

The implementation of Portuguese drug policy: issues for CDTs

New Approaches to Drug Policies in Portugal: A new legal framework

The focus on drug addiction as a health condition was one of the major innovations brought by the New Portuguese National Strategy against Drugs. This classification brought about the need to expand and improve the capabilities of the Healthcare network towards drug addicts with the goal of insuring access to treatment.

Within this new framework a new strategic option was taken: to decriminalize the consumption of every drug, while maintaining the legal and social disapproval of drug use/abuse. This disapproval was now legally demonstrated within the sphere of administrative law, thus limiting the reach of criminal law in the overall Drug Strategy.

In implementing the Portuguese Drug Fighting Strategy, Law No. 30/2000 of 29-11 was approved by parliament, and implemented in July 1st 2001. This new legal framework changes the rules applied till now, and establishes the decriminalization of consumption, acquisition and possession of any kind of drugs for personal consumption, provided that the amount involved does not exceed that necessary for the average individual consumption for ten days. Maximum limits for each individual average daily dose of illegal drug plants, substances or preparations are referred in Ordinance No. 94/96, of March 28th. Exceeded this amount, the individual will commit a crime, punished and foreseen by the criminal justice system.

The decriminalization framework approved by this law does not apply to production, distribution, commercialization or cultivation of psychotropic substances, which remain classified as a crime.

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Under the new legal framework, all drugs were “decriminalized,” not “legalized.”

Legalization means a complete removal of sanctions, considering the behavior legal and applying no criminal or administrative penalties, in the same way that it is legal to use alcohol and tobacco.

In contrast, Decriminalization means that possession and usage of drugs for personal consumption are still legally prohibited but that they are deemed to be administrative violations and are completely removed from the criminal system, with *optional* use of alternative sanctions or administrative measures.

Decriminalization creates a legal framework for implementing policies to reduce harm caused by drug consumption and to reintegrate drug dependent persons. For drug users, decriminalization removes the reason to be afraid of searching and undergoing treatment. It also allows professionals who help dependent users to provide assistance without fear of being treated as accomplices to criminal offenders.

Along with the legal change, the overall attitude towards the Portuguese drug problem shifted from a punitive approach to a new comprehensive public health-oriented approach, where prevention and treatment are core concerns. The new health-based approach basically changed the allocation of public expenditure to drug issues, which were directed to the creation of the system of referral to the “Commissions for Dissuasion of Drug Addiction”, responsible for adjudicating administrative drug offenses and imposing administrative sanctions.

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CDTs: Composition

The Commissions are regional panels made up of three persons Appointed by the Minister of Justice and the Minister of Health. The Commissions include a lawyer and two members with a background in clinical or social work, like a psychologist or a social worker. One of the members is the President and he/she has the tasks of coordination of services and representing the Commission before other institutions. Commissions' members are supported by a multidisciplinary staff of technical experts in drug addiction. The backgrounds of the technical assistance team are similar to those of the Commission's members. There is one commission for each of the 18 regions of Continental Portugal and 3 in autonomous archipelago of the Azores

CDT: Procedures

When police officers observe drug use or possession below the legal threshold that is considered to be for personal use, and having no evidence or reasonable suspicion that those offenders are involved in drug commercialization, they weigh the substance and make a report regarding the circumstances of the occurrence. The alleged offender is then referred to the Commission of his/hers residential area, within 72 hours of the citations issuance. The citation is then sent to the commission, initiating the administrative process.

The commission hears the offender about the events and circumstances described in the police report, and takes a decision after the technical staff issues its opinion. Commissions' members must insure all procedures relative to the application of sanctions and for decisions taken regarding each specific case. The staff has the task of preparing the technical advice that will inform and support decisions taken by the commission.

Possible decisions and sanctions

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The law considers the difference between non dependent and dependent users. If the offender is not a dependent user and doesn't have previous record, the commission orders a **provisional suspension of proceedings**.

If the offender is dependent user, the provisional suspension of proceedings is ordered only when the offender accepts treatment.

Sanctions are only applied if a non-dependent user has a previous administrative record for the same reasons; or if the dependent user doesn't accept treatment/interrupts treatment.

The range of sanctions includes:

- **Periodic Presentation**
- **Admonition/warning;**
- **Community Service;**
- **Forbiddance of Attending Certain Places and people;**
- **Apprehension of objects;**
- **Interdiction of travel abroad;**
- **Interdiction of receiving public benefits;**
- **Restriction of practicing certain professions or obtaining firearms**
- **Monetary fee or fine**

The last sanction (monetary fee or fine) can't be applied to dependent users.

Decisions and sanctions – CDT Porto 2015

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Since the beginning of the year, concerning **non-dependent users with first time offense**, in Oporto's Commission were decided 691 (six hundred ninety-one) **provisional suspension of the proceedings**; and 70 (seventy) relative to **dependent users who accept treatment**.

In the perspective of promoting individual responsibility for drug use behaviour, the main option sanction is **monetary fee or fine** for **non-dependent users with previous record**. In these cases, were decided 147 (one hundred forty-seven) sanctions. However, when the non-dependent users have a problematic use of drugs and want to **change individual patterns of use, or** present other risk factors such as social or economic exclusion, **the commission applies the sanction of periodic presentation to health or social services or to the technical staff. In this situation we applied 42 (forty-two) sanctions.**

In the case of **dependent users**, who don't accept treatment or interrupt treatment, Oporto's Commission only apply **periodic presentation to the technical staff**. The goal is to improve motivation for treatment or to provide harm reduction practices. In these cases we decided 11 (eleven) sanctions.

All dissuasion intervention is developed by the technical staff, according to the interventional guidelines