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DRUG LAWS ACROSS EUROPE: ALTERNATIVES TO INCARCERATION AND PROPORTIONALITY OF SENTENCES

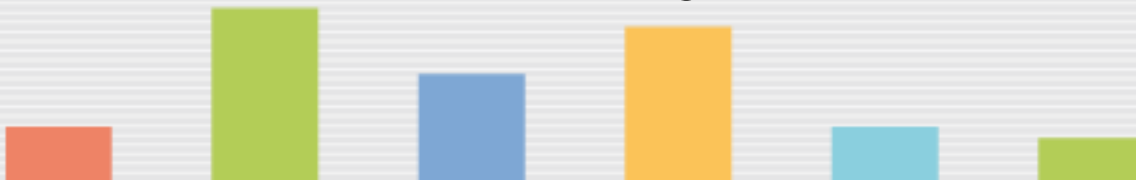


European Monitoring Centre
for Drugs and Drug Addiction

Drug laws across Europe: Alternatives to Incarceration and Proportionality of Sentences

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International obligations: Supply-related offences

1988 UN Convention Against Illicit Traffic, Art 3.4:

(a) “Each Party shall make [supply] offences ... liable to sanctions which take into account the grave nature of these offences, such as imprisonment...”

(c) “...in appropriate [supply] cases of a minor nature, the Parties may provide, as alternatives to conviction or punishment, ...as well as, when the offender is a drug abuser, treatment and aftercare.

- No requirement for
 - imprisonment
 - conviction or punishment (minor cases)



International obligations: use-related offences

1988 UN Convention Against Illicit Traffic

Art. 3(2): *Subject to its constitutional principles and the basic concepts of its legal system, each party shall [...] establish as a criminal offence [...] the possession, purchase or cultivation of drugs [...] for personal consumption...*

Art. 3.4(d): *The Parties may provide, ...as an alternative to conviction or punishment [for personal possession]..., measures for treatment, education, aftercare, rehabilitation or social reintegration of the offender.”*

- No requirement for
 - conviction or prison
 - criminal offence
 - penalising use



Drug offences around Europe

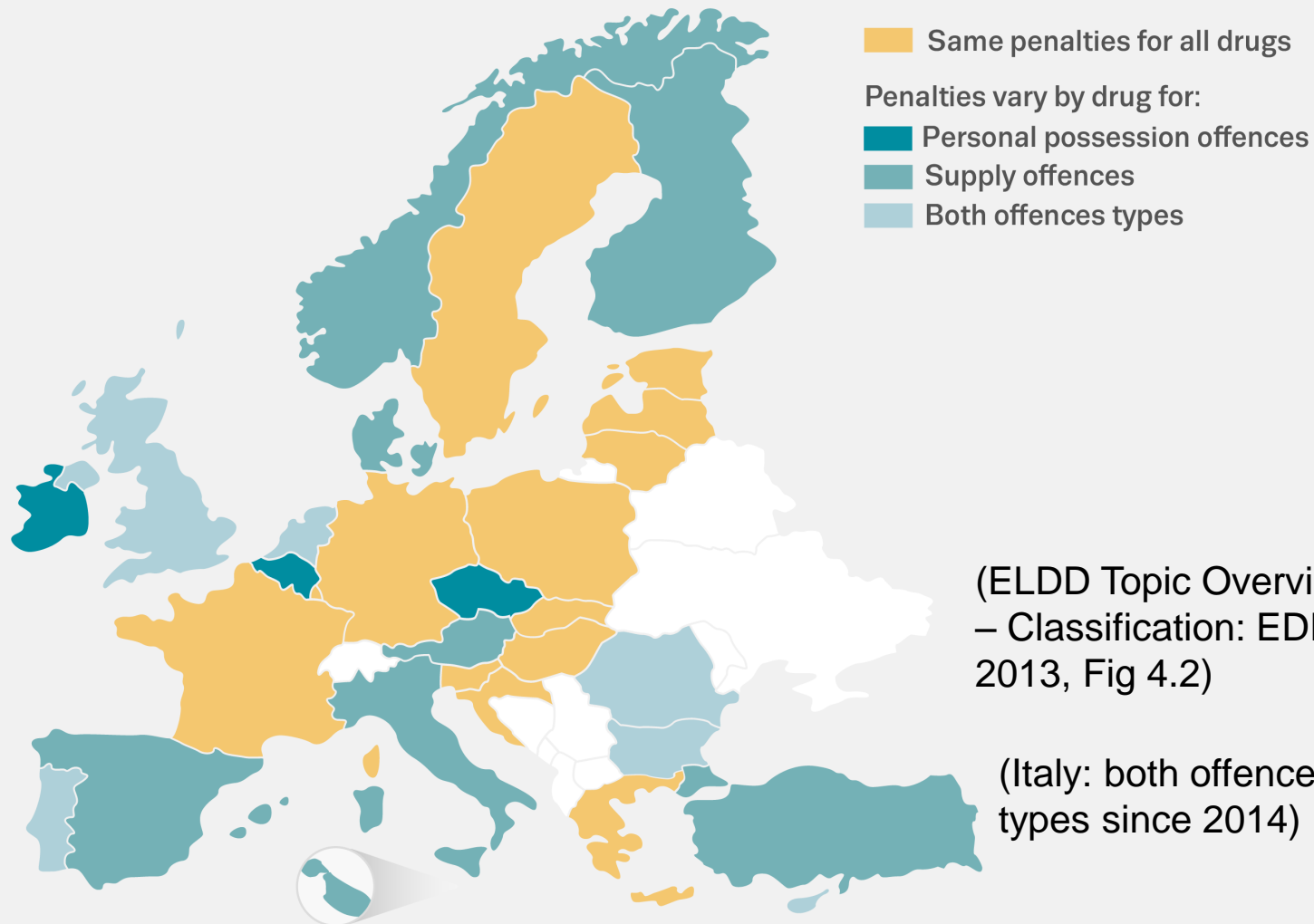
Types of offence

- Drug use
- Possession or cultivation of drugs for personal use
- Supply

Factors

- Type of drug
- Quantity of drug
- Level of addiction
- Recidivism

Does the penalty vary by drug?



Some questions for proportionality

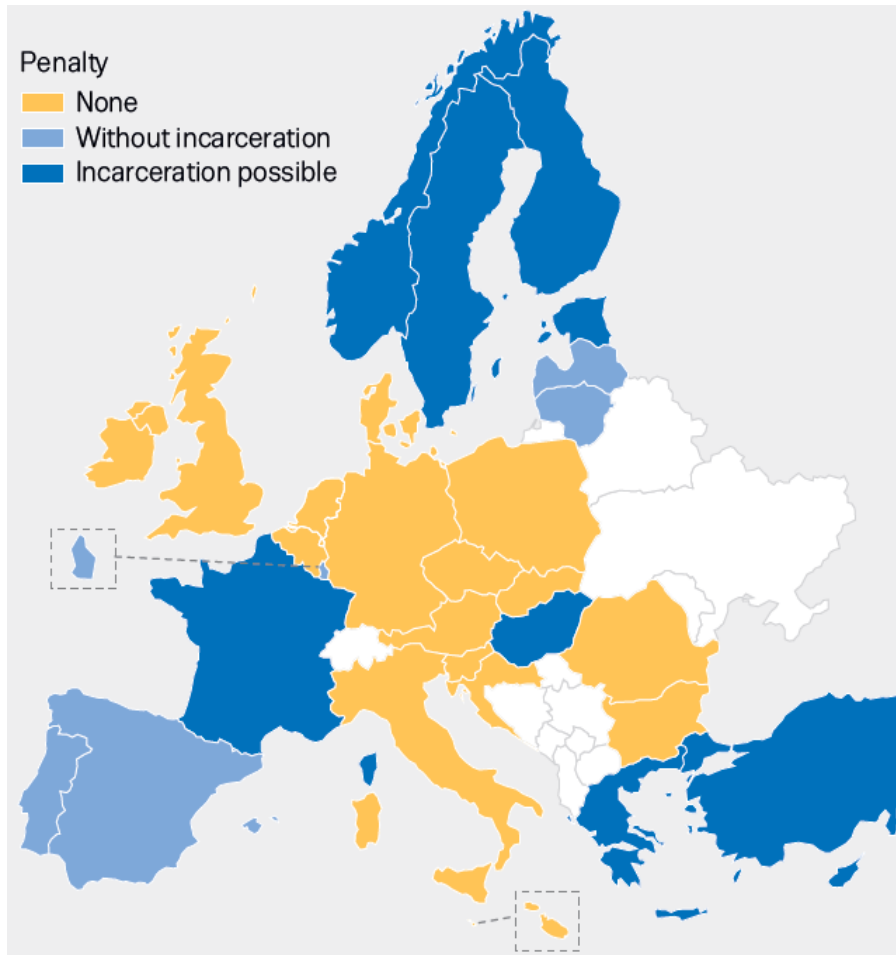
Is the penalty appropriate and necessary to reach the objective of the [drug law offence]?

Molkereigenossenschaft Wiedergeltingen eG v Hauptzollamt Lindau (ECJ Case C-356/97)

1. Is a reaction necessary?
2. Is a penalty necessary?
3. Is imprisonment necessary?
4. Imprisonment for how long?

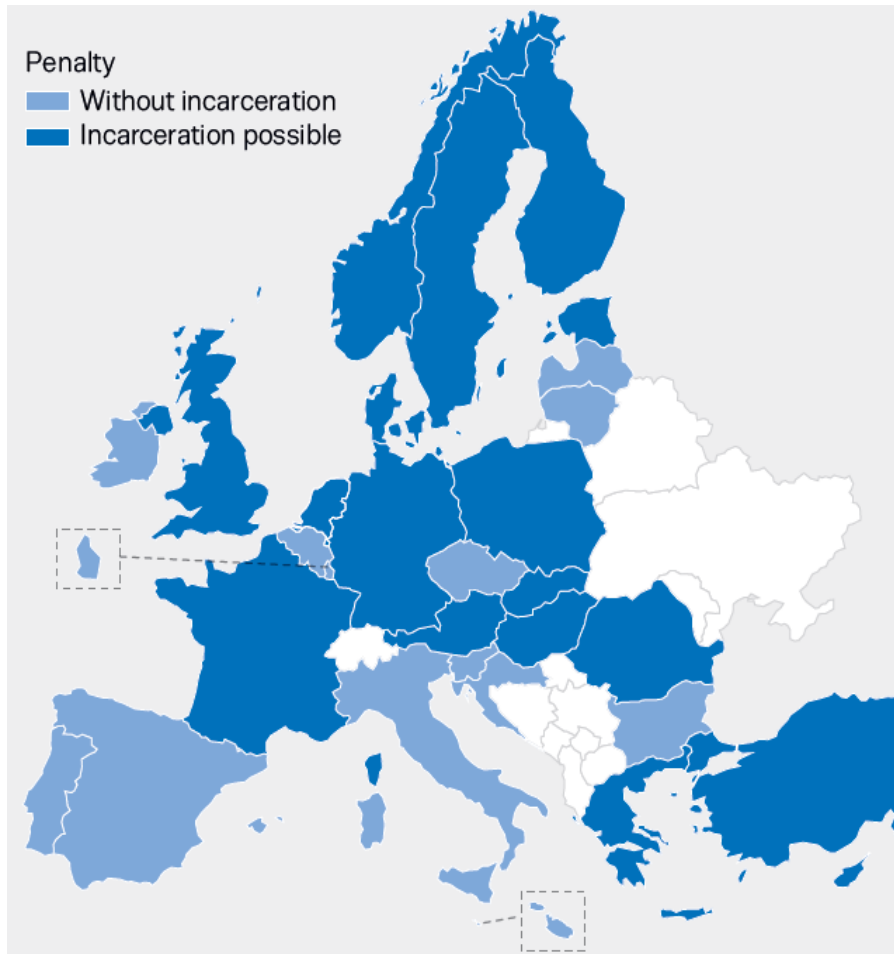


Penalty in law for drug use?



About half the countries in the EU have no offence of drug use.

Penalty in law for minor personal possession?

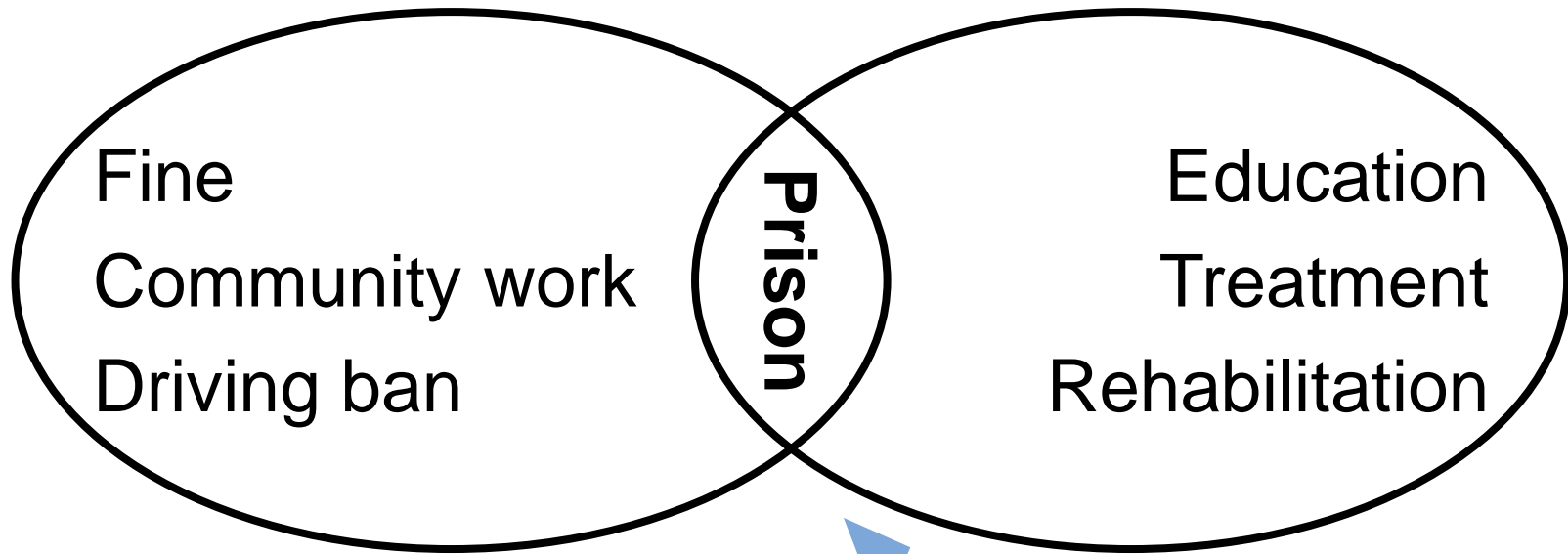


(This is for cannabis, but only 3 countries would change for other drugs)

Alternatives to incarceration

Punitive
measures

Rehabilitative
measures



Alternatives to
incarceration

Alternatives to punishment

PLACE

AIM



Why choose alternatives to punishment (ATP)?

Choose ATP to affect:

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

EMCDDA PAPERS

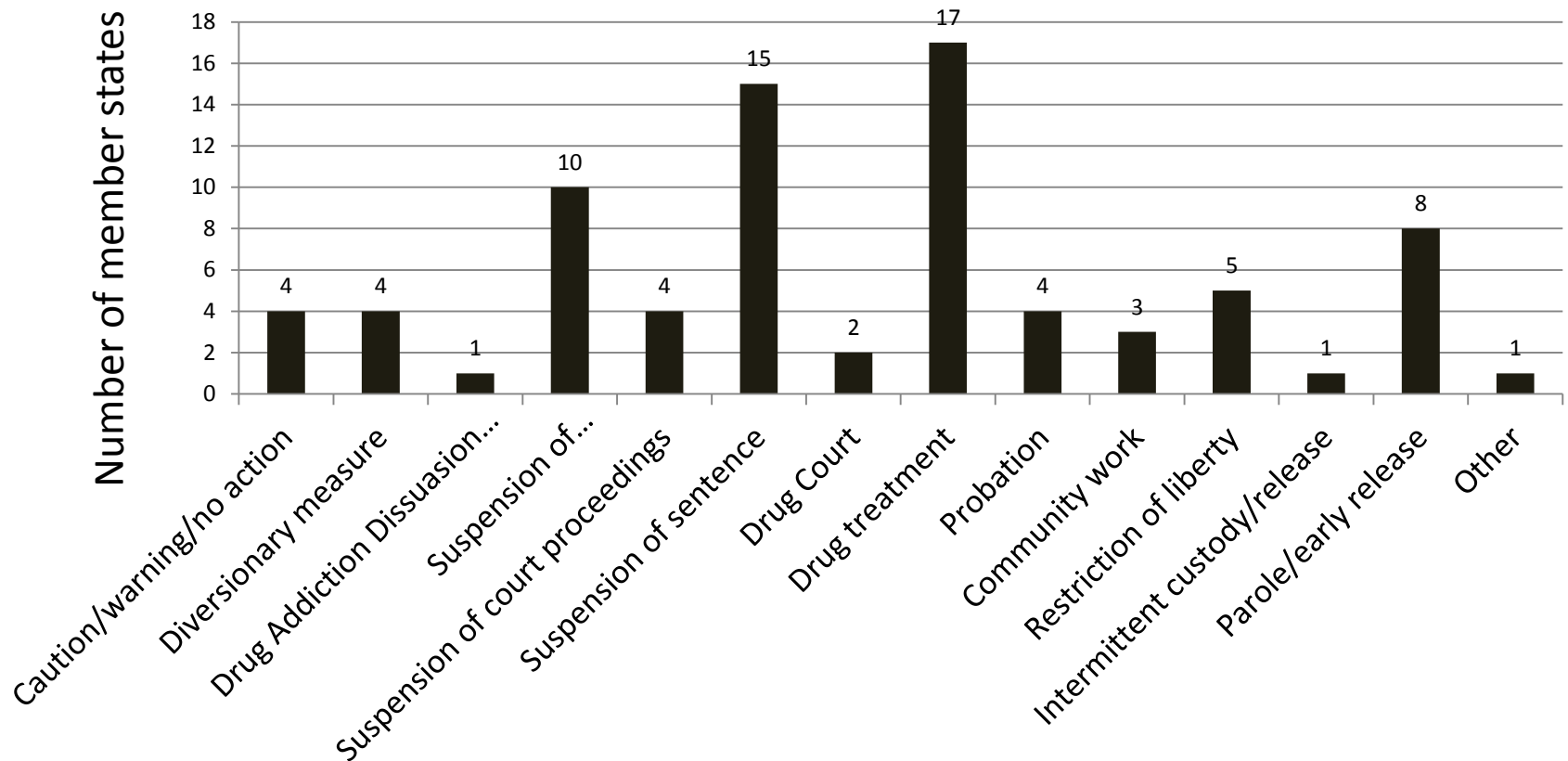
Alternatives to punishment for drug-using offenders

Contents: Introduction (p. 2) | Context and definitions (p. 3) | Overview (p. 6) | Coverage, implementation and common issues (p. 10) | Evaluation (p. 14) | Conclusions (p. 16) | References (p. 19)

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



Types of alternatives to punishment in Europe



What about drug supply penalties?

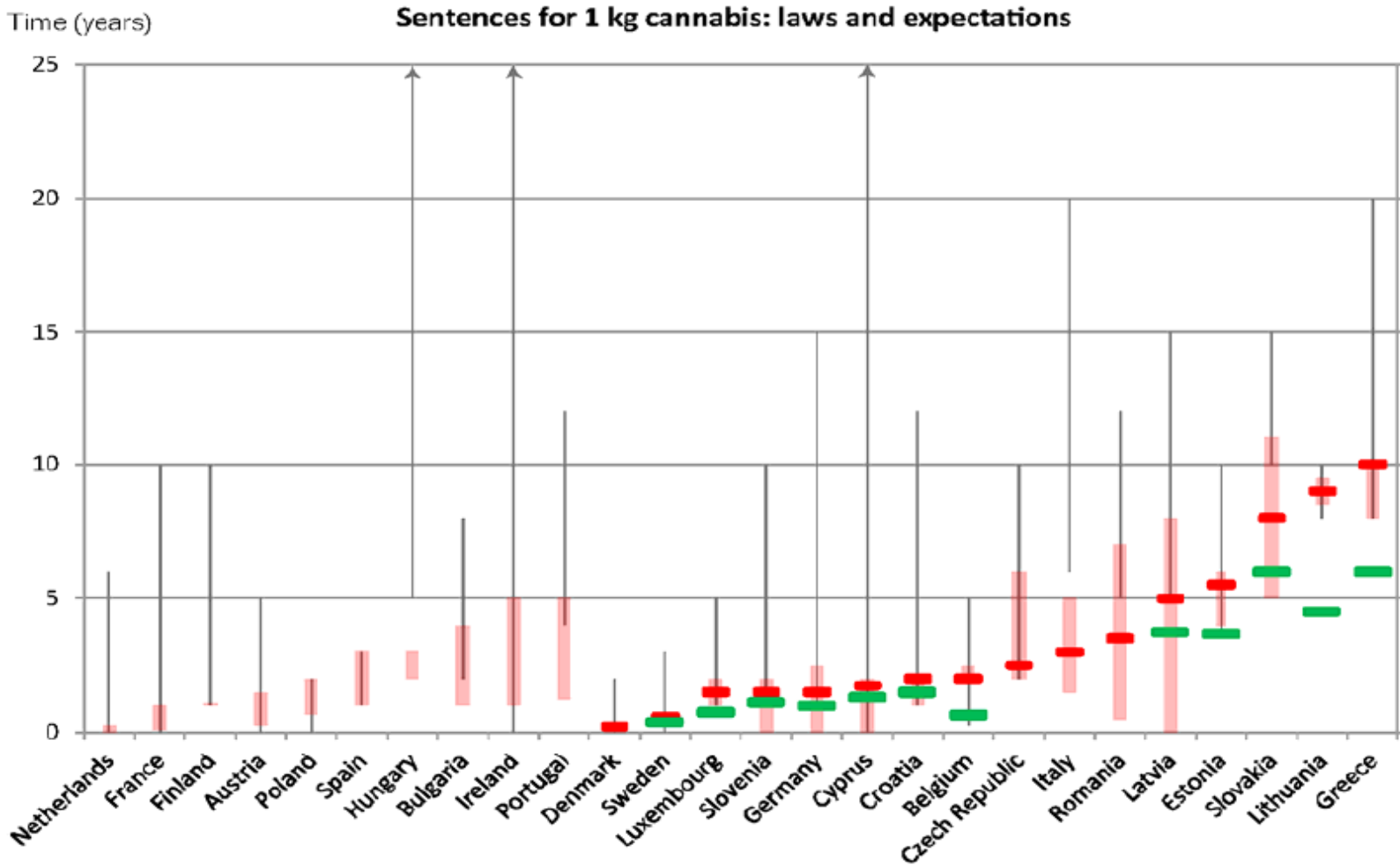
- What do the laws say?
- What really happens?

TECHNICAL REPORT

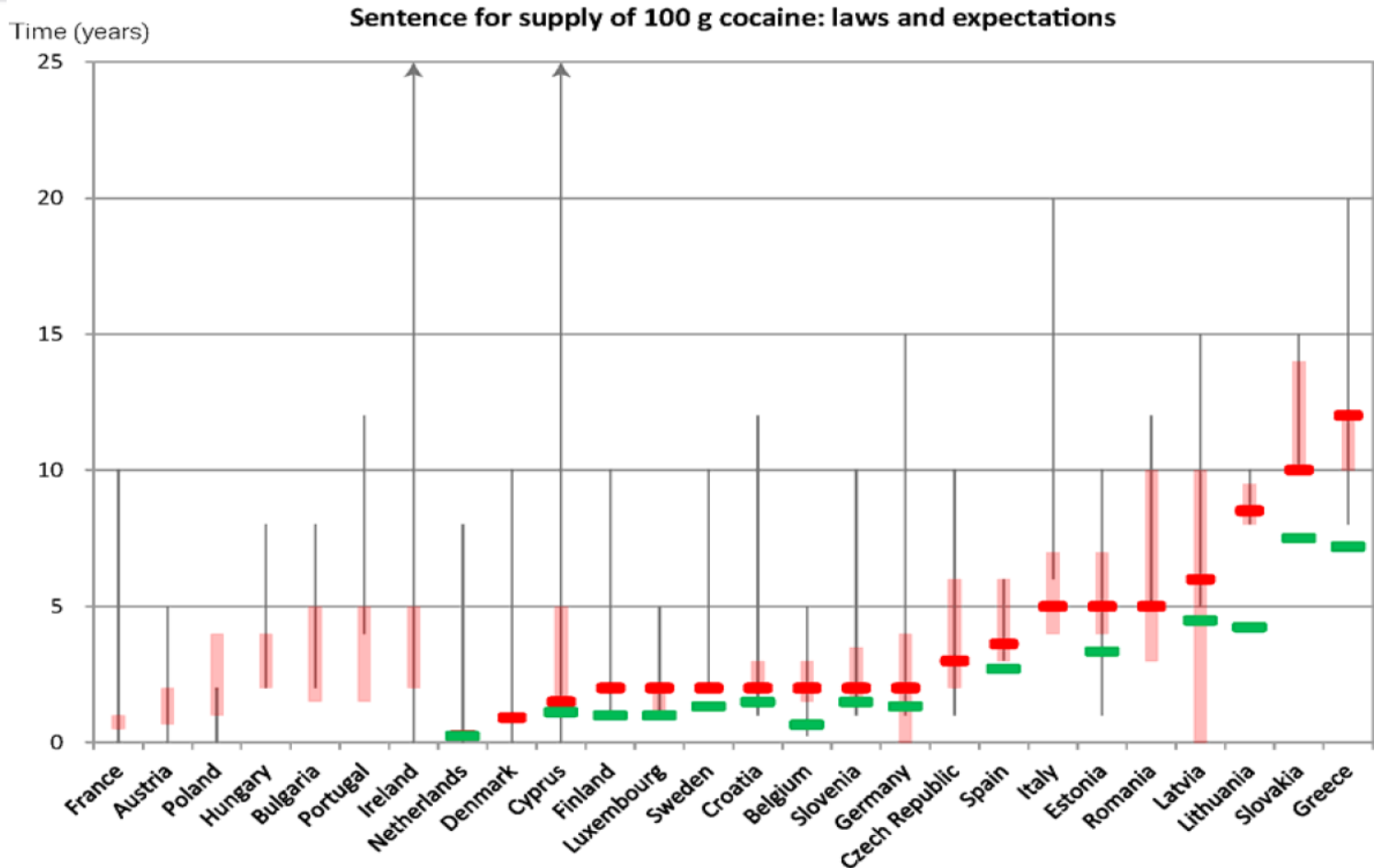
Drug trafficking penalties across the European Union

a survey of expert opinion

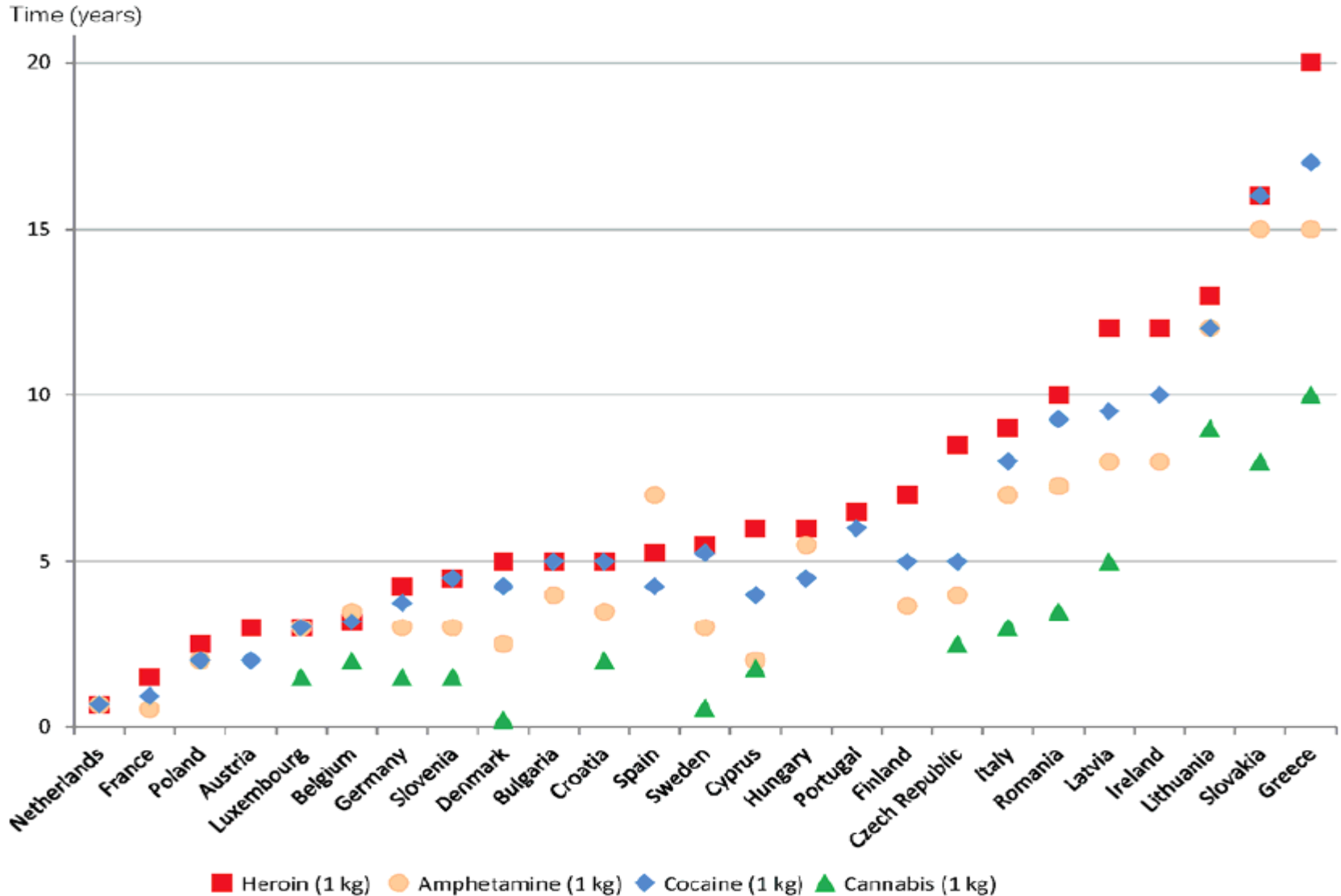
Supply of 1kg cannabis; Incarceration not guaranteed



Supply of 100g cocaine; Incarceration not guaranteed



Supply of 1kg of drugs; penalty can vary by drug



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	Region	Law
Estonia		What is the punishment for the offence? Possession of drugs for personal use is punishable by 3 mths - 5 years in prison or a fine. Possession of cannabis for personal use, without nuisance, may receive a fine based on a "simplified police report". The fine may be 90-150 EUR for the first offence, 150-300 EUR for the second offence within one year from the first conviction, 8 days to 1 month imprisonment for any offence within one year from the second conviction. Ministerial directives state that possession of cannabis for personal use should be given the lowest prosecution priority. Cannabis-related offences causing public disorder (i.e. possession in school, public facilities, prison) are punishable by 4 months to 1 year in prison. Internal Police Act
Belgium		Possession of small quantities of drugs for personal use (up to ten doses) is a misdemeanour, punishable by a fine of up to 200 fine units (about €500) or by administrative detention (in the police arrest house rather than in a prison) for up to 30 days. Act on Narcotic Drugs and Psychotropic Substances and

YouTube: What is decriminalisation?

Interactive: ELDD; Penalties at a glance

What is decriminalisation of drugs?

EMCDDA

3,121

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

TECHNICAL REPORT

Drug trafficking penalties across the European Union

a survey of expert opinion

EC study 2016: Kruithof et al.

