

The Czech Republic's best practices in drug policy reform

From repression to decriminalization

Due to recent legislative changes, the Czech Republic today¹ boasts the most liberal drug policy in Europe. Czech drug policy sets achievable goals and offers evidence-based programs of prevention,² harm reduction,³ treatment,⁴ and rehabilitation. The transition from large-scale repression to decriminalization over the past 25 years has become an important step towards solving the main drug-related problems⁵ in the country.

The drug policy of the Czech Republic, which together with Slovakia formed Czechoslovakia until January 1, 1993,⁶ was typical of a repressive Communist regime.⁷ After the break-up of the Soviet Union, many former Soviet countries in Eastern Europe continued with a strict drug policy and the consistent repression of consumers. As the Czech Republic began to gain independence in the 1980s, its drug policy approach became more humane. According to an amendment to the Criminal Code in 1990,⁸ the Czech Republic abolished criminal liability for possession of drugs. Possession of small quantities for personal use was subject to a fine.⁹ Adequate health care and harm reduction services for consumers were the foundations of a new drug response strategy.¹⁰

In the early 1990s the use of drugs in Czechoslovakia began to grow rapidly¹¹ due to the collapse of the Iron Curtain and the opening of new drug markets. As a result, political pressure to tighten drug policy started to grow in the country. Some local political leaders and the media contested the drug policy established in the early years of the post-Soviet period, demanding that drug use and possession be considered a criminal offense.

When the Czech Republic tried to join the European Union (the country became part of the EU in 2004), hardliners declared that Prague should reinstate criminal liability to obtain the status of EU Member State. International structures, such as the UN¹² and the International Narcotics Control Board,¹³ also exerted strong pressure on the government to ensure that legislation was consistent with international drug prohibition policy and international conventions.¹⁴

The Czech government fulfilled these requirements, and on January 1, 1999, a new section (187a) was added to the Criminal Code,¹⁵ which introduced a new type of offense: "spreading addiction." From that moment, possession of narcotic drugs in amounts "greater than small" carried a criminal penalty of up to two years in prison. The phrasing aimed to promote an individual approach to each case. But at the same time, its ambiguity gave the police and courts the right to interpret the amount of drugs seized in their own way and, based on this, impose punitive measures.

Evidence-based policy

At the same time, the government invested resources in studying the impact of the new law.¹⁶ The Czech National Commission on Drugs asked a group of researchers to conduct a scientific assessment of its consequences. A large-scale scientific study was conducted between 1999 and 2001,¹⁷ titled "Impact Analysis Project of new Drugs Legislation."¹⁸ Its purpose was to determine whether the criminalization of drugs affects the following factors: the presence of drugs; the number of people who use drugs; the number of people who start using drugs; the consequences of drug use on health; and the social costs of drug use.

The results of the study suggested that after criminalization the availability of drugs did not decrease; the number of people who use drugs increased; the law did not help reduce the number

of new drug users; the adverse health consequences associated with drugs increased; and social costs increased several times. In effect, the new legislation was costly, inefficient, and without any positive impact on health.

In addition, the authors of the study insisted¹⁹ that criminal legislation should distinguish between different types of narcotic drugs and psychotropic substances in accordance with the risks they create. In 2001 the government adopted a resolution instructing the Ministry of Health and the Ministry of Justice to divide substances into categories in accordance with their social and medical risks. Initially, narcotic substances were divided into three categories, but only two were accepted for consideration: cannabis and other drugs.

Scientific research and expert assessments²⁰ paved the way for evidence-based and pragmatic drug policy. The Czech government and parliament began work on amending the legislation.

On February 9, 2009, the Czech Republic adopted the new Criminal Code (Law No. 40/2009),²¹ which abolished the 1961 Criminal Code.²² The new Criminal Code distinguished between cannabis and other narcotic drugs. Sections in the Code on possession for personal use and plant cultivation treat cannabis differently than other drugs,²³ and impose lighter sentences. For example, the amount of cannabis “greater than small” resulted in up to one year in jail, and up to two years for other substances (or between two and eight years, if the amount of drugs was defined as “significant”).

The biggest problem faced by Czech criminal law since 1999 was the definition of “greater than small.” On January 1, 2010, Decree No. 467/2009 came into force in the Czech Republic.²⁴ It clearly indicated the quantities for various narcotic substances and limits after which the police can initiate criminal proceedings. If the amount is smaller, only an administrative sanction occurs.

However, the Constitutional Court abolished the Decree in 2013.²⁵ It ruled that only the law, and not the government’s decision, can determine the composition of a criminal offense. In March 2014, the Criminal Division of the Supreme Court interpreted²⁶ the amount “greater than small” as “multiple excess of normal dose.” The definition of “small amount” was given as well. The Supreme Court basically duplicated the Decree²⁷ but tightened measures regarding²⁸ cannabis and methamphetamine, reducing thresholds. In particular, possession of 1.5 grams of methamphetamine, 1.5 grams of heroin, 1 gram of cocaine, 10 grams of cannabis, and 5 grams of hashish was decriminalized. The court also stated that “possession by a drug user of one dose before use does not constitute illegal possession.”²⁹

Drug possession within the statutory limit usually carries either a police warning or a possible charge of violation. If the quantity is bigger, consumers face a fine of about €530 or criminal prosecution. At the same time, the court has a number of alternatives to imprisonment (for example, conditional sentences, community service, and probation with treatment).³⁰ Detention and compulsory treatment can be used for drug users who are considered socially dangerous, as well as for juvenile offenders.

On April 1, 2013, the Czech Republic permitted the use of cannabis for medical purposes following amendments to several acts (on pharmaceuticals, narcotic drugs, and administrative duties).³¹ A prescription of 180 grams of cannabis³² per month is allowed. There is a special electronic prescription form, and only specialized medical professionals, not general practitioners, are allowed to prescribe it. License permits for the cultivation and supply of medical cannabis have been issued since March 1, 2014.

Levels of implementation

Czech state policy on drugs is comprehensive³³ and is based on four principles: prevention; treatment and social reintegration; harm reduction;³⁴ and drug supply reduction. It is complemented by three subsidiary areas: coordination and funding; monitoring, research, and evaluation; and international cooperation.

The republic's drug policy is conducted at three levels: national, regional, and municipal. All levels are managed by the Government Council for Drug Policy Coordination (GCDPC). The Council also prepares and presents two key documents related to drug policy: the National Drug Policy Strategy and the Action Plan for the Implementation of the National Drug Policy Strategy. In addition, the Council is responsible for the drug policy budget.

The Council is chaired by the Prime Minister and includes relevant ministries and representatives of civil society: the Czech Medical Association, the Association for Addictive Diseases, the Association of NGOs dealing with drug prevention and treatment, and the Association of the Regions.

After the adoption of the new Criminal Code³⁵ and enactment of the Government Decree³⁶ in May 2010, the government approved the long-term National Drug Policy Strategy for 2010–2018.³⁷ It aims to reduce the level of experimental and occasional drug use, particularly among young people; the level of problem and intensive drug use; potential drug-related risks to individuals and society; and the availability of drugs, particularly to young people.

In January 2011 the government approved the Action Plan on the National Drug Policy Strategy for 2010–2012.³⁸ It provides an instrument to implement the Strategy and covers three-year periods.³⁹ Its task is to set specific goals for the Strategy and to set priorities. The current plan was adopted for 2016–2018,⁴⁰ and its priorities are as follows: 1) reduction of excessive alcohol and marijuana consumption among young people; 2) reduction of methamphetamine use; 3) reform of drug policy financing; and 4) integration of drug policy. At the local level, each region develops and implements its own anti-drug strategies and plans.

Czech legislation on drugs is quite extensive and includes laws and numerous by-laws. At the same time, its most important feature today is that in certain cases it does not consider drug use a criminal offense. Otherwise, the Czech legislation is not that different than other⁴¹ forward-thinking European countries, such as Portugal⁴² and the Netherlands.⁴³ It could set a good example for former Soviet countries in Eastern Europe and Central Asia. At the same time, it is the way the Czech drug policy is being implemented that makes it valuable. It is based on research data and expert opinions in the field of law, medicine, and other sciences, and offers good practices that other countries around the world could draw on.

¹ <http://www.emcdda.europa.eu/countries/czech-republic#pdu>

² <http://www.emcdda.europa.eu/countries/prevention-profiles/czech-republic>

³ <http://www.emcdda.europa.eu/country-data/harm-reduction/CzechRepublic>

⁴ <http://www.emcdda.europa.eu/data/treatment-overviews/czech-republic>

⁵ <http://www.emcdda.europa.eu/system/files/publications/963/TDAT14001ENN.pdf>

⁶ <https://en.wikipedia.org/wiki/Czechoslovakia>

⁷ <https://www.zakonyprolidi.cz/cs/1961-140/zneni-0>

⁸ <https://www.zakonyprolidi.cz/cs/1990-175/zneni-0>

⁹ <https://www.zakonyprolidi.cz/cs/1990-200>

¹⁰ <http://www.emcdda.europa.eu/country-data/harm-reduction/CzechRepublic>

¹¹ https://www.opensocietyfoundations.org/sites/default/files/A_Balancing_Act-03-14-2012.pdf

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