
Position paper on decriminalisation

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Introduction

Several actors in the field of drug policy have indicated that a punitive approach is counterproductive to achieving the health and welfare of humankind. The 2016 UN General Assembly Special Session (UNGASS) on the World Drug Problem² confirmed that this is an important step towards active drug policies that are based on human rights and health approaches.

Since then, many UN agencies have reported the negative impact of criminalisation on people who use drugs and on their surrounding communities. Recommendations have also been brought that favour a decriminalisation process in drug policies. This process aims to remove the stigma against people who use drugs as well as to ensure that they have access to a broad range of support and health services, including prevention, treatment, recovery, and harm reduction.

The decriminalisation of drug use and related activities is a policy option that is widely supported by the United Nations as a core component of a human rights- and health-based approach towards people who use drugs.

The UN System Common Position on drugs³ - the UN overarching policy document on drug policy - and the more recent UN System Common Position on Incarceration⁴, have also recommended decriminalisation of drug use and possession. The International Narcotics Control Board, which supports UN Member States in implementing the international drug control treaties, has even concluded that decriminalisation is aligned with the drug conventions.⁵

In addition, an increasing number of UN entities and experts have recently come out in favour of decriminalisation as a critical enabler for ensuring the promotion and protection of human rights. This includes the World Health Organization,⁶ the United Nations Development Programme,⁷ UN Women,⁸ the

¹ This paper is not supported by the following CSFD members: Celebrate Recovery, Comunità San Patrignano Società Cooperativa Sociale, EURAD and WFAD

² More about the 2016 UNGASS is available at <https://www.un.org/pga/70/tag/ungass-2016/>

³ <https://unsceb.org/united-nations-system-common-position-supporting-implementation-international-drug-control-policy>

⁴ https://www.unodc.org/res/justice-and-prison-reform/nelsonmandelarules-GoF/UN_System_Common_Position_on_Incarceration.pdf

⁵ https://www.incb.org/documents/Publications/AnnualReports/AR2021/Annual_Report/E_INCB_2021_1_eng.pdf

⁶ <http://www.who.int/hiv/pub/guidelines/keypopulations/en/>

⁷ <http://www.undp.org/content/dam/undp/library/HIV-AIDS/Discussion-Paper--Addressing-the-Development-Dimensions-of-Drug-Policy.pdf>

High Commissioner for Human Rights,⁹ the Committee on Economic, Social and Cultural Rights,¹⁰ the UN Working Group on Arbitrary Detention¹¹ and the UN Special Rapporteur on the right to health.¹² Adding to these calls, on 24 June 2023, 16 UN Human Rights Special Mandates concluded that ‘drug use and possession for personal use should be decriminalised as a matter of urgency’.¹³

In 2023, the UN Office of the High Commissioner for Human Rights (OHCHR) Report ‘Human rights challenges in addressing and countering all aspects of the world drug problem’¹⁴, published as an official contribution to the 2024 mid-term review of the 2019 Ministerial Declaration on Drugs, strongly stresses the importance of decriminalisation as a crucial factor to limit human rights violations in drug policies. The OHCHR concluded that ‘*if effectively designed and implemented, decriminalization can be a powerful instrument to ensure that the rights of people who use drugs are protected*’. The report includes decriminalisation as a key recommendation, calling on policymakers to ‘*review convictions and/or sentences and, where appropriate, quash, commute, or reduce convictions and/or sentences*’.

One of the focus areas of UNAIDS “Save lives: decriminalize”¹⁵, includes a strong position that “*Decriminalization is a critical element to end AIDS by 2030*”. This UN agency also states that “*Punitive laws have been shown to block HIV service access and increase HIV risk*” and that “*Countries that criminalize key populations [including people who use drugs] saw less progress towards HIV testing and treatment targets over the last five years - with significantly lower percentages of people living with HIV knowing their HIV status and achieving viral suppression than in countries that avoided criminalization*”.

The UNAIDS statement on the 75th anniversary of the Universal Declaration of Human Rights¹⁶ reaffirms its commitment to keep human rights at the centre of its approach to ending the AIDS pandemic. The statement also calls on all governments to uphold human rights, through removal of laws that cause harm and infringe on people’s rights and enactment of laws that uphold the rights of every person, including people in marginalized communities.

The current EU Drug Strategy 2021-2025¹⁷ endorses alternatives to coercive sanctions as the approach that respects the human rights of people who use drugs.

⁸ https://www.unodc.org/documents/ungass2016//Contributions/UN/Gender_and_Drugs_-_UN_Women_Policy_Brief.pdf

⁹ See: A/HRC/30/65

¹⁰ See: [E/C.12/NOR/CO/6](https://www.unhcr.org/refugees/article/2012/06/12-nor-co-6), p. 43

¹¹ See: A/HRC/42/39/ADD.1

¹² See: A/65/255

¹³ <https://www.ohchr.org/en/press-releases/2023/06/un-experts-call-end-global-war-drugs>

¹⁴ <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/HRC/54/53&Lang=E>

¹⁵ <https://unaids.org/en/topic/decriminalization>

¹⁶ https://unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2023/december/20231210_human-rights

¹⁷ <https://www.consilium.europa.eu/media/49194/eu-drugs-strategy-booklet.pdf>

While some EU member states retain a stance of criminalisation of personal use and related behaviours in their national legislations, several member states have already decriminalised use and possession for personal use,¹⁸ and various EU member states have bills in their parliament to take that step as well.

The Civil Society Forum on Drugs, an expert group of the European Commission, is of the opinion that the perspective established by the EU Strategy 2021-2025 - a balanced, human rights-based approach to drug policy - needs to be improved at the EU level and in member states.

Distinguishing between decriminalisation and other forms of regulation

Various drug policy options are often conflated but have entirely different meanings and implications¹⁹.

- **Decriminalisation** refers to the removal of criminal status from a certain behaviour or action. This does not mean that the behaviour is legal, as non-criminal penalties may still be applied. With respect to the drug debate, this concept is usually used to describe laws addressing personal possession or use rather than drug supply.
- **Depenalisation** refers to introducing the possibility or policy of closing a criminal case without proceeding towards punishment, for example as the case is considered ‘minor’ or prosecution is ‘not in the public interest’.
- **Legalisation** refers to making an act lawful when previously it was prohibited. In the context of drugs, this usually refers to the removal of all criminal and noncriminal sanctions, although other regulations may limit the extent of the permission. This term is generally used in the context of drug supply.

This position paper explores only decriminalisation. The CSFD has conducted no work on other forms of drug regulation.

¹⁸ More about the situation in Portugal, Denmark and Czechia: Unlu, Ali, Tuukka Tammi and Pekka Hakkarainen. *Drug Decriminalization Policy. Literature Review: Models, Implementation and Outcomes*. Finnish institute for health and welfare (THL). Report 9/2020. Helsinki, Finland. Link: <https://www.julkari.fi/handle/10024/140116>

¹⁹ These definitions are taken from the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), 2016, *Models for the legal supply of cannabis: recent developments (Perspectives on drugs)*, https://www.emcdda.europa.eu/publications/pods/legal-supply-of-cannabis_en

1. Why decriminalisation?

1.1 Criminalisation. A negative impact without compensation.

There is clear evidence, based on international data and experiences at the global level, that the criminalisation of use, possession for personal use, and other related behaviours may have negative impact on people who use drugs, local communities, and the whole society, particularly in terms of access to health and social services. There is no evidence that it has positive impacts in terms of reducing both drug demand and supply²⁰.

Since the 1970s, a wide scientific literature has shown that drug use prevalence and trends are not influenced by criminalisation policies. There is no demonstrated causal link between criminalisation and the reduction of use, and on the contrary, many countries that have adopted a criminalisation approach may register levels of use that are higher than in some countries where drug use is not sanctioned²¹.

Some studies also stress that, from the perspective of people who use drugs, penal sanctions have shown little to no effectiveness as a deterrent to drug use and drug trafficking²², notwithstanding the many negative effects the penal approach does have on their lives. This “indifference”²³ puts into evidence the

²⁰ Evidence of the failure of current global drug policy in reducing and limiting supply and demand of drugs and related harms can be seen in data and trends reports by UNODC (<https://www.unodc.org/unodc/en/data-and-analysis/wdr-2021---previous-reports.html>), EMCDDA (https://www.emcdda.europa.eu/publications-database_en?f%5B0%5D=field_series_type%3A404), and The Global Commission on Drug Policy (GCDP) (<https://www.globalcommissionondrugs.org/reports>). From a civil society perspective see also IDPC's Taking stock: *A decade of drug policy - A civil society shadow report* (<https://idpc.net/publications/2018/10/taking-stock-a-decade-of-drug-policy-a-civil-society-shadow-report>), among others.

²¹ A comparison between drug use prevalence data in EU member states with different legislation can be extracted from EMCDDA reports and countries data, https://www.emcdda.europa.eu/countries_en. A study comparing EMCDDA data between 1994-2017 on youth cannabis prevalence from 10 European countries and the UK did not find support that cannabis legislation had any considerable impact on the prevalence of recreational cannabis use among youth and young adults in Europe. See Gabri et al (2022) *Changes in cannabis policy and prevalence of recreational cannabis use among adolescents and young adults in Europe-An interrupted time-series analysis*. PLoS One, 12;17(1):e0261885 <https://doi.org/10.1371/journal.pone.0261885>.

²² There is a wide consensus among criminologists on the failure of the deterrent efficacy of criminal law and punishment, and a wide related scientific literature. See J. Simon (2007), *Governing through Crime*, Routledge; L. Waquant (2009), *Deadly Symbiosis: Race and the Rise of Neoliberal Penalty*. Cambridge: Polity Press

²³ A well-documented example of this relative “indifference” is in a detailed study conducted in 3 cities adopting three different approaches on drugs, Peter D.A. Cohen & Hendrien L. Kaal (2001), *The irrelevance of drug policy. Patterns and careers of experienced cannabis use in the populations of Amsterdam, San Francisco and Bremen*, <http://www.cedro-uva.org/lib/cohen.3cities.html>

deep social and cultural roots of the drug phenomenon and the normalisation trend²⁴.

The negative effects for people who use drugs and their communities:
criminalisation - stigmatisation - discrimination circle

The success of drug control strategies should increasingly be measured through an assessment of the impact of drug control efforts on the enjoyment of human rights and other critical aspects such as security, welfare, health and social-economic development

*OHCHR - Office of the United Nations
High Commissioner for Human Rights, 2019*

While the process of stigmatisation is influenced by different and interrelated factors, criminalisation can be a powerful and impactful source of stigma. It acts at the structural level as the state-sanctioned basis of stigma, defines socially harmful actions, and legitimates justification for some social behaviours to be differentiated, excluded, or discriminated against. Criminalisation is the source of the ‘structural stigma’, and powerfully drives the so-called ‘cycle of stigma’, influencing both ‘public stigma’ (public perception, representations, stereotypes, and prejudice on certain behaviours) and ‘self-stigma’ (public stigma internalisation by people who use drugs). Human rights agencies strongly affirm the need to abolish the criminalisation of drug use just to stop or limit the circular process of multilevel stigmatisation. Decriminalisation can contribute to addressing the discrimination component of stigma and guarantee the legislative protection of people who use drugs as a stigmatised group, thus supporting change in social representations and cultural norms.

Stigmatisation and related discrimination produced by criminalisation may impact people who use drugs’ conditions and human rights violations at many different levels:

- Self-stigma has a disempowering effect, encompasses low self-esteem, and may result in poor self-efficacy, thus making people who use drugs feel helpless and unable to regulate and control their own use, limit risky drug use models, and adopt a functional pattern of use. Self-stigma also has a negative effect on the social learning process. Criminalisation acts as the driver of a ‘self-fulfilling prophecy’: hindering people who use drugs empowerment to demonstrate that they cannot be competent

²⁴ The normalisation process in the drug field has been analysed, among others, by N. Zinberg (1984), *Drug, set, setting*, Yale University Press; H. Parker et al (1998), *Illegal Leisure: The Normalisation of Adolescent Recreational Drug Use*, Routledge, <https://academic.oup.com/her/article/14/5/707/600742>; S.Blackman (2010), *Youth Subcultures, Normalisation and Drug Prohibition: The Politics of Contemporary Crisis and Change?*, DOI:10.1057/bp.2010.12; P.Manning (2013), *Drugs and Popular Culture Drugs, media and identity in contemporary society*, Routledge

and active actors in their lives and their active participation in public life and in the development, implementation and evaluation of policies and creation of and participation in networks, thus supporting the need for state control of their behaviours.

- Public, structural, and self-stigma contribute to deterring people who use drugs from accessing health and social services, thus undermining their rights to health and wellbeing. Criminalisation and related stigmatisation act on discrimination at different levels: at legal/formal level, through the exclusion from certain social services and welfare opportunities due to criminal or police records (filing which is included also in some administrative and alternative sanctions) and detention (personal criminal) carrier that affect work, housing, income support and also family/parental policies; at administrative/procedure level, when the access to services or benefits is denied (formally or according to unspoken rules) to people who are active drug users, arbitrarily imposing the rule of abstinence; and informally, when stigma influences services and professionals attitude, through prejudices and devaluation with regard to people who use drugs abilities, competence and will in carrying on treatments or individual social projects²⁵. Self-stigma also plays a determinant role, making people feel unable to take care of themselves, to be able to decide and implement personal strategies for improving their own conditions, and not to be aware of their own rights as citizens. This disempowering discrimination affects mostly people who use drugs that are socially vulnerable, such as poor and homeless people and migrants, or/and people who, from an intersectional perspective, are subject to multifaceted discrimination (i.e., gender and age discrimination). More in general, criminalisation creates a risky environment for people who use drugs, who are forced to be ‘invisible’ and to adopt personal strategies to protect themselves from repression, which often result in unsafe and risky behaviours²⁶.
- People detained for drug crimes, mostly minor crimes, are a high percentage of the prison population and in preventive detention. In Europe, people in prison for drug offences are 21% of the prison population, with a range from 18% in Luxemburg to 49% in Latvia, and in 1 out of 4 member states of the Council of Europe, they represent 25% or more²⁷. This is a hard problem with regard both to the quality of living conditions of all people in prison, not just those who use drugs,

²⁵ UN Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 2010, A/65/255. With regard to EU member states see also the HRI International and other NGOs national reports to the Committee on Economic, Social and Cultural Rights (CESCR), <https://www.hri.global/>

²⁶ Decriminalization and de-penalization have the potential to diminish the risks associated with drug use and increase participation of people who use drugs in drug treatment, The UN Special Rapporteur on the Right to Health, 2010

²⁷ Aebi, M. F., Cocco, E., Molnar, L., & Tiago, M. M. (2022). *SPACE I - 2021 - Council of Europe Annual Penal Statistics: Prison populations*. Council of Europe https://wp.unil.ch/space/files/2022/05/Aebi-Cocco-Molnar-Tiago_2022_SPACE-I_2021_FinalReport_220404.pdf

and to the economic and social costs of this mass incarceration²⁸. From the perspective of people who use drugs, having a detention career and recording emphasises and multiples stigmatisation and related discrimination once released, with mounting difficulties in social integration and rehabilitation. While in prison, people who use drugs do not have the same rights to access treatments and health services²⁹ as people in the broader community, not to mention that prisons have been proven to be contexts that produce physical and mental disease and increase health risks. More in general, to enter the criminal system means being exposed to a plurality of human rights violations, as UN agencies' reports testify, from police violence during controls and arrests to ethnic profiling that discriminates against some communities³⁰.

1.2. The “penal harm” and alternatives to incarceration. Why are they not enough?

Where criminal sanctions are replaced by significant fines or other severe administrative penalties, or where thresholds for personal use of drugs are too low, the impact can be similar to that of criminalisation

UNAIDS Submission to the Office of the High Commissioner for Human Rights³¹, 2021

Alternatives to coercive sanctions are endorsed by the EU Drug Strategy 2021-25, and the development of effective alternatives to coercive sanctions in all member states is one of the specific objectives of the EU Action Plans. In the EU drug approach, alternatives to coercive sanctions aim at mitigating the ‘*unintended negative consequences associated with the implementation*’ of current drug policies.

²⁸ Ronconi S, Segio S, (2022), *Drugs and Human rights. Policies and the impunity of violations*, Milieu, Milan.

²⁹ H. Stover et al, (2021), *The state of harm reduction in prisons in 30 European countries with a focus on people who inject drugs and infectious diseases*, <https://harmreductionjournal.biomedcentral.com/articles/10.1186/s12954-021-00506-3> ; HRI-Harm Reduction International (2021), *The harm of incarceration. The evidence base and human rights framework for decarceration and harm reduction in prisons*, https://www.hri.global/files/2021/06/14/HRI_Briefing_Prisons_June2021_Final1.pdf ; H.Stover, A. Kastelic, *Drug treatment and harm reduction in prisons*, in WHO Europe (2014), *Prison and health*, https://www.euro.who.int/data/assets/pdf_file/0020/249203/Prisons-and-Health,-14-Drug-treatment-and-harm-reduction-in-prisons.pdf ; EMCDDA (2021), *Prison and drugs in Europe: current and future challenges*, https://www.emcdda.europa.eu/publications/insights/prison-and-drugs-in-europe_en

³⁰ UN WGAD, 2021 *ibidem*

³¹ Report on human rights challenges in addressing and countering all aspects of the world drug problem, pursuant to HRC resolution 52/24, <https://www.ohchr.org/sites/default/files/documents/issues/drug/cfi-hrc54-drug-policy/submission/subm-ohchrs-report-un-entities-unaid-41.docx>

The CSFD, while supporting the development and improvement of alternatives to coercive sanctions for offences other than drug use or possession for personal use and offences associated with marginalisation and exclusion, thinks that there should be no criminal sanction for drug use and related behaviours and that people who experience problems with their drug use have not to be punished, but, in case of need, would be supported through a broad range of interventions³².

Alternatives to coercive sanctions in all their different forms don't nullify nor impede the process of stigmatisation related to criminalisation and its consequences, as described above. Also, decriminalisation alone also doesn't achieve that goal; but it may bring us closer than only looking at alternatives.

Even if alternatives to coercive sanctions consent to avoid incarceration or shift from penal to administrative sanctions, the labelling process that makes a person associated with drugs a deviant does work anyway and doesn't change in its basic mechanisms and effects of 'structural stigma' producer.

In some member state drug legislation, the law establishes (inside the law text directly or referring to a separate related document) a quantitative threshold (or a daily average dose) that distinguishes possession for personal use from possession for dealing. This rigid threshold has many negative consequences on the right to justice, firstly the right to be judged on the basis of specific facts, specific behaviours and circumstances, a balance between attenuation and aggravating circumstances, etc³³.

Furthermore, the established dosage is a controversial matter, as it is often very low and calculated on the basis of the active substance, which is just what users do not have the possibility to know in an illegal market. A rigid threshold doesn't permit one to consider personal reasons for the possession of a dose eventually higher than the established one. This may transform a user into a dealer, even if possession is for personal use, which results in much harsher sentences and prison³⁴. There is also the high risk of the reversal of the burden of proof, which is a violation of a fundamental principle of the law.

³² See also in CSFD (2022), *CSFD position on alternatives to coercive sanctions*, 2022, <http://www.civilsocietyforumondrugs.eu/position-paper-alternatives-to-coercive-sanctions/>

³³ UN WGAD (2021), *ibidem*

³⁴ EMCDDA (2015), *Threshold quantities for drug offences*, https://www.emcdda.europa.eu/publications/topic-overviews/threshold-quantities-for-drug-offences/html_en and *Penalties at glance*, <https://www.emcdda.europa.eu/publications/topic-overviews/content/drug-law-penalties-at-a-glance>; G. Zuffa (2011), *How to determine personal use in drug legislation The "threshold controversy" in the light of the Italian experience*, in TNI-Series on Legislative Reform of Drug Policies Nr. 15, <http://fileserv.idpc.net/library/The-threshold-controversy-in-the-light-of-the-italian-experience.pdf>

1.3. Shifting toward a health and human rights-based drug policy

Just starting from the evidence of all the negative outcomes and harm of the current criminalising approach and the violations of human rights due to the criminalisation of personal use and related behaviours, the UN system is calling for decriminalisation as part of a human rights-based approach to drug policy. UN agencies, experts, and special rapporteurs stress the link between criminalisation and human rights violations in many different fields and from different perspectives, from health to justice, from freedom to equal opportunities, from the right to life to the ones of indigenous populations³⁵.

The most relevant and common characteristic of all these positions is the claim that drug policies must not only respect human rights but must also be based on human rights, stressing the principle that conventions and treaties that govern and guide drug policies all over the world are aligned with the UN value framework, where human rights are a fundamental pillar.

The EU Strategy on Drugs 2021-2025 fully embraces this approach in its premise, putting human rights first and referring to three basic documents with regard to their implementation:

- The Sustainable Development Goals 2030 Agenda, which deals with global policies aimed at promoting fundamental human rights, thanks to an approach that looks at human rights as interconnected and integrated.
- The UN system common position on drugs³⁶, adopted in 2019 at the initiative of the Chief Executives Board for Coordination, the highest-level coordination body of the UN system, with the aim of including in designing and assessing drug policies all UN agencies dealing with different topics relevant to drug policy and developing a more coherent and balanced system. While its general goal is “*supporting Member States in developing and implementing truly balanced, comprehensive, integrated, evidence-based, human rights-based, development-oriented, and sustainable responses to the world drug problem, within the framework of the 2030 Agenda for Sustainable Development*”, the Common position stresses that drug policies must “*put people, health and human rights at the centre*“, invites to adopt “*alternatives to conviction and punishment in appropriate cases, including the*

³⁵ About the story of the development of UN Human Rights system in drug policy see Transnational Institute (2018), *Human rights and drug policy* (by Ernestien Jensema), <https://www.tni.org/en/briefing/human-rights-and-drug-policy#8>

³⁶ *UN system common position supporting the implementation of international drug control policy through effective inter-agency collaboration*, Chief Executives Board for Coordination (2019), <https://unsceb.org/united-nations-system-common-position-supporting-implementation-international-drug-control-policy#:~:text=The%20common%20position%20reiterated%20the,to%20the%20world%20drug%20problem>; see also <http://fileserv.idpc.net/library/UN-Common-Position-Briefing-Paper.pdf>

decriminalisation of drug possession for personal use”, and calls for “changes in laws, policies and practices that threaten the health and human rights of people and cooperate to ensure human rights-based drug control and address impunity for serious human rights violations in the context of drug control efforts”.

- The International Guidelines on Human Rights and Drug Policy, promoted in 2019 by a partnership of NGOs, the International Centre on Human Rights and Drug Policy of Essex University, and UN agencies such as UNDP, UNAIDS, OHCHR, and WHO. These guidelines establish clear rules for the conformity of drug policy with human rights standards and on processes for state accountability from a human rights perspective³⁷.

The CSFD believes that it is time to take a further step forward, based on EU and UN perspectives, in the direction of fully implementing a human rights-based European drug policy through a shared and coherent decriminalisation process.

³⁷ *International Guidelines on Human Rights and Drug Policy*, <https://www.undp.org/publications/international-guidelines-human-rights-and-drug-policy>

2. Towards the Mid-Term Review of the 2019 Ministerial Declaration in 2024

Shifting away from punitive models is critical to addressing all human rights challenges that arise from or are facilitated by the implementation of punitive drug control policies.

(...)

Adopt alternatives to criminalisation, “zero tolerance” and elimination of drugs, by considering decriminalisation of usage

OHCHR, 2023

The Civil Society Forum on Drugs, aware of the complexity of and different views on the issue, will continue exploring some crucial aspects of the decriminalisation process, such as:

- Positive and negative effects of criminalisation and decriminalisation in various aspects: human rights, health, social, personal, security and safety, as well as judicial and cultural considerations
- Effectiveness of various alternatives to coercive sanctions
- Other significant factors are to be considered and developed in a process to shift towards a more balanced drug policy coherent with human rights standards, which is not only a matter of lifting criminal sanctions, even if this is the first necessary step
- The need to complement that move with adjustments in various connected laws and practices: first of all in aligning different laws and other legislative acts and ensuring enough specific and available health services, but also different changes in the areas of social protection, detention services, education, training of involved staff in institutions and civil society, etc.
- Models and potentiality of the ‘social regulation of drug use’ vs. the ‘penal regulation’.

The Civil Society Forum on Drugs is also aware of the importance of the 2024 mid-term review of the 2019 Ministerial Declaration that will be held in Vienna in March 2024. It may be a significant step forward in the direction of including the respect of human rights as a pillar of global drug policies (as is the case for the broader United Nations) and a crucial factor in their evaluation.

On the basis of Human Rights Council resolution 52/54³⁸, the OHCHR report 'Human rights challenges in addressing and countering all aspects of the world drug problem'³⁹, CSFD will contribute to the Mid-Term Review and bring a much-needed human rights perspective to the high-level debates in Vienna.

The Civil Society Forum on Drugs:

- Urges the European Commission, the Horizontal Working Party on Drugs (HDG), and the EU member states to welcome and support the OHCHR report and its recommendations at the 2024 Mid-Term Review, in particular the recommendation related to decriminalisation of personal use and related behaviours
- Ask the European Commission to promote the decriminalisation of personal use and related behaviours, inviting member states to consider this perspective in their drug legislation
- Ask the European Commission, with the collaboration of the EU Drug Agency and the active participation of CSOs, to promote research on the different decriminalisation models and their outcomes and impacts with full and meaningful participation of people who use drugs and other directly impacted communities.

³⁸ Contribution of the Human Rights Council with regard to the human rights implications of drug policy, A/HRC/52/L.22/Rev.1

³⁹ A/HRC/54/53

3. Models of decriminalisation

Decriminalisation is defined as the removal of criminal sanctions for certain activities related to drug use and possession for personal use. Decriminalisation differs from legalisation, whereby the entire illegal market for one or more drugs becomes legal (from cultivation or production all the way to sale and consumption), enabling the state to impose specific regulations that restrict various aspects of the legal market.

Around the world, 67 jurisdictions in 41 countries (as of October 2023) have adopted some form of decriminalisation of drug use and possession⁴⁰, with models varying greatly from one jurisdiction to another, and therefore the effects of these decriminalisation models will also differ significantly⁴¹. The CSFD member organisations discussed various decriminalisation models from different, sometimes opposite positions.

3.1. What activities are decriminalised?

The types of activities decriminalised vary from country to country. Decriminalisation may include the following activities: drug use, possession of drugs for personal use, cultivation of certain plants for personal use (e.g., cannabis, coca), social sharing (i.e., being in possession of larger amounts of drugs to share among friends and peers for no financial gain), and possession of drug use paraphernalia (e.g., sterile needles and syringes, crack pipes, etc.).

The survey attached to this paper shows that there is a broad agreement across CSFD members on the decriminalisation of people who use drugs, which includes the decriminalisation of drug use and possession for personal use. However, there is a certain level of disagreement on what further activities should be decriminalised. In particular, approximately 30% of surveyed CSFD members have noted that activities such as cultivation and social sharing should not be decriminalised and/or do not fit under a decriminalisation model.

3.2. Which drugs are being decriminalised?

While decriminalisation only covers specific substances in some jurisdictions (generally cannabis), others decriminalise all drugs. Some jurisdictions may opt for a certain threshold for specific substances.

The CSFD calls for a decriminalisation model whereby all drugs are decriminalised.

⁴⁰ <https://www.talkingdrugs.org/drug-decriminalisation>

⁴¹ See more at Unlu, Ali, Tuukka Tammi and Pekka Hakkarainen. *Drug Decriminalization Policy. Literature Review: Models, Implementation and Outcomes*. Finnish institute for health and welfare (THL). Report 9/2020. Helsinki, Finland. Link: <https://www.julkari.fi/handle/10024/140116>

3.3. The response to drug use and related activities

After removing criminal sanctions for drug use and related activities, many jurisdictions have opted for alternatives, including administrative sanctions (going from fines and educational courses all the way to administrative detention) and referrals to health and social services, while others do not take any action against a person caught in possession of drugs.

The CSFD calls for a decriminalisation model where no more sanctions (whether administrative or criminal) are imposed on people who use drugs. Furthermore, mechanisms should be in place to refer people who use drugs to adequately funded gender- and age-sensitive harm reduction, treatment, health, and social services, always on a voluntary basis.

Decriminalisation measures should not impede drug supply prevention measures and monitoring mechanisms to detect and prevent potential increase of availability of drugs or the increase of drug use disorders.

3.4. Expungement of criminal records and reparation measures

Around the world, 470,000 people are currently incarcerated for drug use and possession of drugs for personal use⁴², with devastating long-term consequences for their lives, as highlighted above. Decriminalisation will go a long way towards reducing the prison population, but it will require jurisdictions to expunge criminal records for those individuals who were condemned for drug use and related activities prior to the reform. Reparation measures should also be established to repair the harms caused by criminalisation in those communities that have been particularly affected by drug control prior to decriminalisation.

3.5. Training and sensitisation

Decriminalisation will require that public authorities be sensitised and trained on what the decriminalisation policy is, what its objectives are, how it will work in practice, and what the implications are for their daily work and on drug use and drug control more broadly, to ensure that the policy is effectively implemented on the ground. Sensitisation campaigns on decriminalisation should also be targeted at the general public.

⁴² UNODC (2020), *World Drug Report 2020*, <https://wdr.unodc.org/wdr2020/en/index2020.html>

3.6. Redirect resources away from policing and towards health, justice, health and social support, health and communities, etc.

Globally, at least USD 100 billion is spent each year on drug law enforcement⁴³. Harm Reduction International calculated that 10% of such spending for one year would be able to cover global HIV prevention for people who inject drugs for four years. It is critical that financial resources be redirected away from policing and drug law enforcement and towards evidence-based health and social measures for people who use drugs, including prevention, risk and harm reduction, treatment, rehabilitation, care, and recovery.

3.7. Meaningful participation of affected communities

People who use drugs and people in recovery should be meaningfully engaged in the design, implementation, and evaluation of decriminalisation policies. This is to ensure that their knowledge and first-hand experiences are taken into account in the model and to prevent, avoid, or redress any possible negative consequences of decriminalisation.

⁴³ Open Society Foundations, *How Much of Your Money Is Wasted in the War on Drugs*, <https://www.opensocietyfoundations.org/voices/how-much-your-money-wasted-war-drugs>

The survey to assess the level of support for various aspects of decriminalization

The sub-group working on the issue prepared a survey to assess the level of support for various aspects of decriminalisation. The survey was structured in two sections: The scope of the decriminalisation model and Other related measures.

The survey has been shared with all CSFD, providing the entire membership with an opportunity to voice their positions and concerns. Every CSFD member organisation was entitled to fill out the questionnaire only once. Out of 43 organisations, 29 responses were received (67,44%).

The survey has revealed that the model is supported by the CSFD member organisations, but some parts are not endorsed by all the members of the CSFD.

Where we agreed?

The scope of the decriminalisation model*	
Decriminalisation should include drug use and possession for personal use	93,10%
Decriminalisation should include the possession of drug use paraphernalia	96,55%
The responses to decriminalised activities: Voluntary referrals to health, harm reduction and drug dependence treatment programmes	96,55%
The responses to decriminalised activities: Voluntary educational courses	89,65%

Other related measures	
Criminal records should be expunged for those who were previously condemned for activities that have now been decriminalised	93,10%
Public authorities in charge of implementing the decriminalisation model should be provided with sensitisation and training on decriminalisation and access to drug services	96,55%
Campaigns on decriminalisation should be developed to sensitize the general public on the reform, its objectives and outcomes	82,76%
Financial resources saved thanks to decriminalisation should be diverted away from policing and the criminal justice system and towards evidence-based health and social measures	96,55%

* The right column presents the percentage of support from those who filled out the survey

People who use drugs, people dependent on drugs, people in recovery, and civil society more broadly should be involved meaningfully in the design, implementation and evaluation of decriminalisation policies	100%
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Where we don't fully agree?

The scope of the decriminalisation model	
Decriminalisation should include cultivation for personal use	72,41%
Decriminalisation should focus on social sharing also (i.e. sharing among friends and peers for no financial gain)	75,85%
The responses to decriminalised activities: No sanction (including no administrative sanction)	79,31%
The responses to decriminalised activities: Fines	75,86%

Note:

CSFD member organisation “CityWide Drugs Crisis Campaign” contributed to the survey after the deadline and after the results were processed, so their positions are not included.

Civil Society Forum on Drugs Members' Position on Decriminalisation

Results of the survey

September 2023

Introduction

In preparation for a position paper on decriminalisation of drug use and related activities for personal drug use, and following discussions at the 2022 annual meeting of the Civil Society Forum on Drugs and online, the CSFD Working Group 4 has put together the survey to assess the level of support for various aspects of decriminalisation. This survey has been shared with all CSFD members on 13 July 2023, providing the entire membership with an opportunity to voice their positions and concerns. It will be on the basis of the feedback received that WG4 will then finalise its position statement on decriminalisation and/or consider other activities on this critical issue.

The deadline was initially set for 4 September 2023, but it was prolonged for one week due to the holiday season.

Every CSFD member organisation had the opportunity to fill out the questionnaire only once. Submission of the survey was announced to be interpreted as informed consent to participate.

Organisations were advised that “all responses will be anonymised and integrated into a report to be shared among CSFD members”. For this reason, the comments are presented without reference to the organisation that sent them. The only references to the source are links to the documents that organisations provided.

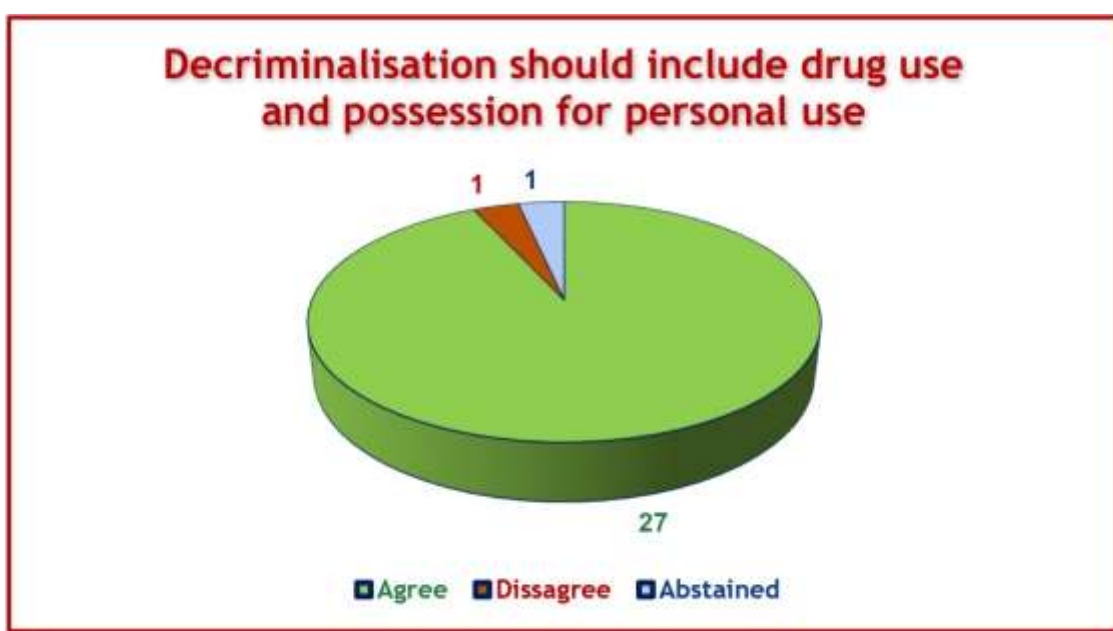
Out of 43 organisations, 29 responses were received (67,44%). Lists of organisations that participated and those that haven't are available on the last pages of the document.

This document presents these responses as received, without any additional comment.

The scope of the decriminalisation model

2.1 Decriminalisation should include drug use and possession for personal use

Agree	27	93,10%
Dissagree	1	3,45%
Abstained	1	3,45%



Comments from those who agreed

- Whilst the term 'Decriminalisation' is the correct terminology, the word Decriminalisation does tend to confuse the general public - who can commonly confuse the term with legalisation. This needs to be considered and explained in communications. Another similar consideration is that language like 'Decriminalising drug use' and 'Decriminalising possession of drugs for personal use' can have a similar impact. In Ireland we have found that explaining that we wish to 'Decriminalise people who use drugs' resonates with people.
- Decriminalization is just one of the measures we need. The market must be regulated and operated legally.
- It must necessarily include drug use and personal possession. Otherwise it doesn't make sense.

- People who use or possess drugs for personal use should not be punished. But they should be supported in identifying and addressing those elements that, if unattended, might push them to severe disorders and affect the quality of their life.
- This is one of our core stances in our institutional positioning.
- No established quantities, all quantities when in possession for own use should be depenalized (going beyond decrim).
- Decriminalisation should only focus on people who use drugs or possess drugs for personal use, not the substances. They should remain illegal and controlled under UN conventions.
- People who use drugs should not be criminalised. Services should be provided to support them for identification of situations that might conduct to severe disorders in order to address them and ensure a good quality of life.
- One cannot use without possessing a small amount, those two cannot be separated.
- Please see our Position Paper on Decriminalisation emailed to Milutin Milosevic.
- It is important to pay attention to the way how in states the intention to sell is proved in practical court cases. If the amount of substance found is used for the decision if it is possession for personal use or for selling - then decriminalization needs to include this aspect - to regulate this amount for different substances. In the CEECA region usual practice to not to prove the intention to trade drugs, only the amount of found drugs is taken into account. Our [drug calculator](#) show country by country how heavy and different criminalisation is. Another issue to consider - is how real decriminalization is, it could be formally done, but having a penalty 10 times higher than average income we could have criminalized not paying penalties which heavily affect people who use drugs.
- Yes, because I consider the issue of drug use to be an ethical problem, in which the will of the individual must take precedence over state control. As long as the individual's use of the drug does not cause harm to society as a whole.

Comments from those who disagreed

- We do not fully agree with the rationale outlined in the introduction, particularly the parts that state that it has no impact on demand or supply. We do not believe this is what the evidence shows, but that's a longer discussion. The goal of the legislation should be to discourage the illicit use of controlled drugs and to offer support and help to people who have developed substance use problems. We do not think there is a universal model that will fit all legal systems. The most common definition of decriminalization, used by the EMCDDA/EUDA, is that the status of an offense is reclassified from a criminal to a non-criminal offense. However, it remains an offense that can be sanctioned. However, we agree that prison sentences are not appropriate and

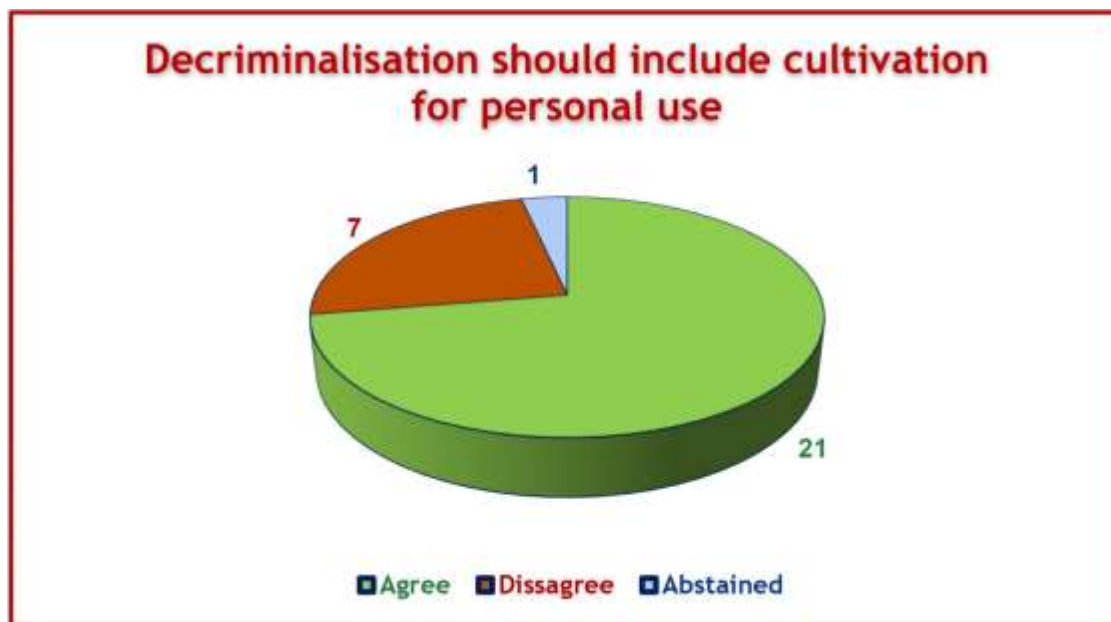
proportionate for the use of drugs, and that countries can consider decriminalization if they so desire. If countries want to decriminalize, the decriminalization should include drug use and possession of small amounts for personal use. In that sense the answer is "Yes".

Comments from those who abstained

- We does not agree with the rationale outlined in the introduction, nor the way in which the questions have a firm “yes” or “no” answer. The issue of decriminalisation is more complex than how the questions in this questionnaire make it out to be. Decriminalization and its measures would vary between countries and regions, even within the European countries. We firmly opposes the idea that CSFD can create a “golden standard” for decriminalisation, not the least due to the realities of the judicial systems as well as the available social and health care services differ greatly between countries in EU and beyond. Universalism rarely works within our field, it does not work well for prevention or treatment, nor would it work to provide a “gold standard” for decriminalisation as proposed by this document. There is no one universal model that fits all legal systems. The goal of the system should be to discourage the illicit use of drugs and to offer support and treatment to people who have developed an addiction or other problems associated with drug dependency. However, we agree that there are unproportionate prison sentences in many countries for the possession and use of drugs and that alternatives to incarceration is a must. People who use drugs should not “simply” be punished, we believe in a continuum of care where drug demand reduction services are essential and available services are equitable, gender sensitive and readily accessible for those who need them. We recognise that some countries use decriminalisation measures as a means to better support people who use drugs and those with addiction, and that together with strengthened social and health care services these measures have provided positive results. As a member organisation, the views of our members differ on this issue largely depending on the context and available resources - for this reason we cannot provide straight answers to all questions in this survey, which in itself highlights the complexity of the concept of decriminalisation and how it varies between countries and contexts. This urges for further discussions within the group of the CSFD.

2.2 Decriminalisation should include cultivation for personal use

Agree	21	72,41%
Dissagree	7	24,14%
Abstained	1	3,45%



Comments from those who agreed

- I suppose this question is about cannabis? We does not have a precise position on the cultivation of cannabis for personal use, but there does not seem to have an objective reason to forbid it in the context of decriminalisation of drug use and/or a regularised cannabis market.
- Home cultivation allows for limiting industrial/capitalistic drift.
- In principle we agree, but we are cautious about this aspect. I would like to highlight that it has not yet been contemplated in our institutional positioning.
- Up to 6 plants and opium clubs
- This allows for non commercial production and self-reliance
- Cultivation for personal use can help make it more difficult for large multinational companies to take over the marketing of certain psychoactive substances, thus preventing their large-scale and potentially unregulated spread.

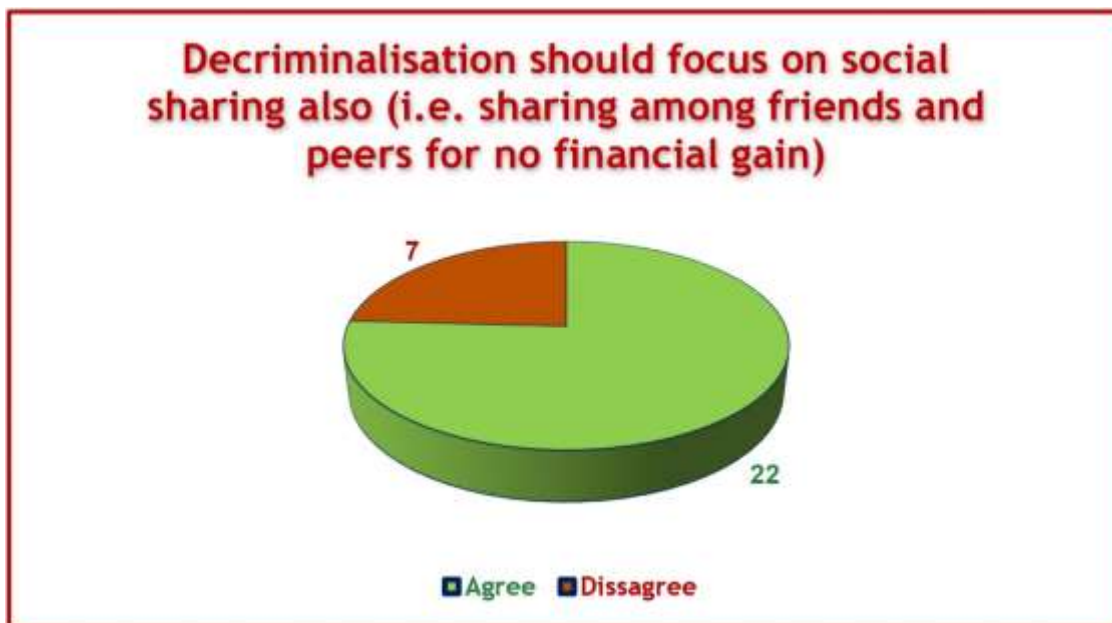
Comments from those who disagreed

- It depends on the model you are going for - 'Cultivation for personal use' suggests a form of legalisation. Decriminalisation is not legalisation... that's 'Regulation and Control'.
- Lack of governmental capacity to guarantee regulations' compliance.

- Cultivation for the personal use of any psychotropic plant, as described in the draft of the position paper, is a declaration of surrender to normalizing drug use. In this way, the number of people who use drugs would inevitably increase, putting the most vulnerable at risk: those with personal issues, mental vulnerability, or economic and social problems. Ethnic groups and marginalized populations will be the most affected by this regulation. For them, the use instead of being purely "recreational" - if any use of this kind exists - could soon become a way to forget their situation, developing a severe dependency while jeopardizing their access to education and qualified job, further marginalizing them, including the youngsters.
- Same arguments as in the previous question.
- Our experience shows that 'recreational use' often becomes a more regular intake that increases chances of developing dependency specially among youngsters. Also the chances of sharing the drug with friends are increased.
- WE do not have a position on decriminalisation for cultivation for personal use.
- The cultivation or production of drugs for personal use increases the risk of diversion and will be very difficult to monitor.
- The production or cultivation of drugs for personal use is difficult to monitor and can lead to an increased risk of diversion. Furthermore, cultivation leads to further normalisation of drug use, through which the number of people using drugs and thus increasing risk of developing an addiction, would increase.

2.3 Decriminalisation should focus on social sharing also (i.e. sharing among friends and peers for no financial gain)

Agree	22	75,85%
Dissagree	7	24,14%



Comments from those who agreed

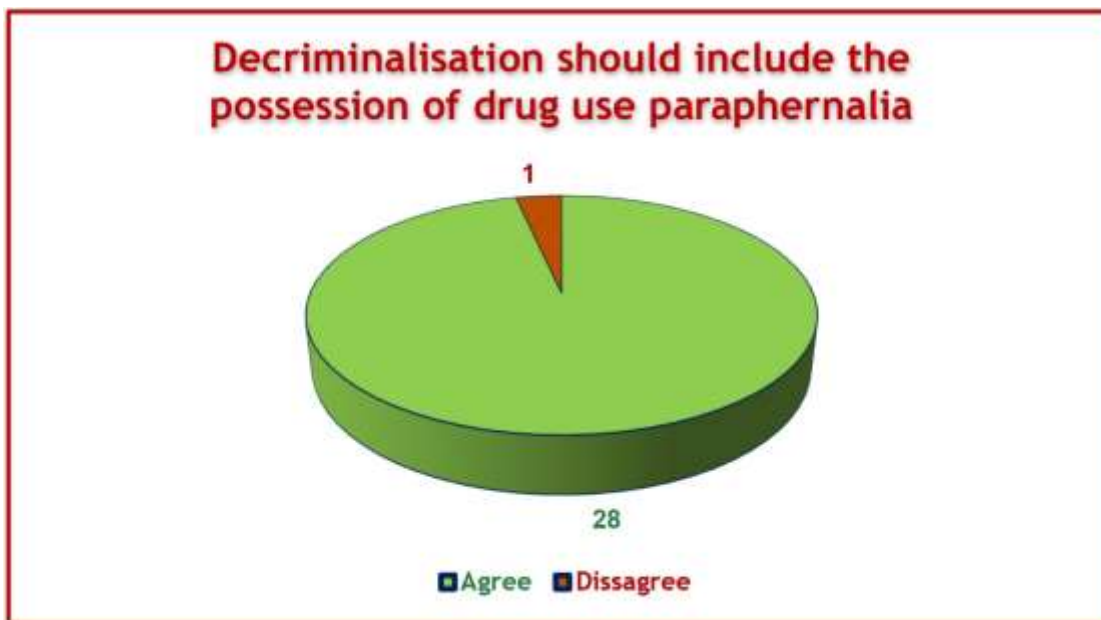
- It can, but not all jurisdictions will include addressing 'social sharing' in their model of Decriminalisation.
- Our current position focuses on the suppression of criminal sanctions for drug use as explained [here](#) (in French). This is a strategic decision and its partners in our country not to have a too precise position on a decriminalisation model. That said, there is no opposition from us to a decriminalisation model that would be as broad as possible.
- Consumer groups can also serve as peer support groups.
- Social sharing is one of the realities of drug use and should be recognised in a decriminalisation model. It's also a way to avoid too much contact with the black market and therefore reduce vulnerabilities for PWUD.
- See Uruguay law for cannabis legalisation.
- Criminalization of social sharing leading to cases of death because of overdose in CEECA countries - people see an overdose but could not call ambulance as they will be arrested (ambulance in Belarus, Lithuania and some other countries must or should by regulation to call police in case if they see drug use) - for social sharing (selling drugs) especially in case of the death of overdose.

Comments from those who disagreed

- For instance, would you allow sharing kilograms? Size regulations are required. Then, how governments will monitor and control?
- People not belonging to a privileged social and economic group might be obliged to see this activity as a way to earn money, as they are often excluded from the labor market. "Social sharing" can contribute to the creation of a grey market, with those most at risk and most vulnerable ending up in jail more than ever, as is happening in Colorado, where people who can't access the Cannabis Dispensaries because of economic or age reasons, fuel this parallel illegal market that has grown since commercialization, instead of being eliminated as claimed by those who pushed for this regulation.
- Same arguments as in the previous question. Social sharing would mean that illegal drugs are available relatively widely and easily for those interested to use them, including minors and other vulnerable populations.
- As it has been shown, social sharing can contribute to the creation of a great market and increase consumption among peers even if there is no economic exchange.
- We do not have a position in relation to this specific wording. While we support decriminalisation for personal use and no financial gain. We have not been specific about sharing among friends and peers.
- No. Social sharing increases diversion and will be very difficult to monitor.
- Again, difficult to monitor and diversion risk increases.

2.4 Decriminalisation should include the possession of drug use paraphernalia

Agree	28	96,55%
Dissagree	1	3,45%



Comments from those who agreed

- Even in the current context of drug criminalisation, paraphernalia is an essential tool of harm reduction. Free access to drug use paraphernalia was a struggle in France in the 1990s. But it is now enshrined in the law, and France has an extensive syringe exchange program. Our members are professionals who routinely distribute paraphernalia to PWUDs. (Some problems persist though: for example, syringe access is very complicated in prisons)
- This is essential to ensuring access to life-saving harm reduction services and paraphernalia.
- People who use drugs need specific equipment to use them. It would be hypocritical legislation to decriminalize drug use and not to let them have paraphernalia for personal use. As I already said, when I referred to decriminalizing use and possession, also this one should constitute a further element to offer care and support, paying attention to the development of the person's drug use trajectory.
- Any parafernália, including serynges, pipes, grinders should be given for free.
- It would not make any sense to decriminalise drug use and criminalise possession of paraphernalia.
- If one is allowed to use, one must be allowed to possess the tools needed for use.

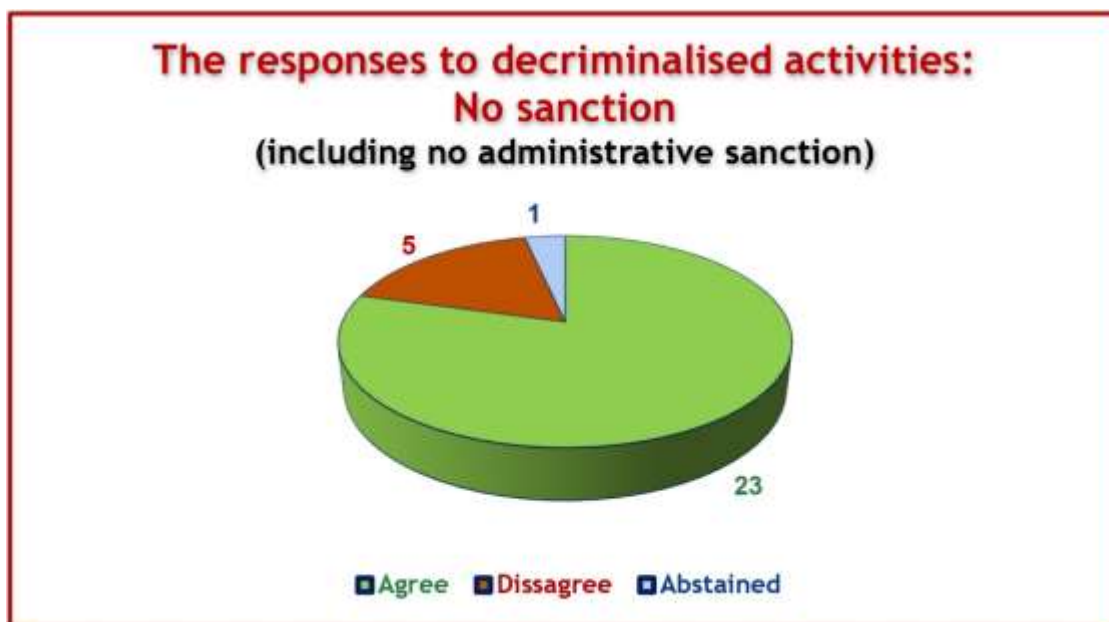
- Yes, if the possession of paraphernalia were to be criminalized it would defeat the purpose of decriminalizing possession of controlled substances because the people who possess small amounts of drugs are also likely to possess paraphernalia. Moreover, in some cases outreach services provide various paraphernalia to prevent infections etc.
- Drug use paraphernalia is a must for harm reduction, no matter the drug used.
- In several post-soviet countries caring for them syringes, needles, or scales is used in law enforcement practices is used as evidence of drug selling.
- The inclusion of paraphernalia contributes to reducing damage to the health of the individual and the surrounding community, as it promotes aseptic consumption and implicitly or explicitly brings with it the fundamentals associated with responsible consumption.

Comments from those who disagreed

- Same arguments as in the previous questions.

2.5 The responses to decriminalised activities: No sanction (including no administrative sanction)

Agree	23	79,31%
Dissagree	5	17,24%
Abstained	1	3,45%



Comments from those who agreed

- Our current campaign on decriminalisation (see [here](#)) focuses on criminal sanctions, but we are in favour of the suppression of all sanctions related to drug use.
- Many administrative sanctions have a hard impact on PWUD life, are included in police files and have the same impact as penal sanctions with regard to stigmatization.
- Any sort of sanction can have an impact on a person, so these should be avoided in a decriminalised model.
- Administrative sanction, e.g. obligatory counselling with addiction specialist if possessing high amount of substance.
- No sanction at all.
- Instead of sanctions, people involved in decriminalised activities should be referred to adequate demand reduction services, such as prevention, counselling, harm reduction, treatment and recovery (if they need them due to substance use disorders).
- In Kyrgyzstan and Russia, for example, formal decriminalization leads to corruption and penalization with heavy financial burden, which leads to following imprisonment.

Comments from those who disagreed

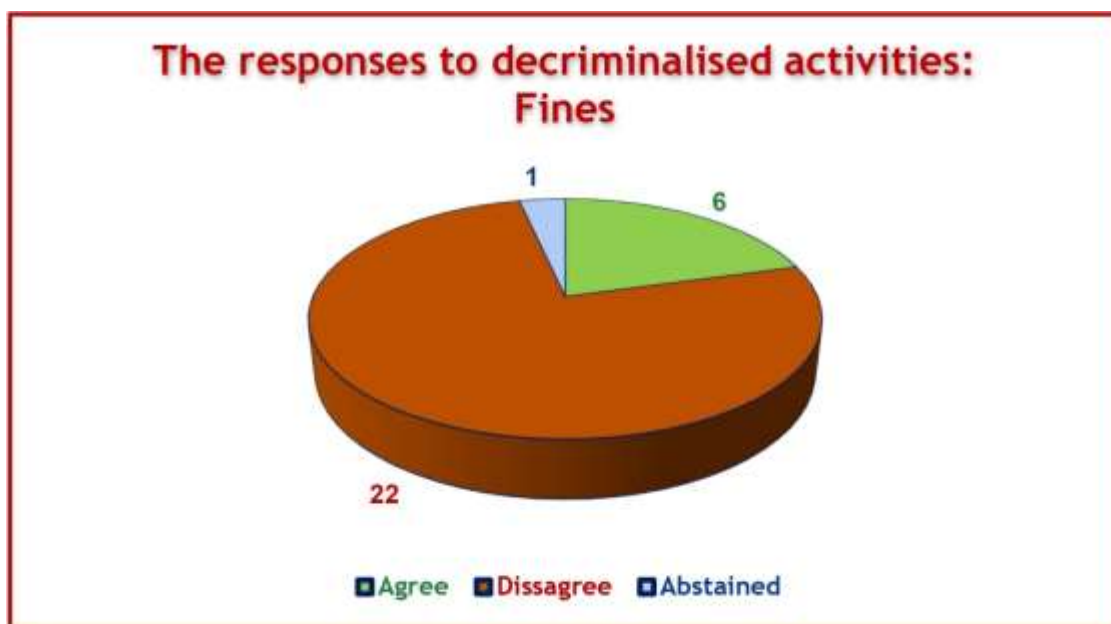
- I understand Decriminalisation like a process to achieve more appropriate sentences, alternative to incarceration or administrative-economic sanctions.
- I fully agree that no penal sanctions should be charged to people who use or possess drugs - and paraphernalia - for personal use. Furthermore, jail should always be avoided for those who commit crimes other than use or possession, offering them alternatives. But administrative sanctions - carefully studied to reach their goal - have a different purpose. Their message is clear: drug use is not a crime, and you are not guilty, but I must enhance your awareness - and the general population's awareness - of the possible harms of drug use. As the public authorities take care of your health and safety and establish that when driving, your speed shouldn't exceed certain limits, or you have to wear a safety belt; in case, you can receive a fine. Similarly, when managing public health, authorities have to be clear regarding what is healthy and safe and what is harmful and risky, which may cause harm not only to you but also to other people. As an example: if you use substances habitually (alcohol or drugs), your driving capacity could be impaired: withdrawal of the driving license might be considered if some specific conditions occur, i.e., if you have been caught while DUI more than once.
- No penal sanction should be charged to people who use or possess drugs for personal use but administrative sanctions can play a preventive role against drug use, specially among adolescents as well as increase awareness among the general population on the potential harms of drug consumption.
- We support the health diversion programme - see our position paper for further details.

Comments from those who abstained

- No one size fits all. Makes it difficult to provide a unison answer that would apply to all cases. Cannot provide a simple yes/no to each of these statements at this given time.

2.6 The responses to decriminalised activities: Fines

Agree	22	75,86%
Dissagree	6	20,69%
Abstained	1	3,45%



Comments from those who agreed

- Same response as the last one.
- Administrative sanctions have an educative value, specially among adolescents. In any case, fines should not be centered in money but in offering services to broad their perspective an contribute to social development.
- Yes, fines are one in a range of potential sanctions, but should be avoided for people with substance use problems.

Comments from those who disagreed

- Not necessary.
- Decriminalisation means no fines or any other sanction.
- I'm not understood.
- Personal use, cultivation, etc. should not be sanctioned at all.
- It doesn't make sense to impose any form of punishment; it makes sense to promote the emergence of desirable behavior and work hand in hand with consumers to raise awareness.
- It would not be coherent with a complete decriminalization of personal use and not effective in a prevention /risk limitation perspective.
- Decriminalization means no sanctions.

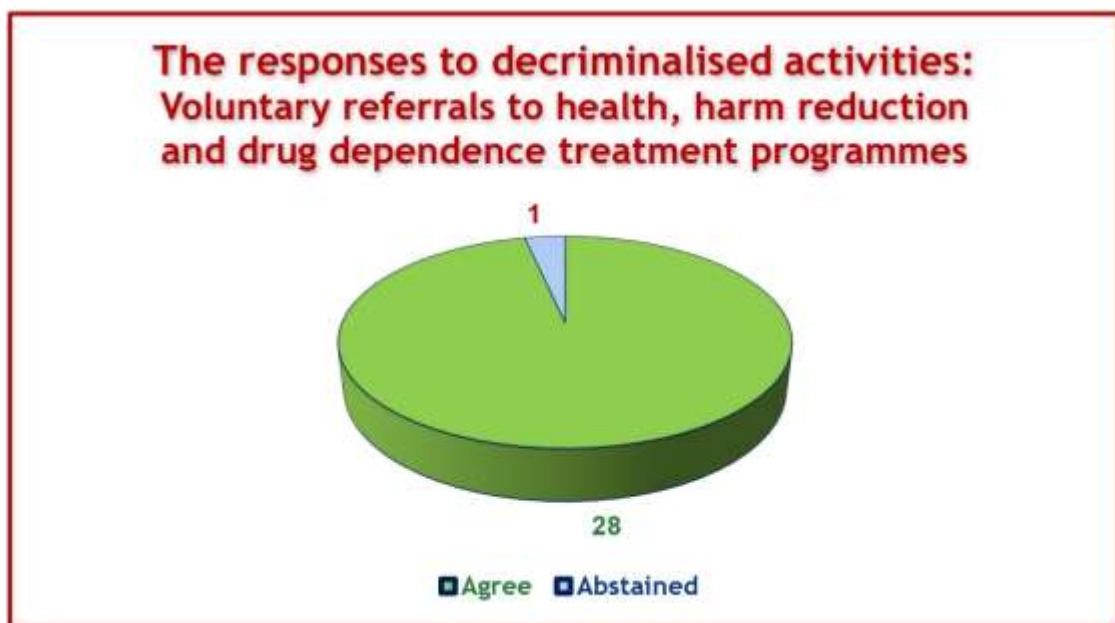
- Financial sanctions are likely to affect most severely those in most vulnerable situations.
- Even when small, a fine can have an impact on the life of a person (e.g., if the person is homeless). It can also lead to net widening, that is, when the police starts arresting PWUD more because this brings money in.
- Some administrative sanctions have an educative value, especially for youngsters, but fines are not the best option. Social services, in case of crimes of minor entity, might be a better opportunity to get to know different environments and people in trouble and become aware of broader perspectives.
- Bring most of users to more deeper debts.
- We are in favor that the use of drugs per se is not under administrative sanctions however, we contemplate that if the use of drugs is limited to certain regulations (let's say, drugs can't be consumed closer to 100 meters from schools) if these are not respected, we agree that there should be fines.
- It does not change behaviours and affects the most vulnerable in a punitive way. Still a very prohibitiobist/dissuasive approach.
- It does not make any sense. This would push people who use drugs to another criminal activities, such as thefts, robberies, forced prostitution etc., to get money to pay the fines.
- Fines keep the stigma on drug use as a forbidden activity, it should be a personal freedom.
- I do not see how the fining of people who use drugs would make them not use. It would just make them harder financially - it could lead to financial problems related to their payments for housing, food, etc. Also, fining people who are experiencing homelessness or they are from marginalised communities its not working - they are not able to pay the fine and they are going into debts which create more social problems.
- We do not have a position on imposing fines.
- Fines are not a solution, generally speaking. If the quantity for personal use is correctly defined, then fines have no utility. If a person in his/hers possession has legally permitted amount for personal use, we do not see reason to be fined. In addition, not all vulnerable people can pay fines.
- A lot of people who use drugs can not afford fines.
- If there are fines, it's not really decriminalisation.
- Fines are used as a hidden criminalization (a person could not pay, and is imprisoned for not paying fines). Penalisation also creates a background for corruption in law enforcement. Penalty became an unbearable burden on the families of people using drugs, worsening their social and financial situation. This in a long perspective could lead to critical poverty, and will impact the access of people using drugs and their families to basic food, accommodation, health and social care.
- Fines or sanctions are associated with the idea that consumption is morally wrong, so it doesn't make sense that it can be penalized with a fine or sanction (even if it's light or "educational").

Comments from those who abstained

- No one size fits all. Makes it difficult to provide a unison answer that would apply to all cases. Cannot provide a simple yes/no to each of these statements at this given time.

2.7 The responses to decriminalised activities: Voluntary referrals to health, harm reduction and drug dependence treatment programmes

Agree	28	96,55%
Abstained	1	3,45%



Comments from those who agreed

- Mandatory diversion for health assessment; and offer of referral (as per outcome of assessment) for (voluntary) Treatment and Rehab.
- The “voluntary” part is the important part here: the Fédération Addiction supports the free choice of individuals to use (or not to use) the harm reduction, withdrawal or treatment services of their choice. Any drugs policy, including decriminalisation, must provide for the existence of such services in sufficient numbers, with sufficient trained staff and the necessary funding.
- There should be no sanction if the person chooses not to go to a service.
- Indeed, among all the other options, but not as an 'obligation' or even as 'moral pressure'.
- Only if really voluntary.
- Access and referral to services should always be possible.
- Absolutely critical to promote alternative treatment rather than imprisonment.
- Obligatory counselling with addiction specialist if possessing high amount of substance.

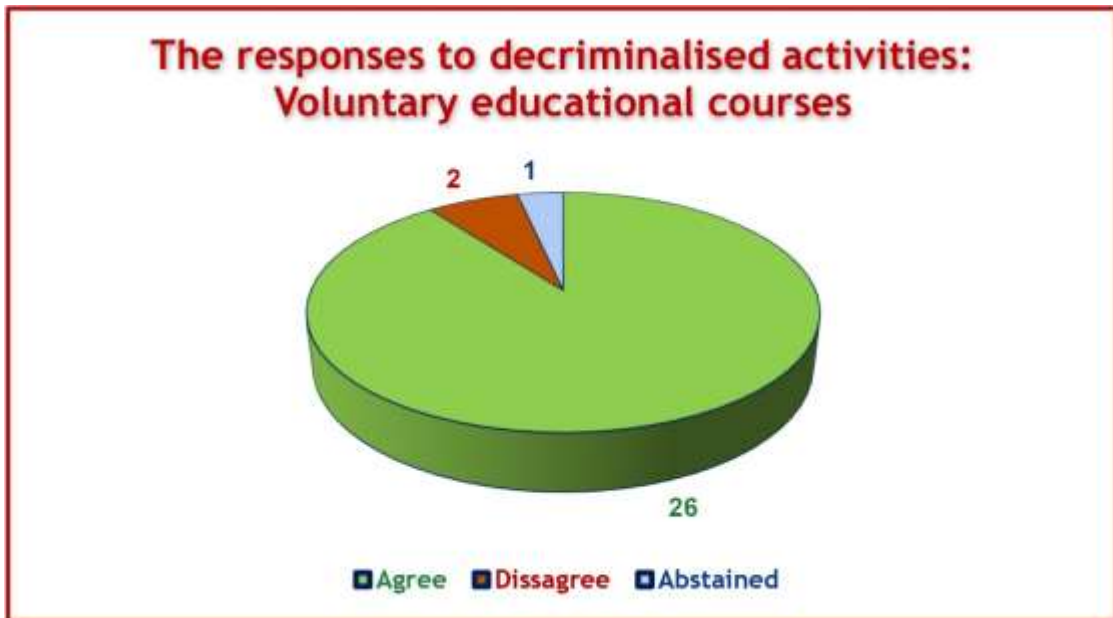
- Substance use is often a developing condition. It is a trajectory that can change over time. It might stop or remain occasional. Or, slowly or more rapidly, from harmless and "recreational" can become harmful and jeopardize life or, at least, compromise one's quality of life. Being in touch with services, or being aware of their existence, can be helpful if/when things worsen. Not penal, but administrative sanctions can be studied and oriented to this goal.
- Only voluntary based referrals are human rights oriented.
- People who are usually caught in such activities need support and help from variety of different drug demand and harm reduction services.
- Being in touch with services and programmes can be helpful as a preventive measure or when things get worse.
- Public health efforts should always be encouraged, but only on a voluntary basis.
- No - Referrals to health and social services can be an alternative to other sanctions.
- People who use drugs should be treated. Access to care is a fundamental right.
- If its really voluntary then yes.
- Good experience of such alternatives is now developing i Estonia (SUTIK program). We have collected [best practices and examples](#) how such alternatives could be introduced.
- Voluntary referrals to health care have a basic philosophy of care, encouraging the immersion of the individual in a possible "therapeutic" environment.

Comments from those who abstained

- No one size fits all. Makes it difficult to provide a unison answer that would apply to all cases. Cannot provide a simple yes/no to each of these statements at this given time.

2.8 The responses to decriminalised activities: Voluntary educational courses

Agree	26	89,65%
Dissagree	2	6,90%
Abstained	1	3,45%



Comments from those who agreed

- The “voluntary” part is the important part here: we support the free choice of individuals to use (or not to use) the harm reduction, withdrawal or treatment services of their choice. Any drugs policy, including decriminalisation, must provide for the existence of such services in sufficient numbers, with sufficient trained staff and the necessary funding.
- Only if really voluntary.
- Meaningful, intense educational courses (not 1-hour session to skip the fine).
- Not sure what is meant by "educational Courses." They should give people perspectives, not sterile rules or educative precepts. Quality social activities should be offered, opportunities and good options among which choose alternatives, especially, but not only, when we are dealing with youngsters or people coming from deprived environments. Those who have already developed a dependency and compromised their quality of life and their health should be supported in identifying internal and external resources that can allow them to decide and pursue a path of change for the better of their quality of life. This is what I mean by an educational approach.

- Due to scarcity of drug education. Not courses to say no to drugs but rather to teach harm reduction.
- Especially from the perspective of continuation with school (e.g., dropouts).
- Instead of 'educational courses' I would prefer programmes that have shown effectiveness in drug prevention or drug treatment, along with opportunities and good options to enhance quality of life.
- Knowledge is power and can lead to positive health decisions and behaviors.
- We are more for Yes than for No. The reason is that if people are referred to professional, comprehensive services, there they will also receive information/education. There may be no need for additional courses.
- Why not but treatment is better than courses.
- From our perspective, access to education and employment opportunities are the key to success of resocialization and reducing economic and social harm of drugs and repressive drug policy.

Comments from those who disagreed

- Do not bring anything.
- Educational courses could perhaps be an alternative to other sanctions, but education alone likely has limited impact on behaviour and is likely more effective in combination with other interventions such as motivational interviewing. Education and information should be available regardless of any violations.

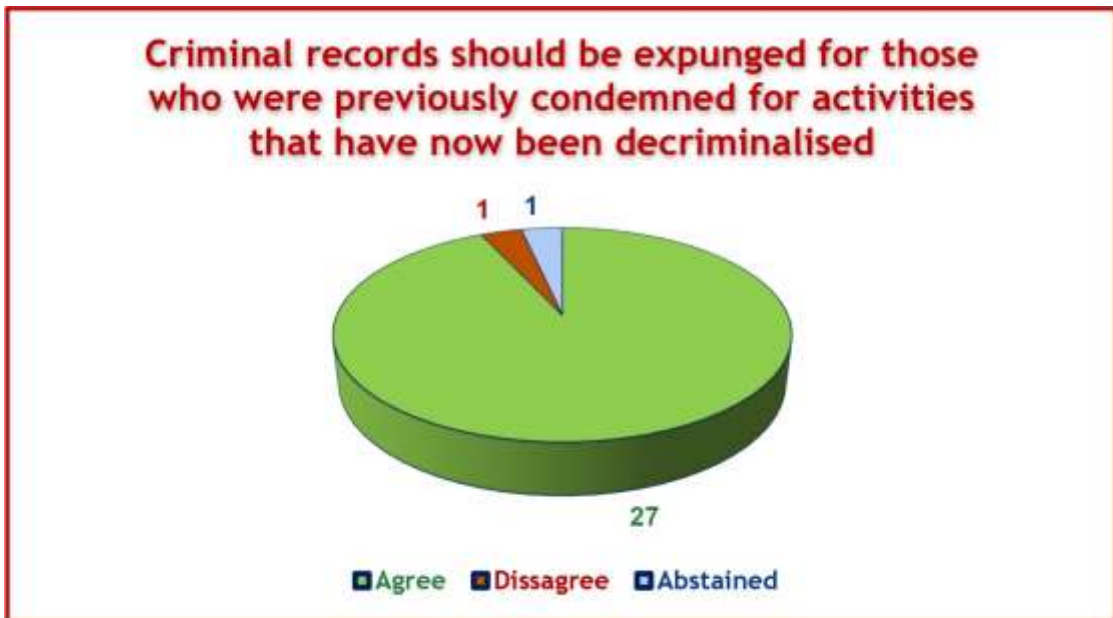
Comments from those who abstained

- No one size fits all. Makes it difficult to provide a unison answer that would apply to all cases. Cannot provide a simple yes/no to each of these statements at this given time.

Other related measures

3.1 Criminal records should be expunged for those who were previously condemned for activities that have now been decriminalised

Agree	27	93,10%
Dissagree	1	3,45%
Abstained	1	3,45%



Comments from those who agreed

- As said previously, we do not propose a detailed decriminalisation model. But the expungement of criminal records seems an obvious step in suppressing the stigma associated with criminalisation of drug use.
- This is also essential, to reduce the huge burden of criminal sanctions for people previously criminalised for drug use and related activities. This can facilitate access to education, employment, welfare services, housing and more.

- As I said, there is no reason to punish people with drug use problems even if they have committed serious crimes caused by their situation. Clearing the criminal record is an obvious consequence of this view. But in cases of severe addiction and a history of recidivism in offenses (other than drug use or possession), expungement should be linked to an effective and quality recovery program, as it has been proven that stopping substance use and following a recovery program can significantly reduce recidivism.
- Reparative justice♥.
- Recovery and reintegration is much easier if people do not have any criminal records, especially if they want to work in public services, such as army, police, education...
- No records should be kept for personal use.
- For consistency and equal treatment over time.
- Yes but it should be difficult to apply when people are already in the criminal justice system.
- In addition to this, the medical and police registry of people who use drugs (if they exist in country) should not be used for creating limits for some professions, parenting or any other activities. (a bit more about [risks of drug registry](#)).

Comments from those who disagreed

- We have no position on this issue.

3.2 Public authorities in charge of implementing the decriminalisation model (including police, criminal justice personnel, health professionals, social workers, etc.) should be provided with sensitisation and training on decriminalisation and access to drug services

Agree	28	96,55%
Abstained	1	3,45%



Comments from those who agreed

- In the French context, there is documented use of drug laws by the police to carry out identity checks targeting young racialised men in particular. Decriminalising drug use would therefore require a change in police methods and therefore training.
- It would be indispensable to ensure the proper substantive implementation of the policy.
- Failure from doing so would lead to the decriminalisation model not being adequately implemented on the ground.
- Awareness that people who use drugs are not criminals is fundamental. In particular, those who work in this area and deal with these situations must be trained to address people. With respect and an appropriate attitude, ready to offer help and support to overcome problems and solve specific issues, propose viable routes and programs.
- It is essential for existence of decrim model.
- Including notions of harm reduction.
- Sensitisation and training is key. As said, this process should be based on programmes and practices that have shown effectiveness.
- A good implementation requires knowledge and training within all bodies exerting power and authority.

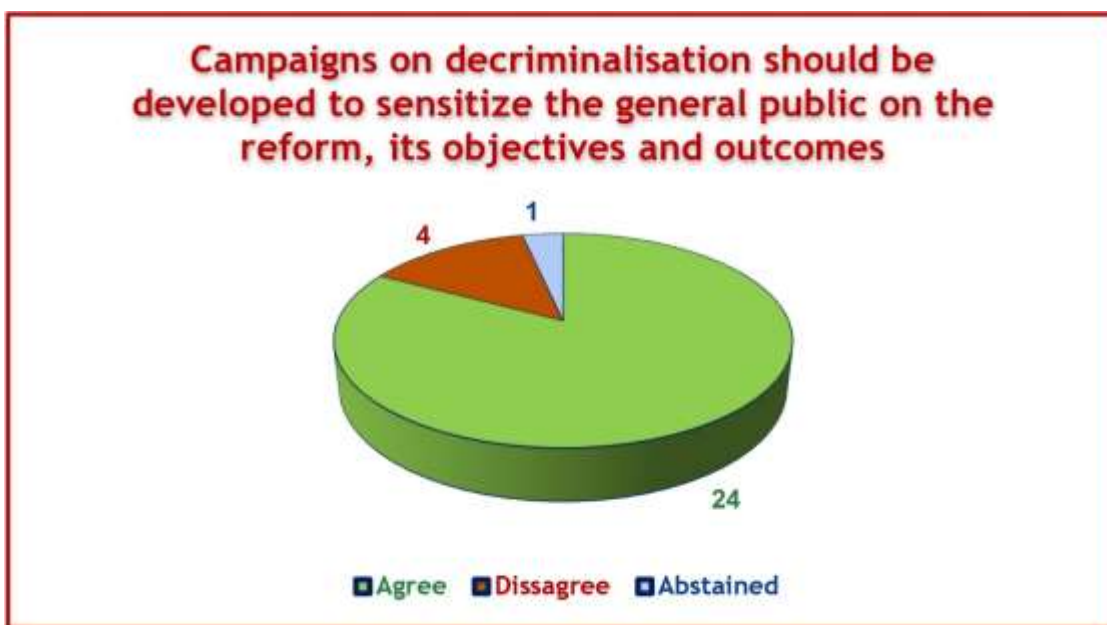
- Yes, this would be good whether the laws are changed or not.
- The same people (staff in public services) will now have to apply a different legislation. The stigma/ discrimination of drug users will not disappear with the legal change, therefore the need for sensitization/training. We see what happens with commercial sex workers in the countries where prostitution is not criminalized anymore - they are still target of media ("prostitute infected 10 men with HIV" etc). That is the one of the major problems. Professionals that lack basic knowledge and empathy towards PWUD and also they tend due to ignorance to stigmatise the HIV+ people".
- This is fundamental.
- Peer training between law enforcement within the EU could be very beneficiary.
- Absolutely. "Educating" the authorities and the public is of the utmost importance because it creates the conditions for deconstructing the stigma associated with drug use. This stigma has been built up over decades and does not disappear from society by simple decree.

Comments from those who abstained

- It is important to provide sensitization, education on methods, gender sensitive services, and drug related services etc. regardless of decriminalisation or not.

3.3 Campaigns on decriminalisation should be developed to sensitize the general public on the reform, its objectives and outcomes

Agree	24	82,76%
Dissagree	4	13,79%
Abstained	1	3,45%



Comments from those who agreed

- See my earlier answer on this subject.
- We are in favour of changing the way we look at drugs and the people who use them. Drugs, whether legal or illegal, are risky but part of life: people who use them should not be stigmatised.
- It should also be done beforehand: without the sharing and support of public opinion, it would not even be possible to change the law.
- This will help to create understanding and can reduce stigma.
- There remains a huge misunderstanding about what decriminalisation is and what it aims to do. It's important that the general public is able to understand all this to ensure that there is no backlash after the reform is passed/implemented.
- Everyone should understand.
- See Norway campaign to the general public.
- Support within the general public is very important, and is a crucial part of destigmatization of drug use(s).
- If laws are changed they should be debated and explained to the general public.
- It depends on what we mean "general public". We should be really careful about that. Sometimes we can bring exactly the opposite result.

- Public stigma of people using drugs is now playing role of the background of the populist political suggestions, messages and legal initiatives, which are dangerous for the lives of people, harmful for local communities, very expensive for domestic budgets and not based on the evidence - but still supported by the general public. Without wise informational campaigns among public, it would be impossible to introduce practical decriminalization.
- Previous response.

Comments from those who disagreed

- I would set up a more selective approach in terms of making society sensitive. Policymakers might fear social discontent towards decriminalisation policies. A more quiet approach might have better results in the end.
- Campaigns are never adequate. We can see what happens with those aiming to prevent drug use. It is necessary to change the culture, to give people the opportunity to know and understand, exposing the general population to people in recovery. They need to experience firsthand that dependency and troubled lifestyles are not forever, and that people who use drugs and see their lives affected and troubled need help and support and not punishment. Therefore no campaigns - or not only - but concrete actions.
- Adequate education and training of key stakeholders and providers of services would be enough. Media campaigns would not bring any benefits and are usually very expensive. This money should be better invested in quality services for people in need.
- Literature shows that campaigns do not work as a preventive measure. Instead, concrete actions should be in place.

Comments from those who abstained

- If the laws were to change then yes, information to the general public is key.

3.4 Financial resources saved thanks to decriminalisation should be diverted away from policing and the criminal justice system and towards evidence-based health (including prevention, harm reduction, treatment, recovery) and social measures

Agree	28	96,55%
Abstained	1	3,45%



Comments from those who agreed

- This is part of our argument to decriminalise drug use in France: number 5 [here](#).
- Especially in favor of evaluating the social impact of policies and practices.
- This is crucial, to balance the current amount of money invested in law enforcement and the growing cuts to welfare and health.
- Absolutely! This is an opportunity to bridge the huge funding gap that currently exists in the provision of prevention, harm reduction and treatment services for PWUD.
- The narrative about the enormous savings deriving from decriminalization must undergo a reality check, but any investment in prevention, recovery, and social measures is the best option. Improving the quality of life and offering people quality alternatives can avoid problem substance use and the development of disorders.
- And to train police and health authorities for decrim, and fund peer work and also foster grassroots initiatives against prohibitionism.
- In particular, prevention is required to significantly increase investment. Only approx. 3 % of health spending is spent on prevention and 97 % on treatment and recovery (in OECD countries).

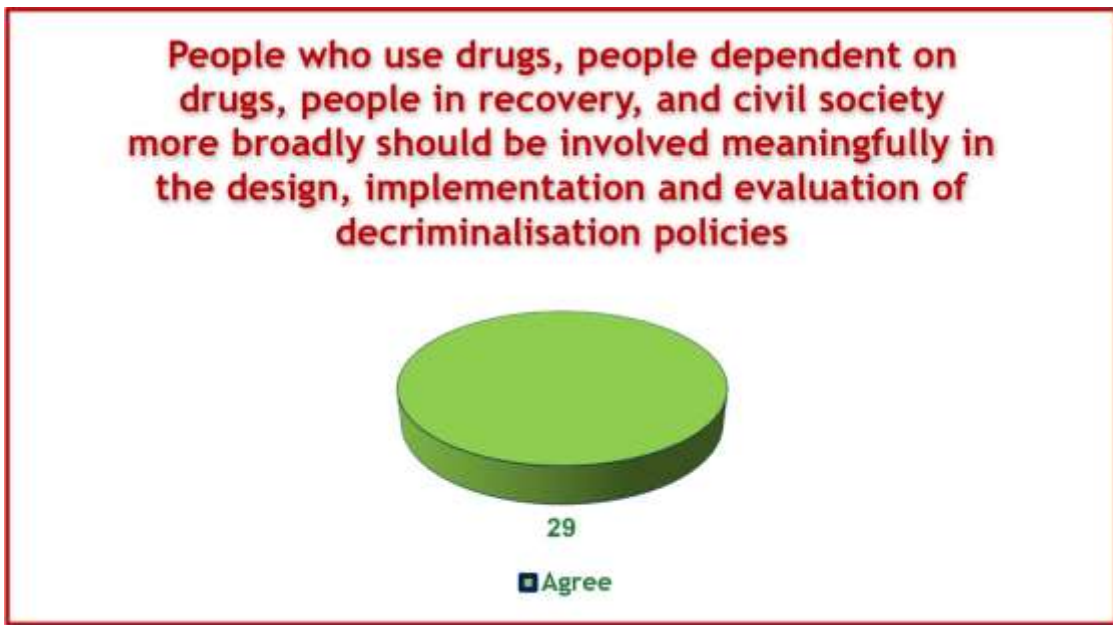
- Investment in prevention and social measures have shown enormous savings in drug use. The potential savings derived from decriminalization have not been evaluated therefore we do not know their potential return.
- In general, it would be a good idea to increase investments in health and social measures to address underlying issues of drug problems. However, the resources saved on decriminalization will probably not be substantial. Decriminalization should be combined with prevention efforts, increased access to treatment and harm reduction services, as well as better social reintegration.
- It is very difficult to do, even though it sounds very well. It requires a planning/calculation ahead made by public institutions.
- From [our data](#), we see that criminalization costs a lot, and these resources need to be sent to prevention, harm reduction and rehabilitation services, based on evidence-based approaches.

Comments from those who abstained

- Evidence based health and social measures - including prevention, harm reduction, treatment and recovery should be provided more funding and see increased investments from states. A decriminalisation, at least in Sweden, would not provide sufficient funds enough to do so. However, there is a severe need to invest in prevention Harm reduction, treatment and recovery services.

3.5 People who use drugs, people dependent on drugs, people in recovery, and civil society more broadly should be involved meaningfully in the design, implementation and evaluation of decriminalisation policies

Agree 29 100%



Comments from those who agreed

- It would be foolish to construct anything 'on the people' directly affected, rather than 'with the people' directly affected, not only for ethical and respectful reasons but also for the effectiveness and correctness of the measures.
- This will help to increase impact of interventions and support needs-based approaches.
- This is an essential component of a successful decriminalisation model, ensuring that the model adopted is aligned with the realities of PWUD (especially relating to the threshold quantities allowed) and to reduce stigma and discrimination against PWUD.
- People who have experiences in this area because they use/used drugs or have been working alongside people with diversified needs, can contribute significantly to knowledge and vision and give inputs with solid connections to the actual situation.
- To bring efficient, effective and relevant model.
- Create spaces of politization for PWUD considering the maximum of engagement and participation in the design, implementation and monitoring of policy oncluding participation in ongoing policy dialogue meetings.

- Nothing about us without us. All relevant stakeholders should be adequately engaged in policy and decision making processes at all levels.
- Definitely civil society and people who are using/have used drugs have to be involved to contribute with their knowledge and vision.
- There is a lot of crucial expertise within the public and the population of drug users. Get the expertise where it is, and involve the people who are affected by new policies in the design of these policies. It's a form a direct and concrete democracy.
- They should further be involved in all relevant processes and policies related to their field.
- They are the ones directly touched by the present/future laws, therefore it is a must to have them embarked in the process from the very beginning. Especially that some NGOs are already advocating for decriminalization.
- Nothing about us without us!
- Evidence shows that meaningful involvement of drug users and other stakeholders improves the design of public policies and, above all, maximizes their operationalization into effective, high-impact responses.

Participating organisations

1	Ana Liffey Drug Project
2	Fédération Addiction
3	Parsec ong
4	Rights Reporter Foundation
5	CNCA Coordinamento Nazionale Comunità Accoglienti
6	Forum Droghe
7	De Regenbog Groep / Correlation-European Harm Reduction Network
8	Youth Organisations for Drug Action
9	International Drug Policy Consortium
10	Association Proyecto Hombre
11	AFEW International
12	Comunità San Patrignano Società Cooperativa Sociale
13	Sananim/A.P.A.S.
14	Dianova International
15	EuroNPUD
16	Institute for Research and Development "Utrip"
17	IREFREA - European Institute of Studies on Prevention
18	FEDITO BXL
19	Odyseus
20	Merchants Quay Ireland
21	ARAS - Romanian Association Against AIDS
22	EURAD
23	WFAD
24	Drug Policy Network South East Europe (DPNSEE)
25	Fondazione Villa Maraini
26	Finnish Association for Humane Drug Policy
27	Eurasian harm reduction association (EHRA)
28	APDES
29	European AIDS Treatment Group (EATG)

Organisations that haven't responded to the survey

1	AIDES
2	Asociación Bienestar y Desarrollo (ABD)
3	Citywide Drugs Crisis Campaign
4	European Association for Palliative Care (EAPC)
5	European Treatment Centres for Drug Addiction (Euro-TC)
6	Federación Andaluza Enlace
7	Fundación FAD Juventud (FAD)
8	Harm Reduction International (HRI)
9	Magyar Addiktológiai Társaság (MAT)
10	Organization of Friends and Relatives of Addicts of Cyprus (OFSEAK)
11	Proslavi Oporavak
12	Scottish Drugs Forum (SDF)
13	Unión de Asociaciones y Entidades de Atención al Drogodependiente (UNAD)
14	Women's Organisations Committee on Alcohol and Drug Issues (WOCAD)