



## Policy Analysis

# A social cost perspective in the wake of the Portuguese strategy for the fight against drugs<sup>☆</sup>

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## ABSTRACT

The Portuguese National Strategy for the Fight Against Drugs (NSFAD), approved in 1999, was explicitly grounded on the values of humanism and pragmatism and paved the way for the decriminalization of illicit drug use in Portugal in 2000. This paper presents an analysis of the social costs of illicit drug use in the wake of the strategy's approval. Taking into consideration health and non-health related costs, we find that the social cost of drugs decreased by 12% in the five years following the NSFAD's approval and by a rather significant 18% in the eleven-year period following its approval. Whilst the reduction of legal system costs (possibly associated with the decriminalization of drug consumption) is clearly one of the main explanatory factors, it is not the only one. In particular, the rather significant reduction of health-related costs has also played an important role.

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## Introduction

In November 2000, the Portuguese Government approved the decriminalization of illicit drug possession and consumption. This has stimulated an interest, among the international community, on the Portuguese policy of drug decriminalization (e.g., [Greenwald, 2009](#); [Hughes & Stevens, 2010, 2012](#); [Loo, Beusekom, & Kahan, 2002](#)). However, there is a tendency to focus on the decriminalization of illicit drug use per se (e.g., [Coelho, 2010](#); [Greenwald, 2009](#)),

overlooking that it was part of a wider institutional framework dealing with the drug problem: the National Strategy for the Fight Against Drugs (NSFAD), approved by the Government in 1999. This strategy, which was rooted in a health-oriented rationale, paved the way for a number of policy measures that included, but were not restricted to, the decriminalization of illicit drug possession and consumption. But, as it is evident in parliamentary debates, all these measures were highly controversial regarding their expected social and economic effects.

Therefore, this paper's main objective is to provide an assessment of the social cost of illicit drug use in Portugal since the NSFAD's approval in 1999. In doing so, we follow as closely as possible [Kopp and Fenoglio \(2001\)](#), who analyse the social costs of drugs – taking into account health and non-health related costs, both direct and indirect, associated with illicit drugs – using the cost-of-illness approach.

It is tempting to use this type of framework to, simultaneously, carry out an impact assessment of the NSFAD.<sup>1</sup> However, the crucial

<sup>☆</sup> This paper is a shorter and slightly different version of a chapter of a broader research report commissioned by Fundação Francisco Manuel dos Santos (FFMS) to Universidade Católica Portuguesa (Porto) – entitled “Drugs and tuition fees: regulatory impact assessments” and available for download, in Portuguese, at <http://ffms.pt/estudo/25/avaliacao-legislativa-estudos-de-caso-a-lei-da-droga-e-das-propinas> – carried out by a larger team which includes the authors (as well as Vasco Rodrigues and Álvaro Nascimento, to whom we thank for their continuous feedback). We would like to thank two anonymous referees and Alex Stevens (Associate Editor) for many useful suggestions which have significantly improved the paper. We would also like to thank participants in workshops promoted by FFMS, participants in the 8th Annual Conference of the International Society for the Study of Drug Policy (Rome, May 2014), as well as António Barreto, Nuno Garoupa, Maria Ferreira, Isabel Vasconcelos, Pedro Pita Barros and Cláudia Costa Storti for many useful comments and suggestions. We would particularly like to thank Maria Moreira for her extensive support throughout this research project.

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<sup>1</sup> A previous version of this paper, and the broader research report where this research originated, had that objective (to use the social cost analysis as the basis of an ex post impact assessment) in mind, in the spirit of [Nosyk's \(2012\)](#) suggestion that standard evaluation methods should be used whenever possible to assess drug policies' impacts – of which [Andresen and Boyd \(2010\)](#) is a good example.

element of impact assessments is the determination of causality: to identify and test causal relationships between a given policy and all of its possible and significant consequences. Although the social cost analysis we carry out in this paper does allow for the identification and measurement (in social cost terms) of the main changes which have occurred regarding illicit drug use in Portugal since the NSFAD's approval, it is difficult to establish clear and direct causal relationships. For example, the NSFAD contains multiple policy objectives as well as multiple mechanisms in order to achieve them. Moreover, some of those mechanisms – for instance, the deployment of a national network of centres for drug addiction treatment – were implemented partly before the approval of the NSFAD in 1999, while others – such as the decriminalization of drug use in 2000 – were implemented sometime after its approval. Therefore, the evolution of social costs of illicit drug use after 1999 reflects not only various policy measures, some of which are directly associated with the NSFAD while others are not, but also other factors – economic, sociologic, demographic, etc. – which make it difficult to establish such causal relationships.

Several other authors have estimated the social cost of drugs in a variety of countries. However, as [Vander Laenen, Vandam, and De Ruyver \(2008\)](#) note, these estimates are not directly comparable, because they typically have different objectives, follow different methodologies and use different definitions of social costs. For instance, looking at Canada, [Rehm et al. \(2007\)](#) quantify the social costs of drugs, as well as of alcohol and tobacco, while [Fenoglio, Parel, and Kopp \(2003\)](#), making use of a social cost definition very close to the one we have used, estimate the social cost of drugs in France in 1997. [Origer \(2002\)](#) has quantified the social cost of drugs for Luxemburg in 1999, but focuses mainly in direct costs.

Our findings are, in our opinion, interesting and somewhat surprising. First, we observe a reduction of approximately 12% (on average) in the social cost of drugs in the 5-year period that followed the NSFAD's approval, in 1999, and a rather significant 18% (average) reduction until 2010. Second, this social cost reduction is rooted only partly on the observed reduction of the (direct and indirect) legal system costs associated with (the fewer) individuals imprisoned for drug-law offences, especially after the decriminalization of drug use. Third, another main explanatory factor for the reduction in social costs was the rather significant reduction in indirect health costs, namely the reduction of drug-related deaths. Although there has been an increase in (direct) health-related costs for drug addiction, this increase was small compared to the rather significant reduction in the remaining health-related cost categories we look at.

Following this introduction, section 'Overview of the Portuguese drug policy' briefly describes the NSFAD. Section 'Methodology' summarizes the methodology. Section 'Research findings' presents the main research findings, and section 'Conclusion' concludes. An [Appendix](#) describes in greater detail the data and the methodological assumptions underlying our results.

### Overview of the Portuguese drug policy

The Portuguese drug policy is shaped by the ideas of pragmatism and humanism, and it has evolved towards the decriminalization of drug consumption ([Agra, 2009; Dias, 2007; Poiares, 1995](#)). But it took a long way to develop into its current state: according to [Agra \(2009\)](#), the trajectory of regulation on the drug problem has been marked by three stages:

- 'attentiveness and resistance' (ranging from 1909 to 1970): the Portuguese drug policy resisted the prohibitionist movement led by the US and China during the Shanghai conference of 1909, for cultural and financial reasons. In mainland Portugal, at the time,

drug consumption was restricted to an economic and social elite that did not commit crime as a means to finance addiction, but in overseas territories, namely in Timor and Macau, drug consumption was widespread. Therefore, the drug laws approved in 1924 and in 1927 were only concerned with drug transaction and intended to regulate drug trading so as to prevent taxation frauds ([Agra, 2009; Marques, 2008; Poiares, 1995](#));

- 'excessive adhesion' (1970–1983): in 1970, Decree-Law no. 420/70 criminalized illicit drug use for the first time in Portugal and was implemented in a turbulent historical period (the authoritarian political regime led by Marcello Caetano was challenged by the opponents of the regime and faced the economic and social consequences of the colonial wars that endured since the early 1960s), at a time of international pressure to take measures on drug trafficking and consumption. Nonetheless, as it is emphasized by [Agra \(2009\)](#), what is most remarkable about this law is that it was excessively alarmist, at least up to the 1980s, given the reduced dimension of illicit drug consumption in Portugal;
- 'contraction of criminal perspective and damage reduction policy' (1983–2000): between 1975 and 1982 drug consumption as a crime was increasingly re-conceptualized as a disease. During the 1980s and 1990s, the perspective that dominated legislative discourse was indeed that of drug consumption as a health-related problem, and, correspondingly, that of the drug addict as someone in need of treatment and social reintegration. The new legal regime of 1983 (Decree-Law no. 430/83) had a salient characteristic that was kept in the later Decree-Law no. 15/93: it instituted the distinction between drug trafficking and drug consumption, as it strongly sanctioned the former, but established only 'symbolic' sanctions for the latter, which involved the possibilities of dismissal and discharge ([Agra, 2009](#)).

In 1995, a Committee for the Assessment of Drug Addiction, Consumption and Traffic was created within the Portuguese Parliament. Moreover, a multidisciplinary experts' group was created by governmental initiative in 1998, and given the task of drafting guidelines for future drug policy. The subsequent report, as well as the public debate surrounding these initiatives, laid the foundation of the NSFAD.

The NSFAD, which very closely follows the expert group's report, was published as a Resolution of the Council of Ministers (no. 46/99) in 1999. It sets the guidelines for the Portuguese public policy on drugs, namely regarding international cooperation, prevention, treatment, harm reduction, social reintegration, supply control and demand reduction. The document is organized in eight general principles, six objectives and the following thirteen strategic options (as translated by [Moreira, Trigueiros, & Antunes, 2007](#), pp. 15–16):

- “(i) To reinforce international cooperation [ . . . ];
- (ii) To decriminalize the use of drugs, prohibiting them as a breach of administrative regulations;
- (iii) to redirect the focus to primary prevention [ . . . ];
- (iv) to extend and improve the quality and response capacity of the health care network for drug addicts [ . . . ];
- (v) to extend harm reduction policies, namely through syringe and needle exchange programmes and the low-threshold administration of substitution drugs [ . . . ];
- (vi) to promote and encourage the implementation of initiatives to support social and professional reintegration of drug addicts [ . . . ];
- (vii) to provide treatment for imprisoned drug addicts and to extend harm reduction policies to prison establishments [ . . . ];
- (viii) to provide voluntary treatment as an alternative to prison sentences for drug addicts;

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