.”²⁷

“The biggest effect has been to allow the stigma of drug addiction to fall, to let people speak clearly and to pursue professional help without fear.”²⁸

– Dr. João Goulão, Portugal’s “Drug Czar”, 2011.

Independent Research Conclusions

Nearly a decade and a half later, Portugal shows that decriminalization does not inevitably lead to increases in drug use, nor does it lead to a culture of lawlessness. Indeed, none of the fears of critics have come to pass.

Instead, law enforcement and the criminal justice system function more efficiently, and Portugal has been able to invest in improving the health and

wellbeing of people struggling with drug problems. Community relations with the police have also significantly improved.²⁹

“There were fears Portugal might become a drug paradise, but that simply didn’t happen.”³⁰

– Former police chief Fernando Negrão, *Portugal’s Institute on Drugs & Drug Addiction*, 2007.

According to the United Nations Office on Drugs and Crime, “Portugal’s policy has reportedly not led to an increase in drug tourism. It also appears that a number of drug-related problems have decreased.”³¹

¹ Artur Domoslawski, *Drug Policy in Portugal: The Benefits of Decriminalizing Drug Use*, trans. Hanna Siemaszko (Open Society Foundations, 2011); Hannah Laqueur, “Uses and Abuses of Drug Decriminalization in Portugal,” *Law & Social Inquiry* (2015).

² Caitlin Elizabeth Hughes and Alex Stevens, “What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?,” *British Journal of Criminology* 50, no. 6 (2010): 999-1022.

³ European Monitoring Centre for Drugs and Drug Addiction, “2013 National Report (2012 Data) to the Emcdda by the Reitox National Focal Point: Portugal,” (Lisbon: European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), 2014), <http://www.emcdda.europa.eu/html.cfm/index213792EN.html>.

⁴ Ibid.

⁵ Hughes and Stevens, “What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?,” 999-1022; “A Resounding Success or a Disastrous Failure: Re-Examining the Interpretation of Evidence on the Portuguese Decriminalisation of Illicit Drugs,” *Drug and Alcohol Review* 31, no. 1 (2012): 109.

⁶ Casimiro Balsa, Clara Vital, and Cláudia Urbano, “Ao Consumo De Substâncias Psicoativas Na População Portuguesa, 2012: Relatório Preliminar,” (Lisbon: CESNOVA – Centro de Estudos de Sociologia da Universidade Nova de Lisboa, 2013).

⁷ Hughes and Stevens, “What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?,” 999-1022; Mafalda Ferreira, Margarida Gaspar de Matos, and José Alves Diniz, “Risk Behaviour: Substance Use among Portuguese Adolescents,” *Procedia - Social and Behavioral Sciences* 29(2011): 486-92.

⁸ Mike Vuolo, “National-Level Drug Policy and Young People’s Illicit Drug Use: A Multilevel Analysis of the European Union,” *Drug and Alcohol Dependence* 131, no. 1-2 (2013): 149-56.

⁹ Institute on Drugs and Drug Addiction (IDT), “2012 National Report (2011 Data) to the E.M.C.D.D.A. By the Reitox National Focal Point: Portugal - New Development, Trends and in-Depth Information on Selected Issues,” (Lisbon: European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), 2013), <http://www.emcdda.europa.eu/html.cfm/index214059EN.html>.

¹⁰ Serviço de Intervenção nos Comportamentos e nas Dependências (SICAD), “Relatório Anual 2013 – a Situação Do País Em Matéria De Drogas E Toxicodependências,” (2014), 91; Hughes and Stevens, “What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?,” 1008-10.

¹¹ “What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?,” 1009; (SICAD), “Relatório Anual 2013 – a Situação Do País Em Matéria De Drogas E Toxicodependências.”

¹² “Relatório Anual 2013 – a Situação Do País Em Matéria De Drogas E Toxicodependências; Hughes and Stevens, “What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?,”

¹³ “What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?,” 1010; (SICAD), “Relatório Anual 2013 – a Situação Do País Em Matéria De Drogas E Toxicodependências,” 105.

¹⁴ Hughes and Stevens, “What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?,” 1011.

¹⁵ Nigel Hawkes, “Highs and Lows of Drug Decriminalisation,” *BMJ* 343(2011).

The leading independent researchers to investigate the outcomes of Portugal’s policy, professors Caitlin Hughes and Alex Stevens, wrote in the *British Journal of Criminology* in 2010 that “contrary to predictions, the Portuguese decriminalization did not lead to major increases in drug use. Indeed, evidence indicates reductions in problematic use, drug-related harms and criminal justice overcrowding.”³²

In a 2012 follow-up article published in *Drug and Alcohol Review*, they concluded, “[There] is ample evidence of a successful reform.”³³

¹⁶ John Keilman, “Portugal Decriminalized All Drugs in 2001; What Can It Teach Illinois?,” *Chicago Tribune*, May 1 2013.

¹⁷ Hughes and Stevens, “What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?,” 1015; Instituto da Droga e da Toxicodependência, “Relatório Anual 2011 – a Situação Do País Em Matéria De Drogas E Toxicodependências,” (2012), Anexo, 32. As a result of changes to Portugal’s national treatment data collection and reporting processes, data published after 2011 are not directly comparable to data published before 2011. Laqueur, “Uses and Abuses of Drug Decriminalization in Portugal.”

¹⁸ Balsa, Vital, and Urbano, “Ao Consumo De Substâncias Psicoativas Na População Portuguesa, 2012: Relatório Preliminar; (SICAD), “Relatório Anual 2013 – a Situação Do País Em Matéria De Drogas E Toxicodependências.”

¹⁹ “Relatório Anual 2013 – a Situação Do País Em Matéria De Drogas E Toxicodependências,” Anexo, Quadro 40, p. 55.

²⁰ Hughes and Stevens, “A Resounding Success or a Disastrous Failure: Re-Examining the Interpretation of Evidence on the Portuguese Decriminalisation of Illicit Drugs,” 107; (SICAD), “Relatório Anual 2013 – a Situação Do País Em Matéria De Drogas E Toxicodependências,” 64.

²¹ Ricardo Gonçalves, Ana Lourenço, and Sofia Nogueira da Silva, “A Social Cost Perspective in the Wake of the Portuguese Strategy for the Fight against Drugs,” *International Journal of Drug Policy* (2014).

²² Maria Moreira et al., “Drug Policy Profiles – Portugal,” (Lisbon: EMCDDA, 2011).

²³ Domoslawski, *Drug Policy in Portugal: The Benefits of Decriminalizing Drug Use*; Hughes and Stevens, “What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?,” 1016; Paula Vale de Andrade and Ludmila Carapinha, “Drug Decriminalisation in Portugal,” *BMJ* 341(2010); Lisa Berger, “Drug Policy in Portugal: An Interview with Helen Redmond, Lcsw, Cadc,” *Journal of Social Work Practice in the Addictions* 13, no. 2 (2013).

²⁴ Domoslawski, *Drug Policy in Portugal: The Benefits of Decriminalizing Drug Use*, 49-50.

²⁵ Berger, “Drug Policy in Portugal: An Interview with Helen Redmond, Lcsw, Cadc.”

²⁶ “Portugal Drug Law Show Results Ten Years on, Experts Say,” *Agence France-Presse*, Jul 1 2011.

²⁷ Mario Queiroz, “Q&A: “In Portugal, We Fight the Illness, Not the People Who Suffer from It,” *Inter-Press Service* 2012.

²⁸ Hawkes, “Highs and Lows of Drug Decriminalisation.” (Emphasis added.)

²⁹ Jessica Magson, “Drugs, Crime and Decriminalisation: Examining the Impact of Drug Decriminalisation Policies on Judicial Efficiency,” (Winston Churchill Memorial Trust, 2014).

³⁰ Quoted in Alison Roberts, “How Portugal Dealt with Drug Reform,” BBC News, December 29, 2007.

³¹ United Nations Office on Drugs and Crime (UNODC), “World Drug Report 2009,” (Vienna: United Nations Office on Drugs and Crime, 2009), http://www.unodc.org/documents/wdr/WDR_2009/WDR09_eng_web.pdf.

³² Hughes and Stevens, “What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?,” 999.

³³ “A Resounding Success or a Disastrous Failure: Re-Examining the Interpretation of Evidence on the Portuguese Decriminalisation of Illicit Drugs,” 111.