



INTERNATIONAL NARCOTICS CONTROL BOARD



# The Portuguese Approach and the International Drug Control Conventions

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# The Portuguese Approach

## Law 30/2000:

- “decriminalises” the acquisition and possession of drugs by persons who consume drugs
- establishes a mechanism aiming primarily at the dissuasion of drug use.



# The Portuguese Approach

## Misinterpretations:

- “Decriminalisation approach” in Portugal is innovative, but not totally unique: trend in many countries
- Unique = specific institution outside the criminal justice system: Commissions for the Dissuasion of Drug Abuse (CDT)



# The Portuguese Approach

## Misinterpretations:

- Neither "form of legalisation" nor "window into legalisation".
- Possession of drugs for non-medical use - including for personal consumption - continue to be prohibited, not legalised



## The Position of INCB I

### Mission to Portugal in 2004:

- “Acquisition, possession and abuse of drugs has remained prohibited.”
- “Practice of exempting small quantities of drugs from criminal prosecution is consistent with the international drug control treaties.”

INCB Annual Report 2004, paragraph 538

WDR 2009, page 168



## The Position of INCB III

### Mission to Portugal in 2012:

- “CDT are an important element of the demand reduction mechanism”
- “Appreciates that primary prevention of drug abuse is strengthened, with special emphasis on cannabis”
- “Government is fully committed to the objectives of the treaties”

INCB Annual Report 2012, paragraph 113



## Legal Perspective I

### Basic obligation according to the conventions:

- To limit the possession of drugs exclusively to medical and scientific purposes
- Possession of drugs shall not be permitted except under legal authority

Art. 4 para 1(c) 61-Convention; art. 5 para 2 71-Convention

Art. 33 61-Convention; art. 5 para 3 71-Convention



## Legal Perspective II

### Response to unlawful behaviour (= non-medical use)

- Possession of drugs for non-medical use shall be a "punishable offence".
- Serious offences shall be liable to adequate punishment

Art. 36 para 1 (a) 61-Convention





## Legal Perspective III

### Limitations to the obligation to establish as "punishable offence"

- Constitutional limitations of the State Party
- Possession for personal consumption = criminal offence, but subject to constitutional limitations and the basic concepts of the legal system of the State
- Offences of minor nature shall not necessarily be liable to punishment



## Legal Perspective III

### Alternatives to conviction or punishment:

Abusers having committed such offences shall undergo measures of treatment, education, after-care, rehabilitation and social reintegration.

Art. 36 para 1 (b) 61-Convention;  
art. 20 para 1 and art. 22 para 1 (b) 71-Convention;  
art. 2 para 4 (c and d) 88-Convention



## Legal Framework in Portugal

Acquisition and possession of drugs is still deemed an offence

Possession of small quantities for personal consumption:

sanctioned primarily by administrative measures rather than by criminal punishment



## Legal Framework in Portugal

### Commissions for the Dissuasion of Drug Abuse (CDT):

Evaluation of possible treatment, education and rehabilitation measures

Imposition of penal sanctions continues to be possible but is not the primary objective



## Legal Framework in Portugal

### Procedure for the Dissuasion of Drug Abuse

can be considered as an alternative measure of education, treatment, after-care, rehabilitation and social reintegration

that is in full compliance with the three drug control conventions



## Legal Framework in Portugal

Portuguese approach is a model of best practices:

fully committed to the principles of the drug control conventions

putting health and welfare in the centre

applying a balanced, comprehensive and integrated approach

based on the principle of proportionality and the respect for human rights,



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Thank you for your attention

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