DPMP
Drug Policy Modelling Program

Was decriminalisation effective in Portugal?

Portugal decriminalised the possession of illicit drugs for personal use in 2001. It is the most common example of decriminalisation and is often referenced during debates as to what countries can or should be doing to respond to people who use drugs.

At a glance

- Portugal decriminalised the possession of drugs for personal use in 2001
- In association with the drug law reforms, drug policy was re-oriented to a health and social response (with accompanying expansions of health, social and welfare supports)
- The decriminalisation policy and the investment in health and social supports were associated with:
  - » Reductions in drug-related deaths
  - » Reductions in problematic drug use
  - » Increased engagement in treatment by people experiencing dependent drug use
  - » Reductions in HIV and Hepatitis C rates
  - » Reductions in arrests and prison over-crowding
  - » Reductions in the total costs (i.e. costs of increased investment in treatment and harm reduction were offset and exceeded by criminal justice savings, andrelated health and social savings)

  These outcomes took a number of years to eventuate (Hughes & Stevens, 2010).
- Continuous benefits from decriminalisation require ongoing investment in treatment and health supports. Law changes made in 2008, alongside an increasingly diverse illicit drug market across Europe, and a more visible drug scene in Portugal has seen increased policing of drug use with attendant increases in criminal sanctions for drug use.

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What did Portugal do?

There are many different models for the decriminalisation of possession of illicit drugs for personal use (see: DPMP evidence hub, 'Drug laws and regulations: six broad approaches'; Hughes et al., 2018; Madden et al., 2021). The Portuguese model can be described as decriminalisation with targeted diversion to health and social services.

The reforms in Portugal were driven by problematic heroin use and high rates of blood borne viruses including HIV, AIDs and Hepatitis C in the 1990s (Hughes & Stevens, 2010). In addition, there were rising overdose rates, and a growing concern that stigma and discrimination operated to exclude people from health services and society more broadly. There was a perception "from many areas of society including the law enforcement and health sectors that the criminalization of drug use was increasingly part of the problem, not the solution" (Hughes & Stevens 2010, p. 1002).

In 1998, a government-appointed expert commission proposed the decriminalisation of illicit drugs for personal use, and the establishment of a national drug strategy (Hughes & Stevens, 2010). The new drug laws came into effect on 1 July 2001. The aims included changing perceptions of people who use drugs; introducing proportional, non-criminal penalties for personal drug use; and increasing the effectiveness of responses to drug use through education, treatment, and social integration (Hughes, 2006).

Instead of a criminal charge, the new policy treated drug use and possession (with a specified amount of up to 10 days personal supply) as an administrative offence. All people found by police to be in possession of drugs are sent to a 'Commission for the Dissuasion of Drug Addiction' (CDTs) instead of court (Hughes & Stevens 2010; Hughes et al., 2018). These Commissions were (and continue to be) district-level panels comprised of legal, health and social work professionals (Moury & Escada, 2023). The CDTs interview those referred and explore the causes and circumstances of drug use and mental health (Hughes & Stevens, 2010).

The CDTs are connected with a broader range of networks including lawyers, social workers, child protection and mental health (Hughes et al., 2018). There is one CDT for each of the 18 different regions in Portugal (Hughes et al., 2018). The CDTs can provide various responses included issuing a suspension (no penalty – especially for first referrals and where use is assessed as 'non problematic' or 'low risk'). Administrative penalties include warnings, fines, community service and bans on obtaining a firearm license (Hughes et al., 2018). CDTs can also refer people to non-mandatory brief interventions such as an education session. High risk cases (those deemed to be dependent or be experiencing other types of risky or harmful use) may receive a referral to a specialist AOD treatment service (also non-mandatory) (Transform, 2021; Hughes & Stevens, 2010).

The majority of referrals to the CDTs are for non-dependent cannabis use – reflective of cannabis being the most widely used illicit drug in Portugal (Rêgo et al., 2021). In 2013, 70% of rulings were suspended sentences for non-dependent drug use (Hughes et al., 2018). Most people continue to be classified as non-dependent: in 2019, 90% of people before the CDTs were classified as non-dependent, and 83% of these people were caught with cannabis (Rêgo et al., 2021).

What were the outcomes from the reform?

The decriminalisation scheme in Portugal has been successful when measured against a number of outcomes:

- Engagement in treatment of people experiencing drug dependence increased (Hughes & Stevens, 2010; Hughes et al., 2018). This represented the first contact with treatment for many people (Hughes et al., 2018). For example, the number of people in drug treatment increased from 23,654 in 1998 to 38,532 in 2008 (the largest increase was in opioid agonist treatment) (Hughes & Stevens 2010; Hughes et al., 2018).
- Drug-releated deaths decreased (Hughes & Stevens 2010; 2012; Hughes et al., 2018). More recent data has shown that in 2019, Portugal had the lowest drug-related death

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rates in Europe (Moury & Escada, 2023).

- Drug-related HIV and Hepatitis C (HCV) significantly decreased (Hughes et al., 2018). This was attributed to the increase in harm reduction services and opioid agonst treatment, and reductions in stigma that may have been impeding access (Hughes et al., 2018; Csete et al. 2016).
- Drug use did not increase at the population level (Hughes & Stevens, 2010; Hughes et al., 2018). While there were small to moderate increases in drug use (lifetime and last year use) during this time, these patterns of population drug use were commensurate with trends observed in neighbouring countries - Spain and Italy (where there was no drug law reform, indicating that changes in population drug use were not attributable to the reform).
- Problematic drug use declined (Hughes & Stevens, 2012; Hughes & Stevens 2010), and the rates of problematic drug use have continued to decline (Moury & Escada, 2023).
- Arrests and prison over-crowding were reduced (Hughes et al., 2018; Hughes & Stevens, 2010). For example the proportion of people in Portuguese prisons for drug-related offences dropped from 44 per cent in 1999 to 21 per cent in 2008.
- The social cost of illicit drug use reduced by 18% in the 11 years post-decriminalisation (Gonçalves et al., 2015). This reduced social burden relates to: reduced legal system costs and reduced flow-on health and social costs of drug-related deaths (Gonçalves et al., 2015). Increases in direct health costs (e.g. provision of treatment) were small by comparison (Gonçalves et al., 2015).

Ongoing impacts and outcomes of the reform

While the Portuguese model has gained widespread recognition for the successes across treatment, health and reduced incarceration, more recently it has come under scrutiny due to a reversal of some of these trends and increasingly visible drug use (Russell et al. 2024). One Washington Post article from 2023 notes that overdose rates almost doubled in Lisbon, the capital, between 2019 to 2023, and publicly discarded drug paraphernalia has been a noted issue (Faiola & Martins, 2023). The same article notes that fallout from the global financial crisis of 2007 saw funding slashed for drug programs from 76 million Euros down to 16 million Euros (Faiola & Martins, 2023).

The past decade has also seen a "sharp increase" in criminal sanctions targeted at people who use drugs (Rêgo et al., 2021). In 2008, the Portuguese Supreme court initiated threshold quantities for the personal possession of drugs, reestablishing the crime of drug use for those found in possession of more than "the average individual use for a period of ten days" (Rêgo et al. 2021, 6). These changes are credited with the increase in drug-related fines and prison offences in Portugal since 2008 (Rêgo et al., 2021). Interviews with people who use drugs in Porto also indicated that threshold quantities are felt to unfairly target people with heavy/higher patterns of use and expose people who use drugs to criminal sanction, and that there was ongoing, disproportionate policing of communities of people who use drugs (INPUD, 2018).

As far as we have been able to find, there has been no peer-reviewed research since 2020 evaluating the decriminalisation scheme and the current implementation of the health and social supports (e.g. the levels of funding, operational staff of CDTs, or practices of referral by police).

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