



Houses of the
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An Comhchoiste um Dhlí agus Ceart, Cosaint agus Comhionannas

**Tuarascáil maidir le cuairt na toscaireachta Coiste chun
iniúchadh a dhéanamh ar thionchar chur chuige na Portaingéile i
ndáil le sealbhú drugaí áirithe**

Liospóin

Meitheamh 2015

Joint Committee on Justice, Defence and Equality

**Report of visit by a Committee delegation to examine the impact
of Portuguese approach to the possession of certain drugs**

Lisbon

June 2015

31/JDAE/028

Background

The Joint Committee decided to undertake a study into the effects of crimes carried out in communities by gangs and held a number of public hearings in relation to this matter.

In the course of its hearings on 18th February 2015, the Committee was told of an approach adopted by the authorities in Portugal whereby possession of drugs was not dealt with through the Criminal Justice system but by civil/administrative sanctions which has had a very positive result for the communities concerned.

As drug supply is the main source of income to these groups operating in cities and towns throughout Ireland, the Committee decided to send a delegation to Portugal to examine this approach in more detail.

Delegation

Mr David G. Stanton TD [Chairman] Mr Finian McGrath TD [Rapporteur], Mr Alan Farrell TD and Senator Martin Conway accompanied by the Clerk to the Committee.

Programme of meetings

3rd June 2015

Meeting with Dr. João Goulão, Director of SICAD (General-Directorate for Intervention on Addictive Behaviours and Dependencies) and Ms. Nádía Simões of the CDT (Commission for Addiction Dissuasion)

4th June 2015

Launch of the EMCDDA 2015 European Report on Drugs

Meeting with EMCDDA Experts Danilo Ballotta, Brendan Hughes and Eoghan Quigley

Meeting with Portuguese Parliamentary Committee on Health

Meeting with Mr Pedro do Carmo, National Deputy Director of the Criminal Police Polícia Judiciária

5th June 2015

Meeting with the Director of EMCDDA Mr. Wolfgang Götz

Visit to Taipas Withdrawal Unit.

The main points of the engagements are as follows:

General

The delegation was told that the drug problem may have taken hold in 1976 when Portugal granted independence to all of its African colonies. This resulted in a wave of people, some from societies where drug use was more commonplace, arriving in Portugal and being poorly assimilated into Portuguese society.

Over the years, the main focus for Portuguese authorities had been on other matters (economic, political etc). This allowed drugs abuse to become more entrenched in society and was very popular as it was associated with freedom particularly amongst the young.

By the 1990s, the drug problem had then become one of the main concerns for the public as had the significant increase in the numbers of people becoming infected with HIV/AIDS and other associated illnesses.

The provision of methadone clinics and needle exchange centres rased the same fears and resistance which exist in Ireland today.

Authorities in Portugal were tasked with formululating a different approach to more effectively tackle the drugs problem which was so damaging to its society. The proposed solution of civil/adminstrative sanction for drug use could only be successful with a change in the mindset of society.

Responsibility

In the 1970s, dealing with the drug problem was assigned to the Justice Department, an approach which is similar with those in other jurisdictions including Ireland. However, it became apparent that, outside their use of illegal substances, not all drug users were engaged in criminal behaviour and that the criminalisation of addicts was counterproductive as it prevented them from seeking help. In some cases, mothers and fathers were using drugs as an aid to coping with the stresses and stains of everyday life.

It was noted that drug abuse was not confined to any particular social class but was a universal problem.

It was also noted, that not all addicts were using illicit drugs but were, in some cases, addicted to prescription drugs. To criminalise rather than treat this group of people was viewed as wrong.

The first step was to remove responsibility for this matter from the Justice Department and re-assign it to the Health Department.

When this decision was taken, the State established SICAD (General-Directorate for Intervention on Addictive Behaviours and Dependencies) and Commissions for Addiction Dissuasion.

Decriminalisation not Legalisation

It should be noted that it is still an offence to take or possess drugs, but the offence is now treated in a similar way to a traffic offence. However, this approach only applies to possession of a quantity up to 10 day's supply for personal use [Table 1]. Any person found in possession of drugs must report within 72 hours to a Commission for Addiction Dissuasion for a treatment programme tailored to the individuals needs in order to ensure the best possible result.

Possession of more than this stated amount will result in the person falling outside this approach and it then becomes a criminal offence.

Table 1

Threshold quantities:

Plant/Substance	Quantity
Heroin	1g
Methadone	1g
Morphine	2g
Opium	10g
Cocaine (hydrochloride)	2g
Cocaine (methyl ester of benzoylecgonine)	0.3g
Cannabis (Herbal)	25g
Cannabis (Resin)	5g
Cannabis (Oil)	2.5g
Phencyclidine (PCP)	0.1g
LSD	500ug (0.0005g)
MDMA	1g
Amphetamine	1g
Tetrahydrocannabinol (THC)	0.5g

Funding

The provision of funding for this service is split with 60% of funding is provided by the State in the Health Budget and 40% from the National Lottery.

While it might be suggested that this approach would result in significant cost to the Health Budget, the delegation was told that this approach has actually resulted in a reduction in costs to the State. This is due to the reduction in costs associated with Police time, Criminal Investigations, Legal Aid costs and Court time as well as the reduction in the number of HIV/AIDS cases thereby reducing the cost on the Health Budget.

Treatment

Each of the 18 districts throughout Portugal has a Commission and there are 4 covering the Islands. This ensures that all treatment is available locally and the person in need of treatment is more likely to attend and complete the programme.

This also allows someone to hold down a full-time job and without the risks associated with dropping out of a treatment programme or trying to manage the problem themselves. This local availability has resulted in a more successful outcome.

This policy is focussed on the treatment of the individual and not the criminalising the person suffering from a drug addiction. However, the delegation was told that a piecemeal approach is unlikely to work and that success may only be achieved with a coordinated approach between all the necessary state agencies.

Breaking the cycle

The delegation was told that in order to break the cycle and allow drug addicts the opportunity to move away from a life of drugs 'positive discrimination' for gaining employment was introduced.

This system offered employers tax breaks to employ recovering addicts and the State would pay the employee an amount equal to the minimum wage. The employer was required to release the employee for their treatment/counselling until their programme had concluded. The delegation was told that in many cases, these employees gained full time employment and did not go back to using drugs.

No criminal record

This is an important component of the approach adopted in Portugal. The purpose of this provision is to allow the person the opportunity of a second chance at turning their life around.

Having a criminal record for drug abuse may result in employment and other opportunities being unavailable and this, it was suggested, was counterproductive to a person's recovery and rehabilitation and could result in the person returning to drug abuse.

Education

The delegation was told that this is of particular importance. It was noted that most people experiment with drugs in their youth. By educating people from a young age about the problems and dangers of drug use, the mind-set and attitude of these people towards drugs can be changed. This could result in drug abuse being halted generation by generation.

Outcome in Portugal

The approach in relation to drugs has not resulted in an increase in drug taking nor has it resulted in Portugal becoming a destination for drug tourists.

The number of HIV/AIDS cases has dropped dramatically.

The delegation was told that –

Fifteen years ago what was most feared was that this approach would cause:

- a) drug consumption to increase;
- b) the authorities to be more tolerant towards drug trafficking, allowing it to also increase;
- c) Portugal to become the destiny for drug consumers from all over Europe, but especially from Spain;
- d) the number of crimes directly related to drug addiction to rise.

Fifteen years have passed and:

- a) drug consumption has not increased;
- b) the authorities kept at least the same level of intolerance towards drug trafficking, both internal and international;
- c) Portugal did not become a destiny for drug consumers;
- d) the number of crimes directly related to drug addiction has decreased.

At the same time:

- a) drug consumers are no longer looked upon or treated as criminals, not only by the authorities, but also by society (including their own families);
- b) they became less dependent on traffickers and police discretion, being especially true when it comes to people with less resources;
- c) the end of thousands of criminal cases for drug consumption, that cost time and money with absolutely no gain;
- d) by being easier to know who is buying drugs, it is easier to know who is selling them.

It was also pointed out to the delegation that there is a connection between crime and poverty but there is no sudden connection between an economic crisis and crime, unless the crisis turns into a long term or permanent state of poverty.

It takes a lot to make an honest person to become a criminal.