

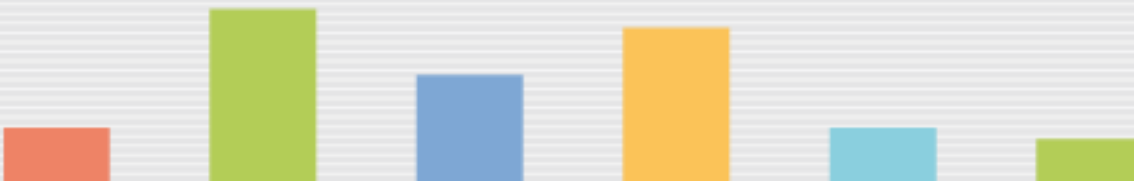


European Monitoring Centre
for Drugs and Drug Addiction

Drug laws, penalties and alternatives across Europe

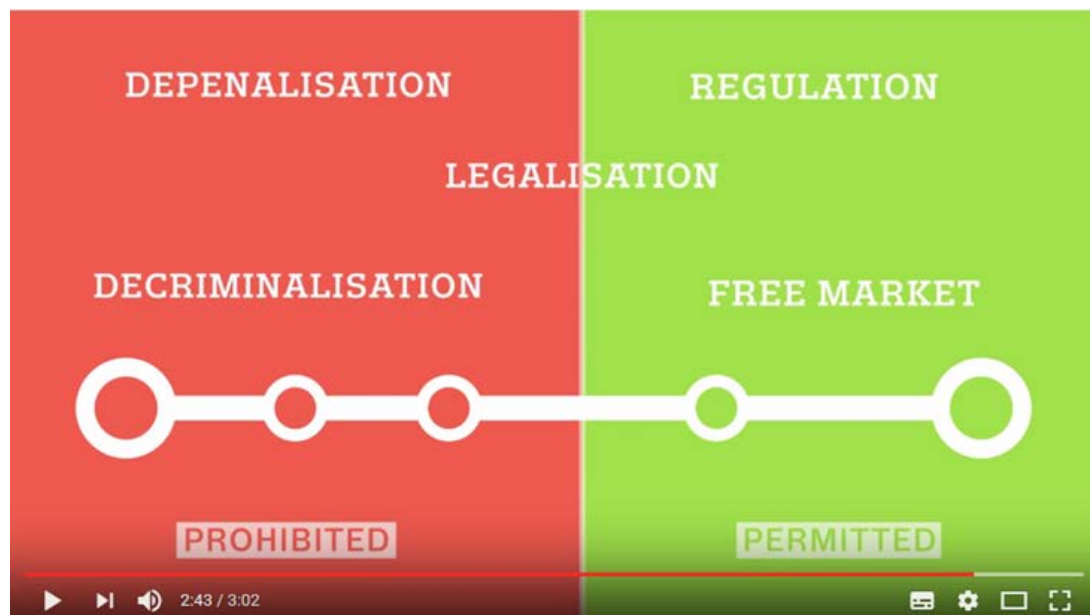
Brendan Hughes
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9 November 2016



Decriminalisation, legalisation.... ?

Decriminalisation =
to reduce the penalty, from criminal to non-criminal



Available on EMCDDA website, YouTube . . .

Why reduce penalties?

Portugal
Norway
Slovakia

Addicts to treatment

Malta
Austria

Public health response

Belgium
UK

Law enforcement resources

Greece
Romania

Prison resources

Croatia

Criminal justice efficiency

Slovenia
Latvia
Lithuania

Criminal justice reform
(not drugs)

Why increase penalties?

Denmark
Italy
UK

Public message:
harm, disapproval

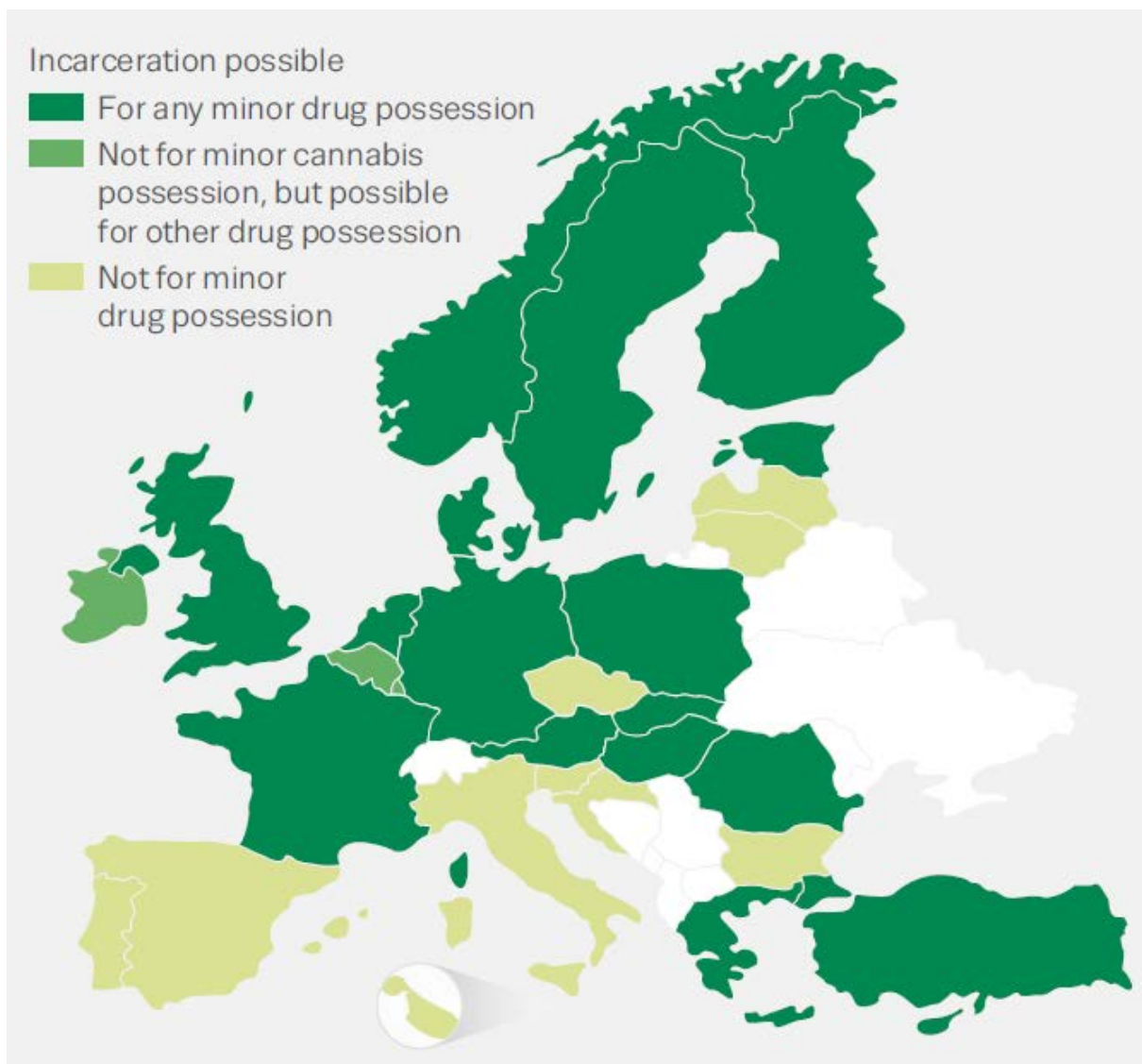
Austria
Sweden

Increase police powers:
Investigation
Detention

Non-criminal offences – no common definition!

| Criterion | Example |
|------------------------------------|-----------------------------|
| Legal basis | Not in Criminal Code |
| Awarding / administering authority | Police, not Court |
| Penalty | No prison |
| Record of the offence | No national criminal record |

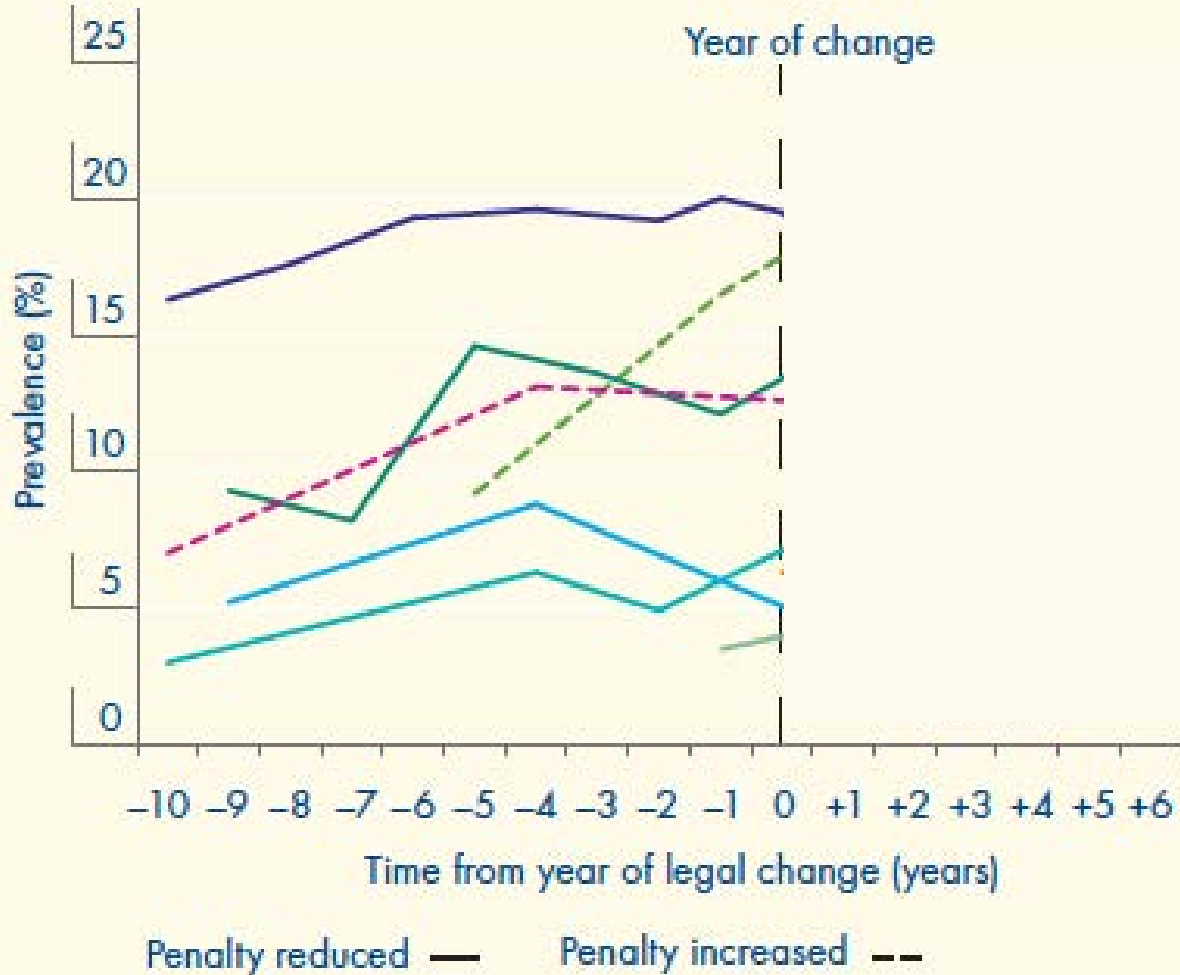
Possession of drugs for personal use (minor offences): possibility of incarceration in laws



(ELDD “Penalties at a glance” – personal possession:

EDR 2016, Figure 1.14)

Do changes in legal sanctions result in observable changes in cannabis use rates?



With many caveats, the best available evidence shows no clear impact of penalty changes on cannabis use.

(EMCDDA Annual Report 2011, Ch.3)

(!! penalty changes, not removal)

Personal use penalties - trends

Drugs control laws (30 countries)

For users: criminal or non-criminal penalty

Specific NPS control laws (\approx 11 countries)

For users: no penalty (maybe confiscation)

(LV non-criminal, HU > 10g in product)

Decriminalisation is not a public health approach...

It is only less severe punishment.

What about alternatives to punishment?

Where should the balance be?

Punishment

Rehabilitation



Treatment only for heroin addicts who have no criminal record...?

Alternatives to punishment

Choose ATP to affect:

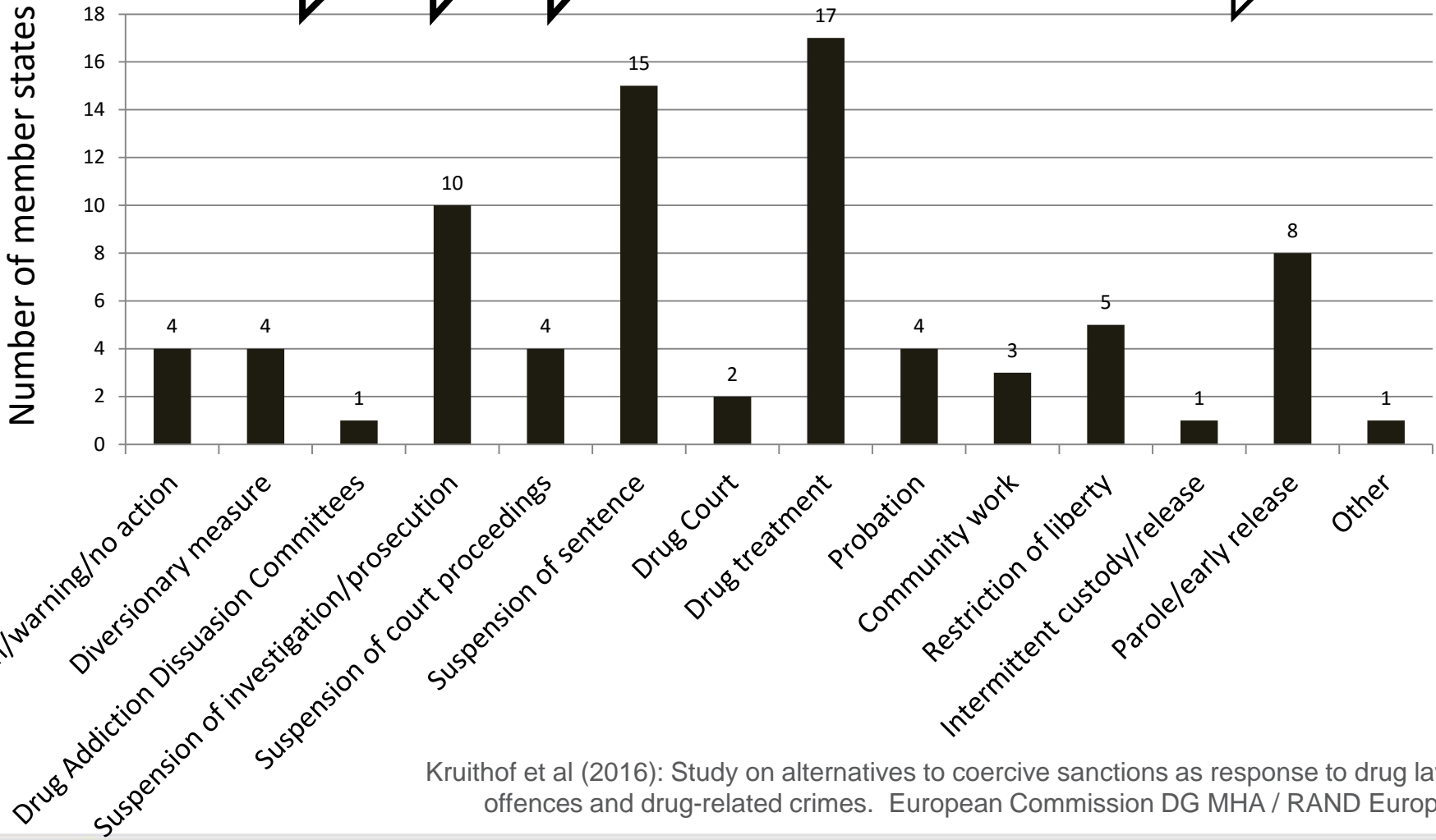
- **Individual:** e.g. treat addiction
- **Society:** reduce drug-related crime / disease
- **State structures:** reduce pressure on criminal justice system



EMCDDA (2015): Alternatives to punishment for drug-using offenders

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Types of alternatives to punishment in Europe

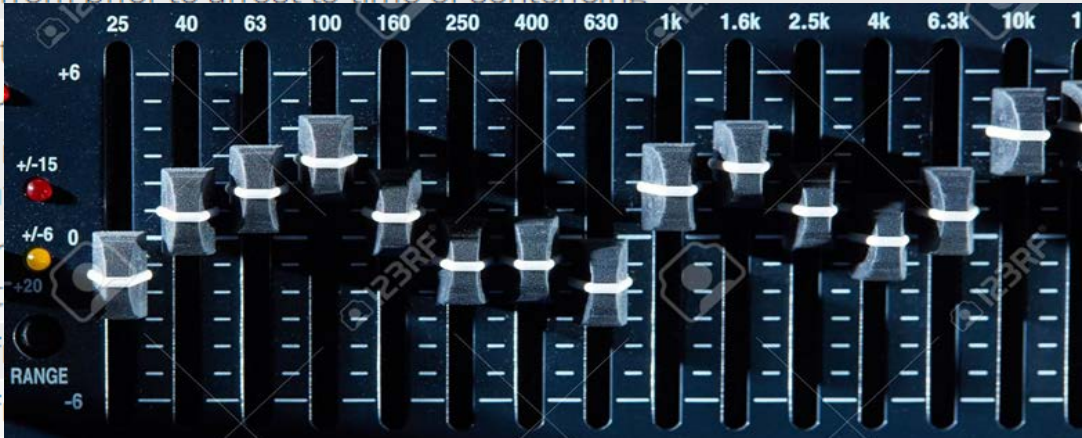


Kruithof et al (2016): Study on alternatives to coercive sanctions as response to drug law offences and drug-related crimes. European Commission DG MHA / RAND Europe

ATPs – Design Factors

TABLE 1
 Design factors for rehabilitative responses to offenders

| Factor | Range or options to consider |
|----------------------------|--|
| Legal system | Limited to judges within the criminal law system; or outside it, such as in the civil system |
| Direction to judiciary | Optional or obligatory for the judiciary |
| Geographical availability | Availability ranging from few locations to nationwide |
| Stage of legal procedure | Ranging from prior to arrest to time of sentencing |
| Offender diagnosis | Availability of 'drug user' diagnosis |
| Offence | Applicability of minor to major offences |
| Exclusion criteria | Design measures for non-recidivists |
| Response available | Ranges from community to residential |
| Treatment setting | Ranges from individual to group |
| Number of places available | Ranges from very few to unlimited |
| Cost | May be borne by the offender or by the state |



EMCDDA (2015): Alternatives to punishment for drug-using offenders

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Alternatives to punishment (EU study)

108 alternatives to punishment in EU countries.

78 had data on the number of times used.

Experts/data say most ATPs are rarely used by judiciary.

19 had data on the number of successful completions.

Kruithof et al (2016): Study on alternatives to coercive sanctions as response to drug law offences and drug-related crimes. European Commission DG MHA / RAND Europe

“Does it work?”

Heroin > Cannabis?

400 thefts > 20 thefts?

Reducing court time?

EMCDDA (2015): Alternatives to punishment for drug-using offenders

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What improves success of alternatives?

Evidence is weak, but promising:

- Target the individual offender (eligibility, needs, risk factors)
- Try to retain offender in treatment, motivated
- Consider implementation (restrictive rules, people, financing...)
- ***Monitor and evaluate!***

Kruithof et al (2016): Study on alternatives to coercive sanctions as response to drug law offences and drug-related crimes.

European Commission DG MHA / RAND Europe

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Evaluating rehabilitative alternatives:

“This Drug Court is only allowed to continue because we constantly collect and submit statistics on recidivism rates, drug use rates, and cost-benefit calculations.

Yet,
when I was just locking offenders up,
nobody asked me for any of those.”

Judge Jo-Ann Ferdinand, Presiding Judge of Brooklyn Treatment Court, NYC
in EMCDDA (2015): Alternatives to punishment for drug-using offenders

The balance in Portugal

Punishment

Rehabilitation



The Portuguese model:

Decriminalisation? (A process, finished 15 years ago)

Or a Public Health Approach?

For more information:

Penalties for drug law offences in Europe at a glance

Penalties at a glance

Introduction Use **Personal possession** Supply

Select up to 4 countries:

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Greece
- Finland
- France
- Germany
- Hungary
- Ireland

Select questions:

- What is the punishment for the offence?
- What are the alternatives to punishment for the offence?
- Does the penalty vary by drug?
- Does the penalty vary by quantity?
- Does the penalty vary for addiction?
- Does the penalty vary for recidivism?

Possession of drugs for personal use

All countries in Europe specify possession of drugs for personal use as an offence – though it may be defined in different ways.

Select at least one question and one or more countries to view associated laws.

| Country | Options | Notes |
|----------|--------------------------|---|
| Austria | <input type="checkbox"/> | Possession of drugs for personal use is punishable by 3 to 5 years in prison or a fine. Possession of cannabis for personal use without nuisance may receive a fine based on a "sanctified police report". The fine may be 50-150 EUR for the first offence, 150-500 EUR for the second offence within one year from the first conviction, 5 days to 1 month imprisonment for any offence within one year from the second conviction. Member States state that possession of cannabis for personal use should be given the lowest prosecutive priority. Cannabis related offences causing public disorder (i.e. possession in school, public facilities, prisons) are punishable (i.e. penalties for 1 year in prison, 3 months and 600 Euro fine). |
| Belgium | <input type="checkbox"/> | Possession of small quantities of drugs for personal use (up to ten grams) is a misdemeanor, punishable by a fine of up to 200 Fiat with (about 4000) or by administrative detention (i.e. the police arrest house rather than in a prison) for up to 30 days. |
| Bulgaria | <input type="checkbox"/> | All on Narcotic Drugs and Psychotropic Substances Act |

YouTube: What is decriminalisation?

The video thumbnail shows a spectrum of drug policy approaches. On the left, 'PROHIBITED' is associated with 'DEPENALISATION' and 'DECRIMINALISATION'. On the right, 'PERMITTED' is associated with 'REGULATION' and 'FREE MARKET'. 'LEGALISATION' is positioned in the center between 'DEPENALISATION' and 'REGULATION'. The video title is 'What is decriminalisation of drugs?' and it has 3,121 views.

Interactive: ELDD; Penalties at a glance

EMCDDA PAPERS

Alternatives to punishment for drug-using offenders



Study on alternatives to coercive sanctions as response to drug law offences and drug-related crimes

EC study
2016:
Kruithof et al.



Report:
Sentencing
and other
outcomes
(2009)

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