

Portuguese drug use decriminalisation and law enforcement: Impacts and perceptions of its effectiveness

Jorge Quintas

U. Porto – Faculty of Law - School of Criminology

Porto, September 4, 2015

Portuguese drug use decriminalisation law

Drug use decriminalisation law

Law 30/2000 (November, 29)

- Aims: «**health and social protection**» of the drug users
- Drug use is **interdict**
- Drug use is an **administrative offence** (all drugs; limited quantities; no criminal record)
- Commissions for the dissuasion of drug addiction (**health oriented**) replaced the courts in the legal process (Comissões para a Dissuasão da Toxicodependência – **CDT**)
- Administrative Sanctions :
 - A fine (except for addicts)
 - Others non-pecuniary penalties (e.g. community service; interdictions)
 - Warning
- **Administrative sanctions should be**, as a rule, **suspended** on behalf of treatment (addicts) or indicated prevention actions (non-addict drug users)

Law enforcement

Presumed offenders (police data)

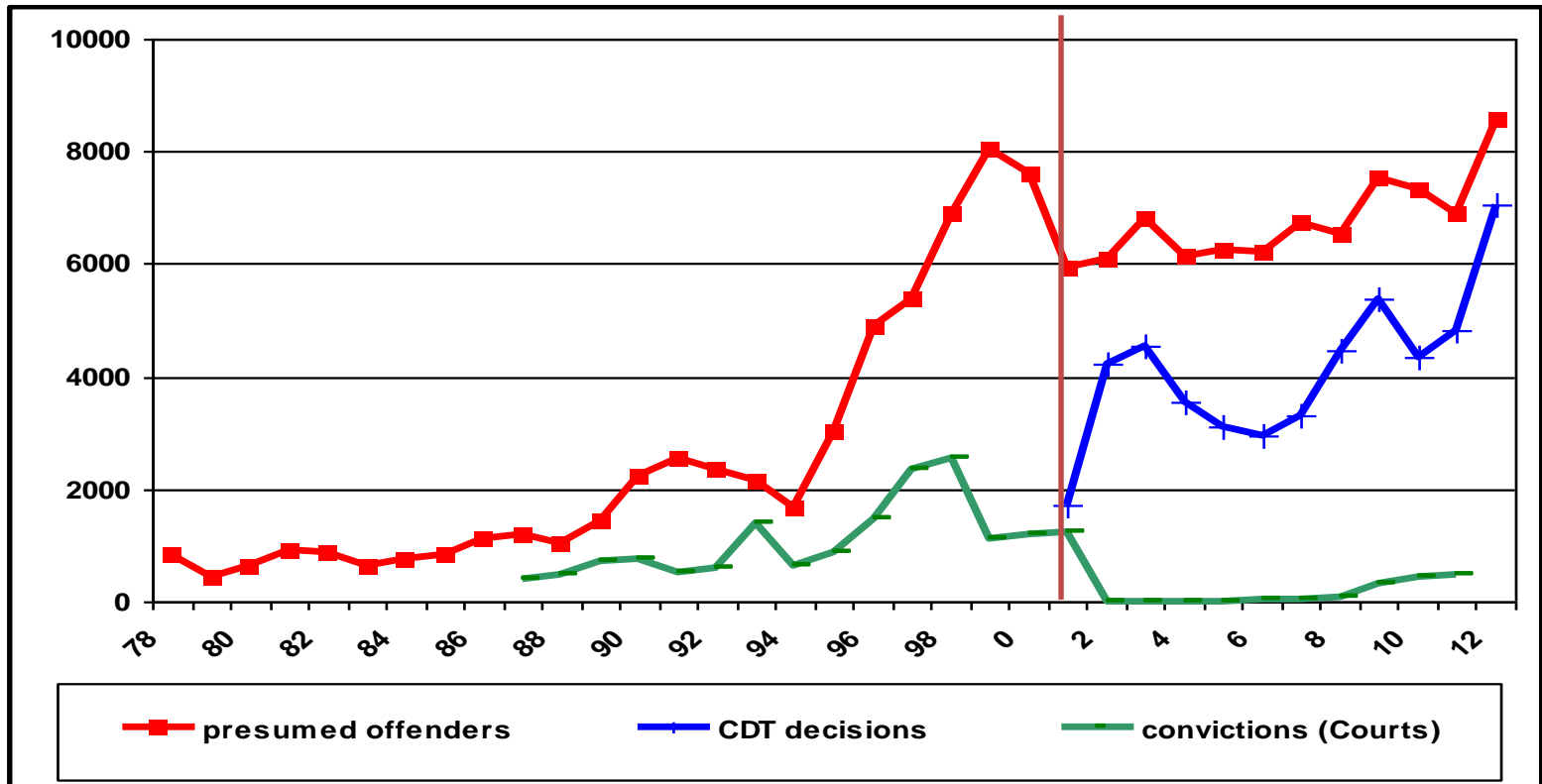
	Users (year mean)	Trafficker -users (year mean)	Traffickers (year mean)
Before law 30/2000 (1993-2000)	4955	2030	2003
After law 30/2000 (2001-2013)	6734 (+36%)	3240 (+60%)	2379 (+19%)

Sanctions and suspended sanctions

	Users (year mean)	Traffickers (year mean)
Before law 30/2000 (1993-2000)	1451 (Court) 75% fine 8% effective prison sentences	1718 (Court) Effective prison sentences 70%
After law 30/2000 (2001-2013)	4533 (+212%) – (CDT) 87% suspended sanctions (non addict drug user=3038; addict =826; other=73) 13% punitive sanctions (596)	1847 (+8%) - (Court) Effective prison sentences 43%

Law enforcement trend

Presumed offenders, CDT decisions and convictions (only drug use)



Sources: Relatório anual 2013, 2012 do SICAD ;Relatório anual 2011,2010, 2009, 2008, 2007, 2006, 2005, 2004, 2003 e 2002 do IDT ; Relatório anual 2001 do IPDT ; Sumários de Informação Estatística 1994 do GPCCD

• Law enforcement

– Police action

- A moderate increase in detection of presumed offenders (use and trafficker) – **More risk of arrest (deterrence variable)**

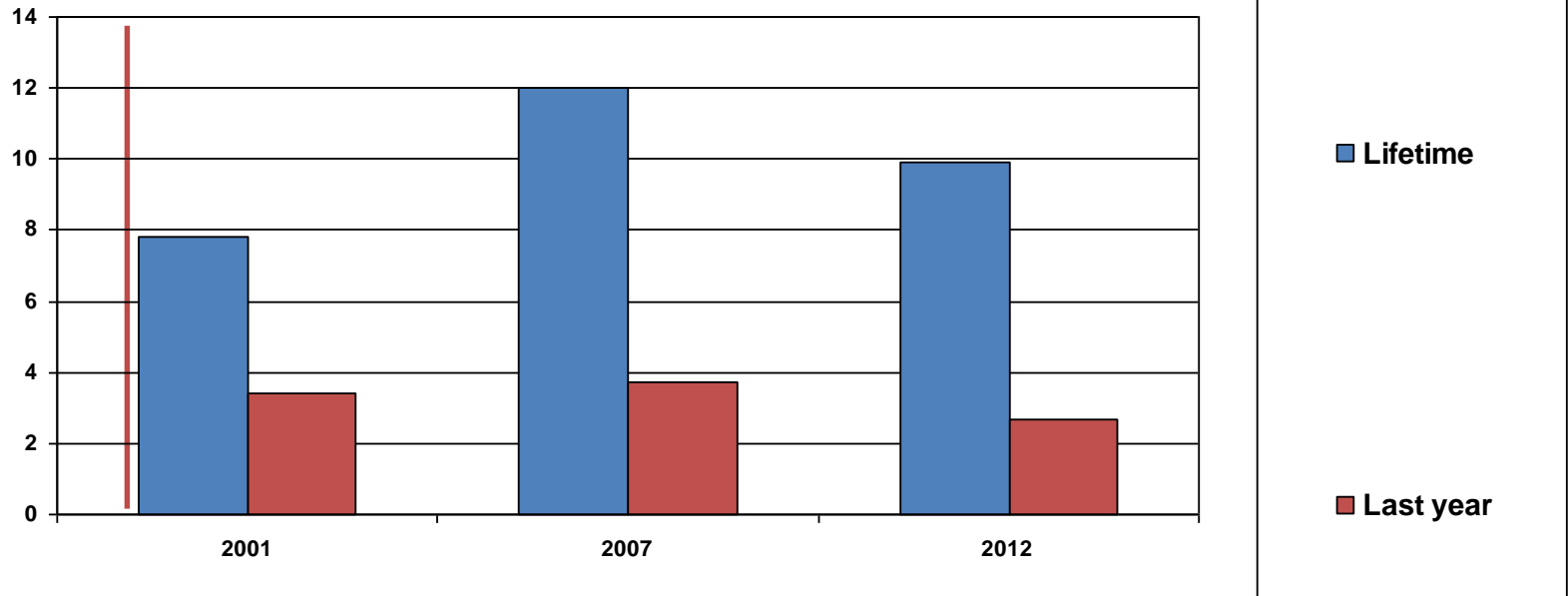
– Legal action

- At least threefold more extensive effective drug users prosecution - ***A net-widening effect***
- Fine as a typical court action for drug use are replaced for CDT suspended sanctions
- An unparalleled increase in treatment or indicated prevention actions for drug users – **Much more therapeutic and, specially, preventive efforts directed to detected drug users**
- Stability of trafficker convictions and less severity in sentences

Drug use data

Drug use trend

Drug use prevalence rate (General population Surveys)

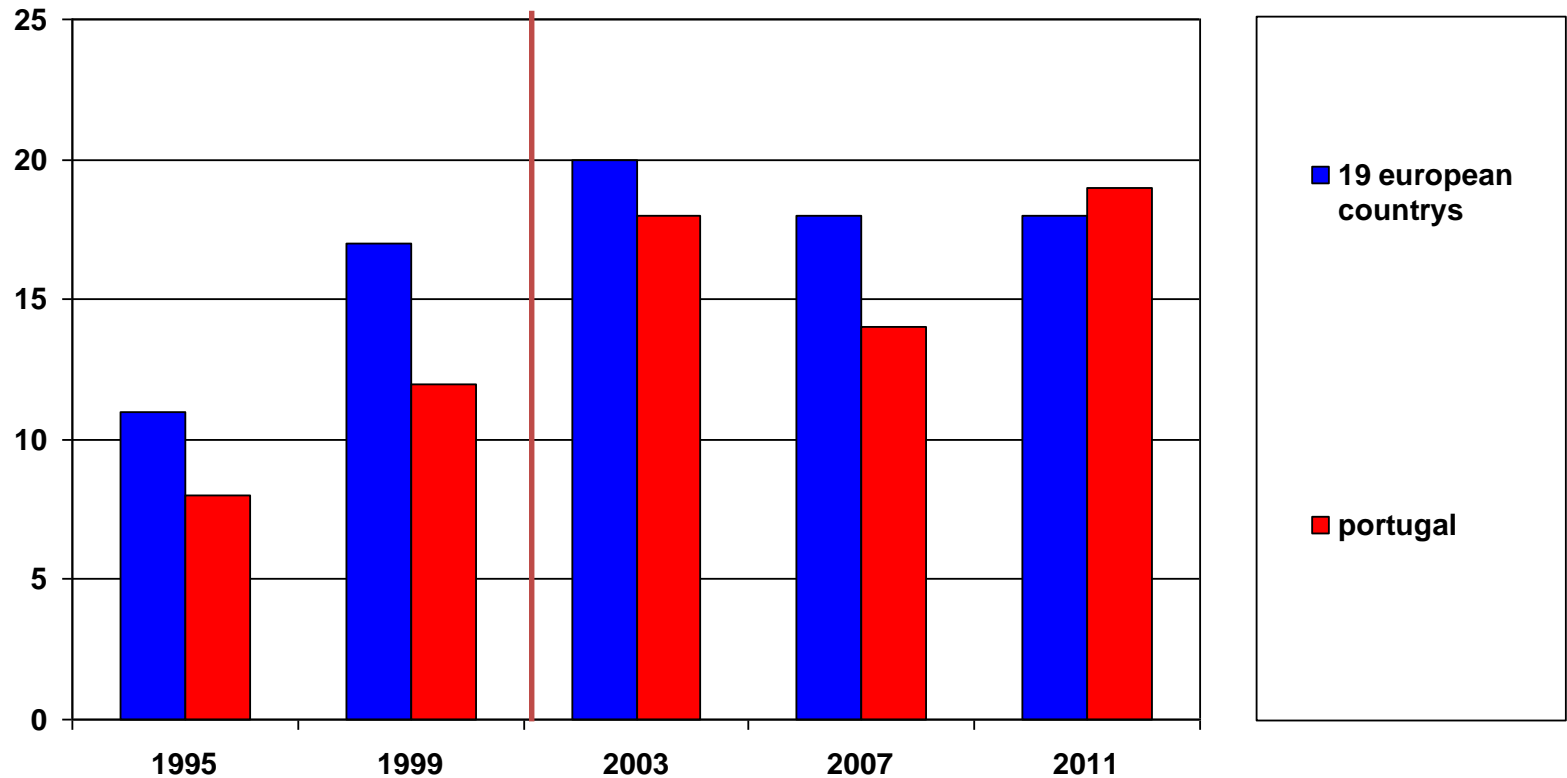


Cannabis use in Europe: Portugal Rank 22/28

Sources: Balsa et al. (2008, 2013); EMCDDA databases

Drug use trend

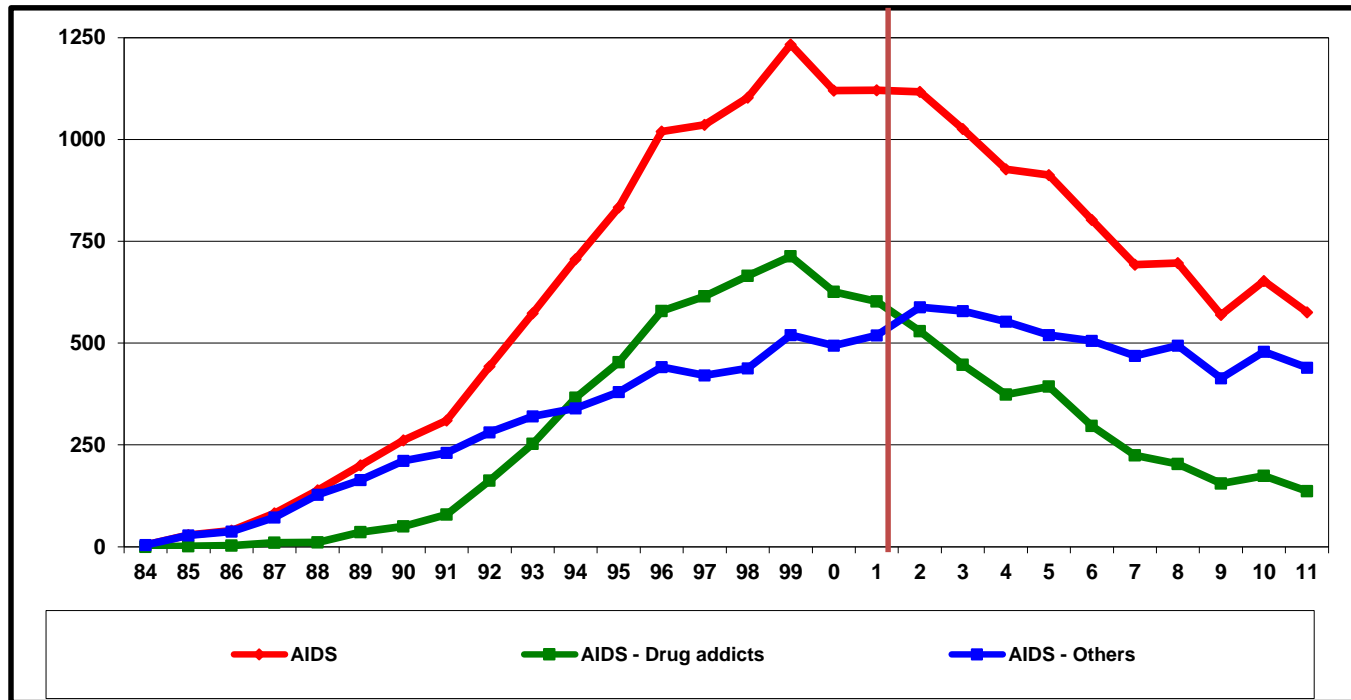
Drug use lifetime prevalence rate (ESPAD Surveys; among 15–16 year old students)



Drug addiction and drug related harms

	Newcomers in treatment (year mean)	AIDS in drug addicts (year mean)
Before law 30/2000 (1993-2000)	8208	534
After law 30/2000 (2001-2013)	6503 (-26%)	321 (-66%)

AIDS



Sources: Relatório anual 2013 do SICAD

Drug addicts (<.005% of Portuguese population) are 44% of all notified AIDS cases and 51% of deaths as a result of AIDS

- **Drug use decriminalisation law** (as a part of a drug policy) **matches with**
 - drug use stability
 - drug addiction decrease
 - drug related harms decrease
- **Portuguese decriminalisation of all drugs confirms the more expected scientific result of drug decriminalisation laws** (cf. Quintas, 2006, 2011; Agra, 2009; Quintas & Agra, 2010; Kury & Quintas, 2010; and also other scholars - e.g. Hughes & Stevens, 2010)
 - Drug use is not decisively affected by the removal of criminal sanctions
 - As has generally verified in extensive literature about cannabis/marijuana decriminalisation experiences in USA and Australia
 - Additionally, drug addiction or drug related harms indicators had a positive evolution

An extensive aggregate comparative analysis

Aggregate comparative analysis

European countries and some others with available data	Cannabis use Last year prevalence/ Number (millions; 15-64)	Drug use offences (rate per 100.000 inhabitants 15-64)	Estimated Risk of arrest (%) (Drug use offenders/annual cannabis users*100)	Decriminalisation of drug use
Australia (14and +)	10,20 / 15,24	556	5,4	Some states for cannabis
Austria	3,50 / 0,20	436	12,4	
Belgium	5,10 / 0,38	405	7,9	
Brasil	2,60 / 5,27	25	1,0	
Bulgaria	3,50 / 0,17	101	2,9	
Canada	10,20 / 2,39	339	3,3	
Croatia	5,00 / 0,14	196	3,9	
Cyprus	2,20 / 0,01	132	6,0	
Czech Republic	9,20 / 0,67	36	0,4	Y
Estonia	6,00 / 0,05	412	6,9	
Finland	4,60 / 0,16	355	7,7	
France	8,44 / 3,49	412	4,9	
Germany	4,50 / 2,42	353	7,8	
Hungary	2,30 / 0,16	72	3,1	
Ireland	6,00 / 0,18	251	4,2	
Italy	3,50 / 1,39	84	2,4	Y
Latvia	4,00 / 0,05	422	10,6	
Lithuania	2,30 / 0,04	72	3,1	
Malta	0,80 / 0,00	110	13,8	
Netherlands	7,00 / 0,78	66	0,9	
Norway	3,40 / 0,11	756	22,2	
Poland	3,80 / 1,04	185	4,9	
Portugal	2,70 / 0,18	128	4,8	Y
Slovakia	3,63 / 0,14	14	0,4	
Slovenia	4,40 / 0,06	282	6,4	
Spain	9,60 / 3,00	1272	13,2	Y
Sweden	3,00 / 0,19	1322	43,1	
Turkey	,30 / 0,15	139	52,5	
United Kingdom	6,40 / 2,73	210	3,3	
USA (12 and +)	12,60 / 25,78	599	4,8	
Mean	4,57 (SUM=53,1 millions)	307	9,1	Some states for marijuana (and also recent legalization experiences; e.g. Colorado)
Median	3,90	203	4,9	

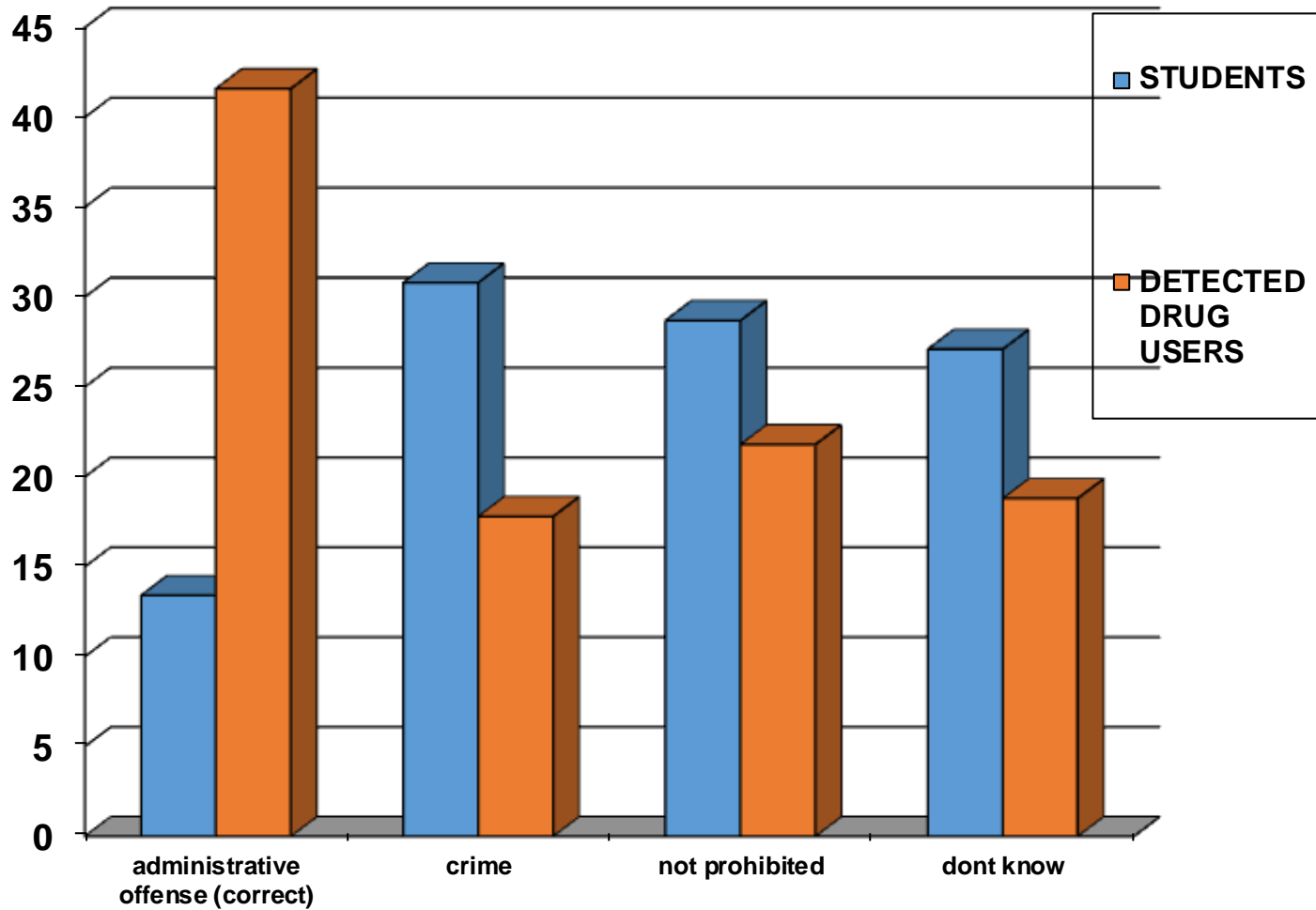
- **Risk of arrest is not correlated with prevalence of drug use ($R_s = -.08$; $p > .05$)**
- **Decriminalization is not correlated with cannabis use ($R_s = .18$; $p > .05$) or risk of arrest ($R_s = -.14$; $p > .05$)**
 - Spain - high level of use and high risk of arrest
 - Czech Republic - high level of use and very low risk of arrest
 - Italy - median level of use and low risk of arrest
 - Portugal – low level of use and median risk of arrest

Knowledge and Attitudes towards drug use law

Drugs and law surveys

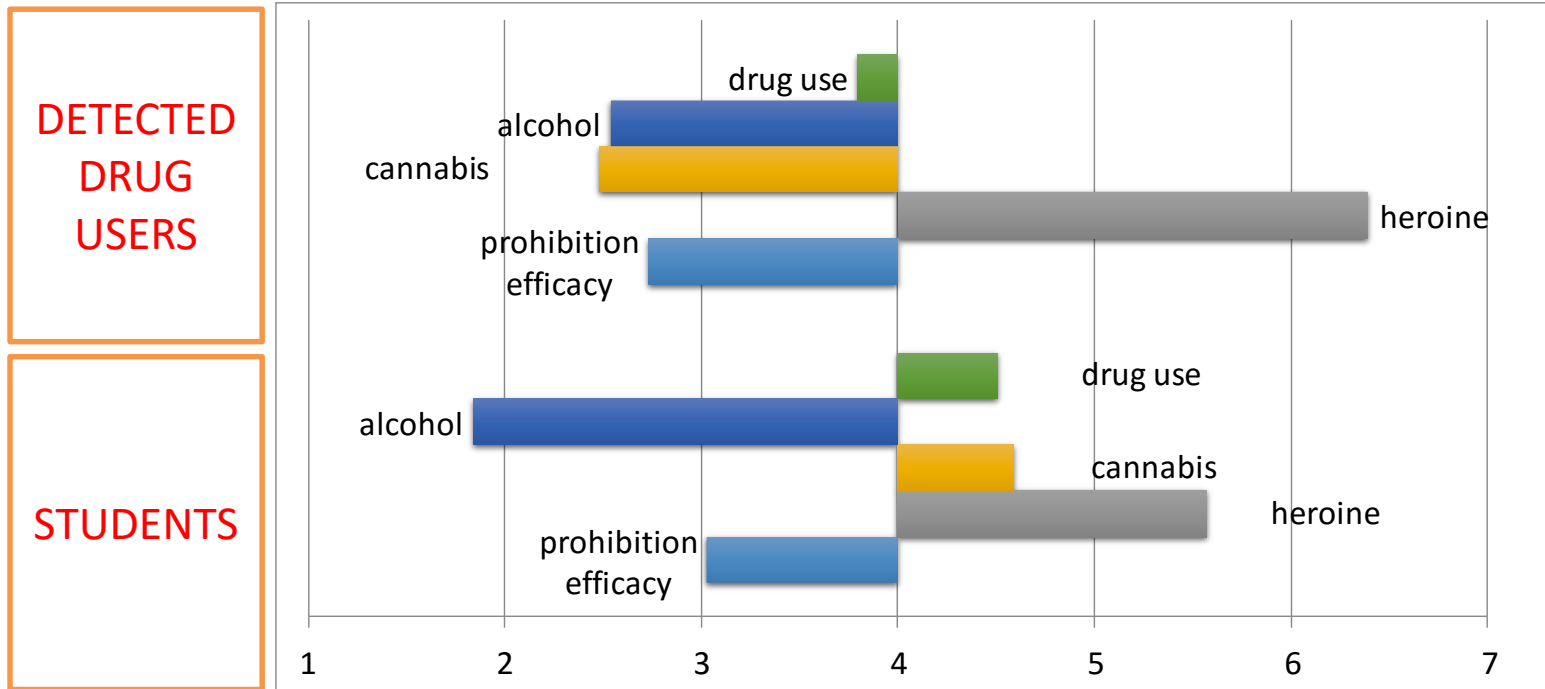
- **Normative sample** –law, criminology and psychology students (N=247)
- **Detected drug users** – contacted at CDT (N = 101)

Knowledge of drug use law (%)



$\chi^2 = 37.12$: $p < .001$

Attitudes toward prohibition of ...



All p < .05, except efficacy

Disagree

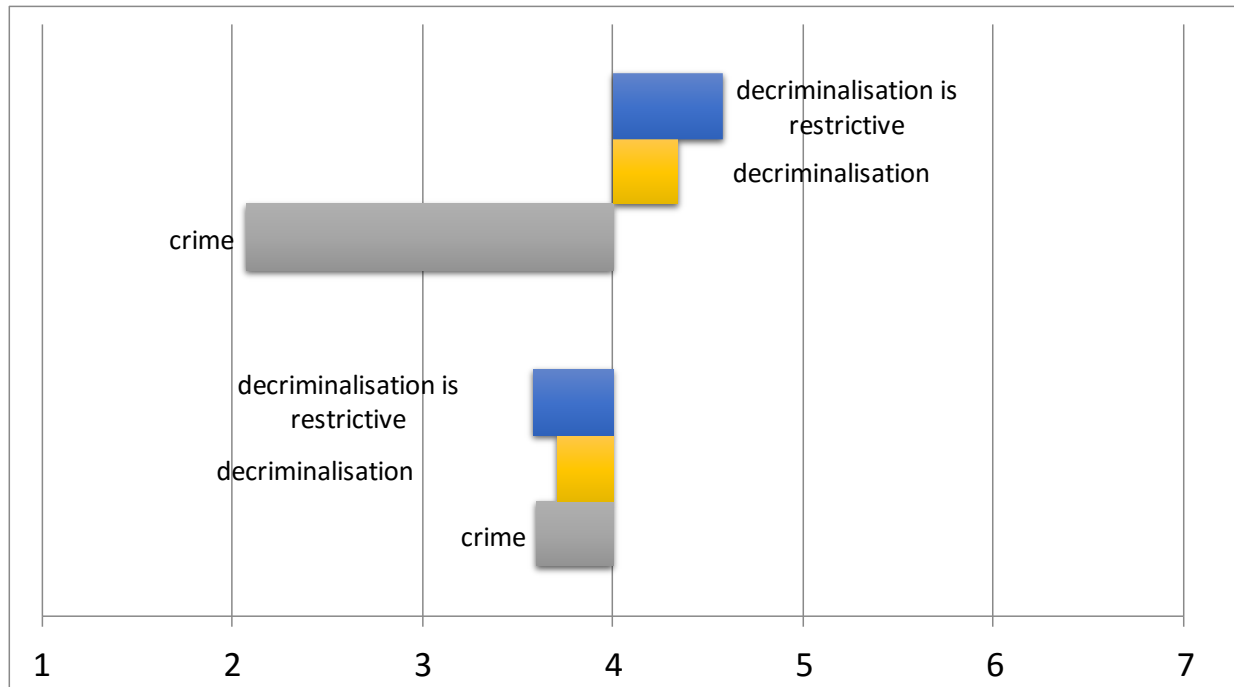


Agree

Attitudes toward drug use law

**DETECTED
DRUG
USERS**

STUDENTS



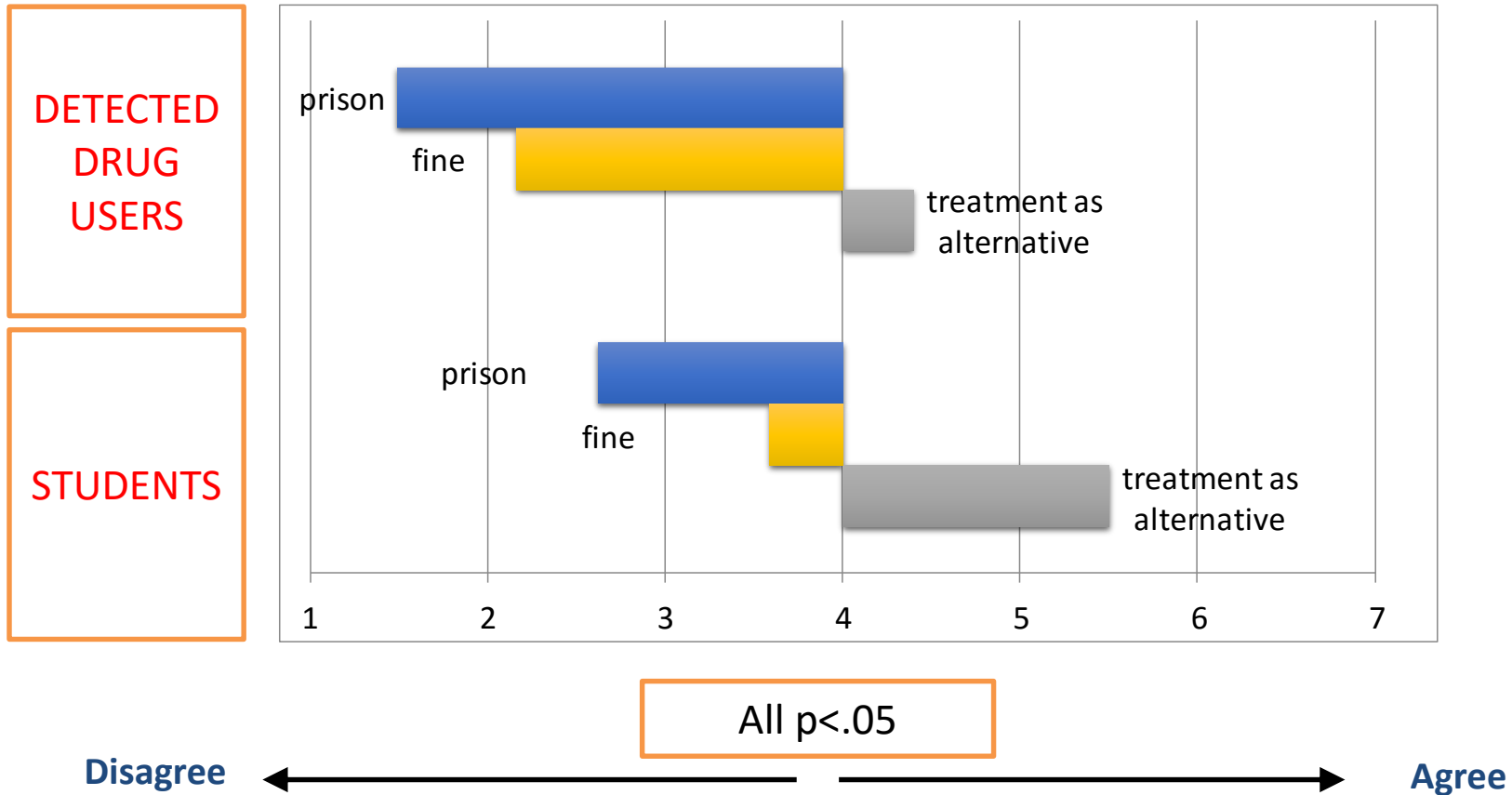
All $p < .05$

Disagree



Agree

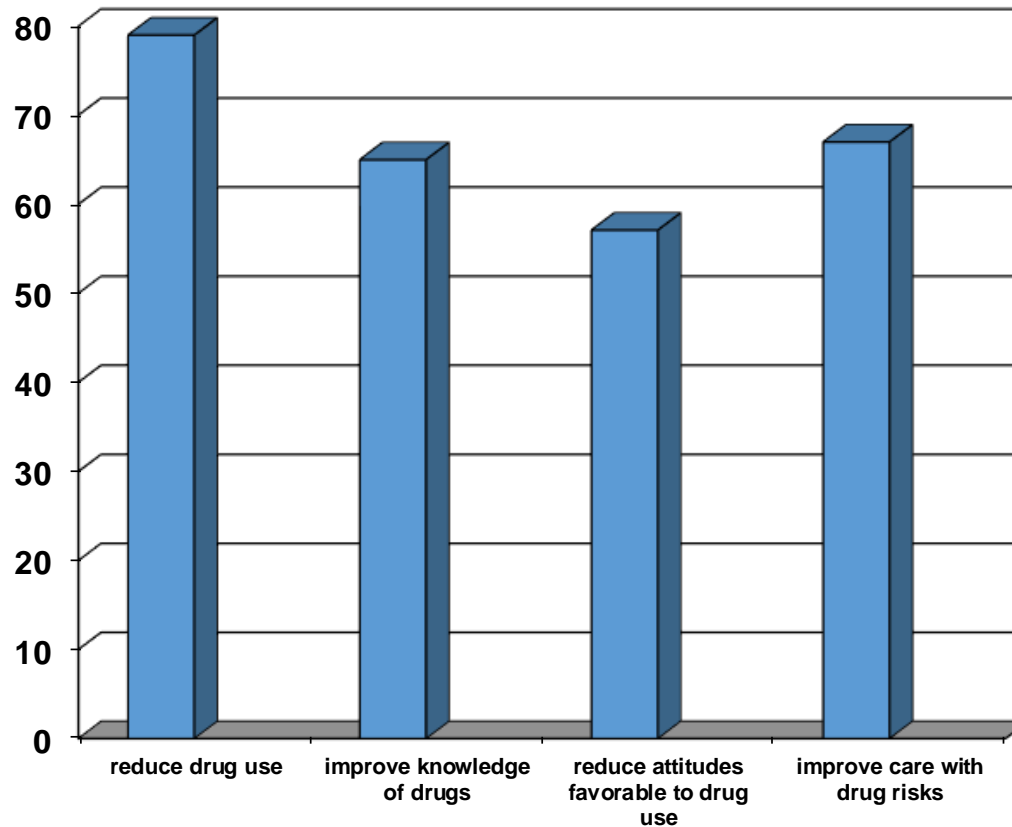
Attitudes toward sanctions



Detected drug users experience with police and CDT (%)

N= 95; Scale - 1 (totally disagree) to 7 (totally agree)	CDT		Police		
	M	SD	M	SD	p
Satisfaction	6.37	1,04	3,23	2,29	<.001
Respect	6.57	,97	4,12	2,24	<.001
Procedural information	6.65	.80	4,22	2,11	<.001
Investigate the offence	6.52	.93	4,01	2,27	<.001
Information about risks of drug use	6.67	.73	-	-	-
Provide access to health or social services	6.27	1.26	-	-	-
Fair decision	6.38	1.33	-	-	-
Contact with the CDT has an important effect on the possibility of ...					
not returning to use drugs	5.06	1.83			
using drugs more carefully (for my health)	5.35	1.89			
using drugs more carefully (to avoid being detected)	4.63	2.23			

Presumed effect of CDT action for detected drug users (%)



Main motives to intention of drug use reduction: information; explanation about risks of drug use; supportive attitude

Main motives to intention of drug use maintenance: pleasure in drug use; personal option

Attitudes and knowledge

– Knowledge

- Weak knowledge
- Eroded the deterrence analysis of laws

– Attitudes

- Moderate preference for prohibition of drug use in normative sample and moderate opposition in detected drug users
- Mistrust in prohibition efficacy
- Doubt about better legal status in normative sample and preference for decriminalisation in detected drug users
- Preference for treatment

– Detected drug users experience

- CDT action positively evaluated
- Worse and divergent evaluation of police action
- A presumed intention of drug use reduction or a more careful use of drugs

Deterrence and normative predictors of drug use

Descriptive and bivariate analysis

scale 1 to 7, unless otherwise indicated	Estimation of drug use (next year)			
	Students	Detected drug users	Students	Detected drug users
	M	M	Rs	Rs
Estimation of drug use (next year)	1.87	3.42***	-	-
Drug use in last year (yes)	19%		.54***	
DETERRENCE				
Risk of arrest (personal certainty)	1.22	1.97***	.52***	.38***
Others risk of arrest (general certainty)	3.69	4.01	-.12	.30**
Severity	349 Euros	79 Euros***	-.10	.11
Celerity	3.52	3.95*	.10	-.06
NORMS				
Personal (internalized) norms	2.71	3.62***	.40***	.13
Relatives social norms	1.68	2.50***	.58***	.27**
Distant social norms	3.07	3.54*	.15*	.05
Descriptive norms	4.83	4.25*	.26***	.52***
OTHER SOURCES OF INFLUENCE				
Informal sanctions	3.59	2.73***	-.20***	-.31**
Legitimacy of punishment	4.61	3.27***	-.35***	-.13
Drug use risks	6.23	5.72**	-.35***	-.05

Drug use regression predictors

- Normative sample (university students) - $R^2=.63;p<.001$
 - Past behaviour - $\beta=1.42$
 - Norms
 - descriptive - $\beta=.21$
 - relatives social norms - $\beta=.32$
 - Others risk of arrest - $\beta=-.19$
 - Personal risk of arrest, but the predictor of drug use is positive - $\beta=.82$

- Detected drug users - $R^2=.57;p<.001$
 - Norms
 - descriptive - $\beta=.65$

Conclusions

- **Decriminalisation merits**

- Remove the criticism to the adequacy of penal law to drug use offences
- Net-widening law enforcement, more efficacy in the bridge legal system – health system or in preventive indicated action directed to detected drug users
- A generally positive evaluation of CDT from detected drug users
- Well-matched with public moderate preference for prohibition of drug use and clear preference for treatment as an alternative to punishment
- A small or null effect on drug use

- **Decriminalisation limits**

- A weak public knowledge
- Deterrence variables are weak drug use predictors and personal risk of arrest are even positively related with drug use
- Legitimacy arguments (freedom of use; just desert arguments; the use of any sanctions or even suspended sanctions for nothing more than drug use, ...) maybe only can be attended with a legalisation