

Cannabis policy and legislation in the Nordic countries

**A report on the control of cannabis
use and possession in the
Nordic legal systems**



**Nordic Welfare
Centre**

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Preface

How do the Nordic countries control cannabis use in their legal systems? How do the Nordic legal systems see cannabis as a drug in 2018, and how does this affect the cannabis user? This report looks at the similarities and differences in legislation and the ways in which the law is enacted in legal practice, police work, and many other arenas.

While the Nordic countries have relatively similar criminal policies as a whole, there are some striking differences in their dealing with drugs such as cannabis. We therefore survey the legislative differences and similarities in this five-country report in close detail.

The country profiles zoom in on the legal control of cannabis on the basis of a large body of secondary material, academic literature, and reports as well as data from Nordic statistical bureaus. The authors have also conducted interviews with researchers and representatives of the legal system to address an evident lack of research on the practicalities of policing and sanctioning of cannabis use.

Emma Villman has written the chapter on Finland, while the sections on Denmark, Iceland, Norway and Sweden were authored by Susanne Egnell. The introductory chapters were written by Yaira Obstbaum-Federley.

The report was produced in a project financed by the Nordic Arena for Public Health Issues. We encourage the readers to read another result from this project, the report Cannabis-related problems in the Nordic Countries (Stenius, 2019), which is available at the Nordic Welfare Centre's website nordicwelfare.org.

The findings of the report on cannabis control in the Nordic legal systems were discussed by a Nordic expert group consisting of Mats Anderberg, Susanne Egnell, Helgi Gunnlaugsson, Pekka Hakkarainen, Karoliina Karjalainen, Aarne Kinnunen, Paul Larsson, Maj Nygaard-Christensen, Yaira Obstbaum-Federley, Rafn Magnús Jónsson, Karin Rantala, Nina Rehn-Mendoza, Kristine Rømer Thom-sen, Mette Irmgard Snertingdal, Kerstin Stenius, Henrik Tham, Per Ole Träsk-man and Emma Villman. We want to extend a heartfelt thank you to the expert group.

We also wish to thank Jessica Gustafsson, Pirkko Hautamäki, Heini Kainulainen, Nina Karlsson Leena Metsäpelto and Nina Rehn-Mendoza.

We hope this report will be of interest and inspiration for researchers, experts in judicial matters as well as in social studies, and experts working with these matters in government organisations and in third sector organisations and anyone interested in these questions.

Eva Franzén
Director, Nordic Welfare Centre

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Terminology

This report uses legal terms translated into English. The terms may in some cases have a somewhat different meaning in different Nordic countries depending on the national context. One such term is *summary procedure*. In general this refers to the settling of a criminal matter outside of the court system. Instead of taking a criminal case to court, a prosecutor or in some cases the police may issue a fine for minor violations that would not render a more severe sentence than a fine. This practice is widely used for minor drug offences in all Nordic countries.

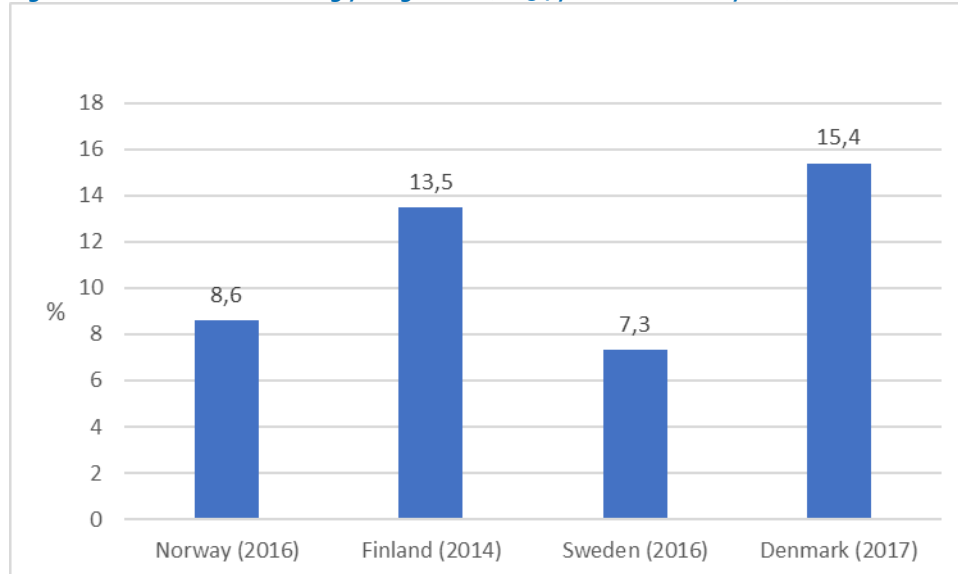
Why should we study the legal control¹ of cannabis from a Nordic perspective? Reasons and statistics

Cannabis is used throughout the Nordic countries (Kraus, 2016; Skretting, 2016; Bretteville-Jensen, 2013). There are many reasons why we should be interested in the use of this drug and why we ought to look more closely at how society responds to its use – not least because of the changes which currently impact on both the use of cannabis and societal responses to it.

Cannabis use seems to be on the increase among young adults in most Nordic countries, or at least it is safe to say that the use of cannabis is not decreasing among young adults in any Nordic country. For example, in Finland almost 20% of people aged 15–69 reported in 2014 having used cannabis at least once in their lifetime (Hakkarainen et al. 2015). Still, the use of cannabis in the Nordic countries has not increased among underage adolescents (Kraus et al., 2016).

¹The concept of control is used in this report to refer to an array of measures – and the existence of power and possibilities to take such measures – that are directly or indirectly meant to alter the direction of the management and policies of a person. Examples of such measures are sanctions of many kinds, including fines or imprisonment.

Figure 1. Use of cannabis among young adults (16-34 years) in the last year (source EMCDDA)



Cannabis markets have also changed. The illegal market today is more professional and centralised, and online dealing of cannabis (or plants) is more common. During the 21st century cultivation of cannabis has expanded in the Nordic countries (Bretteville-Jensen, 2013). Home cultivation among the users themselves has also become more important (Hakkarainen et al., 2008). In Iceland, for example, all of the cannabis used in the country appears to be cultivated in Iceland or home-grown by the users or the dealers, say the informants to this report.

Attitudes towards cannabis have also grown more lenient in the population. The European School Survey Project on Alcohol and Other Drugs (ESPAD) shows that young people in all of Europe perceive the use of cannabis as less risky than young people did ten years ago (The ESPAD Group, 2016). Also, adults seem to be less critical of cannabis compared to attitudes on other drugs (Hakkarainen et al., 2015).

The more lenient attitudes towards cannabis also prevail internationally. Lately there have appeared international efforts and discussions to legalise, decriminalise, or depenalise cannabis use (and in some cases drug use in general). The discussion has also intensified in the Nordic states².

² It is important to distinguish between depenalisation, decriminalization and legalisation. Depenalisation usually means that the use of cannabis is illegal, but there is no sanction (nor criminal record). Decriminalisation means that it is not illegal to use drugs, but the production and sales may still be illegal. Legalisation may take different forms, but usually means that it is legal to produce and sell cannabis. Marketing may also be allowed, but sales are usually regulated in some way.

The use of medical cannabis has increased internationally, but is still small-scale. Medical cannabis is mainly allowed as pain treatment in certain cancers and to alleviate some symptoms of multiple sclerosis. While many other use areas have been claimed and studied, the evidence is still contradictory (EMCDDA, 2018). As our report will show, the use of medical cannabis is strictly regulated in the Nordic countries.

Cannabis users in the Nordic countries are a heterogeneous group both in terms of their use and social background. According to a Finnish survey, most cannabis users use the drug a few times a year, without any major health or social consequences from the use (Hakkarainen & Karjalainen, 2017). Sporadic use – a few times a year – seems to be the most common way to use cannabis in other Nordic countries as well (Skretting et al., 2016). A typical Finnish cannabis user 'is a young man who lives in a city and smokes marijuana that he got from friends. He uses cannabis recreationally and is a heavy user of alcohol.' (Hakkarainen & Karjalainen, 2017, translation Yaira Obstbaum.)

Many cannabis users do not use other illegal drugs, but they often use alcohol simultaneously or on different occasions. The share of cannabis users with prevalent health and social problems is higher than among non-users. Using other drugs is also more prevalent among cannabis users than among non-users of cannabis. Alcohol seems to be the most common drug, at least in Finland (Hakkarainen & Karjalainen, 2017).

Cannabis is not a harmless substance. Frequent use of cannabis is connected to at least impaired cognitive ability and increased risk of psychotic symptoms. More studies are needed to clarify the effects of long-term cannabis use (WHO, 2017). A growing body of evidence points at cannabis use (and its psychosocial consequences) being a mental health risk (Nordentoft et al., 2015).

Cannabis problems can also be regarded as a symptom of underlying ills, such as social problems, social exclusion, economic problems, ill health, and many other factors. Starting to use cannabis at an early age may be a sign of socioeconomic and (mental) health problems, and is connected to truancy and higher levels of school drop-out (Lemstra et al., 2008; Tims et al., 2002). Young cannabis users have a heightened risk of developing dependence (Sundhedsstyrelsen, 2017).

It is safe to say that cannabis use is not decreasing in Nordic countries, and in most Nordic countries the use is increasing at least in the young adult population. Use of cannabis is thus likely to produce increasing harm – social problems, health problems, and problems of law and order – burdening not only the health and

treatment systems but also the legal system. (For an overview of current treatment of cannabis use in the Nordic countries, see Stenius, 2019.)

The relationship between cannabis use and the legal system is complicated. That the use of cannabis is illegal in many countries obviously has many consequences for those who use the drug. Many researchers support the claim that the illegal status of cannabis may aggravate an already strained social situation (Houborg & Pedersen, 2013) or push towards further social problems (Tham, 2005). Possessing and using cannabis may currently lead to legal sanctions in the Nordic countries, and while the consequences are not necessarily always heavy, the sanctions vary a great deal. The very existence of a criminal record due to cannabis use may have consequences for those, for example, applying for a job where one needs to disclose one's criminal record. Researchers emphasise the need for a stronger focus on treatment and social support.

According to Kinnunen (2018), the Nordic countries have quite similar criminal policies in general; criminal control and sanctions are usually a last resort. 'We try other things instead, social policy and welfare measures, to create possibilities to combat social exclusion.' But when it comes to drugs, the situation is different. Criminal sanctions come into the picture very quickly, raising the question of how social exclusion is conceived in our criminal policy. In a Scandinavian welfare state, drug use seems to be viewed as an arena where welfare policies are not enough (see Kinnunen, 2008). There are also differences between the Nordic countries in how much they lean on welfare policies and how much trust is placed in criminal control.

This report will show how cannabis use and possession are controlled by the legal systems in the Nordic countries, beginning with an overview of Nordic trends in cannabis use. This is followed by comprehensive reports on the legal control of cannabis in each of the five Nordics: Denmark, Finland, Iceland, Norway, and Sweden. The country reports are complemented by a short summary of the key findings for each country. The report concludes with an overall summary along with suggestions for further study.

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Cannabis use in the Nordic countries

In a drug survey conducted in **Finland** in 2014, almost 20% of the respondents aged 15–69 reported cannabis use at least once in their *lifetime* (Hakkarainen, Karjalainen, Ojajärvi, & Salasuo, 2015). Other drugs had been used to a much lesser extent. The share of those reporting *having ever used cannabis increased* from less than 6% in 1992 to over 19% in 2014, while the share of persons reporting use during the *last year increased* from 1% in 1992 to 6% in 2014 (EMCDDA, 2017). The sharpest increase in cannabis use occurred right after the 1990s, then evened out before starting to increase again, mainly among young adults (Hakkarainen et al., 2015).

Cannabis use among underage young people is measured in survey studies. The most commonly used survey, the ESPAD study (European Survey Project on Alcohol and other Drugs) shows that cannabis use increased somewhat in the 1990s among young people but has stabilised or even decreased after the turn of the millennium. The share of young people reporting having ever tried cannabis was 7% in 2015 (Raitasalo, Huhtanen, & Miekka, 2015).

Norway measures cannabis use regularly in a *Befolkningsundersøkelse* survey of the population aged 16–79 years. Cannabis is the most commonly used drug, followed by cocaine, and ecstasy/MDMA and amphetamines. Many Norwegian studies suggest that cannabis use among young people has decreased since 2000, as has the use of alcohol. However, among *adults* aged 16–64 the use of cannabis has steadily increased since the 1980s. In 2016, about 20% of this age group admitted having used cannabis at some point during their *lifetime*, whereas 4% indicated *last year* use. Cannabis use is most common among young adults aged 16–24 and 25–34. Researchers point out that most of the respondents who admitted to ever having used cannabis used the drug only a few times, whereas users of other drugs seem to engage in more regular use.

Cannabis use among underage young people of 15–16 years has been assessed in a number of studies. The ESPAD study shows that the share of young people in Norway who report using cannabis has increased or remained steady during the last 10 to 15 years (Skretting, Vedøy, Lund, & Bye, 2016).

According to the biennial survey studies conducted by the Public Health Agency of **Sweden** (Folkhälsomyndigheten), *last year* cannabis use among persons aged 16–84 increased from 1.8% to 2.5% in 2004–2015. The share of cannabis users is

the highest among young adults: 7.7% in the 16–29 age group reported having used cannabis at least once during the last 12 months in 2015. The share had increased by 1.5 units among the 16–29-year-olds and by 2.4 units in the age group of 30–44 in 2006–2016. Use of cannabis is more common among men than women (Folkhälsomyndigheten, 2016). The share of cannabis users among underage adolescents (15–16-year-olds) has remained quite stable. The numbers grew in the 1990s, but after the turn of the millennium the situation has been virtually unchanged both concerning having ever tried cannabis and more regular use (Englund, 2016). According to a school study on drugs in 2017, 6% of grade 9 students had ever tried cannabis. Around 1% of the respondents had used cannabis more than 20 times (Thor, 2017).

In **Iceland**, as many as 35% of the adult population have tried cannabis, shows a population-based survey study from 2017. There has been an increase in the share of Icelanders who have ever tried cannabis, from 20% in 2002 to 35% in 2017. About 12% admitted having used cannabis ten times or more, up from 8% in 2013, and 6% admitted to use in the past six months before the survey. This is an increase from 4% in 2013. According to Gunnlaugsson (2018), such use is mostly down to curiosity and experimentation, and is social and temporary in its nature. Almost half of the young adults in Iceland aged 18 to 29 have tried cannabis (Gunnlaugsson, 2018). Cannabis use has been stable, or decreased, among Icelandic youth in recent years. Of the 15–16 age group, 7% of had tried cannabis in 2015, and 2% admitted use during the last 30 days (The ESPAD Group, 2016). Arnarsson, Kristofersson, and Bjarnason (2018) stress however that the proportion has grown of young people who have used cannabis 40 times or more during the last year: from 0.7% to 2.3% between 1995 and 2015. There is thus a group of young people also in Iceland for whom cannabis use is a big problem.

Danish population studies show an increase in cannabis use among 16–44-year-olds between 1994 and 2007. Lifetime use of cannabis was 37.2% in 1994 and 44.8% in 2017; yearly use was 7.4% and 11%; and monthly use stood at 2.4% and 4.6% in corresponding years. The figures rose steeply in all categories in 2000–2013, after which the situation stabilised. Current use of hash is most common in the youngest age group (16–24) (Sundhedsstyrelsen, 2017). According to the ESPAD study, cannabis use among 15–16-year-olds in Denmark fell from 24% in 1999 to 12% in 2016. Last year use declined from 19% to 11% during the same time (Moesgaard Iburg, König, & Skriver, 2016).

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Cannabis control in Denmark

The Danish drug laws are based on international UN conventions. The early conventions such as the 1936 Opium convention criminalized sale and distribution of drugs, but not possession of drugs for personal use. Possession of drugs for personal use were criminalised in the 1955 Euphoriant Substances Act (Møller, 2008). This law, with some amendments, is still in force. In contrast to the other Nordic countries, Denmark added legislative exceptions for cannabis when the law was reformed in 1969 (to adhere to the United Nations Single Convention on Narcotic Drugs of 1961). The guidelines issued by the Director of Public Prosecutions in 1969 and 1971 made a distinction between hard drugs and cannabis, and between users and large-scale dealers. This formalised the way in which the police should enforce drugs legislation – including cannabis control and its enforcement – to reduce harm to consumers (ibid.).

Until the mid-2000s, the Danish policy was characterised by depenalisation of cannabis use and non-enforcement of sanctions for possession of cannabis up to ten grams (Møller, 2008). Over the last two decades there have been some major legal changes that concern cannabis in particular (Träskman, 2005; Asmussen & Dahl, 2012). Similarly to the more mainstream European approach to illicit drugs, Denmark has moved from a liberal practice of depenalisation to a stricter policy on both the use and possession of small amounts of illegal substances (Houborg, 2010). The new approach is particularly visible in the legislation and in police work in Copenhagen's freetown of Christiania, where cannabis is sold openly, and in the Vesterbro district known for its open drug scenes and widespread public use (Asmussen & Jepsen, 2007).

The changes in legislation and enforcement practice point to an end to the previously differential policies on 'soft' and 'hard' drugs (Asmussen & Jepsen, 2007). The aim is now to reduce the supply and to promote a change of attitudes and norms in the population, as was stressed in the government's 2003 action plan *The fight against drugs* (Regeringen, 2003; Jepsen, 2008). At the time, Denmark also toughened the drug laws by, for example, increasing the maximum penalty from 10 years to 16 years for severe drug offences. The aim was not to increase punishments in general but to prepare for a future of very serious drug offences where harsher punishments could be applied (Träskman, 2005; Justitsministeren, 2003).

This coincided with a movement towards treatment and harm reduction in the 1990s with resources allocated to decrease drug-related deaths (Houborg, 2010). From 1996 to 2006 the number of persons in drug treatment tripled partly

due to legislative changes that tasked the social services with offering prompt care and treatment to persons with substance abuse problems (ibid.).

The 'fight against drugs' introduced new treatment options for those in prison and for young problematic cannabis users along with new harm reduction alternatives (Regeringen, 2003). Ege (2015) argues that Denmark now has a drug policy similar to other Nordic countries: a restrictive and expensive control policy with severe penalties. Still, harm reduction strategies have been in place since the mid-1980s: syringes and needles are readily available, and methadone treatment is easily accessible, combined with more recent policies such as heroin treatment and drug consumption rooms (ibid.). While the Swedish drug policy, for example, can be described as resting on the three pillars of prevention, treatment and control, the Danish policy relies on the four pillars of prevention, treatment, harm reduction and control (Regeringen, 2010). These pillars are not easily reconciled with the strategy of reducing the use and supply of drugs and of harm reduction.

Danish drug laws

Cannabis is regulated in the Euphoriant Substances Act, which lays down (§ 3) that violations against the act shall result in fines or imprisonment for up to two years. The law prohibits 'import, export, sale, purchase, distribution, reception, production, preparation and possession' (§ 1, ch. 3).

The Criminal Code (§ 191a ch. 1) outlines a sharpened penalty scale for more severe violations of the Euphoriant Substances Act with a maximum of 10 years' imprisonment. The Criminal Code does not constitute independent criminalisation but presumes violation of the Euphoriant Substances Act (Toftegaard Nielsen, Elholm, & Jakobsen, 2017). The sharpened penal scale is reserved for distribution of illegal drugs on a larger scale, for considerable economic gain, or under particularly aggravating circumstances (Criminal Code § 191a ch. 1.). If the substance is particularly harmful or dangerous, imprisonment of up to 16 years may apply (Criminal Code § 191a ch. 2). Cannabis is not defined as a particularly harmful or dangerous substance and is not included in the second chapter (Toftegaard Nielsen et al., 2017; Rigsadvokaten, 2017). The penalty can be increased up to 24 years in certain aggravated cases (Criminal Code § 88).

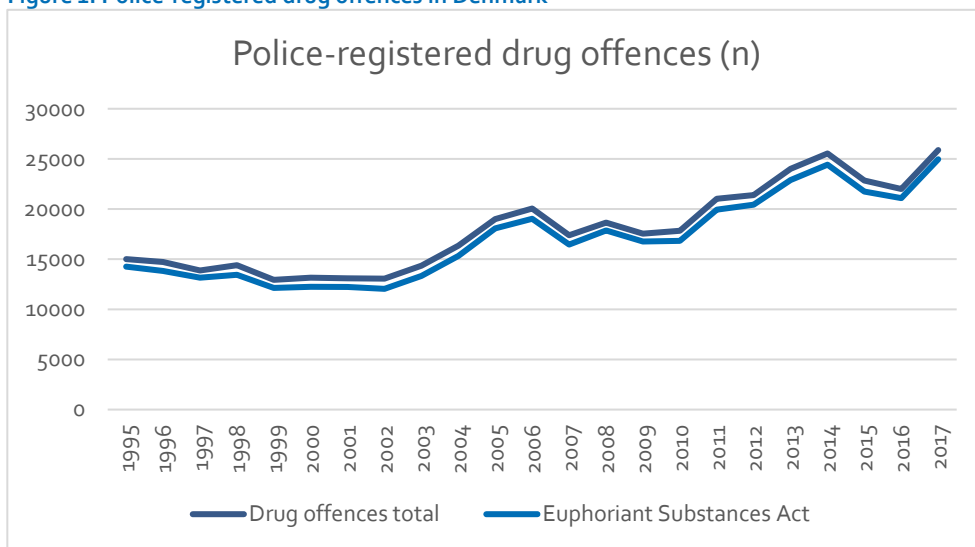
- Euphoriant Substances Act (caution/fines to imprisonment up to two years)
- Criminal Code § 191a ch. 1 (imprisonment up to 10 years)
- Criminal Code § 191a ch. 2 (imprisonment up to 16 years)

Medical cannabis

Medical cannabis is legal and regulated as of 2018 for a trial period of four years (Laegemiddelstyrelsen, 2018). Prior to this the Sativex product was available on prescription, as in the other Nordic countries, but the new system has released more products on the market. The producers of medical cannabis can now import and promote their products, and doctors are allowed to decide about their prescription (ibid.). This has proven difficult, because the products are not approved as medical products, and the doctors have full responsibility for the prescription and the dosage. Few doctors are willing to prescribe cannabis products in the absence of prescription guidelines and research on effects and side effects (Quass, 2018).

Police-registered drug offences

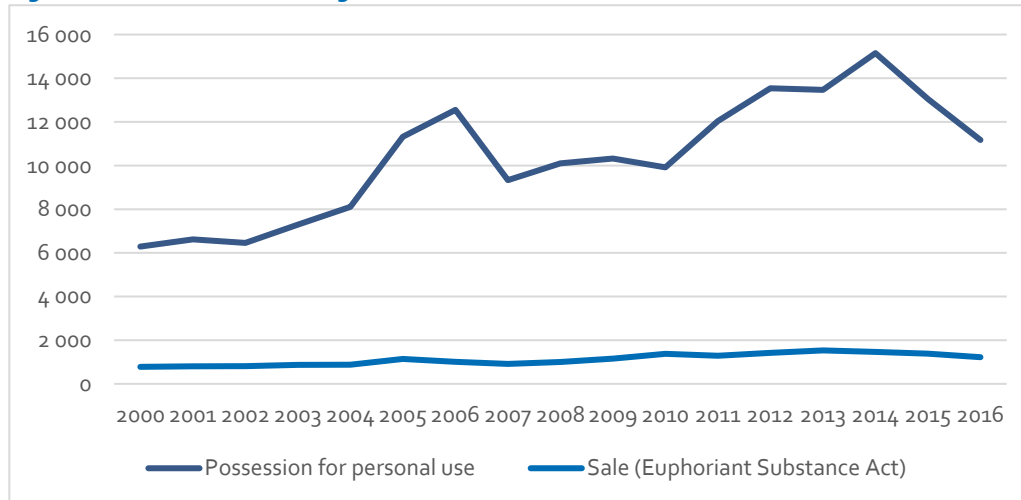
Figure 1. Police-registered drug offences in Denmark



(DST, 2018a)

Figure 1 shows a steady increase in drug offences, which are mainly violations against the Euphoriant Substances Act. This broad category can also include cases of trading.

Figure 2. Numbers of solved drug violations in Denmark



The number of criminal cases for drug offences increased in 2002–2006, and decreased in 2007. Houborg and Mulbjerg Pedersen (2013) argue that the decreased number in 2007 can be attributed to a contemporary police reform. As Figure 1 shows, the number of reported drug offences then remained stable until 2010, peaked again in 2014, and reached the highest point in 2017 during the 20-year period since 1995.

The new national drug policy marked a transformation in 2003, but a change had started already at the end of the 1990s (Asmussen & Dahl, 2012) with legislation that became known as the 'pusher law' and was meant to crack down on dealers in possession of small quantities. The penalties were increased for repeat offences of possession of small quantities. A law enacted in 2001 on hashish clubs enabled the closing down of spaces where cannabis was smoked and distributed, and the owners could also be sanctioned (Asmussen & Jepsen, 2007). The penalisation of possession of cannabis and increasingly stricter enforcement due to changes in the perception of minor drug possession (especially in relation to young people and cannabis) (Frank, 2008; Träskman, 2005) may serve as explanations for the increased numbers of reported drug violations. In the early 1990s, the legislation and law enforcement had rather focused on more severe criminality connected to higher-level narcotics trade and organised crime (Frank, 2008).

Cannabis in police-registered offences

Nothing in the official crime statistics tells us anything about the substance involved in registered drug violations, and even academic studies on the subject are few and do not say much about changes over time. Still, we do know from academic research that cannabis was the most common substance in police-registered violations against the Euphoriant Substances Act (possession for personal use) in 2009 and 2010 (Houborg & Mulbjerg Pedersen, 2013). It was involved in 65% of all such violations. Amphetamines were involved in 15% of the cases, while heroin and cocaine accounted for about 5%, and ecstasy about 2% of the cases. Cannabis cases were more common on weekdays, whereas amphetamines, cocaine, and ecstasy were more commonly found during the weekends (ibid.). The prevalence of cannabis in Danish criminal cases is higher than in Sweden, and probably higher than in Norway. This most likely reflects use in the population and the extent of the illegal market, rather than police priorities. A Copenhagen prosecutor noted in an interview that there are probably significant regional variations in the share of cannabis cases, given that Copenhagen has one of the largest cannabis markets in Europe.

Drug-impaired driving

Denmark regulates the limit of tetrahydrocannabinol (THC, the principal psychoactive constituent of cannabis) in blood in relation to driving (Traffic Code § 54). The maximum is 0.001 mg THC per kilogram blood and concerns non-prescribed THC or THC that is not consumed according to the prescription (Rigsadvokaten, 2018a). This is equivalent to an alcohol concentration of 0.2–0.5 per mille in the blood (Rigsadvokaten, 2018a). Driving under the influence of mind-altering substances is punishable with a fine or up to 18 months' imprisonment (Traffic Code § 117).

In 2017 the law was changed to introduce a progressive sanctioning scale. Driving under the influence of THC with a maximum limit of 0.003 mg per kilogram blood is punished with a fine (Rigsadvokaten, 2018a). The sanctions system is based on different levels of THC found in the blood according to the following template as illustrated in Table 1.

Table 1. Fining levels according to THC levels in Denmark

	Driving with low THC level above 0.001 but not over 0.003mg THC per kilo blood	Driving with medium THC level above 0.003 but not above 0.009mg THC per kilo blood	Driving with high THC level above 0.009mg THC per kg blood
1 st time	Fine (1/2 month net pay)	Fine (1 month net pay)	Fine (1 month net pay)
2 nd time	Fine (1/2 month net pay)	10 days prison	10 days prison
3 rd time	Fine (1/2 month net pay)	20 days prison	20 days prison
4 th time	Fine (1/2 month net pay)	30 days prison	30 days prison
5 th time	Fine (1/2 month net pay)	40 days prison	40 days prison
6 th time	Fine (1/2 month net pay)	50 days prison	50 days prison

(Source: Rigsavokaten, 2018a).

Imprisonment for first-time offenders can be converted to community service or be replaced by a fine and treatment provision for substance abuse. This requires an individual assessment. Tougher penalties are applied under aggravated circumstances such as reckless driving or other risk behaviours in traffic (Riksadvokaten, 2018a). Repeated violations can lead to a temporal revoking of the driving licence.

The police have the authority at any time to demand a breath test, a saliva test, or an eye examination from a driver (the Traffic Code § 55). If there is reason to believe that a person has violated the Traffic Code or refuses a breath or a spit test, the police can ask for a blood sample.

A minimum punishable limit for driving under the influence of some substances was introduced in Danish law in 2007 (Sundhedsstyrelsen, 2017). The number of *charges* has since increased dramatically – from 282 cases in 2007 to 6660 cases in 2016 (ibid.). During the same period, the number of *sentences* for drunk driving has gone down, from 8053 in 2007 to 6258 in 2016 and 5021 in 2017 (DST, 2018a). A study (Wiese Simonsen et al., 2012) of randomly selected oral fluid samples (n=3002) stratified by time, season, and road type showed that 0.5% drivers tested positive for Ethanol (alone or in combination), 0.4% tested positive for medicinal drugs, and 0.3% for one or more illicit drug (ibid.). The concentrations were all above the legal limits. THC, cocaine, and amphetamines were

the most common illicit drugs, while codeine, tramadol, zopiclone, and benzodiazepines were the most common legal drugs apart from alcohol.

Wiese Simonsen and colleagues (2012) note that these findings should be interpreted as indicating minimum numbers. Participation was voluntary, which may lead to biases and underestimations of positive tests (ibid.). Another study (Wiese Simonsen et al., 2013) investigated blood sampled from 840 seriously injured drivers in five different regions in Denmark. Ethanol was prevalent in 18% of the investigated cases, medicinal drugs (mainly benzodiazepines and z-drugs) in 6.8%, and one or more illicit drugs in 4.9% of the cases. The most common illicit drugs detected above the legal limits were amphetamines (5.4%), THC (3.7%), and cocaine (3.3%) (ibid.). The authors conclude that there is an increased risk when driving under influence of psychoactive substances, especially for males under the influence of alcohol. The results are similar to those in Norwegian and Swedish studies from *fatal* car accidents presented in this report.

On a European level, a population-based case-control study (Hels et al., 2013) investigated the risk for injury in car accidents when driving under the influence of psychoactive substances. Data was gathered from six European studies. The highest risk for severe injury was associated with alcohol, followed by drug combinations such as amphetamines and medicinal opioids. The substances that posed the least risk for severe injury were THC and benzodiazepines (ibid.). The results from prevalence and risk estimates suggest that some psychoactive substances are common but pose a low risk for injury or fatality (THC) whereas others are common and pose a high risk (ethanol).

Who is controlled?

Houborg and Mulbjerg Pedersen (2013) note that the groups which are more frequently punished for possession of drugs for personal use are similar to those with a more extensive drug use (frequent use over the last year or month compared to lifetime use). They are more often male, young, and unemployed, and tend to have lower education and a previous conviction. As they are not representative of the Danish population as a whole, the authors conclude that the criminalisation affects a group already inflicted with other social and economic disadvantages compared to the general population (ibid.). Their risk for detection may increase with a more frequent substance use and with previous convictions, which draws the attention of the police. Some individuals are more frequently controlled by the police, and these are in broad terms the same group that suffers from more consequences of drug use due their lack of social and economic resources (ibid.). The authors do not dismiss the importance of further

investigation into how the police implement the law and build on their suspicions. What is important to understand is that Houborg and Mulbjerg Pedersen (2013) discuss sentenced individuals, not just suspects as in similar investigations in Sweden (see for example Brå, 2018 in this report).

Møller (2010) has investigated the unintended consequences of the sharpened enforcement policy and legislation in 2004, including the disparate sanctioning of street-level buyers and sellers. Fines for minor drug offences tripled between 2000 and 2007, and the proportion of 15–44-year-old non-westerners who were fined rose from 2.6 fines per 1000 persons to 6.8 (ibid.). This should be compared with the increase from 1.6 to 2.4 out of 1000 Danish citizens that were fined during the same period. This indicates a systematic bias towards non-westerners, although more in-depth analysis is needed to determine the possible mechanisms. The proactive nature of street-level drug enforcement that relies on individual officers' discretion may contribute to such disparate sanctioning and overrepresentation of some groups (ibid.).

As pointed out in the Norwegian and Swedish sections of this report, other contributing factors might include *where*, *when*, and *with whom* illegal substances are consumed and possessed. Public use increases the risk of detection, a factor noted by researchers (Skarðhamar, 2005; Møller, 2010). The share of young people (aged 20–29) in the group of non-westerners in Møller's study was at the time of the study much larger compared to that of Danish origin. This may contribute to the finding, as cannabis use is most prevalent in this age group. In Norway, this group is more often suspected of drug crimes (SSB, 2003). Finally, higher police presence and enforcement in disadvantaged areas (for reasons such as higher rates of criminality in general) may exacerbate the differences in detection and sanctioning rates in relation to socioeconomic background and ethnicity (Møller, 2010; Brå, 2018). These are all possible explanations to why systematic tendencies exacerbate with increased street-level enforcement.

In order to enhance the knowledge of the mechanisms behind the numbers, Møller suggests areas of further research. First of all, we need to know more about drug selling and user practice in the population, and need to be aware of the differences among groups. This was also highlighted by the Swedish police in relation to female use. And we should ask, secondly, to what extent detection of cannabis possession is a result of police investigations of other crimes. The tendency to detect and sanction men more than women has been found in some Danish studies (Frantzsen, 2005; Houborg & Mulbjerg Pedersen, 2013). There are several possible explanations, such as differences in usage patterns, involvement in criminal activities or police bias. Frantzsen's ethnographic study (2005) on street-level drug enforcement in an area in Copenhagen observed that

the police seldom do body searches on females under stop-and-search policing. According to some police officers this was due to a lack of female police officers who could perform body searches (ibid.). A Swedish police officer interviewed for this report confirms the claims and also raises the question of low detection rates of female illegal substance use in Sweden. Frantzen also discusses the (perhaps unavoidable) biased nature of typologies underlying police stop-and-search action (see also Holmberg, 2000). According to an international study on drug-related police encounters (Hughes et al., 2018), Denmark had high rates of stop-and-search encounters, together with Greece, Sweden, Belgium and Poland.

Cannabis on the Danish illicit drug market

The occurrence and distribution of different illegal substances on the illegal market is assessed on the basis of customs and police data, such as the number of confiscations. The price levels of different substances are also taken into account. The confiscated amounts vary over time, but recent years show a steady increase.

In 2017, cannabis was confiscated on 15,364 occasions, amounting to a total of 3818 kilos; these are the highest figures in 17 years (Sundhedsstyrelsen, 2017). Police priorities and enforcement impact on both the number and amount of confiscations, and heavy raids in Christiania, such as those in the mid-2000s may also affect the levels. They may also vary depending on whether the police prioritise street-level dealers or large-scale imports. A study shows that increased enforcement against street-level drug dealing is associated with a lower quantity of cannabis confiscated by the police (Møller, 2010). While this may be the result of the down-prioritisation of trafficking cases and large-scale retail, the findings have to be interpreted with caution, for the amount of confiscated cannabis can vary significantly from one year to another (ibid.).

Systematic data of street-level hashish has been collected since 2014 by the Danish Health Authority (Lindholst et al., 2017). The level of THC is in general high with an average of about 27%, but with substantial variation from 7% to 41%. There are also regional differences between the locations that the hashish has been collected from.

Table 2. THC found in street-level hashish by percent, Denmark

City	Number of tests	Median (95% conf.)	Range
Copenhagen	12	32% (28–37%)	20–41%
Aarhus	12	25% (21–30%)	7–36%
Odense	12	25% (20–29%)	9–36%

(Narkotika på gadeplan, 2017).

Older studies indicate that the cannabis potency has increased dramatically since the 1990s (Sundhedsstyrelsen, 2017), a finding in line with other European and Nordic countries.

Official reports have not examined street-price levels, but there is no reason to believe that they should differ from the average of 8–12 EUR/gram in the European Union. According to police sources to the Danish Broadcasting Corporation DR (Sunesen & Bang Schmidt, 2016), the price per gram was about 50–100 DKK in Copenhagen in 2016. Police estimations of the circulation of the cannabis market are not official and date back about 15 years, and researchers advise against making calculations based on information from the supply side. A better measure of the cannabis market would be self-reported use, argues Demant (ibid.), but even these numbers are touched by systematic bias. Heavy users, whose use and changes in use may impact on the overall trends, account for much of the demand. They are also less inclined to answer surveys. For Denmark, as for other European and Nordic countries, the cannabis market most likely constitutes a large share of the illegal substance market, probably more than in other Nordic countries considering the existence of Christiania and higher use of cannabis.

Synthetic cannabinoids

About 5% of the collected cannabis cases in 2016 concerned synthetic cannabinoids (Lindholst et al., 2017). The prevalence of synthetic cannabinoids or new psychoactive substances (NPS) is generally low (Herold & Frank 2018). There is little knowledge of who uses NPS and the implications for treatment and prevention. A study on the prevalence of synthetic cannabinoids, Syntetiske cannabinoider - En trendspotterstudie af udbredelse og skader i Danmark, was published by Aarhus university in 2018.

Penalty assessment and case law

In court practice, the assessment of the penalty levels depends mainly on the quantity and sort of the substance. It also matters if the substance is meant for personal use or distribution (Rigsadvokaten, 2017). In case law, possession requires holding cannabis for a certain time; a joint that is passed around among several people is not necessarily possession in a legal sense (Greve & Elholm, 2011). Having substances in one's pocket or hidden somewhere does qualify as possession. Recent guidelines from the Director of Public Prosecutions (2017) advise the police and prosecutor not to use 'extensive and resource-heavy investigations' to prove personal use.

Distribution or possession with the intent to distribute is typically sanctioned with imprisonment, or in rare cases with a fine. Fines may be levied, if 1) it is a first-time offence and 2) the substance is hashish under 50 grams or medicines under 10 pills (ibid.). The fine is then doubled as stipulated by the tables for possession of hashish and medicines.

After the attitudes towards use and dealing of cannabis changed in the 1990s, several legislative changes were made in a more punitive direction. The 'pusher law' of 1996 introduced 'other circumstances' when sanctioning for possession of small quantities of drugs. The court practice of focusing mainly on the quantity and nature of a substance led pushers to carry only small pre-packed quantities of a drug, which resulted in rather lenient sentences according to the legislative proposal (Justitsministeren, 1996). The proposal stated that repeated sales of small quantities and repeat offending were an aggravating circumstance that should lead to a substantially increased penalty (ibid.). The law also simplified expulsion of foreigners on grounds of drug criminality (Träskman, 2005). The proposal emphasised that the changes were directed towards 'hard drugs'. This referred to specifically dangerous or harmful drugs such as heroin, cocaine, or ecstasy rather than cannabis, which at the time was considered a soft drug (Justitsministeren, 1996).

Other amendments to the Euphoriant Substances Act in 2004 included new aggravated circumstances, where selling drugs in restaurants, pubs, and places which young people frequently visit should always be punished with imprisonment (Justitsministeren, 2003). Repeated violation of the Euphoriant Substances Act could also result in imprisonment. In a precedent in 2012, an individual was sentenced to seven days in prison for possession of one gram of hashish for personal use; the court cited the many previous violations against the Euphoriant Substances Act as justification (AM2012.04.26B). Possession for personal

use is under normal circumstances sanctioned with a fine and, in rare cases, a warning (Rigsadvokaten, 2017).

What is interesting in terms of this report is the Euphoriant Substances Act, regulating possession for personal use. There are two main factors to account for: 1) the boundary between possession for personal use and possession with the intent to distribute, and 2) the boundary between the Euphoriant Substances Act and Penal Act § 191. Circulars are issued by the Director of Public Prosecutions in order to give guiding on how to assess amounts and other circumstances important for prosecution.

1) To assess whether possession of illegal substances is meant for personal use or distribution (with or without profit), quantity is one of the most important indicators (Rigsadvokaten, 2017). Table 3 shows the guiding amounts of cannabis for personal use, but the levels are not absolute. More than 100 grams of cannabis is automatically considered possession with intent to distribute, and should be sanctioned with imprisonment (ibid.). There is room for discretion in that certain circumstances may indicate intent to distribute, which results in a harsher punishment, even when a person is found with a small amount of a substance (ibid.). Circumstances that indicate sales include portion-packed substances, possession of more than one substance, and possession of tools such as a scale or money that indicates sales. Another incriminating circumstance is if the suspect carries larger amounts of money in a place where illegal drugs are normally sold or that is not in line with the official income of the person (ibid.).

Table 3. Guiding amounts for possession to be considered, personal use

Hashish	10 gram
Marihuana	50 gram
Cannabis plants	100 gram

(Rigsadvokaten, 2017)

2) The sharpened penalty scale applies when a violation of the Euphoriant Substances Act is severe enough, as in sales, smuggling, and possession with intent to distribute. The assessment of whether to use/prosecute under Criminal Code § 191 or the Euphoriant Substances Act is based on the templates that serve as guidelines (Rigsadvokaten, 2017).

Table 4. Boundary between the Euphoriant Substances Act and § 191

Hashish	Ca. 10 kg
Marihuana	Ca. 10–15 kg

(Rigsadvokaten, 2017)

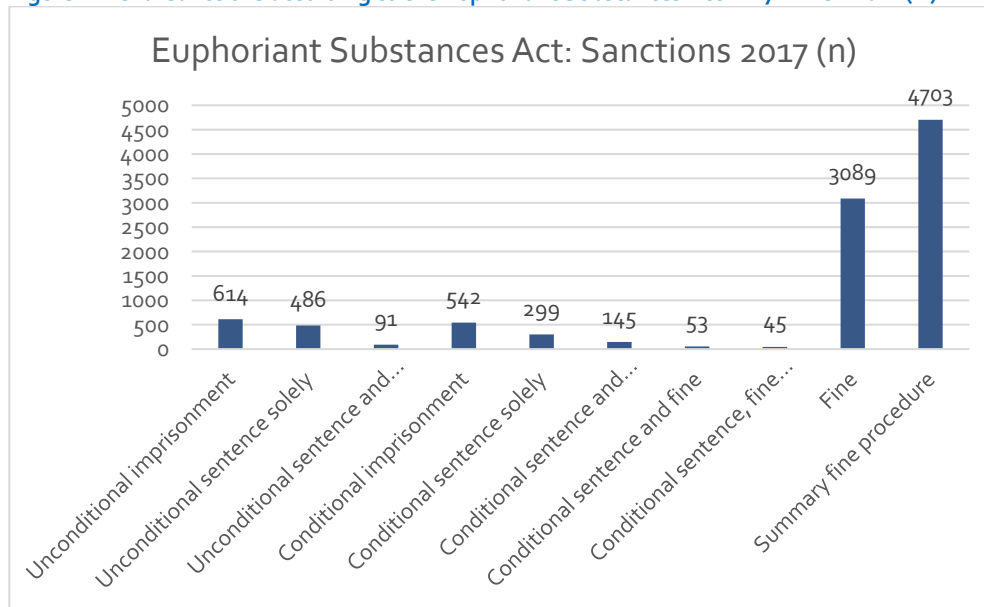
A smaller quantity may fall under aggravated circumstances under § 191, (Asmussen & Dahl, 2012). There is thus a considerable grey zone between the Euphoriant Substances Act and Criminal Code § 191.

Penal sanctions system

This section is an overview of the different penalties relevant for the Euphoriant Substances Act. The penal sanctions for violations against drug laws in Denmark are characterised by using the entire penalty scale, which diverges from how other crimes are sanctioned (Greve & Elholm, 2011). Over the last two decades, Denmark has increased the punishments for drug offences – especially in relation to cannabis – over the whole spectrum of penalty scales (minor and more severe drug offences) (Träskman, 2005).

Distribution of small quantities may be included in Figure 2 below, as first-time offences may fall under the Euphoriant Substances Act.

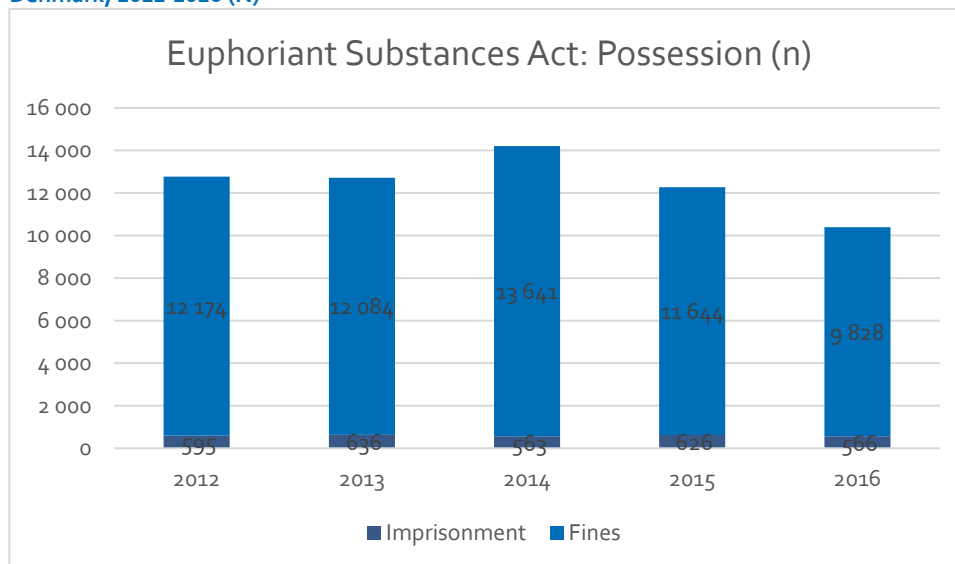
Figure 2. Penal sanctions according to the Euphoriant Substances Act 2017 in Denmark (N)



(DST, 2018b)

Fines and imprisonment

Figure 3. Prison sentences and fines for possession according to the Euphoriant Substances Act in Denmark, 2012-2016 (N)



(DST, 2018b)

The vast majority of cases concerning possession of cannabis for personal use, or distribution of cannabis (first-time offender), end with a fine (Justitsministeriet, 2014). In 2017, about 60% of the fines for violation of the Euphoriant Substances Act was a result of a summary procedure in accordance with the Administration of Justice Act (Retsplejeloven) § 832. The prosecutor has the right to fine individuals for minor drug crimes according to the table in the previous section, and the individual may choose to accept or demand that the case be tried in court (Träskman, 2002).

The fines have fixed rates (as compared to day fines for other crimes), and the fining levels were raised both in 2004 and 2007 (Houborg, 2010). Unpaid fines can be collected by force by the police according to Penal Code § 53, but this happens only rarely (Danmarks Domstole, 2017). Fines should be converted to imprisonment only when the fined individual has the resources to pay but chooses not to, much like in Sweden. The process to convert fines to a prison term is an administrative decision.

The limits cited below in Table 5 are valid as fining-guidelines given that there is nothing to indicate that the possession is for distribution (Rigsadvokaten, 2017).

Table 5. Possession for personal use, fining guidelines

Type of substance	Quantity	First time	Second time	Third time
Hashish	<9.9 grams	2000 DKK	3000 DKK	4000 DKK
	10–49.9 grams	3000 DKK	4500 DKK	6000 DKK
	50–99.9 grams	5000 DKK	7500 DKK	10000 DKK
Marihuana	<49.9 grams	2000 DKK	3000 DKK	4000 DKK
	50–249.9 grams	3000 DKK	4500 DKK	6000 DKK
	250–499.9 grams	5000 DKK	7500 DKK	10000 DKK
Cannabis plants	<999 grams	2000 DKK	3000 DKK	4000 DKK
	100–249.9 grams	3000 DKK	4500 DKK	6000 DKK
	250–999.9 grams	5000 DKK	7500 DKK	10000 DKK

(Rigsadvokaten, 2017)

Prison sentences for drug crimes in general are common in Denmark, especially for violations against Criminal Code § 191. On a given day in 2016, about 5% of the prison population had violation of the Euphoriant Substances Act as their main crime (Kriminalforsorgen, 2017). These are probably cases of small-scale or repeat offences. About 19.9% of the prison population had violation against Criminal Code § 191 as main crime. This is the most common main offence in prison, the second most common being violent offences (not including murder) (ibid.).

Waiving of measures

Cautions

In 2004 Denmark ended the common practice to issue cautions to people in possession of small quantities of cannabis for personal use. Cautions had in practice amounted to a kind of depenalisation (Asmussen & Dahl, 2012; Houborg, 2010). While the original regulations specifically intended to harm distributors, the new legislation made it clear that possession for personal use should always be sanctioned with at least a fine (Greve & Elholm, 2011), (ibid.). The circular issued by the Director of Public Prosecutions stipulated that warnings could only be imposed in special circumstances – in cases of a first-time offence or because of social considerations such as heavy substance abuse. The exemption for heavy substance abusers was included in the law, as the fines were raised in 2007 (Houborg, 2010).

A study by Houborg & Mulbjerg Pedersen (2013) shows how the law was being implemented: of all criminal cases in 2004 concerning possession for personal use, 19% ended in a caution. In 2005, when the law had been in place for a year,

warnings were given in only 2% of the cases. This dramatic fall confirms the legislative effect on sanctioning. The study also showed that the possibility to issue a warning instead of a fine under social circumstances was seldom utilised, possibly due to lack of knowledge within the police and prosecution authority (Houborg & Mulbjerg Pedersen, 2013). Cautions are normally issued by a prosecutor, but in Copenhagen the practice is delegated to a specific coordinator within the police, whose decisions rely on the concrete assessments by the police officers handling the case. The prosecutor that we interviewed confirmed the strict cautionary practice, and said that cautions for cannabis offences in the freetown of Christiania are very rare. Cautions are almost exclusively handed out to homeless people with a heavy substance abuse.

Other waivers of measures

Waiving of measures is not common for violations against the Euphoriant Substances Act. The prosecution authority can waive measures in certain cases even though a person is considered guilty, according to Administration of Justice Act § 722. Measures may be waived if 1) the maximum penalty is a fine, 2) if there are 'particularly mitigating circumstances or other special circumstances and where prosecution is not called upon because of general considerations', 3) if the suspect is under 18 years old, or where 4) additional crimes are discovered that will not affect the penal value (Administration of Justice Act § 722). Waivers are mostly approved with conditions set by a court (Administration of Justice Act § 723), such as treatment or abstinence from legal and illegal drugs (Justis- og politidepartementet, 2014). Similar conditions are imposed with a conditional sentence. The probation time is usually one to three years (ibid.). Institutional treatment is expensive and must be financed by the local regions, which is why this is rarely applied (ibid.).

Alternative or mixed sanctions

There are no specified alternative sanctions for drug offences, but probation can be granted where the court finds imprisonment to be a less suitable alternative (EMCDDA, 2017). It is not unusual that a conditional sentence is imposed with a provision to go into treatment (Penal Code § 57(2); Hildebrandt, 2016). Possession for personal use of larger quantities that falls under the Euphoriant Substances Act (above 100 grams) normally renders a conditional sentence without community service for a first-time offender (Justitsministeriet, 2014).

Community service is rarely used in conditional sentencing regarding possession for personal use (ibid.). It is emphasised that community service should be used

with caution for offences such as drug crimes, violence, and sexual crimes (ibid.). Community service with special conditions for substance abuse treatment may happen but very rarely. There is a possibility to impose substance treatment within the Prison and Probation Service in cases of possession of larger quantities for personal use, but the Prison and Probation Service requires a statement about the individual's need for treatment³.

Youth sanctions

Fines were the most common sentence (84% of the cases) in 2017 for violations against the Euphoriant Substances Act among persons aged 15–21 years (DST, 2018b). The second most common sanction was incarceration (7%), followed by waiver of measures (1.4%). Neither youth penalties nor youth contracts were imposed in 2017 (ibid.). According to the prosecutor we interviewed, sanctions other than fines through a summary procedure are very rare for possession of a small amount of cannabis for young people, especially if it is a first offence. If the youth repeatedly offends, other sanctions that include treatment may be considered.

There seem to be fewer paths from the justice system to treatment alternatives for young people than in either Norway or Sweden. On the other hand, fewer people (both adolescents and adults) pass through the justice system for drug violations than in Finland, Sweden, Norway, and Iceland. Once young people do enter the justice system, the punishments are harsher. A comparative report (Clausen, Djurhuus, & Kyvsgaard, 2009) found that the number of sanctions for all youth crimes in the age group 15–17 was considerable higher in Denmark than in Iceland and somewhat higher than in Sweden, Norway, and Finland. Compared to the other Nordic countries, the number of waivers of measures was higher in Sweden. Unconditional prison sentences (all crimes) were imposed to a higher degree in Denmark than in other Nordic countries: 2.6 per 1000 adolescents in Denmark compared to 0.7 in Norway and 0.2 in Sweden, Finland, and Iceland (ibid.).

In the 1980s, the waiving of measures with conditions attached was the most common sanction in Denmark for young offenders aged 15–17 (ibid.). In 1981, 26% of all sanctions were waived with conditions, whereas only 5% were waived in 2006 (even though youth contracts had been introduced in 1999) (ibid.).

³ In 2014 an individual was sentenced to conditional imprisonment for seven days with a treatment provision for possession of 82 grams of hashish for personal use (AM2014.08.14B).

Youth contracts can be imposed together with a waiver of measures for young people under 18 (Rigsadvokaten, 2018b). This order replaced conditional sentences or waivers with supervision by the social services. The contract entails conditions such as commitment to school or education, leisure activities such as sports, or having a student job. The contract can also make conditions in relation to place of living (institution or family) or drug treatment (including alcohol) (ibid.). Youth contracts are not applicable to drug offences if the act is considered more severe than would render a fine or a caution.

Youth penalty is a special sanction for those under 18 with a maximum duration of two years (Rigsadvokaten 2018b). The sanction mainly contains special educational treatment (*socialpædagogisk behandlingsforløb*), and if a youth needs substance treatment, the court should specify this in the sentence. The course of treatment is under the control of the local municipalities (ibid.). This sanction is not common for drug violations: out of 43 sentences in 2014, nine contained substance abuse treatment (Justitsministeriets forskningskontor, 2015).

Treatment in prison

The Prison and Probation Service surveys the prison population once a year for substance use (life-time prevalence rather than problem use) (Sundhedsstyrelsen, 2017). All imprisoned for more than 10 days are surveyed. The latest numbers from 2016 show that 61% of the population had used one or more illegal substances before being imprisoned (ibid.). There is no information on problematic use. Of these 61%, 73% had used cannabis, 53% central stimulants, 17% opioids, and 11% had used benzodiazepines (ibid.). Data from 2013 showed that about 60% of the prison population had reported drug use 30 days prior to imprisonment (Kolind, Holm, Duff, & Asmussen, 2016). While the data is somewhat uncertain, results from daily mandatory urine samples showed that 8–10% of the prisoners tested positive for consumption of illegal substances in 2013 (ibid.).

Prisoners have the right to free substance abuse treatment, given that the sentence is longer than three months and that the person is deemed fit and motivated enough to carry out the treatment (Justis- og politidepartementet, 2011). This legislation also allows for transfer to an external treatment institution. (On treatment for cannabis-related problems in the Nordics see Stenius, 2019).

Criminal record

There are three different categories of criminal record in Denmark: private, public, and a children's record (Politi, 2017). A private criminal record entails violation of the Criminal Code and the Euphoriant Substances Act, and concerns both sentences and waivers with conditions. Fines for violating the Euphoriant Substances Act are not visible in the private record. The information shows up for 2–5 years (ibid.). First-time offenders under 18 years of age do not receive a private criminal record under certain conditions, and waivers of measures with conditions are not visible no matter the number of violations (ibid.). A private criminal record is only disclosed to others with the person's consent and can be used, for example, in connection with job applications. A public criminal record entails information about violations against the Criminal Code and other laws. The information is visible for at least 10 years. A children's record is specifically for sexual crimes against children and some violations of the Terrorism Act. The information is visible for much longer, up until the offender turns 80 (ibid.).

Summary: Denmark

Drugs are sometimes considered and discussed as a homogenous concept; little separation is made between types of substance. Historically, this was not the case in Denmark, where legislation and practice has distinguished between 'soft' drugs (cannabis) and 'hard' drugs (cocaine, heroin). This has changed in the recent decades with increased penalties for cannabis violations and zero tolerance for possession. The relatively new zero-tolerance practice is strictly enforced. Denmark is moving in a more mainstream direction with cannabis legislation and practice more similar to other Nordic countries. Still, the penalties are more lenient than in other Nordic countries, and there is less focus on possession of cannabis for personal use. Consumption of cannabis is not criminalised. Taken together, this results in fewer drug violations per inhabitants in Denmark compared to other Nordic countries.

Possession of smaller amounts of cannabis is regulated in the *Euphoriant Substances Act*, where fines dominate as a penalty. Repeat offending can result in a short prison sentence or a conditional sentence with treatment. Cases involving larger quantities of cannabis meant for distribution, import, sale, or manufacturing normally render a prison sentence in accordance with *Criminal Code § 191a ch. 1*. Aggravated violations are regulated in *Criminal Code § 191a ch. 2* but cannabis is not included in this section of the law. Sentencing is advised by guidelines issued by the Director of Public Prosecutions, based primarily on the type and amount of a substance but also on other aggravating and mitigating circumstances.

Previously, the standard procedure was to hand out a caution instead of a fine for a first-time offender in cases of possession of cannabis for personal use. This practice is now severely restricted and is very rare for cannabis offences. The prosecutor (or, in the case of Copenhagen, the police) should issue a caution only when the suspect is in a very precarious social situation such as being homeless and with a severe substance abuse problem. Other waivers for minor cannabis offences – due to, for example, the offender's low age – are also rare, most cases resulting in a fine settled outside of the courts.

Some studies have investigated the implementation of the new practice for cautions, but more research is needed that compares police districts and if and how the practice varies by substance. This is especially important, because the practice relies on the perception and personal knowledge of the police officers on the streets. Another area of research is how the increased enforcement of street-level cannabis violations affects different groups in the society and

whether and how there exist disparate control and sanctioning based on, for example, gender, ethnicity, and neighbourhood.

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Cannabis control in Finland

Drug use has been a penal offence in Finland since 1966, regulated in the Criminal Code. The Finnish Criminal Code regulates both use, possession, manufacturing, growing, smuggling, selling, and dealing of narcotics.

Finland has a restrictive drug policy, where the overall goal is to reduce the use and distribution of drugs in the Finnish society. This goal is pursued through criminalisation and control. Finland has in the last decade moved somewhat in the direction of harm reduction in its drug policy, and the current Governmental Action Plan on Drug Policy emphasises preventive measures, minimisation of harm, and protection of basic human rights (Valtioneuvosto, 2016). The repressive control regime nevertheless prevails as the main preventive strategy.

Finnish drug legislation

Drug offences are separated into three categories in the Finnish Criminal Code: drug-user offences, narcotics offences, and aggravated narcotics offences. The Criminal Code also regulates preparation of narcotics offences and abetment of narcotics offences. This review will mostly focus on the first two categories, drug use offences and narcotics offences, as they are most commonly involved in the control of cannabis offences. Cannabis is not differentiated from any other drug in the Criminal Code, but according to consistently accepted practice, cannabis renders the most lenient penalties of the penal range (The Office of the Prosecutor General, 2006).

Drug use offences (50:2a§)

Use of drugs, possession of drugs, and the attempt to acquire minor quantities of drugs for own use have since the 2001 legal reform been regulated in a separate category in the Criminal Code (50:2a§). The penal latitude for this crime extends from fines to a maximum six-month imprisonment. Minor drug crimes under this category can be handled by summary penal proceedings. Such proceedings are administrated by the police or the customs authority without involvement of the District Court. The summary fine is later confirmed by a public prosecutor. This sanctioning procedure is the primary way of handling cases of unlawful use of drugs in Finland today. Table 1 shows that more than 85% of the sanctioned users get their sanction as a fine issued by the police. Table 1 includes all sanctioned drug use offences in Finland in 2006–2016 (every second

year). The official statistics do not provide any numbers separately for cannabis offences.

Table 1: Penal sanctions in cases involving unlawful use of drugs (50:2a§), Finland

	2006	2008	2010	2012	2014	2016
Summary fine (issued by the police)	88.2%	87.2%	85.5%	85.4%	85.3%	86.2%
<i>Court ruling:</i>						
Fine	7.6%	7.9%	10.3%	10.9%	10.8%	10.0%
Imprisonment	0.0%	0.0%	0.1%	0.1%	0.0%	0.0%
Waiving of sentence	0.4%	0.3%	0.4%	0.5%	0.4%	0.3%
Non-prosecution	3.6%	4.3%	3.5%	3.0%	3.4%	2.8%
<i>N=</i>	4842	4307	4695	4512	4676	5509

(Processed numbers from Official Statistics of Finland, c)

The Office of the Prosecutor General (2006) as well as the Helsinki Court of Appeal (2006) have issued sentencing guidelines for drug use offences. The sentencing recommendations for cannabis are as follows:

- 5–20 day fines for possession of less than 15 g
- 20–50 day fines for 10–50 g
- 50–80 day fines for 50–100 g

The amount of a day fine is calculated on the basis of a person's income level (Poliisi 2018, b). The average fine imposed by a court for unlawful use of drugs was 200 euro in 2016, and 133 euro for a summary fine (Official Statistics of Finland, c).

Most of the fines are proceeded through summary proceedings. Summary fines can be imposed by police, customs, or border control, and are electronically confirmed by a public prosecutor later on. Notification must be given in writing and handed over when the investigation is done. As this can often be done without delay, suspects usually get the notification in conjunction with being stopped by the police. The suspects have the right not to consent to the summary fine procedure, and the proceeding is then sent to court (Kainulainen, 2009; The Finnish Prosecution Service, 2017).

Narcotics offences (50:1§)

Narcotics offences include illegal production, import, export, transport, spreading, and possession of drugs. The penal latitude for these offences stretches from fines to a two-year imprisonment. In the case of cannabis, the recommended penal latitude is as follows (Helsinki Court of Appeal, 2006):

- 20–50 day fines for less than 10 g of cannabis
- 50–80 day fines for 10–40 g
- 30–60 days for 40–100g
- 60 days–9 months for 100–500 g

When courts measure the sanctions of narcotics offences, distribution of drugs to others and economic profit are important factors weighing in (Thomasén, 2017). Even if narcotics offences have a harsher sanctioning scale than drug use offences, this does not necessarily imply that the offences are more serious. For example, even the smallest cannabis cultivation is considered a narcotics offence, as is the case of someone possessing drugs for another person. Only use, possession, or attempt to acquire minor quantities of drugs for own use can be viewed as a drug-user offence.

Aggravated narcotics offences (50:2§)

A drug offence is considered aggravated when the substance is very dangerous or large quantities are involved, if the offence brings considerable financial profit or is part of an organised group offence, and if substances are distributed to minors or cause serious danger to the life or health of several people. Aggravated narcotics offences are regulated in 50:2§ in the Criminal Code, with a penalty scale from one to ten years of imprisonment. In 2016, 1179 cases of aggravated narcotics offences were reported by the police (Official Statistics of Finland, c). Large quantities are required before a cannabis case is considered an aggravated narcotics offence. The sentencing recommendations for cannabis are as follows (Helsinki Court of Appeal, 2006):

- 1–1.5 years for 1–3 kg
- 1.5–3 years for 3–10 kg
- 5–7 years of 50–100 kg
- >seven years of imprisonment for more than 100 kg of cannabis

Medical cannabis

Medical cannabis is legal in closely regulated circumstances in Finland. Since 2008, it has been possible to grant a special permit for patients when other treatments have failed. Medical practitioners can apply for a permit from the Finnish Medicines Agency Fimea in order to be able to prescribe medical cannabis (Sativex) for a specific patient. The permit must be renewed every year. Only a few hundred patients have prescriptions for medical cannabis in Finland today (THL, 2015).

Changes in the legislation

Despite some more liberalised attitudes towards cannabis in the population (Hakkarainen & Karjalainen, 2017), there is no imminent change in sight in Finland's penal stance towards the drug. The public and official interpretation of cannabis as an illegal drug is still strong, which users experience through emotional and social stigmatisation, and marginalisation (Kekoni, 2007). The groups advocating decriminalisation (user organisations, activists, and other people considering the question an important societal issue) are not influential enough for the stakeholders to introduce legislative changes. However, at the beginning of 2018, researchers at the Finnish National Institute for Health and Welfare (THL) provoked a discussion on the penal practice, advocating treatment and social work rather than sanctions (Hakkarainen & Tammi, 2018). A political debate was initiated, but it is too early to predict what the impact and aftermath of this discussion will be.

Police-registered drug offences

As this overview has shown, Finnish legislation on cannabis use and possession is relatively harsh. But legislation is not necessarily harshly perceived unless it is effectively policed and sanctioned.

The statistics of registered drug law offences reflects the activity of the police. Both the number and type of registered drug law offences mirror policing prioritisations. The Finnish police have a tradition on implementing drug laws strictly (Kainulainen, 2009). The number of cases tells a similar story: A total of 27,777 drug law offences were recorded by the police, customs, and border control in 2017 (Official Statistics of Finland, b). This number has been rising steadily from 13,300 reported drug offences back in 2006.

The police have specific narcotics divisions in the larger Finnish cities; elsewhere drug control is in the hands of uniformed police. There are also local differences in how the police prioritise the control and punishment of drug offences. In Helsinki, where the drug use is most widespread and public, the police cannot intervene with every drug user they see or suspect, and therefore choose to go for the larger quantities. Smaller cities adapt a stricter zero tolerance policy (Kainulainen, 2009). Any leniency towards milder drugs, like cannabis, is absent from official documents and memorandums from the police or ministries. Kainulainen argues (2009) that the rigid policing of drug use offences has obvious tactical reasons for the Finnish police. Both first-time users and long-term drug users are important information sources, and hence essential in the investigation of more aggravated drug offences.

The case of drug-impaired driving has in recent years won growing attention in Finland. Traffic control has become an important area of policing; the police identify intoxicated drivers by observing the way they drive (Poliisi, 2018 c). Police use saliva tests for screening suspected drug-impaired drivers and can upon further suspicion request a blood sample from the driver. In 2017, blood samples were requested 7613 times. Of these, 92% showed up positive for at least one illegal narcotic or medical substance. Benzodiazepines and amphetamines were the most recognised substances, each in 60% of the cases, while cannabis had been used in 43% of the controlled blood samples of drug-impaired drivers in 2017 (Keskusrikospoliisi, 2018 b). When a person is suspected of drug-impaired driving, the police investigates both the offence of driving a motor vehicle under influence of drugs, and a drug use offence. It is up to the prosecutor to decide whether the person is charged for both crimes, or only for drug-impaired driving.

The question of how strong and for how long the influence of drugs shall count as impacting driving abilities, is an ongoing debate. Finland implemented a zero-concentration limit for controlled narcotic substances in 2003 (Karjalainen, 2010). The threshold for cannabis is controversial, as cannabis users can test positive for THC (the psychoactive ingredient in cannabis) days or even weeks after use. In a recent decision by the Supreme Court (KKO, 2016:42), a man was acquitted for driving under the influence of cannabis (THC in blood sample), which he had used a few days earlier. The Supreme Court found that the previously adopted zero tolerance in THC levels (on the basis of urine samples) could not be adopted in this case where the influence of THC clearly no longer affected his driving abilities. The man was, however, sanctioned for a drug use offence.

Who is controlled?

Many of the persons reported to the police for drug-related crimes have a weak socioeconomic background (Kainulainen, 2012; Official Statistics of Finland, d). As table 2 shows, more than 50% of the suspects of drug use offences have either 'other' or unknown socioeconomic status. The category of 'other' includes long-term unemployed persons. There have been no significant changes in the socioeconomic status of persons reported for drug use offences since 2012, when Statistics Finland started producing these data.

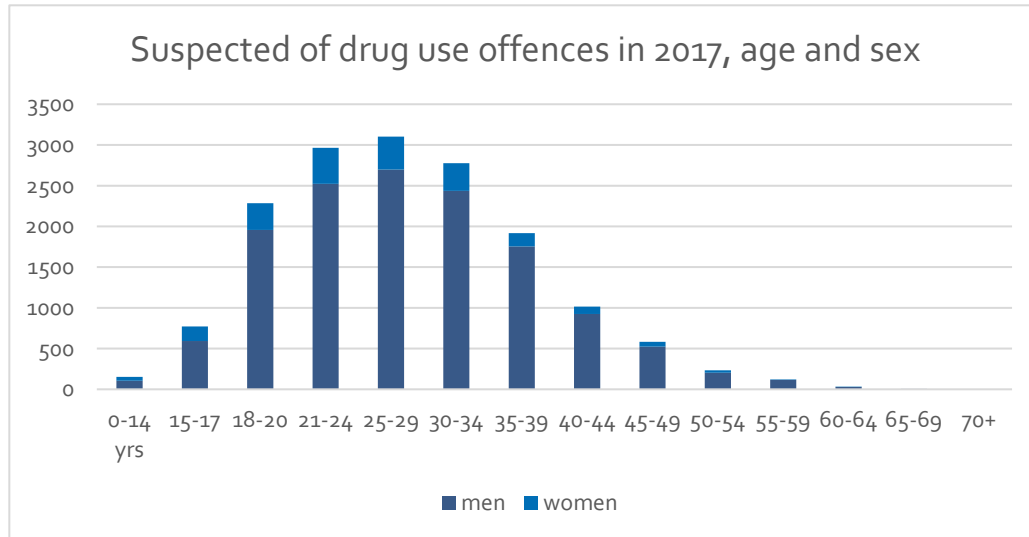
Table 2: Suspects of drug use offences in 2017 (solved cases), and their socioeconomic status, Finland

<i>Socioeconomic status (SES)</i>	<i>N</i>	<i>Share (%)</i>
Higher official	153	1.0
Lower official	623	3.9
Employee	1695	10.6
Entrepreneur	303	1.9
Student	3512	22.0
Pensioner	834	5.2
Other (long-term unemployed, military service)	5629	35.3
Unknown SES	2962	18.5
No information	257	1.6

(Processed numbers from Official Statistics of Finland, d)

The weak socioeconomic status of the offender group is closely linked to the demographic distribution in drug offences. The age and sex of persons suspected of drug use offences in 2017 (figure 1) tell us a great deal of the characteristics of the predominant users. Men stand for 87% of the suspected drug use offences, and 75% of the suspects are below the age of 35.

Figure 1. Suspects of drug use offences in 2017 (solved cases), by age and sex, Finland



(Processed numbers from Official Statistics of Finland, d)

According to the police, the typical drug use offenders are young people trying out drugs (Sosiaali- ja terveystieteiden ministeriö, 2016). A lenient stance is usually taken towards minors' drug use, primarily focusing on intervention. The practice of oral reprimands for first-time drug use is in line with the idea of destigmatising rather than punishing. Government-financed campaigns directed to young people also have the same approach, even if not very prominently. For example, in a cannabis intervention project from 2018–2020, one goal is to 'mitigate the stigmatisation of cannabis use' (EHYT, 2018). Once a person turns 18, however, the concern for stigmatisation is no longer prevalent. The lenient approach to young people's harmless trying-out of drugs only applies to minors.

The 26,885 solved drug offences in 2017 had 8099 different unique suspects. (Keskusrikospoliisi, 2018a). This shows that many of the same persons are continuously controlled. There is nevertheless little knowledge on how the control targets different user groups. Aspects of gendered and ethnic profiling in drug control in Finland is an area where further study is needed in.

Cannabis on the Finnish illicit drug market

Cannabis products are the most popular substances on the Finnish drug market. As in the rest of Europe, the cannabis market has become more herbalised over the last decades, and one important explanation is to be found in the rapid increase in cannabis cultivation (Hakkarainen, Perälä, & Metso, 2011; Poliisi,

2018a). While the police report of decreasing levels of confiscated hashish, marijuana has grown more important both in terms of numbers and quantities involved in confiscations. Today, imported marijuana and domestically cultivated cannabis are the most used cannabis products. The Finnish police have confiscated about 250 kg marijuana, 60 kg hashish, and 20,000 cannabis plants per year in the last years (Keskusrikospoliisi, 2018a).

Cultivation is now a preeminent feature of the cannabis culture also in Finland, and thus an important topic of cannabis control. In a comparative study between Belgium, Finland, and Denmark, Athey and colleagues (2013) found that Finnish cannabis growers report being arrested significantly more than Belgians or Danes. The study links the risk of detection to the policing strategies on drugs in the respective countries. In Finland, the repressive policy on drugs also applies to small-scale cultivation of cannabis. Cannabis plantations with more than ten plants can be regarded as a serious drug crime and can lead to a prison sentence (Perälä & Tammi, 2015). Many cannabis users would not be detected were it not for their cultivation. The smell of cannabis cultivations often draws neighbours' or janitors' attention, and is reported to the police (Kainulainen, 2009). Still, the number of confiscated cannabis plants decreased in 2016 and 2017, which might indicate that home-growing as a phenomenon has peaked in Finland (Keskusrikospoliisi, 2018a).

A great share of the illicit drug market is today on the internet, both on visible and hidden websites. According to the police, the internet primarily functions as an arena for retail rather than wholesale trade of drugs in Finland (Keskusrikospoliisi, 2018a). As the trade takes place online, drugs are equally accessible in rural areas as in cities.

Cannabis in police-registered offences

There are no official statistics on cannabis offences in Finland, only general numbers on drug offences. It is therefore impossible to estimate how many cannabis offences there are in Finland. Agencies of the criminal justice system indicate that cannabis dominates the statistics of drug use offences. According to an analysis of a selection of summary proceedings from 2001–2003 by Kainulainen (2006a), more than 50% of the summary fines concerned cannabis. There has also been a significant increase in cannabis use in Finland during the last decade.

Penal sanctions system

The sanctioning of all drug law cases in Finland confirms a picture of a repressive regime. Table 3 shows how drug law cases were sanctioned in 2006–2016.

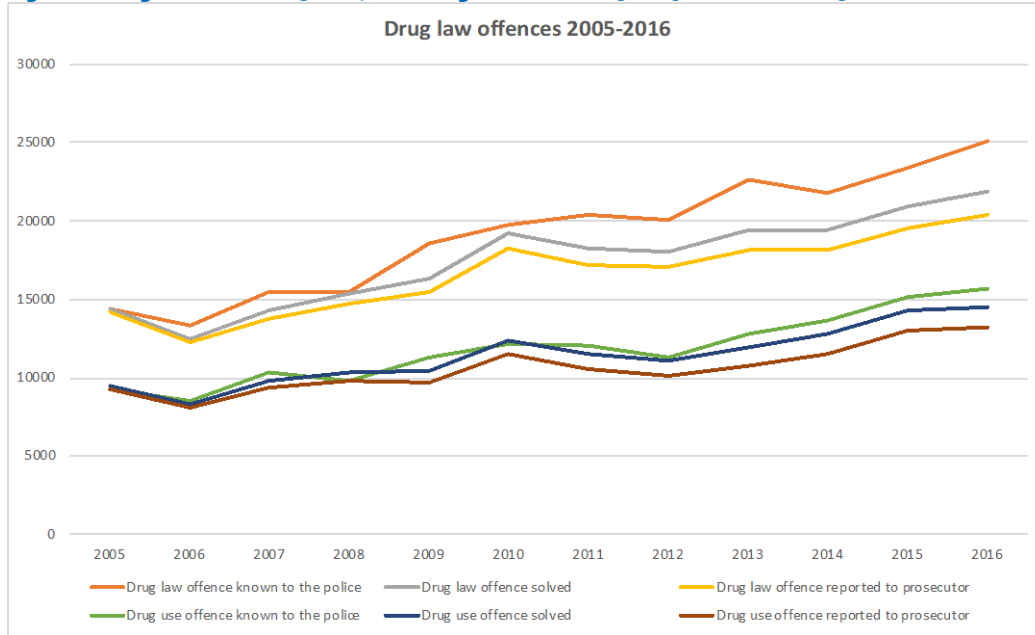
Table 3. Penal sanctions in all drug law offences (50:1–4), 2006–2016, Finland

	2006	2008	2010	2012	2014	2016
Summary fine (fine issued by the police)	55.3%	53.3%	48.3%	46.9%	45.8%	50.4%
<i>Court ruling:</i>						
Fine	25.1%	26.0%	29.4%	29.9%	29.2%	24.4%
Custodial sentence	6.3%	6.4%	8.3%	9.3%	11.6%	11.0%
Non-custodial sentence	8.0%	8.2%	8.5%	8.3%	7.5%	7.5%
Waiving of sentence	0.6%	0.4%	0.4%	0.5%	0.3%	0.3%
Non-prosecution	4.5%	5.4%	4.6%	4.6%	5.2%	5.7%
N=	7718	7046	8313	8212	8706	9414

(Processed numbers from Official Statistics of Finland, c)

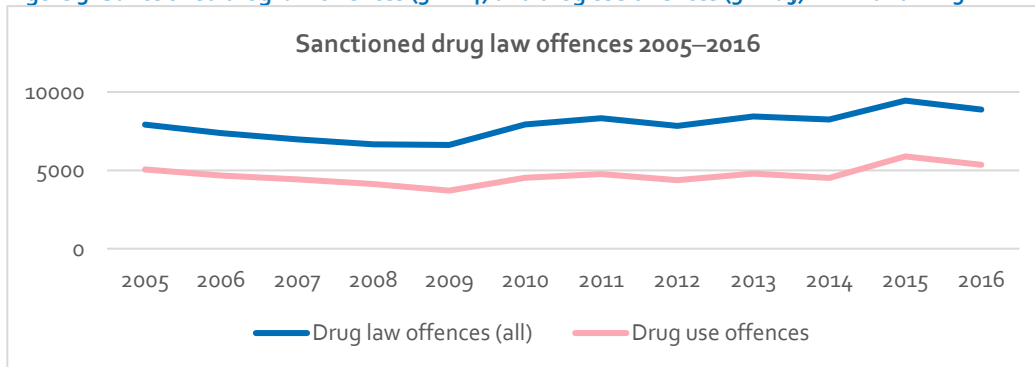
As already pointed out, drug law offences reported by the police have increased steadily during the last 10 years, from 14,000 to 25,000 between 2006 and 2016. The trend looks somewhat different on closer inspection of the sentencing development during the same period. The increase in sentencing has not followed the same pace (see the difference between figures 2 and 3). This could indicate that while the control of drugs continues to be implemented strictly, the same development is not furthered in sanctioning practice. Whether this depicts a natural processual development, or can be explained in changing practice by police, prosecutors, and judges, remains unknown. Indications from the police show that the use of caution for drug use has increased. As cautions are given for small-quantity use of milder drugs such as cannabis, one might wonder whether the increase in cautions is associated with a more lenient stand towards cannabis. If this trend continues, it poses an interesting issue for further examination.

Figure 2. Drug law offences (50:1-4) and drug use offences (50:2a§) in Finland 2005-2016.



(Source: Processed numbers from Official Statistics Finland, b)

Figure 3. Sanctioned drug law offences (50:1-4) and drug use offences (50:2a§) in Finland 2005-2016



(Source: Processed numbers from Official Statistics Finland, c)

Comment: The years indicate the statistical year that an offence became known, was solved, reported, and sanctioned. Therefore, the number of solved cases may be higher than known offences in a specific year.

Fines are the predominant sanction for drug offences. Even though a fine may appear as a lenient punishment, its effect is most uneven depending on the socio-economic situation of the convict. Unpaid fines that cannot be collected by enforcement are converted into a conversion sentence by a formula where three unpaid day fines correspond to one day's imprisonment. A conversion sentence

shall be passed for at least four days and at most 60 days. Fines given in summary proceedings have since 2008 no longer been converted into imprisonment (Official Statistics of Finland, a). In the case of cannabis, the conversion sentences therefore only concern breaches of the law on narcotic offences. The current government is however promoting law changes that would imply conversion of summary fines into prison sentence if the number of unpaid fines exceeds seven per year (Oikeusministeriö, 2018).

The Finnish default prisoners are in many aspects marginalised from the society, often drug abusers in need of treatment. It is disputable how appropriate incarceration is for these people (Kainulainen, 2009). Even though summary fines do not currently convert to imprisonment, the situation is different with drug fines imposed by the court, hence afflicting drug abusers. The courts have the possibility of not converting the punishment into a custodial sentence for those not able to pay their fines, but according to Kainulainen (2009) this action is seldom taken. The exception might be when the applicant chooses to go into rehabilitation. But the sanctioned person is not freed from fines, which are only postponed. Fines eventually expire, but until then the unpaid fines may cause many problems to the individual.

Waiving of measures

In Finland, waiving of measures is possible when the punishment is a fine or up to six months' imprisonment. Measures can be waived at all stages of the criminal justice system; by the police, prosecutor, or the judge. When the offence is minor, the police and the prosecutor can also choose to give a caution instead of bringing charges. Both cautions and waived charges stay in the police register for at least five years.

Waiving can be implemented when the crime, based on an overall assessment of the quantity and type of substance, and the situation of use, is considered insignificant. When the summary proceedings for minor drug offences were introduced in 2001, the lawmakers did not want to promote an automatic fining of drug users (The Office of the Prosecutor General, 2006). Two special groups were mentioned in the amendment of the drug-user law for whom alternative measures should be taken: minors and people with drug abuse problems. Young people under the age of 18 should get a reprimand by the police or public prosecutor, while drug abusers should be directed to treatment instead of being punished.

Minors' use of drugs is seen as a careless and harmful event of trying-out, part of a social setting. Sanctioning such harmless behaviour is perceived to do more harm than good. Today, about 25% of the minors caught for drug use offences are fined, and the rest get an oral reprimand by legal authorities. Most of the time, these reprimands are linked to first-time cannabis use (Sosiaali- ja terveystieteiden ministeriö, 2016).

According to the Government's Action Plan to Reduce Drug Use and Related Harm 2016–2019, the police is enforced not only to control and sanction drug offences, but to bring problem users to treatment as early as possible (Valtioneuvosto, 2016). When the police investigate a drug use offence where the user has an abuse problem, the police cannot end the investigation without informing the user about treatment options and asking about the willingness for treatment (The Office of the Prosecutor General, 2006). If the drug user already is part of a treatment programme or applies for one, measures can be waived. This only refers to drug use offences, not other drug-related crimes. The treatment further needs to be part of a state-approved treatment programme (The Office of the Prosecutor General 2006).

The number of times the police have directed someone to treatment has recently been around 500 per year (Sosiaali- ja terveystieteiden ministeriö, 2016). According to Kainulainen (2006b), the sparse implementation is worrying. She asks whether the legal authorities have done enough to bring problem users to treatment. The latest memorandum on drug politics to the Government also raises this question, calling for both an increase and improvement in the way the police offer the treatment alternative (Sosiaali- ja terveystieteiden ministeriö, 2016). This seems to be an area where the intentions of the legislators are not fully met in practice. Cannabis users also face a substantial problem in that specific cannabis care programmes are almost non-existing in Finland (Stenius, 2019).

Summary: Finland

Drugs are often considered and discussed en masse, not separating between types of substance. This is also the case in Finnish legislation. Finland has a restrictive regulation of use and possession of narcotics today, and the drug laws are implemented strictly. This also holds true for cannabis.

Use and possession of cannabis is regulated by the Criminal Code (50:2a§), and fines are the predominant way of sanctioning use and possession. If the cannabis offence includes large quantities of the drug, or manufacturing, selling, or dealing, imprisonment can be imposed (Criminal Code 50:1§ or 50:2§ in aggravated cases). Sentencing guidelines are used to quantitatively adjudicate the sentence by type and amount of substance.

Instead of raising charges for a petty drug crime, the police can choose to give a notice or waive measures. Waiving shall be practised especially when the user is a minor or the person has drug abuse problems. There are no numbers for how extensively and for which drugs waivers and cautions are issued. However, the praxis of cautions seems to be increasing, and one can presume that cannabis is the drug in question in these offences. A caution may be seen upon as a tolerant way of handling the transgression, but the fact that cautions remain in police registers for several years makes them very problematic especially for young people. There are also indications that the regional implementation of cautions differs. The use of cautions in drug law offences, and their connection to cannabis, is therefore worth looking further into.

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Cannabis control in Iceland

The first narcotics act in Iceland, the Opium Act, was introduced in 1923. Like many other countries, Iceland had joined the international opium convention, signed as a means of regulating the trade, production, sale, distribution, and export of morphine and cocaine (Jónasson & Gunnlaugsson, 2015). In the late 1960s, cannabis and LSD were included in the Act (Gunnlaugsson & Galliher, 2000). New legislation came about in 1974, and a new criminal offence – a serious drug offence – was created and added to the general Criminal Code. The maximum penalty was set to 10 years (*ibid.*), and was further increased in 2001 to a maximum of 12 years (Gunnlaugsson, 2015a). These and other legislative changes in the 1970s meant that Iceland established a drugs police unit and a special drugs court to fight the international and national drug problem (Gunnlaugsson, 2015). The drugs court system was dissolved in 1992 (Søe Sandell, 1997).

Gunnlaugsson (2015) notes that prison sentences in Iceland have grown stricter during the last 15 years. The debate and implementation of harm-reduction strategies took longer in Iceland than in other Nordic countries, but has since caught up (Ólafsdóttir, 2015).

Calls for more severe punishments for drug offences that have dominated the public debate about courts in the 1990s and 2000s have not been restricted to illicit substances only. They have been central in the debates of many types of crime, most notably sexual offences (Ólafsdóttir & Bragadóttir, 2006).

The firm penal line against the handling and use of drugs has also created controversy. Changes to the existing local drug legislation have been proposed to the parliament, entailing proposals to decriminalise acts related to personal use of drugs, especially cannabis (Gunnlaugsson, 2015b). While the proposals have found no parliamentary support, they have nevertheless prompted debate on the issue.

The Minister of Health announced in 2014 that he supported decriminalisation of acts for personal use and appointed an expert committee to propose a reformed legislation (*ibid.*). The report was published but the proposals were in effect sidelined (H. Gunnlaugsson, personal communication, 25.4.2018 042518). In 2017 a new proposal by a member of the Reform Party was introduced to the parliament. The bill suggested legalisation of cannabis along with regulations on production, cultivation, sale, and purchase, including a statutory age of 20 years (Ástvaldsson, 2017). A national action plan on alcohol and drug prevention until

2020 was approved by the Minister of Health in 2014. The aim was to allocate resources on the local levels, and to provide directions and policies to reduce harm and costs associated with substance use (Arnarsdóttir, 2016).

Icelandic drug legislation

Minor drug offences are not included in the general Criminal Code, but are regulated in a special code. Cannabis is prohibited under the Addictive Drugs and Narcotics Act (Law no. 65/1974), as listed in article 6.

Various actions such as import, export, sale, purchase, exchange, delivery, reception, production, preparation, and possession of substances is prohibited according to article 2. Consumption is not forbidden as such but is subsumed under possession (Søe Sandell, 1997).

The penalty scale ranges from fines to imprisonment of up to six years. The general Criminal Code regulates aggravated drug violations where 'any person who, contrary to the provisions of the Addictive Drugs and Narcotics Act, supplies addictive drugs and narcotics to many persons or hands them over for a substantial payment or in another particularly criminal manner, shall be imprisoned for up to [12 years]' (1940 No. 19 art. 173a).

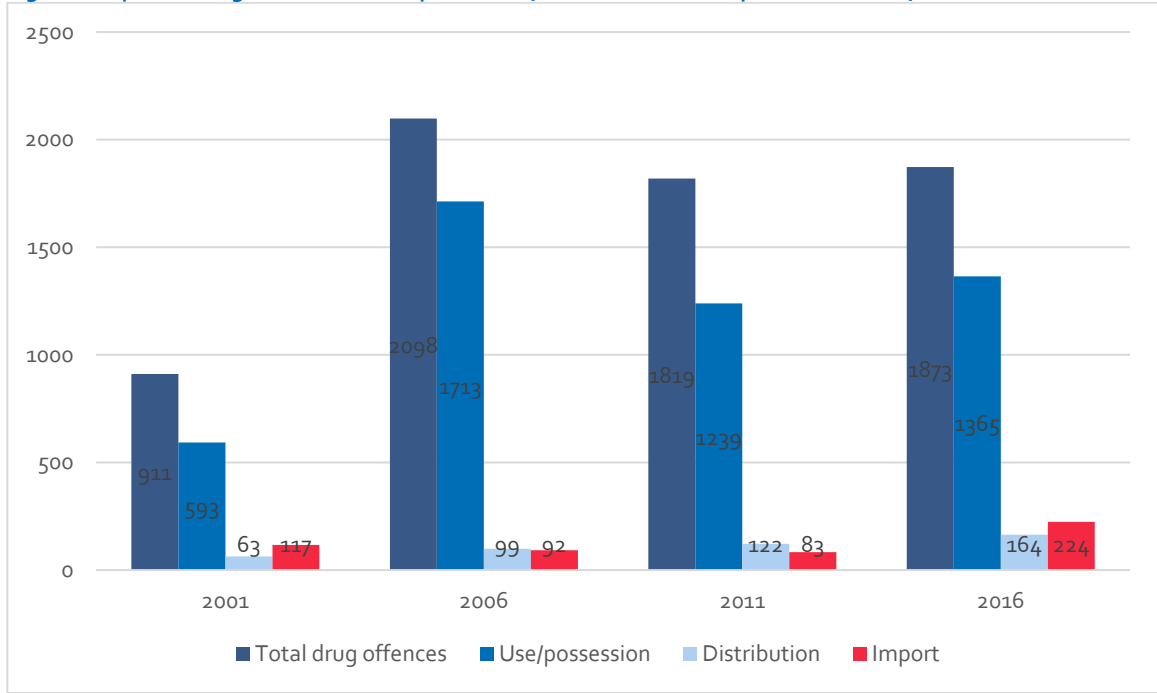
Medical cannabis

Medical cannabis is strictly regulated in Iceland, much like in Sweden, Norway, and Finland. There are a few exceptions for medical purposes, including the product Sativex, which is available on prescription (Directorate of Health, 2015).

Police-registered drug offences

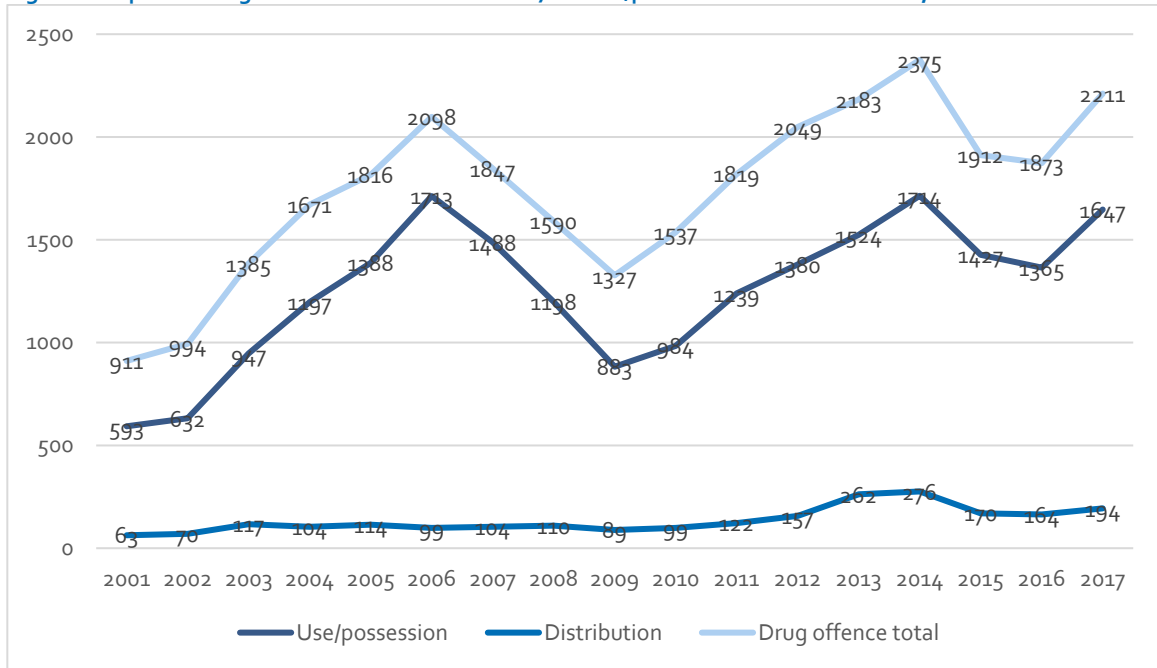
Registered drug offences have been on the increase in Iceland, with 2221 registered offences in 2017 compared to 911 in 2001 (The National Commissioner of the Icelandic Police, 2018). Most of the violations concern possession for personal use. Information on individual substances cannot be detracted from the data, which means that the share of cannabis cases is unknown.

Figure 1 Reported drug offences for use/possession, distribution and import 2001 – 2016, Iceland (N)



(The National Commissioner of the Icelandic Police, 2018)

Figure 2. Reported drug offences between 2001-2017 for use/possession and distribution, Iceland



(The National Commissioner of the Icelandic Police, 2018)

The official drug policy in Iceland has been to reduce consumption and sale of illicit substances through prevention, punishment, and treatment (Olafsdottir & Bragadottir, 2006). The focus has been on reducing consumption rather than on harm-reduction efforts, which have taken time to be introduced (ibid.). There was a downward trend in registered drug offences from 2006 to 2009, but the numbers then rose again and reached a peak in 2014. The decreasing trend in the mid-2000s may be attributed to a change in police enforcement: the focus shifted from possession and consumption to trafficking cases, local production, and seizures of illicit substances (United States Department of State, 2010). Another contributing factor may be the 2008 economic crisis, which was followed by cutbacks in the criminal justice system and a shifting emphasis from drug offences to white-collar crime (Olafsdottir, 2015). Following a recovery of the economy, the number of reported drug violations was back at the pre-crisis levels.

The drug policy is enforced strictly, especially the demand side. About 70–75% of the registered drug cases concern possession for personal use (Gunnlaugsson, 2015b; Gunnlaugsson & Galliher, 2010). Cases of import and sale have increased somewhat since 2010, and the police is worried about the increasing involvement of organised crime networks in import, production, and distribution (The National Commissioner of the Icelandic Police, 2017). An indication of organised operations is the number of suspected individuals. During an 18-month period (early 2013 to June 2015), the police investigated 75 import cases in the capital area, and three or more persons were suspected in 10 cases (The National Commissioner of the Icelandic Police, 2015). In cases of production, about 10% involved three or more suspects.

To combat drug violations, the police have access to different coercive methods, including searches of private homes, wiretapping, and random stop-and-search (Gunnlaugsson, 2015b). In the 1990s, 29 warrants were issued during a three-year period for wiretapping 42 telephone numbers, all for drug violations (ibid.).

Drug-impaired driving

Iceland has a zero-tolerance approach to drug-impaired driving, says art. 45a of the Traffic Code. Violation of the Traffic Code is punished with a fine and suspension of the driving licence for at least three months and up to two years. For aggravated offences such as a traffic accident, the driving licence may be suspended for up to five years (Traffic Code art. 47). The police have the right to ask for a breath test and a saliva test if there is reason to believe that the driver has violated the Traffic Code 45, other traffic rules such as age limits, or if the driver

has been involved in an accident (Traffic Code art. 47). If the police suspects that the driver is under influence of alcohol or illicit substances, they have the right to have the driver medically examined. The driver is obliged to follow the necessary procedures in the investigation of the offence.

The penalties are based on the amount of THC found in the blood. The fines listed below in Table 1 refer to a first-time offence (Ministry of Transport, 2018).

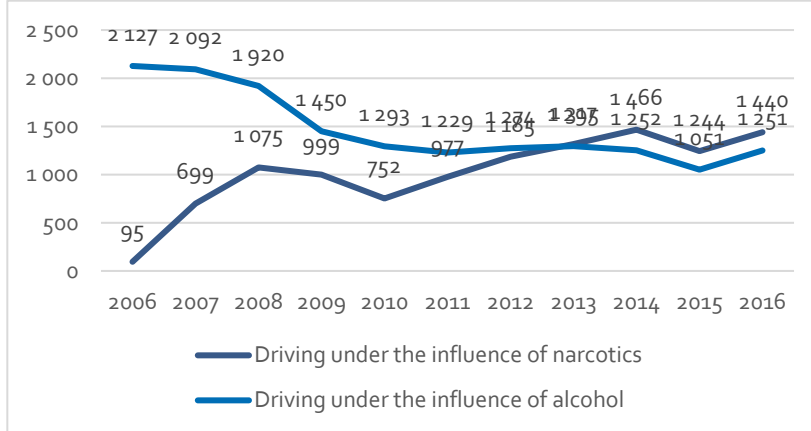
Table 1. Sanction levels for drug-impaired driving according to THC levels, Iceland

Substance concentration in blood	Fines ISK	Suspended driving license
Tetrahydrocannabinol A small amount, up to 2 ng / ml in the blood	90,000	4 months
Tetrahydrocannabinol Large amounts, >2 ng / ml in blood or more	180,000	1 year
Substance in urine	90,000	3 months

When more than one substance are detected, the highest concentration is used and sanctioned accordingly (ibid.). Repeat violations are sanctioned more severely; a second-time offence renders a fine of 130,000 ISK for small concentrations of THC, and 260,000 ISK for large THC concentrations. In such cases, the driving license will be suspended for at least two years (ibid.).

There has been a steady increase of reported drug-impaired driving cases since 2006, with some periods of decrease. In 2006, 95 individuals were reported for driving under the influence of illicit substances, as compared to 2127 for driving under the influence of alcohol. In 2016, there were more cases of drug-impaired driving than there were of alcohol-impaired driving, 1440 cases compared to 1251 (The Police, 2018).

Figure 3. Reported cases of alcohol- and drug impaired driving in Iceland between 2006 and 2016



(The Police, 2018)

In 2007, Magnusdottir, Thordadottir, Kristinsson, and Thorsdottir analysed 12,270 cases of suspected offences from 2001–2006. Of these, 99.2% were traffic violations, at a time when the number of cases of drug-impaired driving was on the rise. Alcohol was measured in all cases, and illicit substances in 4.7% (n=568) of the cases. The average of reported cases per year was about 2000, a high number considering the population size of Iceland (338,000 in 2018). In 1995, Iceland had the highest number of cases per 100,000 inhabitants in the five Nordic countries (ibid.). The most prevalent substance (alcohol not included) was benzodiazepines, which occurred in 50% of the analysed cases; in 47.9% of the analysed cases, the drivers were under influence of amphetamines, and 26% were under the influence of cannabis (ibid.). As many as 84.4% exceeded the statutory limit for driving under the influence of alcohol. The data in the study shows that over the years, increasingly more samples are tested for other substances than alcohol. We also need to bear in mind that the samples are not randomly selected, so the result cannot be generalised to the general population. The study indicates, as is also evident in other Nordic countries, that alcohol, medicinal substances, and illicit substances are a problem for traffic safety.

What do we know about the Icelandic cannabis market?

Data on police confiscations of illicit substances since the 1980s illustrates the prevalence of different substances in Iceland. The least seized illicit substance is heroin, while police figures from 1985–1995 show that the police seized mostly cannabis (147 kilos) and amphetamines and cocaine (20 kilos) (Gunnlaugsson & Galliher, 2010). In 2002–2007 the numbers increased: over 200 kg of cannabis, 100 kg of amphetamines, and 30 kg of cocaine were seized (ibid.).

The number of seizures has varied substantially since 2012, as Table 2 below shows. Most striking is the amount of hashish seized in 2017 compared to 2016. Annual differences can vary a great deal depending on one single major seizure.

Table 2. Amounts of narcotics seized between 2012 and 2017, by gram

Substance (gram)	2012	2013	2014	2015	2016	2017
Hash	546	173	357	1395	646	23855
Marihuana	19 743	30 786	56 665	46 033	30 754	25 872
Amphetamines	10 736	28 145	34 38	22 658	88 01	11 926
Methamphetamines	0	81	68	13	1014	226
Ecstasy	894	101	144	3513	1814	4345
Ecstasy (psc)	1073	537	1321	4035	1829	1809
Cocaine	4279	830	980	6027	621	1809
Heroin	0	0,9	0	0,4	0	0
LSD (psc)	14	115	2761	700	370	379

(Source: The National Commissioner of the Icelandic Police, 2017)

Two police reports argue that the domestic production of cannabis is growing and that the cannabis market is close to self-sufficient (The National Commissioner of the Icelandic Police, 2015 and 2017). This claim is confirmed by Helgi Gunnlaugsson, professor of sociology at the University of Iceland. The production increases in the countryside outside the capital in an organised fashion with facilities that are more spread out and with fewer large factories (The National Commissioner of the Icelandic Police, 2015 and 2017).

According to the reports, domestic growing increased after the banking crisis in 2008. Olafsdottir (2015) notes that the crisis indeed had an effect on other home-grown products such as vegetables, arguing that this also likely affected the domestic production of illicit substances. The number of cannabis confiscations also increased between 2008 and 2014 (ibid.), although it has to be said that this is not necessarily an indicator of increased cannabis circulation. The police attribute the increased supply of cannabis to rising cannabis consumption in the general population in recent years (The National Commissioner of the Icelandic Police, 2015 and 2017). This claim is partly supported by research, says Gunnlaugsson (personal communication, 052918). Heavy use is on the rise among adolescent cannabis users, whereas a larger share of the adolescents as a whole claims to have never tried cannabis in recent years (Arnasson et al., 2018). The majority have reduced their substance use, but a minority use cannabis more frequently.

The import, production, and distribution chain is increasingly characterised by involvement from criminal networks (The National Commissioner of the Icelandic Police 2017). One drug case every month can be attributed to organised crime, according to the police: about 100 people in the capital area are involved in more organised production, import, and distribution (ibid.). The majority of those involved are Icelandic males with an average age of 35.

The cannabis sale market is varied, and closed social media groups function as a space for distribution (ibid.). Increasing access to cannabis and other illicit substances through closed social media groups on the open web has led to the research project *Nordic Drug Dealing on Social Media*, which seeks to investigate web-based drug markets.

The police estimate that cannabis potency levels have similarly increased due to a globalised market and internet sales (The National Commissioner of the Icelandic Police, 2017), but they provide no backup evidence. The trend of increasing THC levels in cannabis can be seen in other Nordic countries, and a similar development in Iceland could be assumed.

Penalty levels and case law

Possession of cannabis for personal use is a crime that is handled and decided by the police commissioner in a summary procedure in accordance with Article 148 Act no. 88/2008 on the handling of criminal proceedings (State Attorney, 2009). A summary procedure presumes that the fine not exceed 500,000 ISK.

The penalty is a fine issued on a progressive scale. There is a basic fee for possession, and extra fees are added for every gram or part of gram. The state attorney guidelines for fining cases stipulates that the police must investigate whether the possession is for personal use or for sale no matter the amount, because a sale always leads to prosecution in court (ibid.). There are explicit limits for amounts that can be considered for sale, but doubtful cases should be thoroughly investigated. In an earlier version of the guidelines from 1996, 10 grams of cannabis was the limit for considering sales (Søe Sandell, 1997). Other considerations that may indicate sale no matter the amount are prepacked doses (ibid.). Text messages on the phone might be another indicator of sale that a prosecutor would investigate, rather than the amount as such, says Helgi Gunnlaugsson (personal communication, 050218).

Possession of small amounts of cannabis typically ends in a fine through a summary procedure, even though the penal scale also includes imprisonment (Søe

Sandell, 1997). In practice, only sales result in prison terms (Gunnlaugsson & Galliher, 2010). Due to rules about repeat offending, a summary procedure should be imposed only at the first offence and by consent (Søe Sandell, 1997; State Attorney, 2009). A young first-time offender with very small amounts in possession may have a lower penalty imposed than cited in the original tables. The courts should find an alternative prison sanction to a fine settled in court, according to Criminal Code art. 54. A fine settled through a summary procedure also requires a subsidiary prison sanction, which ranges from two days to 20 days' imprisonment depending on the amount of the fine. An unpaid fine may lead to imprisonment by a new prosecution according to Criminal Code art. 54 as settled in the summary procedure. The police commissioner has the possibility to collect assets through a seizure order according to the Law on Criminal Procedure (§ 2 art. 149). This is not used in practice (Søe Sandell, 1997).

Research shows that Iceland has generally speaking imposed longer prison sentences after the millennium shift. This is also when the penalties for serious drug violations were raised from 10 to 12 years (Gunnlaugsson, 2015a). As in other Nordic countries, more cases result in sentences close to the maximum penalty, compared to other crime types (ibid.).

The state attorney circular (2009) specifies the following fees:

Basic fee (minimum fines) for small quantities for personal use.

1. Cannabis kr. 30,000
2. Amphetaminekr. 40,000
3. LSDkr. 40,000
4. Ecstasykr. 45,000
5. Cocainekr. 45,000

Table 3. Added fee to minimum fines (purchase and possession for personal use) according to type of substance and the amount carried, Iceland

Cannabis	Basic fee plus kr. 4,000 per gram or part of gram.
LSD	Basic fee plus kr. 10,000 per dose (piece) or part of the dose.
Amphetamine	Basic fee plus kr. 10,000 per gram or part of gram.
Ecstasy	Basic fee plus kr. 10,500 per piece or part of the dose.
Cocaine	Basic fee plus kr. 25,000 per gram or part of that amount.

(Source: State attorney, 2009)

There are additional guidelines to the district courts in cases that exceed ISK 300,000 in fine (Judicial Council, 2015). The amounts should not be strictly interpreted but are reference amounts for possession and purchase for personal use.

Table 4. Guidelines for sentencing, by gram of cannabis, Iceland

Cannabis (gram)	Imprisonment
90–200	30–45 days
201–400	45–60 days
401–600	60–90 days
601–1000	3 months

(Source: Judicial Council, 2015).

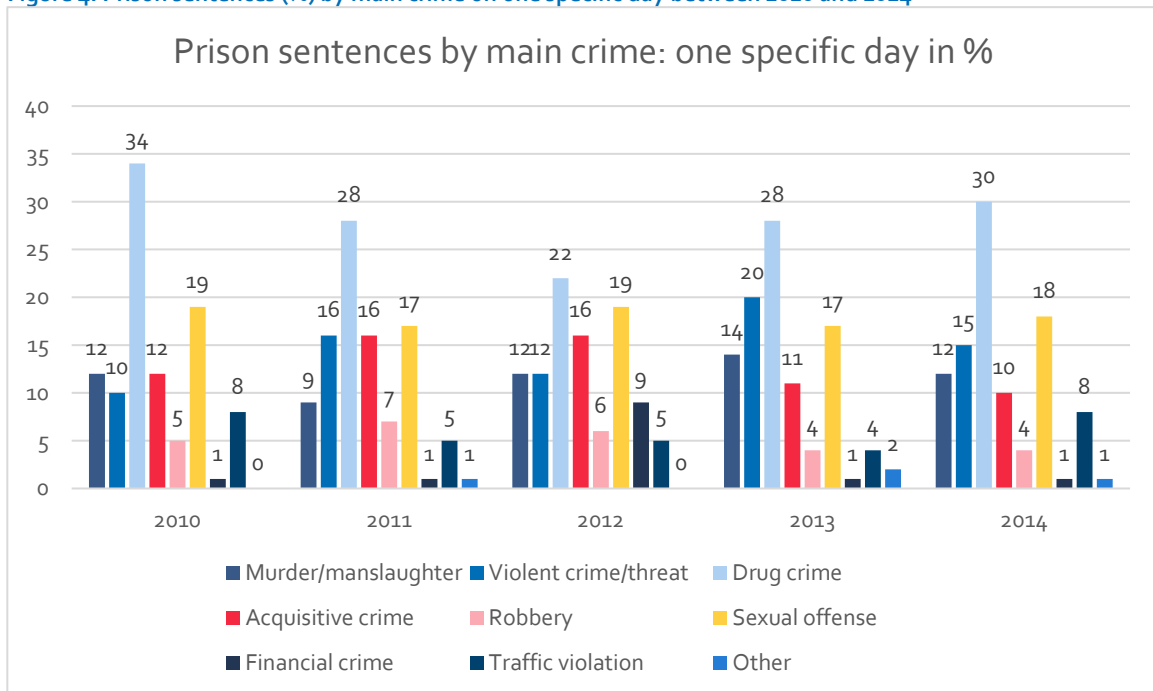
The Supreme Court ruled in 2015 that the growth and production of 169 marijuana plants (including possession of marijuana and money laundering) had a penalty value of 18 months in prison subsumed under the Addictive Drugs and Narcotics Act. The accused person admitted to about 120,000 EUR in profits. A lower court had previously sentenced the accused to three years in prison, but this was overruled in the Supreme Court partly due to the length of the judicial process (H. Gunnlaugsson, personal communication, 050218). It is hard to compare sentences that involve different criminal acts and law violations, but another case may give some insights into Icelandic case law for drug violations. In 2016 the District Court imposed a 45-day conditional prison sentence with two years' probation combined with a fine of about 495,000 ISK (about 4000 EUR). The accused person had 224.25 grams of marijuana, 15.47 grams of amphetamine, 2.73 grams tobacco-blended cannabis, and 6.5 grams of MDMA in possession. The sentence included a traffic law violation as well (Arnarsdóttir, 2016).

Due to the widespread use of summary procedures that are followed quite strictly, there is no real court practice for possession of cannabis for personal use (Søe Sandell, 1997). The prosecutor has to determine whether to impose a fine through a summary procedure or to prosecute on the basis of suspected sale – and in addition whether to prosecute according to the Addictive Drugs and Narcotics Act or the Criminal Code. There are no clear rules guiding that decision (Arnarsdóttir, 2016) but the Criminal Code is reserved for the most severe drug violations. There should be aggravating circumstances such as substantial distribution of illicit substances with high profits, but the circumstances are also determined by the quantity and sort of the substance (ibid.).

Penal sanctions system

The rising drug problem has consequences for the prison system (Gunnlaugsson, 2015b). In 2014 about one third of the prison population were incarcerated due to drug offences (Hildebrandt, 2016), compared to about 10% in the early 1990s (Gunnlaugsson, 2015b).

Figure 4. Prison sentences (%) by main crime on one specific day between 2010 and 2014



(Hildebrandt, 2016)

The penalties for drug violations have sharpened over the years. The increase from two years' imprisonment to six years was motivated in the proposition by the need to harmonise the penalties with other Nordic countries (Arnarsdóttir, 2016). The maximum penalty was raised from 10 to 12 years in 2001. In cannabis violations, fines for possession for personal use dominate the system but imprisonment is not uncommon for distribution, import, or production.

Imprisonment can be both unconditional and conditional. During the conditional sentence, which is normally around two to three years, the convicted must abstain from additional crimes (Bragadottir, 2004). A conditional sentence can be combined with treatment for substance use problems (Hildebrandt, 2016), but to what extent this condition is used and for which substance is unknown. Possession for personal use of cannabis results in most cases in a summary procedure, which means that conditions of treatment never apply.

In the recent decades, new forms of alternative sanctions have been introduced in the justice system. Community service was introduced as late as 1995 and was made permanent in 1998 (Olafsdottir & Bragadottir, 2006). Community service is not a penal sanction. Instead the Prison and Probations Administration decides whether to use community service, as is done with conditional release (ibid.). The possibility for alcohol and drug treatment during imprisonment or at the end of a prison sentence was introduced in 1988 in Iceland (Bragadottir, 2004). A special alcohol and drug treatment can be approved at the institution of Vernd. This is mainly for prisoners with longer sentences (any crime) who are at the end of their prison term, or persons with shorter sentences who have a steady job or are in education (ibid.). Vernd is a private, non-profit organisation where the inmates pay rent and live under strict rules (Gunnlaugsson, 2015a). In 2014, 82 convicted persons served their sentence in Vernd (ibid.). There is no information on specific cannabis programmes.

Olafsdottir and Bragadottir (2006) note the relatively high proportion of foreigners in Icelandic prisons. This is attributed to drug crimes. In 1995–2002 the share of foreigners increased from 1.1% to 4.5%; they have also received the harshest sentences (ibid.). In general, there has been a tendency to harsher sentencing, and proportionally more cases have resulted in convictions close to the maximum penalty for drug crimes in comparison to other types of crime (Gunnlaugsson, 2015a).

Waiving of measures

Iceland adheres to the principle of legality: any punishable act must be prosecuted according to § 24 in the Penal Code (Thorisdottir & Stephensen, 2002). The state attorney has the right to decide whether to prosecute (ibid.) and may also delegate the responsibility to the police commissioner. In 1997 the police commissioner was given the authority to decide on prosecution for all minor offences under the special criminal code (Olafsdottir & Bragadottir, 2006) which includes possession of cannabis.

As in other countries there are exceptions to that rule. If there is reason to believe that the prosecution will not lead to a conviction, the case should be closed. *Waiving of measures* where the conditions for prosecution are met does happen but is mainly relevant for young people aged 15–21 and can be combined with certain conditions (Thorisdottir & Stephensen, 2002; Bragadottir, 2004). Only about 5% of the cases in 2001 resulted in a waiver of measures (Thorisdottir & Stephensen, 2002); there must be no doubt about the guilt of the

accused; and a guilty plea is necessary. Additionally, there must be special circumstances such as a minor felony and first offence (ibid.). The conditions are normally valid for one year, and if there is repeat offending during that time, the case will go to trial. Young people under 18 years of age can serve their prison sentence in rehabilitation homes under six months, no matter the length of the prison sentence (ibid.). Under normal circumstances, waivers for cannabis violations do not occur (H. Gunnlaugsson, private communication).

Criminal record

Violation of the Addictive Drugs and Narcotics Act renders a note in the criminal record that is visible for three years but can be accessed by authorities longer than that if necessary (Gunnlaugsson, 2015b). A prison sentence is visible for five years in the criminal record.

Summary: Iceland

Iceland has traditionally a restrictive legislation and enforcement of drug offences, with no differentiation between different drugs. The penalties for drug violations have increased during the last 15 years, with a strict zero-tolerance policy for possession of cannabis. The number of drug offences has about doubled since 2001, and there has been concern about the increasing use of cannabis among the younger population and an increased supply. Recent years have seen a slight change in the public debate: changes to the existing local drug legislation have been proposed to the parliament such as decriminalisation and legalisation of cannabis for personal use. The proposals have found no support in the parliament but have led to an increased debate on the issue.

Consumption of cannabis is not criminalised. Possession of small amounts of cannabis is prohibited under the *Addictive Drugs and Narcotics Act* (Law no. 65/1974), and the most common sanction is a fine. More severe acts such as import, export, sale, purchase, exchange, delivery, reception, production, and preparation are prohibited according to article 2 of the law and result in a prison sentence.

The Criminal Code (1940 No. 19 art. 173a) regulates aggravated drug offences such as extensive sale to a large number of people for high profit.

As in the other Nordic countries, possession of cannabis for personal use is normally dealt with outside the court. The police commissioner issues a fine if the suspect consents to the procedure and admits the crime. Repeat offending can result in prosecution and a trial. Sentencing is advised by guidelines from the state attorney, based primarily on the type and amount of substance if the possession is for personal use. A young first-time offender with very small amounts in possession may have a lower penalty imposed than stated in the guidelines.

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Cannabis control in Norway

The first Norwegian legislation against drugs, the opium laws of 1913 and 1928, were a result from international conventions that aimed to control opium, cocaine, and cannabis (Skretting, Bye, Vedøy, & Lund, 2015). The current Medicinal Products Act was introduced in 1964 in the aftermath of the UN Single Convention on Narcotic Drugs in 1961. During the 1960s, there was increasing concern about new substances introduced to the Norwegian market.

Along with the hippie movement, cannabis made its way to the Norwegian youth culture in the mid-1960s (Hauge, 2015). The hippie movement was short-lived but cannabis use increased substantially during the 1960s and the 1970s. The change in consumption patterns, especially among young people, led to organisational changes within the police and to changes in the drug legislation (ibid.). The police created their own narcotics police section, the maximum penal sanction was raised, and all procedures on illegal substances apart from possession for personal use were moved from the Medicinal Products Act to the Criminal Code.

The idea was to strike the organised drug trade (Matningsdal, 2016). In the course of 1968–1984 the maximum penal sanction was raised from 6 months to 21 years. The total number of investigated drug offences rose from 437 in 1970 to 38,292 in 2000 (Hauge, 2015). During the preparatory work for a new Criminal Code, a committee (see NOU 2002:4) suggested decriminalisation of use, purchase, and possession for personal use, but this did not happen. When the proposal for a new Criminal Code was put forward in 2008, it included some changes to the drug legislation. Still, there was no intention to change the penalty scales or penalty levels for drug violations, but rather to confirm and uphold the general legislation and case law (Matningsdal, 2016).

Like Sweden and Finland, Norway has also abided by the overarching goal of a *drug-free society*, even though the government announced in 1997 that it was unrealistic that the drug problem could be solved within a near future (Skretting, Vedøy, Lund, & Bye, 2016). The government nevertheless argued that it was important to uphold the goal of a society free from drugs. The same year, methadone treatment was made permanent, and the following year, reducing substance use-related harm was introduced as a main aim in the new national action plan against substance use problems, with a focus on treatment and quality of life for people with substance abuse (ibid.).

The 2000s have shifted the national policies on illegal substance use and how to handle and regulate illegal substances. In 2011 a government committee proposed alternative sanctions for minor drug crimes and a focus on motivational treatment forms and consent-based interventions (Justis- og politidepartementet, 2011; Skretting et al., 2016). The national drug policy (Meld. St. 30, 2011–2012) introduced five prioritised areas in 2012: 1) prevention and early intervention, 2) partnership among service agencies, 3) increased knowledge and better quality, 4) assistance to heavy substance abusers and reduction of overdose death rates, and 5) assistance to relatives and efforts against passive drinking (ibid.). In 2012 the social democratic government rejected the notion that decriminalisation of use of illegal substances would reduce problems associated with drugs, but at the end of 2017, the then right-leaning government announced changes to the legislation that would mean a decriminalisation of use and possession for personal use. The proposal has not yet been presented.

Norwegian drug legislation

Cannabis is regulated in the Medicinal Products Act § 24 cf. § 31 and in the Criminal Code § 231 and 232. Originally, illegal substances were regulated in the Medicinal Products Act, but in the late 1960s, all procedures on drugs apart from use and possession for personal use were moved to the Criminal Code (Hauge, 2013). Criminal Code § 231 (common drug offence) or § 232 (aggravated drug offence) apply in more serious cases, such as distribution, production, import, export, storage (possession of larger quantities), or purchases.

Use and possession of doping substances is regulated in the Medicinal Products Act, whereas doping violations or aggravated doping violations are regulated in Criminal Code § 234 and 235.

- The Medicinal Products Act (fine or imprisonment for up to six months)
- Criminal Code § 231 (fine or imprisonment for up to two years)
- Criminal Code § 232 (imprisonment for up to 10 years)

If the violation concerns very large quantities, a maximum penalty of 15 years applies. A sanction of 21 years can be imposed in certain aggravating circumstances. The penalty scales can be doubled (more or less) for repeat violations of a similar crime.

Medical cannabis

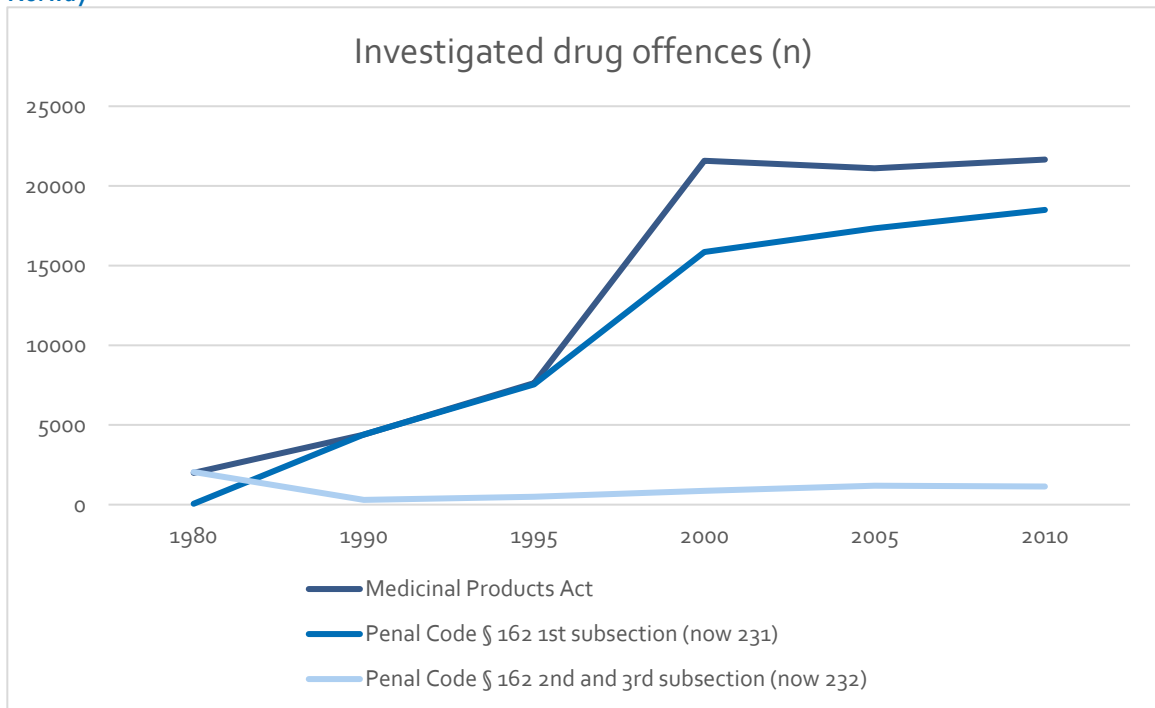
The Norwegian Medicines Agency has only approved one cannabis product – Sativex for multiple sclerosis – for medicinal use (Skretting et al., 2016). Patients may apply for other products such as Marinol and Cesamet under special circumstances (Legemiddelverket).

Police-registered drug offences

This section introduces some general statistics in relation to drug crime for use and possession, with a focus on reported offences. While actual user rates impact on the statistics, police methods and overall strategies also have a profound impact on reported offences and on who is controlled.

Norway saw a steep increase in reported drug offences until the year 2000, mostly concerning minor offences (SSB, 2003).

Figure 1. Number of investigated drug offences between 1980 and 2010, by number and section of law, Norway



(Hauge, 2013)

The number of registered offences against the Medicinal Products Act has increased since about 1995, as has the number in all age groups of people suspected⁴ of possession according to the Medicinal Products Act (main crime) (SSB, 2003). Before 1995–1996, almost no one was suspected of possession of small quantities. The rising figures suggest a change of practice, where the same act was previously registered and sanctioned under the Criminal Code (*ibid.*). Between 1992 and 2001 the numbers doubled of persons caught with use. Those caught for only use tend to be young people.

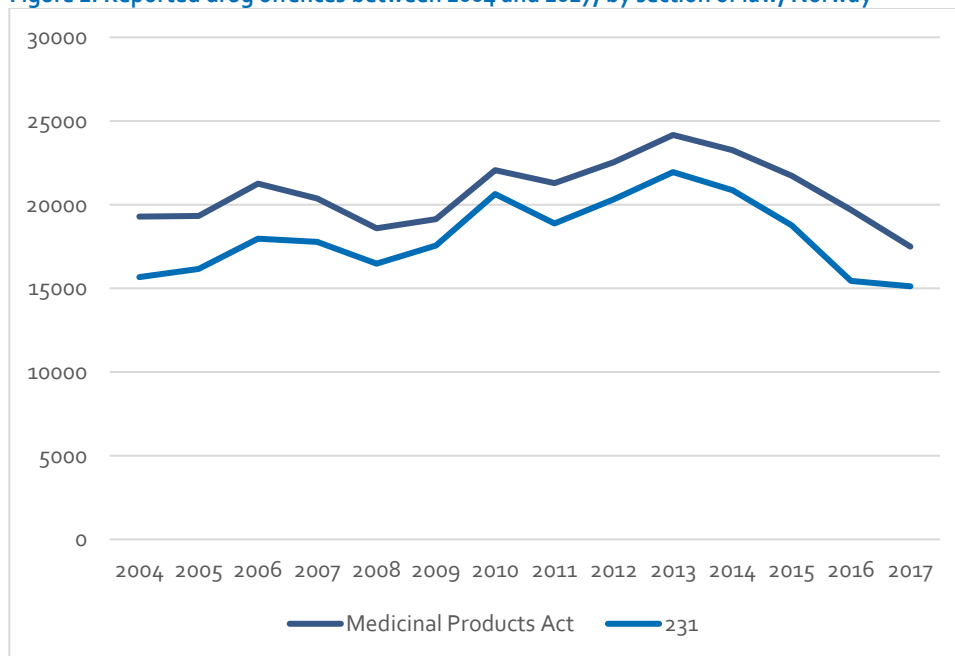
Does this mean that drug offences have become more common and widespread? Probably not. The increase of reported crimes and suspected persons between the 1980s and the year 2000 can partly be attributed to the introduction of 'harder drugs' such as heroin onto the market and mainly to an increased focus by the justice system (the police) on minor drug offences (SSB, 2003; Hauge, 2013). Stricter crime registration by the police and increased use in the population may also contribute to some extent to the increase in reported crime until the year 2000 (SSB, 2003).

The figures for minor reported drug crimes stabilised somewhat in 2000–2010, and have in fact slightly decreased since 2010 (SSB, 2018a; Sætre, Hofseth, Hansen & Bakosgjelten, 2015). We are now back to where we were in 2003–2004. From 2013 (see figure 2) there has been a decrease in reported drug crimes with about 21% for all categories of acts, but the biggest decrease can be seen in use and possession for personal use. To be more specific, reported crimes for use of drugs decreased by 12.5% from 2016 to 2017 (Politiet, 2018).

We know from previous studies that the number of drug crimes per person is high, so that only a few people commit a very high number of crimes. This smaller group of people may therefore have a strong impact on the statistics, which we need to bear in mind.

⁴ 'Suspected persons' are individuals seen as perpetrators after completed investigation by the police and prosecution authority. The term 'suspect' is not to be confused with the 'suspect' of the Penal Process Act §82. Individuals caught with several crimes during the same year will be registered according to the crime with the highest penalty scale (SSB, 2003).

Figure 2. Reported drug offences between 2004 and 2017, by section of law, Norway



(SSB, 2018a)

What we see in the statistics of recent years is, according to the police, a down-prioritisation of efforts to control individuals with heavy substance use (Politiet, 2018). The police argue that most of the heavy substance users suspected of use and minor possession are suspects as by-products of other crimes. Crimes related to use and possession for personal use are often detected in conjunction with investigation of other crimes such as drunk/drugged driving or distribution of drugs. About 55% of the violations against the Criminal Code and about 42% of the violations against the Medicinal Products Act involve one or more offences, often crimes such as theft (ibid.).

We should also remember that all reported crimes have decreased during the same period, which may serve to explain the decrease in drug offences.

Cannabis in police-registered offences

There are no official crime statistics based on different substances in Norway, and few studies have calculated the share made up of cannabis. According to a study by Hauge and Nordlie (1989) on drug offences in 1984, about 75% of those

concerned cannabis (references in Hauge, 2013). There is reason to believe that the share of cannabis offences is lower today, as there are now more cases involving other, harder drugs such as heroin. The introduction of heroin and other hard drugs in the society probably also partly explains the high increase in investigated drug offences until the 2000s (ibid.).

Drug-impaired driving

Since 2012, Norway has applied a similar system for drunk/drug-impaired driving, with legal limits regulated in Road Traffic Code § 22. Violations of the law are sanctioned with a fine or up to a year's imprisonment (§ 31). There are precise limits for different substances, with minimum limits to ensure that the law 'only frame those drivers with substance concentrations in the blood who may suffer from impaired performance' (Samferdselsdepartementet, 2009, p. 6). A proposition that revised these limits in 2016 concluded that there was insufficient research evidence to suggest any limits for synthetic cannabinoids (Samferdselsdepartementet, 2015).

The minimum concentration limits for different substances are equivalent to the legal minimum level of alcohol concentration of 0.2 per mille in the blood (Rusmidler i Norge, 2016). The limit for punishment assessment is equivalent to 0.5 per mille in the blood. The minimum limit for THC is 0.004 µm blood (micromol per litre), while the limit for meting out punishment is 0.010 µm blood. A THC concentration of 0.030 µm blood is equivalent to an alcohol concentration of 1.2 per mille in the blood (Samferdselsdepartementet, 2012).

Guidelines published by the state attorney (Riksadvokaten, 2009) set the fine (summary procedure) to 6000 NOK for driving with an alcohol concentration of 0.21 to 0.4 per mille in the blood, and at 10,000 NOK for driving with 0.41 to 0.5 per mille in the blood. For other substances than alcohol the fine is set to 8000 NOK with the equivalent up to 0.5 per mille alcohol in the blood. Individuals sentenced for drug-impaired driving can receive a conditional sentence tied up to participation in a treatment programme (Hildebrandt, 2016). Such a sanction includes an assessment of the need of treatment, individual talks, and about 25 hours of education. This is a voluntary sanction, and most of the participants come with a history of alcohol-impaired driving.

In accordance with § 22a in the Road Traffic Act, the police can take a screening test if the driver can be suspected of driving under the influence, when a driver is involved in a traffic accident, or as part of a routine traffic control. If the screening test is positive, the police can take a breath test, a blood sample, or a spit

test, and the results are valid as evidence in court. If a suspect refuses a breath test, the police can take a blood sample.

The data on reported crimes of alcohol- and drug-impaired driving does not separate between legal and illegal substances, but there is other data to illustrate the scene. Of all suspected persons for drug offences in 2015 ($n=24,500$), 21% had drug-impaired driving as main crime (SSB 2015). Drivers caught under influence can also be prosecuted for use in accordance with the Medicinal Products Act (Politiet, 2018). The number of reported cases of drug-impaired driving has increased over the recent years (ibid.), whereas the number of breath and blood samples sent in for analysis has remained at about 10,000 a year since the beginning of 2000 (Skretting, 2016). All the same, there are now fewer alcohol samples and relatively more samples suspected of being related to other substances than alcohol: the figure has gone up from about 4000 samples in 2003 to 6000 in 2015. The development for alcohol samples is almost the exact opposite: about 6000 samples in 2003 and 4000 in 2015 (ibid).

According to a report by the Oslo University Hospital (Oslo universitetssykehus, 2017), 8203 blood samples were analysed in relation to suspicions of drug-impaired driving in 2016 (incl. alcohol). As many as 6464 of those were analysed for all psychoactive substances, both legal and illegal, and about 93% showed positive for at least one substance (ibid.). Ethanol (alcohol) was detected in 3264 of the 8203 cases and was the most prevalent substance. Of the 6464 cases that were analysed for all psychoactive substances, 43% contained TCH, 31% contained amphetamines, and 28% had clonazepam in them (the active substance in Rivotril). The next most common substance was methamphetamine (18%), Diazepam (Valium, Vival, Stesolid, 12%), and Alprazolam (xanor, 6%) (ibid.). The distribution and frequency of the substances are about the same as in previous years. The share of samples submitted for analysis for other substances than alcohol has also increased since 2011. The share of samples containing THC has thus increased slightly during this period (ibid.).

A study investigating fatal traffic accidents (drivers killed = 1077) in Norway in 2001–2010 (Christophersen & Gjerde, 2014) found that 25.3% showed positive for alcohol, 8% for amphetamines, 7.2% for THC, and 5.5% for Diazepam. Compared to Swedish studies, the Norwegian study has a disadvantage in that only 63% of the drivers were subjected to a post-mortem examination. This produced a bias of overrepresentation of some groups (young men who died at night during the weekend), possibly overestimating the share of some substances. Sandberg (2015) concludes that the results are nevertheless similar to those in Swedish studies in relation to the prevalence of different substances.

Who is controlled?

Who is suspected and sentenced for drug crimes, and specifically use and possession for personal use, and can we say something about the suspected cannabis users?

Most of the research suggests that the convicted drug offenders differ from the general population in some important social and economic factors (see for example Houborg & Mulbjerg Pedersen, 2013, or other research in this report). A previous study that investigated the life trajectories of individuals convicted of more serious drug offences argued that it can be empirically challenging to separate the 'innocent' drug abuser convicted of minor drug offences from the 'villain' convicted of distribution, because they frequently share similar life stories (Shammas, Sandberg, & Pedersen, 2014). The authors criticise the tendency to make simple categorisations on whether the individuals are on the supply or demand side of the drug market. It is also important to remember that the Penal Code 231 (distribution) ranges from rather small amounts of storage to larger ones and is not necessarily a good indicator of an individual's situation and place in an organised distribution chain.

What one can find among the general criminal population one can also find among the drug offenders: unprivileged and unfortunate childhood conditions such as low parental education, divorce, parental unemployment, and welfare recipients (Skarðhamar, 2007). What stands out in Skarðhamar's study is that neighbourhood is related to drug offending more than to other offences, which may be explained by an increased supply of drugs in certain areas. It may also be that the police are more present in certain areas or cities than in others, thus producing more drug crimes in those areas even though the occurrence is as high in other areas (see for example Brå, 2018). Individuals that use substances in certain areas, and especially in public spaces, are also probably more at risk of being suspected than others using substances indoors (Skarðhamar, 2005). In an interview, a police officer also noted that young people in overcrowded apartments in poorer areas are at a bigger risk of being detected by the police as they spend more time outside of the home.

Children of parents with one or more drug convictions are more likely to become suspected of a drug offence later in life, especially when the parents are suspected of use or possession for personal use (Skarðhamar, 2007). It is important to point out that most individuals with poor childhood conditions will not be suspected of drug offences, but the risk certainly increases.

Other strong correlates for being suspected of a drug offence are age and gender (SSB, 2003). Young males in their twenties to mid-twenties are more often than others suspected of drug offences. During the increase in drug cases in the 1990s, the largest increase concerned the age group 15–24 (SSB, 2003). The 30–39 age group is similarly arrested more frequently than before: the cases for this age group doubled in 1992–2001 (SSB, 2003). The number of suspected persons decreased somewhat in 2002–2005, and increased again for all age groups after a couple of years of stagnation (SSB, 2018b).

We can assume that criminal cases involving cannabis are more prevalent in the younger age groups, whereas other substances are more prevalent in the older age groups. We have no such statistics in Norway, but a Swedish study on suspected adolescents showed that about 50% of the cases involved cannabis, which is probably an underestimation (Brå, 2018). There are probably regional differences. A report about voluntary drug contracts (Lien & Larsen, 2015) – a voluntary service offered to young people that includes drug testing and supportive talks – shows that young people from an area in the east of Oslo (a less wealthy area) have more social problems and a more developed use with a variation of substances, not only cannabis. They have also had more contact with the police and the Child Welfare Service (*ibid.*).

More knowledge is needed on the local differences in terms of the actors initiating the process (parents/school/psychiatry/police), especially as some areas seem to have adolescents with a more complex drug use combined with social problems than others. It would also be important to have more knowledge on how young people with an already developed drug problem can be detected earlier, and through other actors than the police.

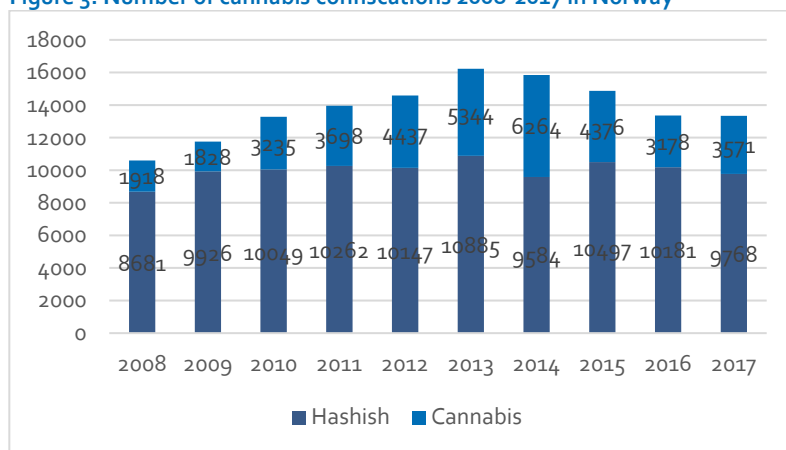
The risk of getting caught for cannabis use with cannabis as the main and the only substance is probably very low. In a survey among 21–30-year-olds, only about 1% of the cannabis users ($n=1064$) said that they had been arrested for drug use (Bretteville-Jensen, 2013). In comparison about 20% of those that reported using cannabis AND other drugs ($n=548$) had been arrested. One conclusion is that the police to a higher extent control users of drugs other than cannabis (*ibid.*). But one can also imagine that the individuals that combine drugs use them in more exposed arenas with a higher risk of detection (night life as compared to private spaces, for example) or that they have other issues that attract attention from the police. An international comparative study on drug-related police encounters (Hughes et. al., 2018) found that Norway had the highest self-reported arrest rate of all the compared countries, which included among others Sweden, Denmark and Finland.

Cannabis on the Norwegian illegal drug market

We are able to assess the occurrence and distribution of different illegal substances on the illegal market by using customs and police data on confiscations and by taking into account the price levels of different substances. Cannabis is the most consumed and confiscated illegal substance in Norway (Kripos 2017). There are indications of growing domestic production of cannabis (marihuana) with connections to organised criminality and violence (Bretteville-Jensen, 2013; Skretting, 2016), but the import market has also changed. It is now more professional with large-scale import whereas it used to be the users themselves that imported cannabis in rather small amounts (Bretteville-Jensen, 2013). The police draw the conclusion from Europol data that organised criminal networks are increasingly involved in cannabis distribution, shifting from cocaine and heroin to cannabis due to low risk and high profit (Kripos, 2015). According to European data, cannabis constitutes 38% of the illicit drugs distributed in the EU (heroin 28% and cocaine 24%) (Europol/EDMCCA, 2016). These estimates are uncertain and based on limited data but do give some market indications.

The distribution of import and domestic-grown marihuana is unknown, but the confiscations of home-grown marihuana have increased between 2001 and 2011, at least the number of confiscations (not necessarily kilos) (Bretteville-Jensen, 2013). The number of total cannabis confiscations has increased since the 1970s from about 5-700 to about 10,000. In the recent years, the number of confiscations has been about 15,000–16,000 annually (Skretting, 2016). Police priorities and enforcement impact on both the number of confiscations and the total seized amounts. These may also vary depending on whether the police prioritise street-level dealers or large-scale imports.

Figure 3. Number of cannabis confiscations 2008-2017 in Norway



(Kripos, 2017)

The cannabis market can be divided into different trading markets: private, semi-private, and public (ibid.). Private areas can be in apartments, among friends, or take place through exclusive contacts. Clubs, pubs, and cafés where the buyer has to know the seller make up the semi-private market, and markets where anyone may enter without any previous knowledge of the buyer/seller constitute the public market (ibid.), or open drug scenes. Indications of the increasing importance of the home-grown industry give reason to believe that the private market circulates a considerable amount of marijuana. According to the Customs Agency, the internet market is increasing its share of the distribution market (Politiet, 2018).

In a report about the Oslo illicit drug market, the police claim that some of the distribution and purchase takes place not only in closed markets such as the dark net, but also on open markets such as Finn.no (retail market place). The web-based market is diverse; according to a study (EMCDDA, 2017), half of the sellers on the dark net are based in Europe. The Norwegian police has in recent years investigated web-based market places run by Norwegians who are well-educated and integrated in the work force (Sætre, Hofseth, & Kjenn, 2018). These vendors seem to have few connections to the traditional physical and public drug scene in Oslo (Sætre et al., 2018). International studies – albeit few in number and with small samples – confirm such findings: the vendors were predominately male, young, 'tech-savvy', and rather educated with an Anglo-Saxon and western European background (Kruithof et al., 2016).

There are no national estimations of the share of cannabis circulating among the different markets, or to what extent the internet as a market is growing. It is possible that well-established traditional, physical drug scenes like the one in Oslo may saturate the need for new markets (Sætre et al., 2018).

Between 1993 and 2011 the price on hashish, heroin, and amphetamines decreased steadily (Bretteville-Jensen, 2013). There was a small rise for hashish in the early 2000s, followed by a stagnation until about 2006–2007, when the price decreased again.

The potency level in cannabis products in Norway has increased according to the police (Kripas, 2017). The average potency in the analysed cannabis products during the last two years has been about 23% THC, while the domestically grown cannabis plants have potency levels of 5–18 % THC (ibid.).

Synthetic cannabinoids

We know little about the development of use and occurrence of synthetic cannabinoids, or 'legal highs' as they are sometimes labelled. A population survey from 2012 among 16–30-year-olds showed that about 0.3% (two persons) had used synthetic cannabinoids during the last year (Bilgrei & Bretteville-Jensen, 2013). The two individuals had also used other substances such as ecstasy, LSD, and cocaine, but the small numbers prevent any meaningful conclusions. This was the first time that the question of synthetic cannabinoids was included in the survey.

Penalty assessment and case law

Court practice has a significant impact on penalty levels and sentencing practice in relation to drug violations. Important sentencing aspects were also confirmed in the new Criminal Code proposal (Ot.prp. nr 22, 2008–2009). While the quantity and type of substances influence the penalty scale, aggravating and mitigating circumstances play a bigger part, such as the role of the accused in organised crime, or whether the accused is assessed to benefit from drug rehabilitation or is currently in treatment (Matningsdal, 2016). The proposal also took a stand against reducing the penalty levels for 'soft drugs' such as cannabis.

A report from the Justice and Police Department (2012) on alternative sanctions finds that the penalty levels, although still severe, have decreased somewhat – especially of violations related to personal use. The amount of cannabis that distinguishes between possession and storage has increased steadily. Initially the maximum limit for a summary procedure was 5 grams of cannabis (Hauge, 2015) but was later raised to 15 grams of cannabis, 30 cannabis seeds, and spice mixes up to 2 grams (Matningsdal, 2016). New guidelines from the state attorney in 2010 (Riksadvokaten, 2010) concluded that the practice regarding import had changed, and that import of small amounts of a substance should be dealt with in a summary process. This means that the right to issue sanctions – fines - in less severe cases is delegated to prosecutors within the police authority in order for them to initiate summary procedures⁵. The practice results from a general de-penalisation of drug violations for personal use.

The recent decades have also seen a change in prosecution practice (Hauge, 2015). As in other Nordic countries, the Prosecution Agency issues circulars to

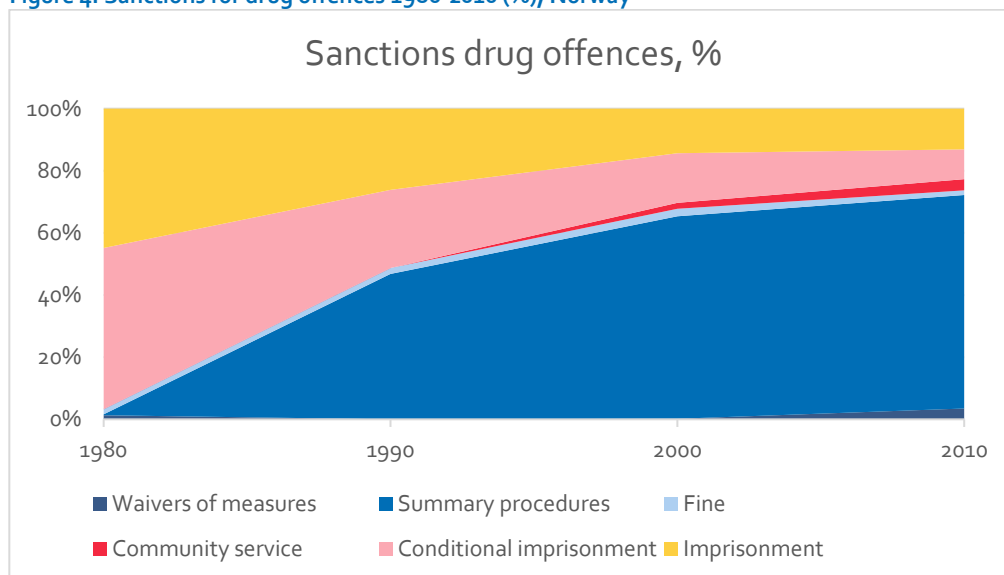
⁵ For a more detailed description of this practice, see section "fining practice".

the courts and prosecutors to differentiate between less and more serious offences and to advise on the penalty level.

The state attorney's circular of 1998 (Riksadvokaten, 1998) lays down that the boundary between possession and storage (Medicinal Products Act vs Penal Act) is one usage dose. The guidelines have considered adjustments in both 2006 and 2010 due to a general decrease in the penalty levels for drug violations. The guidelines are not a source of law but rather a summary of established law by the Supreme Court.

Use and possession for personal use make up about half of all the reported drug violations but regular users are likely to possess enough quantity to be sentenced according to Penal Code § 231 (storage). Out of a total of 33,585 drug violations, 15,123 violations were registered against § 231 (Penal Code) in 2017 (SSB, 2018a). This indicates the latitude of the paragraph and that it is relatively easy – even for regular users – to tip over from the Medicinal Products Act to § 321 of the Penal Code. This is also confirmed by the police officer we interviewed. Use and possession of very small amounts for personal use falls under the Medicinal Products Act, whereas storage is dealt with under Criminal Code § 231. Storage requires possession for a longer period of time. Possession of a larger quantity is normally viewed as storage and therefore falls under the Criminal Code (ibid.) no matter if the intent is personal use or distribution (Justis- og politidepartementet, 2011). A judgement from 2005 (Rt. 2005 s. 1319) concluded that possession of 13 grams of hash was well over the limit for possession for personal use within a very short time frame. The case was assessed as storage, not possession. Possession of a small quantity with the intent to distribute is in the same way storage and regulated by the Criminal Code (Matningsdal, 2016).

Figure 4. Sanctions for drug offences 1980-2010 (%), Norway



(Hauge, 2013)

When the upper limit for summary procedures was increased from 5 grams of cannabis to 15 grams, the share of summary procedures increased even more as we see in figure 4 (Hauge, 2013). The changing limits have thus decreased the penalty levels for use and possession for personal use. According to Hauge (2013), there seems to be a slight decrease in the penalty levels also for more serious violations in relation to cannabis, but as there is more to consider than just quantity and art, such as aggravating or mitigating circumstances, more serious crimes are harder to compare. No distinctions are made in the guidelines between marihuana and hashish, but court practice has shown that the sanctioning should reflect the differences in potency between hashish and marihuana (LB-2017-1900528).

Penal sanctions system

Norway stands out in Scandinavia as the country with the most severe punishment for drug violations in terms of the penalty scales. During the 1960s, 1970s, and 1980s, the penalties for drug violations including cannabis were both sharpened and applied (Hauge, 2013). Youth violations normally led to a summary procedure or a waiver of measures, but other cases were normally brought to court. In 1980, only about 2% of the violations resulted in a summary procedure or waiving of measures. Ten years later about half of the violations – almost exclusively of the Medicinal Products Act – were settled in a summary fine procedure (ibid.). About 88% of the violations against the Medicinal Products Act, that

is, use and possession of very small quantities (about 1 to 2 usage dose), ended with a summary procedure (ibid.).

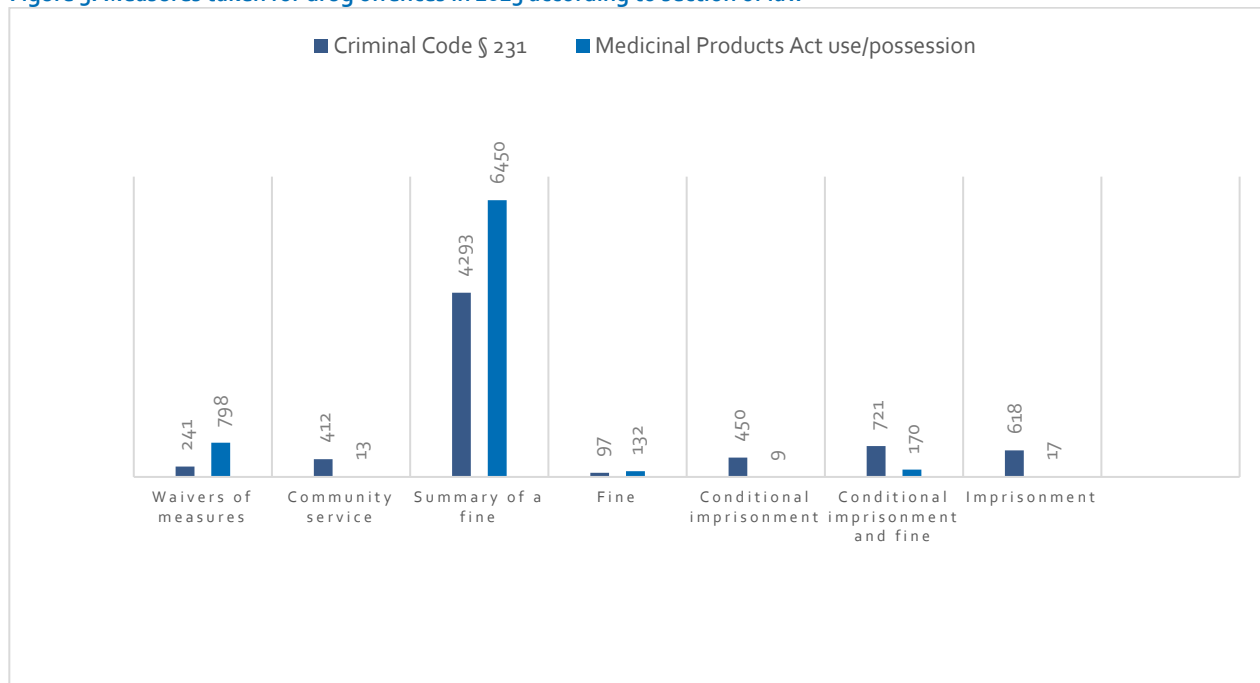
The government has taken initiatives to develop alternative sanctions for less serious drug violations, such as offering deals on follow-ups instead of prosecution and a criminal record. An interdisciplinary board was established to evaluate alternative sanctions for persons arrested for use and possession for personal use (Justis- og politidepartementet, 2011). Other measures include the recent implementation of drug programmes under court control.

Penal sanctions are regulated by Criminal Code § 15. The different penal sanctions are imprisonment, detention, community service, and fine (Justis- og politidepartementet, 2011). Other sanctions that apply are not penal sanctions but alternative measures, such as forced psychiatric/mental care, waivers of measures, and transferral to the Norwegian Mediation Service, a government agency with a mediating function between the offender and victim(s). In addition, provisions can be tied to both waivers of measures and conditional sentences, such as treatment or follow-ups. There are drug programmes under court control, and community service may similarly be tied to treatment or follow-up (ibid.).

In 2017, 55% of the violations against the Medicinal Products Act were dealt with through a summary procedure, whereas about 31% were prosecuted. The remaining violations were waived or transferred to the Mediation Service (Politiet, 2018). The transferred cases are often part of other violations. A prison sentence for violations against the Medicinal Products Act alone is very rare. The few existing cases probably belong to a set of different, parallel violations (ibid.)

According to the police, the age group 18–23 commits about 30% of all cases of use and possession for personal use (ibid.). Young persons aged 15–17 make up about 8% of the same cases, and for this group, most of the cases (72%) result in a waiver of measures, many times with conditions such as follow-ups or youth contracts (ibid.).

Figure 5. Measures taken for drug offences in 2015 according to section of law



(SSB, 2018c)

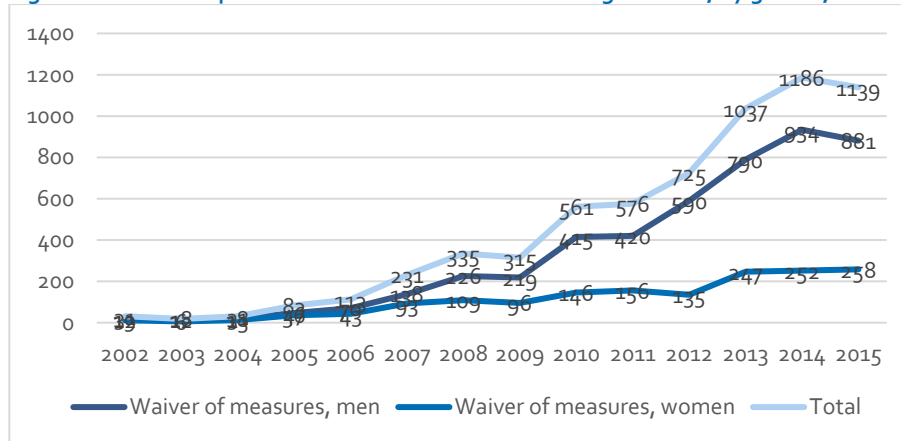
In drug violations against the Medicinal Products Act as main crime, a great majority of the sanctions imposed – about 82% – were a summary procedure, followed by waivers of measures with conditions (10%), unconditional and conditional imprisonment (2.5%), and a fine (1.7%) (SSB, 2018c). Violations against Criminal Code § 231 diverge somewhat, mainly in terms of prison sentences and fewer fines. Violations were sanctioned by a summary procedure in 58% of the cases (fines), followed by unconditional and conditional imprisonment (24%), community service (5.6%), waiving of measures with conditions (3.3%), and a fine 0.1%. The high number of fines indicates that § 231 of the Criminal Code encompasses a great variety of criminal acts, including many minor offences.

Waiving of measures

Waiving of measures is getting more common in Norway for all crimes, decided by the prosecution authority. Measures can be waived in a range of circumstances surrounding a specific case, according to Penal Process Act § 69. They often have to do with the perpetrator's age and the severity of a crime, or other social circumstances. If a person has committed several crimes, measures can be waived for smaller offences that have little impact on the sentence. Of the drug offences committed by young people under 18, 72% resulted in the waiving of measures or transferral to the Mediation Service (Politiet, 2018). Waiving is a

common practice for young people that commit minor drug violations, and is often combined with conditions, such as youth contract or youth follow-up (Poli-tiet, 2018). This is the advised practice for young people aged 15–18 for minor drug violations (Riksadvokaten, 2014).

Figure 6. The development of waivers of measures for drug offences, by gender, Norway



(SSB, 2018c)

The total number of waivers of measures for all types of crimes (as sole measure) has increased recent years (Riksadvokaten, 2018). There are no obvious explanations for this development; a follow-up is advised by the state attorney (ibid.).

Fining practice

As in other Nordic countries, there are fines set by court or through a summary procedure. A summary procedure is a process where the sanction is settled outside of the courts with a fine. This is applicable to violations of the Medicinal Products Act and Criminal Code § 231 up to 15 grams of cannabis where there is no intention to distribute. The police commissioner or a special prosecutor within the police may settle the case with a fine, provided that there are no doubts about the guilt of the accused and that the person confesses and agrees to the procedure and fine. If the accused does not accept the procedure or the sum, she/he will be prosecuted. The sum of the fine should be relative to the economic situation of the person.

The fining level varies regionally, but the sums seem to have increased over time, especially for violations against the Criminal Code, but also for violations against the Medicinal Products Act. An unpaid fine is converted to a prison term

of 1 to 120 days according to Criminal Code § 55. The court determines a subsidiary prison term, which is dropped when the fine has been paid in its entirety. This rule does not apply to people who have committed a crime under the age of 18. How many persons convicted of drug offences, then, serve a prison term due to unpaid fines? To our knowledge, there are currently no official data available. During 2014, 1179 cases (all crimes) were converted to a prison term, altogether 31,079 days in prison in 2014 (Langset Storvik, 2015). The mean prison term was 85 days (ibid.).

There are no formally set fine levels, or any official document that guides the fining levels according to the type or quantity of substance, as in Sweden, Denmark, Iceland, and Finland. The argument is that the fining level should mirror the local circumstances and that individual circumstances such as economic resources should matter when the level of the fine is decided.

In practice, this means that local police districts have different fining levels (summary procedure), also within cities. The guidelines advising the police on fining levels are not official documents. The police impose harsher summary fines in 'problem areas', said an interviewed police officer. In a local document from an Oslo-based NGO, the practice is described as discriminating and unnecessarily harsh, with fines up to 10,000 NOK for drug violations or expulsion from the area on the basis of suspicion of use or possession (Gatejuristen, 2012). 10,000 NOK is about the double or more the average fine for drug violations. Contact with an NGO working with drug policy and user participation (Foreningen for human narkotikapolitik) in Norway confirms that the practice is still in use, and specifically targets so-called 'open drug scenes'.

Alternative sanctions to fines and imprisonment

There are several alternative sanctions for drug violations in Norway. *Community service* is not meant for more serious violations but for users whose rehabilitation might profit from this kind of sanction (Matningsdal, 2016). Whether it is relevant in cases involving cannabis is hard to tell, but it has been used in cases of, for example, cultivation of cannabis plants (ibid.). Through the development of court practice, community service lies between conditional and unconditional imprisonment in terms of severity.

Drug programme by court order is a recently installed sanction (Act of 17.juni 2005 nr. 92), with special 'drug courts' for people with drug problems and a long criminal career who are sentenced for drug-related crimes. It is an alternative to unconditional imprisonment and came about as a response to the problem of high recidivism for drug offenders (Falck, 2014).

'Drug-related crime' applies to drug violations and other crimes committed under the influence of drugs or committed to finance drug use (Matningsdal, 2016). *Drug programme by court order* is a voluntary measure with individually planned rehabilitation programmes. Drop-outs might have to serve the rest of the sentence in prison. It is probably not suitable for persons with very severe drug problems and/or mental health issues (Johnsen & Svendsen, 2007; Falck, 2014). An examination of the first 20 sentences concluded that nine individuals used heroin as main substance, nine used amphetamine, and one had cannabis as the main substance (Johnsen & Svendsen, 2007). An evaluation (Falck, 2014) concluded that almost every substance is represented in the programme, but it is unclear if the programme is relevant for cannabis. The evaluation found that the most used substances in the programme were amphetamines, cannabis, sedative drugs, and alcohol (in that order), both during lifetime and over the last six months (ibid.). In 2016 there were 35 initiated and 30 completed drug courts verdicts (Kriminalomsorgen, 2016).

Young drug offenders

The age of criminal responsibility in Norway is 15, as in the other Nordic countries. A child under the age of 15 that violates the Medicinal Products Act or the Criminal Code is transferred to the Social Services and the Child Welfare Service. There are also other penal restrictions for youth under 18. A 21-year sentence may not be imposed and the courts are not bound by the lowest level of the penalty scale: there is a possibility for more lenient sentences. The new Criminal Code (2005) also introduced a new system with youth penalties for the more serious offences committed by people aged 15–18 (Konfliktrådet, 2016). Young

drug offenders can be transferred to the *Norwegian Mediation Service* for follow-up programmes as a condition for a waiver (this is decided by the Prosecution authority), a practice recommended for young people with a more complex problematic situation (Riksadvokaten, 2014).

Drug contracts for young people

Voluntary drug contracts are meant for young people at risk, from 13 to about 18 years of age (Lien & Larsen, 2015). The contract includes regular drug testing and interviews during a period of six months to a year. Drug contracts are offered by the local municipalities and may vary in their approach and content, but the main principle is the same. It is a voluntary offer that aims at preventing further drug use in the target group through regular contact with health services, school, doctors, or the child welfare service, all depending on the local system (ibid.). Youth on voluntary drug contracts are mainly transferred through parents, school, or through information from the police (ibid.).

Drug contracts may also be imposed as a condition combined with a waiver of measures for a drug offence. If a drug contract is conditioned, failure to fulfil the contract may result in a stricter sanction (ibid.). A fulfilled contract results in a waiver of measures, which in turn means that the violation does not show in the criminal record.

A government commission (Stoltenberg, 2010) suggested increased use of alternative sanctions such as drug contracts for young people, and most of the consultation bodies agreed to that conclusion. Some bodies, including the state attorney, noted that conditional waivers of measures are widely used already and that a more voluntary programme would add little to the existing order (Justis- og politidepartementet, 2011). This raises the question of the difference between voluntary drug contracts and a drug contract combined with waiving of measures. What do we know about the effect of the different programmes on recidivism and health outcomes?

A process evaluation (Lien & Larsen, 2015) investigated the organisation and content of voluntary drug contracts for young people in 15 local areas in Oslo and seven in the Follo police district. Voluntary drug contracts seemed to be the only preventive measure at hand in the local areas working with young people who were experimenting with illegal substances (ibid.). The authors argue that there are generally very few knowledge-based preventive measures targeting young people. The authors also expect this programme to grow more common in Norway. The authors did not perform an impact evaluation but could still notice differences between the local programmes. They conclude that the programmes work differently in different areas, and that the method works less

well for individuals with more complex problems. Young people with an already developed drug use problem benefit only to a small extent from a voluntary drug contract, the report argues. This group needs more extensive support with frequent contact and with less focus on total abstinence (ibid.).

Also, little is known about how the youth themselves experience the drug contracts, both voluntary and conditional. Actis, an umbrella body for organisations with a drug policy interest made an inquiry into waiving of measures combined with drug contracts, but concluded that important data was missing. It was impossible to follow the drug contracts through the justice system due to lack of nationally systematic register codes (Actis). There were also no systematic routines for follow-up. The final conclusion was that there is a need for an impact evaluation of the system.

Treatment in prison

Norwegian prisoners have the right to the same and equal treatment offers for substance use as exist in the rest of the society (Helsedirektoratet, 2013). The correctional system is characterised by the 'import' model, which means that the external health providers must offer the same services as are available in the society (ibid.). Local municipalities are the main providers of such services inside the prisons, and the public health sector provides specialised drug and alcohol treatment. The treatment offers should be individually planned in accordance with an individual assessment. A study that estimated the prevalence of mental illness and substance abuse in a Norwegian prison population (Cramer, 2014) showed that about 51% met the criteria for substance abuse/addiction and about three out of 10 for alcohol abuse/addiction. There were no significant differences between women and men (ibid.). The numbers are somewhat lower than in previous Norwegian studies on self-reported use of legal and illegal substances. Results from these studies present shares from 58% to 76%, but the author points out that none of these studies have used diagnostic criteria to assess substance abuse (ibid.). A recent study on self-reported use among the population in 57 prison institutions (Bukten et al., 2016) found that 54% of the sample had used illicit drugs and medicaments monthly and/or daily during the last six months before the start of the sentence (54% men and 50% women). 45% had used cannabis, 37.5% benzodiazepines, 33% amphetamines, 24% cocaine, 15% GHB, 15% substitute medicaments, 13% opioids, and 11% heroin (ibid.). Almost half, 47%, reported having used one or more than one illegal substance daily before the sentence.

Criminal record

Violations against the Medicinal Products Act and Criminal Code §§ 231 and 232 are visible in the criminal record (Justis- og politidepartementet, 2011). Acts that result in fines are registered for two years. Acts that violate the Medicinal Products Act are not visible on the criminal record if the person is under 18 (first-time offence) (Politiet 2018). Waivers of measures are not visible in the criminal record (Justis- og politidepartementet, 2011).

Summary: Norway

Norway has historically a restrictive drug policy with strict enforcement and no separation between different drugs in terms of 'soft' or 'hard' drugs.

The maximum penalty for drug violations increased from six months to 21 years between 1968 and 1984. There was also a steep increase in reported drug offences up to the year 2000, mostly concerning minor offences. The penalty levels for use and possession for personal use have decreased somewhat in the recent decades, and fewer drug offences have been reported in the last years. There have also been efforts to introduce more treatment-based alternative sanctions for drug offences, such as drug courts. Politically, there is now a shift in policy, as the government has declared an aim to decriminalise all drugs for personal use.

Minor cannabis violations such as consumption and possession of a very small amount are regulated in *Medicinal Products Act* § 24, and are almost exclusively sentenced with a fine. Offences such as possession of a larger amount of cannabis for a longer period of time (storage), distribution, manufacturing, import, export, or purchase are regulated in *Criminal Code* § 231 and § 232 (aggravated offence). *Storage* (Criminal Code § 231) is often sentenced with a fine, whereas the other acts render prison sentences or alternative sanctions. The distinction between the Medicinal Products Act (use and possession) and Criminal Code § 231 (storage) is not necessarily clear, and § 231 encompasses a broad range of acts, some similar to those within the Medicinal Products Act such as possession.

Sentencing is advised by guidelines from the state attorney, based primarily on the type and amount of substance but also on other aggravating and mitigating circumstances of a given case. The guidelines are less detailed than in the other Nordic countries, which leaves room for more discretion and less transparency. The police commissioner or a special prosecutor within the police may settle a cannabis case with a fine outside of the court, provided that the person possesses no more than 15 grams (personal use). In contrast to the other Nordic countries, the fining levels are not official and vary between regions and areas within the cities. This can be questioned from a legal and political perspective, as the highest fines are imposed in areas typically visited by heavy substance abusers with limited financial means. An unpaid fine can also be converted to a prison sentence.

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Cannabis control in Sweden

The Swedish drug legislation rests on international conventions, in common with the drug legislation in the other Nordic countries. Sweden fulfils the international narcotics conventions and the EU legislative framework on drugs (2004/757/RIF of the 25th oct. 2004) in that it has implemented the required legislation and even more so. The Narcotic Drugs (Punishments) Act came into force in 1968 and has since been revised several times in a more restricting direction with harsher punishments (Träskman, 2011). The most recent and important changes to the Swedish drug legislation relevant for this report is the criminalisation in 1988 of personal use of drugs and the adding of imprisonment to the penalty scale in 1993.

Controlling the use of narcotics has since long been a focus in the Swedish criminal justice system, but the emphasis has grown further in the recent decades (Träskman, 2011). Over time, more and more crime controlling resources have been invested to discover and hinder the use of drugs, with the explicitly stated aim of establishing 'a drug-free society' (ibid.). The definition of a drug crime has changed and broadened over time, and the penal sanctions have become more severe. As in other Nordic countries, the share of drug-related offenders in the prison population has increased substantially (ibid.).

The Swedish drug policy is described by the Swedish National Council for Crime Prevention (referred to as Brå) as resting on three pillars: 1) preventive measures, 2) treatment and care, and 3) control (SOU 2000:126; Brå, 2003). Of these, control policies have gained increasing salience and resources (Brå, 2003). An official government report from 2000 concludes that there are worrying deficits in the preventive work and care and treatment for illegal drug abusers (SOU 2000:126).

Apart from the criminalisation of personal use of drugs with imprisonment on the penalty scale, there have been no major changes in the Swedish national strategies or policies since the early 1980s. Harm reduction measures such as needle and syringe exchange programs are spreading nationally though, based on a political decision to refuse local municipalities to decide against a program. The commission (SOU 2000:126) draws the conclusion that Swedish drug policy must make a choice – allocate substantial resources in the form of 'engagement, direction, competence and economy' (p. 12) or lower the ambitions and accept illegal substance abuse. The commission argues for the first path and thus for the maintenance and consolidation of a restrictive drug policy. Ten years on, a

drug abuse commission (SOU 2011:6a) again stressed the need for extended and more effective prevention, treatment, and care, proposing eight areas of reform. Not much is mentioned in relation to control policy. Today, the restrictive policy stands firm, with a focus on control for primary preventive purposes.

Swedish drug legislation

In Sweden, illicit drugs are regulated in different sections of the law. Personal use, possession, manufacturing, and distribution are regulated in the Narcotic Drugs (Punishment) Act (SFS, 1968:64). Other laws regulating illicit drugs are the Law on Control of Narcotics (SFS, 1992:860), which controls mainly which entity is permitted to handle (manufacturing and trade of) illicit drugs; the Act on the Prohibition of Certain Goods Dangerous to Health (SFS, 1999:42), which regulates new hazardous substances where the law on narcotics cannot be used; the Act on Prohibition against Doping (SFS, 1991:1969); and the Law on Penalties for Smuggling (SFS, 2000:1225).

The main focus in this report is the Narcotic Drugs (Punishments) Act (SFS, 1968:64). The law has four different penalty scales. Use (consumption), possession, manufacturing, and distribution of illicit drugs are criminal offences that can lead to fines or imprisonment up to 10 years (*ibid.*). As individual substances are not regulated separately, penalties depend on such factors as the amount of possession of certain substances and their perceived dangerousness.

- minor drug offence (fine or imprisonment up to six months)
- drug offence (imprisonment for at least 14 days and up to three years)
- aggravated drug offence (imprisonment for at least two years and up to seven years), and
- particularly aggravated drug offence (imprisonment for at least six years and up to 10 years)

As in many other countries, the Swedish Criminal Code allows for more severe penalties in case of repeat offending (ch. 29 §4). The maximum penalty for concurrent offending and repeat serious offending is 18 years (Criminal Code ch. 26 §§2–3).

Medical cannabis

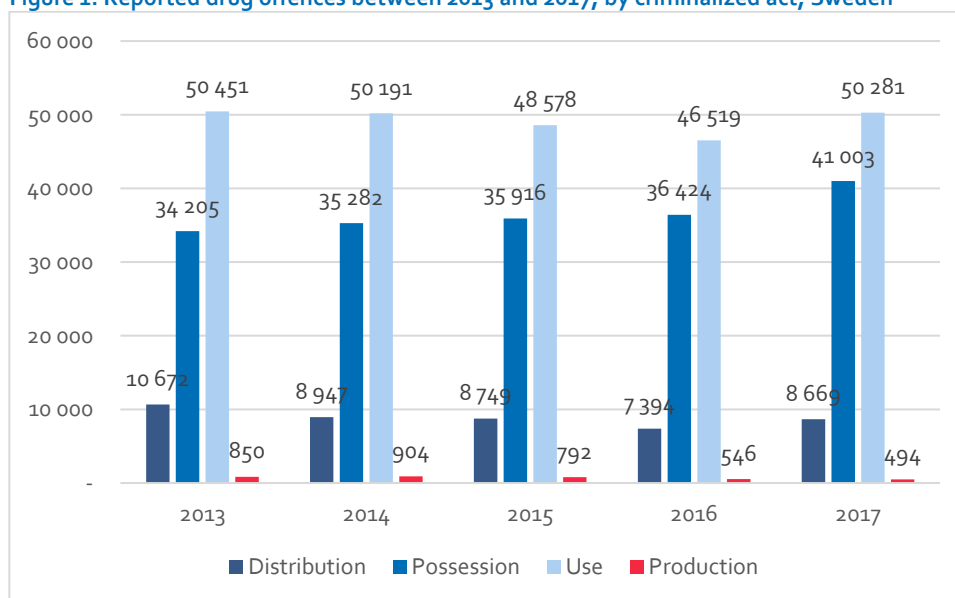
The Swedish Medical Products Agency approved one product in 2012 that contains cannabis extract – Sativex – for multiple sclerosis (Läkemedelsverket, 2016). Pharmacies can hand out prescribed drugs not approved in Sweden under

special circumstances, and under licence (Läkemedelsverket, 2017) which applies to for example the medical product Bediol.

Police-registered drug offences

This section introduces some general statistics of drug crimes for use and possession. Recent years are characterized by a stable trend in reported drug offences as illustrated in Figure 1.

Figure 1. Reported drug offences between 2013 and 2017, by criminalized act, Sweden



(Source: Brå, 2018a)

A longer perspective shows a different picture. In 2000–2013, reported drug crimes per 100,000 inhabitants have tripled (including drugged driving and smuggling) (Brå, 2017a). The Swedish Crime Prevention Council points out that during this time, the number of classified illicit drugs increased, which may be an explaining factor behind the rise (ibid.). There are no indications that the use of illicit substances or cannabis has increased in any significant way among the population during that time (Brå, 2013), but there are some indications that heavy substance abuse has increased to a degree (Brå, 2017a). The most important factor is probably the increased focus on drug crimes by the justice system and especially by the police (Brå, 2017a; Träskman, 2011). According to the National Police Agency's own account, the yearly workforce with a focus on drug crimes doubled from 2000 to 2013, with a decrease again in 2015 (Brå, 2017a). Since 2004 the focus on personal use has intensified even more (Holgersson & Knutsson, 2011).

The highest increase can be seen for minor drug crimes, that is, personal use and possession for personal use (Träskman, 2011; Brå, 2017a). The criminalisation of use in the late 1980s effectively steered resources from the more severe drug crimes (supply) towards personal use (demand) with increased coercive measures (Träskman, 2011; Brå, 2016).

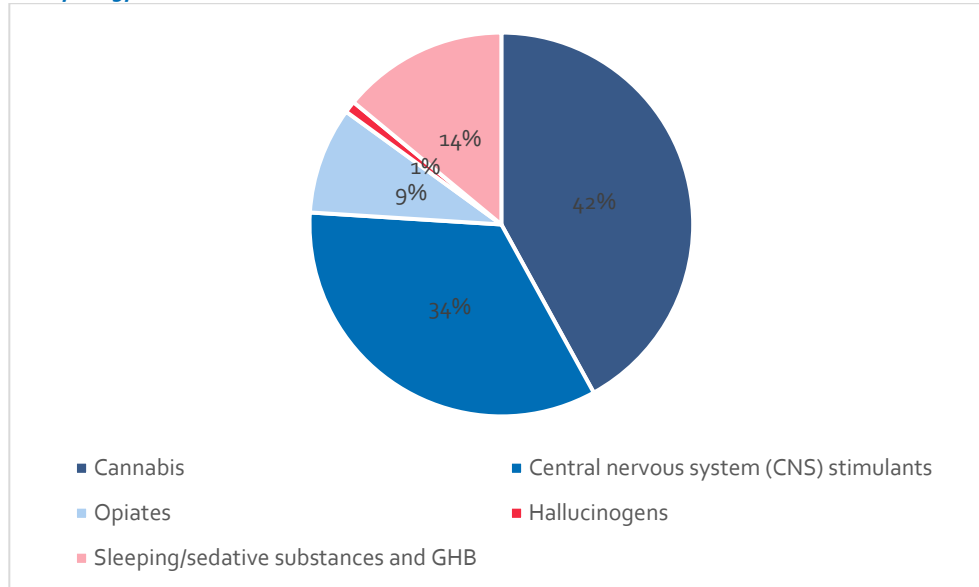
About 90% of all reported drug crimes (91% in 2017) concern use and possession (Brå, 2018a). There was a peak in 2009, when roughly 60% of all reported drug crimes pertained to use as compared to the year 2000, when about 40% of all reported drug crimes were use-related (Brå, 2017a). Between 2016 and 2017, the reported drug crimes increased by 11%, while there was only a marginal increase for all reported crimes (Brå, 2018b). A more detailed report (Brå, 2017a) shows that in 2015 about 53% of the police-recorded drug offences were registered as solved compared to a 15% average for other offences (ibid.) Solved drug offences have more than doubled since 2000 (with the trend starting already in the early 1990s). This is mainly due to an increase in solved minor drug offences (use and possession) (Brå, 2017a).

Drug smuggling is registered separately. The number of smuggling offences has increased since the mid-2000 and decreased since 2013 (Brå, 2017a; Brå, 2018a). In 2015 drug smuggling crimes covered about 3% of the total number of reported drug offences (Brå, 2017a).

Cannabis in police-registered offences

As official statistics based on substance are not easily available in Sweden, or in any other Nordic country, we must look for other indicators or previous studies that specifically investigate this aspect. One indicator might be the prevalence of cannabis on the illegal market, corroborated by studies that have manually counted the prevalence of cannabis in reported crimes and sanctions. Statistics of legal proceedings by substance level were available until 2009. In 2009 about 42% of all the substances in the cases was cannabis compared to 36% in 2000 (Brå, 2010a). Almost a third of the cases dealt with more than one substance.

Figure 2. The share of different substances in summary procedure ⁶(prosecutor fines) or court decisions, 2009, Sweden



(Source: Brå, 2010a)

In the younger segments of the population (18–20 years) in 2009, the most common drug offence was a minor drug offence (80%) for personal use (69%), which mostly resulted in a fine (67%).

Proportion of cannabis in summary procedures (prosecutor fines) and court verdicts in different age groups

Cannabis was the most common substance (66%) in summary procedures (prosecutor fines) and court verdicts as compared to other age groups, where amphetamines were more common, as we see in Table 1. In the age groups 50–59 and 40–49, amphetamine was prevalent in 38% and 36% of the cases, respectively (Brå, 2010a). This is similar to the substance distribution ten years earlier, but the share of cannabis was higher in 2009 in all age groups apart from those aged 40–49 (ibid.).

⁶ For a more detailed description of summary procedures, see section “penalty assessment and case law”.

Table 1. Proportion of cannabis in summary procedures (prosecutor fines) and court verdicts that handled cannabis in different age groups

Age	2000	2006	2009
18–20 years	43%	54%	66%
21–24 years	33%	41%	50%
25–29 years	22%	25%	35%
20–39 years	19%	16%	22%
40–49 years	22%	17%	17%
50–59 years	21%	18%	24%

(Brå, 2010a)

Cannabis was more common among men than among women (41% versus 23%), while amphetamines were more common among women (*ibid.*). The National Crime Prevention Council (Brå, 2018c) presented numbers from the police suspect register on young people born 1997–1998 (17–18 years old at the time) regarding suspicion of personal use during 2015. Cannabis was prevalent in the majority of cases (about 50%), but the prevalence is probably much higher than these numbers indicate. Many of the cases had no information on the substance involved (*ibid.*), and only 3% involved other explicitly stated drugs.

Another indicator of use – also with uncertainties to be aware of – is data on the content and distribution of the urine- and blood samples taken over time. Urine tests are commonly used by the police and are a coercive measure that the police is allowed to take if they suspect that a person is under the influence of illegal substances. Since 2010, the police have taken about 40,000 urine- and blood samples annually (Brå, 2016). The results show that the proportion of samples containing amphetamines has decreased over time, whereas the share of positive cannabis samples increased between 2006 and 2012. Because the detection of drug crimes very much depends on policing efforts and strategies, the results should be viewed in the light of this fact, and not as a reflection of the consumption in the population (*ibid.*). The changes are probably partly due to an increased focus on youth consumption – the urine- and blood-tested population gets younger and younger. For example, since 2006 the share of tested persons under 17 has increased, and so has the incidence of positive cannabis samples (*ibid.*).

Drug-impaired driving

Sweden has had a zero-tolerance policy on drug impaired driving since 1999 (Ahlner, Holmgren, & Jones, 2014) under § 4 of the Swedish Road Traffic Offences Act (1951:649). The penalty for driving under the influence of drugs (alcohol included) is fines or imprisonment up to six months, and up to two years for aggravated offences. A prison sentence for aggravated cases can also result in contract care and substance abuse treatment (Trafikverket, 2017). Any trace of an illegal substance is punishable according to the Swedish legislation. This makes Sweden special in the Nordic context; All the other Nordic countries have lower limits for THC traces and punishments are applicable only after exceeding the lower limits, much in the same way as for alcohol.

The number of reported drug-impaired drivers has increased dramatically. The number of blood samples submitted for toxicological analysis was in 2014 more than 10 times higher than before the zero-tolerance legislation (ibid.). This does not mean that drug-impaired driving has increased; studies show that the prevalence of illegal substance use in fatal car accidents has been about the same since early the 2000s (Ahlner et al., 2014). Reported crimes for driving under the influence of alcohol have steadily decreased since 2008, from 18,845 offences in 2008 to 11,776 offences in 2017 (Brå, 2018d). During the same period, incidents of driving under the influence of illegal substances have increased slowly, from 12,269 reported offences in 2008 to 13,804 offences in 2017 (ibid.), which means that drugged driving is now reported more often than drunk driving. As with drug offences, the statistics mirror mainly police enforcement strategies and priorities.

According to a Swedish study on fatal traffic incidents (n=1143) (Forsman 2015), amphetamines were the most common illegal substance found in the blood (49 cases), followed by THC (28 cases) and cocaine (5 cases). Alcohol was prevalent in 249 cases (22%) and medical substances (classified as narcotics) in 95 cases (8.3%). A similar study investigating fatal traffic incidents (n=895) between 2008 and 2011 (Ahlner et al., 2014) partly confirmed those results, with alcohol being the absolute most prevalent psychoactive substance (21%), followed by TCH (3.5%) and amphetamines (3.4%) (ibid.). Another Swedish study that investigated all blood samples (n=22,777) sent in by the police for analysis between 2001 and 2004 (Holmgren, A., Holmgren, P., Kugelberg, Jones, & Ahlner, 2007) found that the most common illicit substance were amphetamines alone or with other drugs (55–60%), followed by THC (4% alone or 20% together with other drugs). The most frequent prescription drug, in 10% of the cases, were benzodiazepines (ibid.).

The police can stop a vehicle if there is reason to believe that the driver has committed a crime or in order to control the driving, if a driver refuses a screening test or in case of a traffic accident (ibid.). The police also have the right to take an alcohol test without suspicion of a crime being committed (screening test), and a blood sample if there are reasonable suspicions that a crime has been committed with prison on the penalty scale (ibid.). This includes minor drug offence and drug-impaired driving.

A person that drives under the influence of an illegal substance may be charged with both drug-impaired driving and a minor drug offence (personal use). In 2015, there were controversies regarding drug-impaired driving. The state prosecutor petitioned for a new trial in 2015, when the Prosecution Agency identified about 150 cases where individuals had been falsely convicted of drug-impaired driving due to THC rests in their blood (Åklagarmyndigheten, 2015). The question was if this particular rest product from THC was classified as a narcotic. In these 150 cases, the analysis could only show tetrahydrocannabinolic acid (THCA), a rest product from tetrahydrocannabinol (THC). This is enough to prove use of cannabis (minor drug offence) but not enough to prove that the driver was under influence of a drug while driving. In 2016, the state prosecutor published a decision to reverse and correct previous verdicts based on THC acid, including summary procedure and waivers of measure (Åklagarmyndigheten, 2016).

Who is controlled?

There are indications that those who end up in the justice system are not representative of the distribution of cannabis use in the general population or in terms of geographic location (Brå, 2018c). Unfortunately, few studies in Sweden have investigated this matter. Pettersson (2005) examined whether individuals with a foreign background were wrongfully suspected of drug crimes more often than individuals with a Swedish background. Pettersson specifically investigated coercive measures such as urine sampling and body visitations. Overall, individuals with a foreign background were not tested for urine samples *with a negative result* more often than individuals with a Swedish background, with one exception, referring to individuals with a non-European background during the daytime. This group was also more often body strip-searched than other groups and had less often drugs on them during these visitations (ibid.). The differences cannot be explained by *age, gender, social situation, or known by the police*. Pettersson also notes that younger people are controlled more often than older people, which is in line with the police priorities. A recent report also shows that urine and blood samples from younger people are more often negative than

those taken from older persons (Brå, 2016). About half of the samples from youth under 17 were negative, and for girls the precision was even lower. There were considerable variations in sampling practice among regions that cannot be explained by use patterns among the population. This raises the question about the overall aim and strategy underlying this form of coercive police practice.

Holgersson (2007) has compared sampling practices between different police districts. The data is about ten years old and the practices may have changed, but Holgersson concludes that some districts make body visitations on the same persons repeatedly. The practice has a positive effect on the clearance rates, and the sharp increase in use and possession violations since the mid-1990s can partly be an effect of the focus on quantitative, easily measurable results at the time (ibid.). There were indications that the police in some areas habitually controlled already well-known illegal substance users. At the same time, the practice of repeat controls may work as a way to disperse established drug scenes and to prevent youth recruitment, Holgersson argues. It may also increase the detection of crimes to-come, and have a crime preventive effect, given that a few individuals often commit many minor, drug-related offences such as burglaries or thefts (ibid.). But this presumes that the practice is a part of a more long-term police strategy. An international comparative study on drug-related police encounters (Hughes et. al., 2018) indicated that Sweden was one of the countries with the highest rates of stop-and-search, together with Greece, Denmark, Belgium and Poland.

Another recent report (Brå 2018c) on youth consumption of illicit drugs in Stockholm (mainly cannabis) showed no correlation between use of illicit substances last month and suspicion of drug use by the police. The study also showed a positive correlation between high mean income and use of illicit drugs, indicating that young people from wealthier areas in Stockholm use more drugs but are less often suspected of drug use by the police (ibid.).

In line with findings from other research presented in this report, police discretion creates space for unequal treatment among groups and areas, resulting in discriminating transferrals to the justice system. Different, possibly parallel explanations are suggested in the studies.

Pettersson (2005) argues that the police intervene more often on loose grounds and use more coercive methods against people with a non-European background, consciously or unconsciously targeting persons based on their perceived ethnicity/background. Pettersson refers to other Nordic police research that shows that the police build suspicion on experience but that it is harder for them to distinguish between suspects and non-suspects among people with what they

perceive as a non-European background. The police may also be more suspicious towards certain groups to begin with, exacerbating the discriminatory practice (ibid.).

As the report on urine sampling shows (Brå, 2016), very few women are suspected of personal use compared to their share of use in the general population, in similar ways indicating that suspicion is sometimes built on erroneous grounds. Another explanation is offered by an interviewed police inspector: the lack of female police officers. Only a female police officer may perform a body visitation on a female. This is also suggested by Frantzen (2005) in her research on police practice against street-level drug use in Copenhagen. The Police Authority has presented a plan for equality integration (Polisen, 2016) that among other aspects includes a project with a specific focus on girls and drug use. The goal is to make the drug enforcement work more gender equal and increase the detection rates for women. This includes better knowledge on the gender-based similarities and differences of drug use (where, when, how) (ibid.).

Based on the few studies presented here, a similar quality strategy could be useful in relation to socioeconomic background and ethnicity if the goal is increased detection of personal use. An increased police presence in disadvantaged areas may exacerbate the differences in detection in terms of socioeconomic background and ethnicity (Brå, 2018c). Better knowledge is also needed on where, with whom, and how different groups use illicit drugs. Outdoor use, possibly more frequent in more disadvantaged areas with overcrowding, may increase the risk for detection, whereas use in private areas goes unnoticed.

Cannabis on the Swedish illicit drug market

We can assess the occurrence and distribution of different illegal substances on the illegal market on the basis of customs and police data on the number of confiscations, and by drawing on the price levels of different substances. Price reports from the police indicate that cannabis is well spread throughout the country, as are amphetamines and cocaine (Guttormsson & Zetterqvist, 2018). Over time, the price levels have decreased for all registered illegal drugs, but cannabis has had the smallest decrease. This is due to a price increase in 2005–2015. During the two recent countings, the price for cannabis had decreased to about 100 SEK/ gram (ibid.), with regional variations. Marijuana is more expensive than hashish (Polismyndigheten & Tullverket, 2017). One may question the reliability of these numbers, considering that they are estimations based on an unregulated product on an illegal market, but the trends seem to follow the price curves seen in other European countries (EMCDDA, 2017).

In 2012–2016, 2344 kilos of cannabis were on average confiscated either by the police or by the customs annually (53% hashish and 47% marihuana). The confiscated amount has increased for all illegal substances since the year 2000 (except for heroin) but the amounts of cannabis and medicinal drugs have increased the most (Brå, 2017a). Police priorities and enforcement impact on both the number and amount of confiscations, while heavy raids may impact on the levels. There may also be variation depending on whether the police prioritise street-level dealers or large-scale imports.

According to the Swedish Police and the Customs Agency (Polismyndigheten & Tullverket, 2017), the potency in cannabis products in Sweden has increased significantly over time. This trend can also be seen in Denmark and in other European countries. THC levels as high as 34% have been found in confiscated cannabis products compared to the median level of 20% in 2015 (ibid.). A French study (Dujourdy & Besacier, 2017) that analysed the potency in cannabis in France over 25 years reported that most hashish in Europe comes from a few countries, mainly Morocco. This was also the hashish with the highest increase of THC. In general, the potency has increased sharply in France since 2011 (ibid.). The generalisability of the results to other countries can be questioned, but as the hashish in Sweden mainly has its origin in Morocco (Polismyndigheten & Tullverket, 2017), a similar development is possible in Sweden and other Nordic countries. Analysis results from nationally confiscated cannabis products seem to support this conclusion.

Most cannabis in Sweden is imported from networks with international connections to countries such as Albania, Vietnam, Morocco, and the Netherlands (Polismyndigheten & Tullverket, 2017). Domestic production seems to be on the rise though, and marihuana has become more dominant in western Europe compared to hashish (Dujourdy & Besacier, 2017; Polismyndigheten & Tullverket, 2017). As the Customs Agency and the Police argue, this small-scale, indoor production limits the cannabis users' contact with criminal networks. Large-scale production does exist but Sweden is not self-sufficient on cannabis, unlike Iceland, for example. The internet has probably contributed to the increased domestic growing of cannabis plants. Knowledge is shared, and seeds can be ordered, as well as the finished product (Polismyndigheten & Tullverket, 2017).

Cannabis is assumed to be the basis for much of the illegal market and an important income base for criminal networks. According to the police, cannabis is a major factor in conflicts and violence between and among the networks, which has resulted in escalating violent acts over the recent years (Polismyndigheten &

Tullverket, 2017; Guttormsson & Zetterqvist, 2018). The Swedish Council for Information on Alcohol and Other Drugs (CAN) argues by way of a rough estimate that cannabis circulates more than cocaine and amphetamines combined (over half a billion SEK). The estimations are uncertain, and more systematic studies are needed in this area.

Of interest is not only the circulation of different substances on the illegal market but also how, where, and when individuals purchase or get hold of illegal substances. How important are the physical open drugs scenes, closed networks, friends, or the internet market? Increased knowledge in those areas may have implications for the preventive work as well as police strategies. National drug surveys may give some indications. The most common way to get a hold of illegal substances for young people in ninth grade and upper secondary school is through networks of friends and affiliates (Thor, 2017). It is less common to purchase through dealers or to have ordered through the internet. But these are rough quantitative measures that could use a qualitative approach to yield more in-depth knowledge.

Synthetic cannabinoids

Synthetic cannabinoids are the most frequent substance among those recently classified as harmful to health (Folkhälsomyndigheten, 2017a). In 2015 the most common newly classified psychoactive substances were synthetic variants of khat and amphetamine-like substances (ibid.). The classification of 'harmful goods to health' is an initial step to narcotics classification, and several substances on these lists are later classified as narcotics (Folkhälsomyndigheten, 2017b).

What can be said about the distribution of synthetic cannabinoids? According to a recent report on adolescent drug use (Thor, 2017), 13% of the youth in the ninth grade and 8% of those in upper secondary school *that had illegal substance experience* said that they had used 'spice or similar smoke mixes' (ibid.). This is then the fourth most common illegal substance behind marijuana, cannabis resins, and cocaine, and signifies a decrease since the question was introduced in the survey in 2012, most visible among the ninth graders (ibid.). There are no visible signs at all that the decrease in alcohol consumption correlates with an increase in 'internet drugs', a prominent debate in the recent years (ibid.).

Penalty assessment and case law

Court practice has a long-standing impact on the penalty levels in drug cases in Sweden (2014:43). The penal value of a drug offence depends on mainly three factors established by case law; 1) the quantity of drugs, 2) the perceived danger of the drug (sort), and 3) other circumstances surrounding the perpetrator, crime victim, or the actual deed (Träskman, 2012). The first two factors (quantity and art) are key in the penalty assessment (Andersson et al., 2012; Träskman, 2012; SOU, 2014:43), and especially for drug offences such as use and possession of small quantities. Purity of substance does not generally impact on the penalty assessment, at least not for minor drug offences.

The assessment of the penalty value of drug offences differs in some important respects from other offences (Andersson et al., 2012). The assessment of the penalty value is harsh. According to Andersson and colleagues (ibid.), it is not uncommon that the maximum penalty is imposed. Furthermore, the assessment relies to a great extent on two single factors, the sort and the quantity of a substance. The standardised templates that accompany these factors have a strong impact on the court assessment. A third difference is that the two factors have a strong impact over the entire penalty scale, both for petty crimes and more serious crimes (ibid.), although practice has changed somewhat for more severe drug offences. Changes in the interpretation of *other circumstances* and its meaning for the penalty values have led to decreased penalties for aggravated drug offences after a Supreme Court verdict in 2011 (NJA, 2011). The new practice means that the courts should not rely too heavily on the amount and sort of a substance, but should consider the extent of the crime, an individual's connections to organised crime, the act's dangerousness, and the level of recklessness (Borgeke, Månsson, & Sterzel, 2013; SOU, 2014:43).

The prosecutors and courts follow circulars of the Prosecution Agency that summarise court practice for penalty assessment (Åklagarmyndigheten, RättsPM 2012:7; Åklagarmyndigheten, RättsPM 2016:1). Penalties are determined according to the amount and perceived danger of a substance. The penalty for use and possession of small amounts of cannabis is usually settled in a summary procedure; i.e., the case does not go to court since the fines are issued by a prosecutor. If the prosecutor fines are not accepted by the suspect, the case goes to court.

The amount and sort of a drug matter a great deal in minor offences (Borgeke et al., 2013), and the guidelines are followed strictly according to an interviewed prosecutor. For minor drug offences (use and possession for personal use) that render day fines or imprisonment up to six months, the guidelines stipulate the

number of day fines for a certain amount of a substance. Use or possession of up to one gram of cannabis for personal possession renders 30 day fines (Åklagarmyndigheten, RättsPM 2012:7). This can be compared to cocaine, where 0.2 grams result in 100 day fines (ibid.). The meaning of art and quantity decreases along the penalty scale, so that at one point a larger quantity of a substance does not render a considerably higher penalty (Borgeke et al., 2013).

Possession up to 50 grams is considered a minor drug offence mostly settled through a summary procedure (Andersson et al., 2012; Borgeke et al., 2013). Possession of above 50 grams of cannabis is a normal drug offence, which could render imprisonment, but court decisions imply that the limit is rather 80 grams.

Table 2. Guidelines for penalties according to amount of cannabis and type of crime, Sweden

Penalty assessment	Amount of cannabis	Type of crime
Fines	Cannabis up to 50 grams (personal use and minor possession)	Minor drug offence
1 month prison	Cannabis up to 100 grams	Drug offence
1 year prison	Cannabis up to 2 kg	Drug offence
4-5 years prison	Cannabis up to 40 kg	Aggravated drug offence
No court practice yet		Particularly aggravated drug offence

(Åklagarmyndigheten, RättsPM 2012:7; 2016:1)

Possession does not necessarily mean independent, personal possession. Shared knowledge about possession, such as being in a car with knowledge of drugs inside the car and knowledge that the drugs were supposed to be shared after the drive, can be enough to be considered possession (Andersson et al., 2012). Only brief possession of a drug, such as passing a joint between smoking people, does not normally count as possession. A recent ruling from the Supreme Court (HD 2017 B 4368-16) also concluded that a person found liable of possession should not also be sentenced for use of the same substance. This amounts to new court practice. Possession of two different substances counts as two crimes, and the day fines are calculated based on the templates (Åklagarmyndigheten, RättsPM 2012:7) for each substance.

The strict use of guidelines has its advantages in terms of predictability but as some authors note (Andersson et al., 2012; Träskman, 2012), it also has some downsides. Small differences in quantity can have a great effect on the penal

sanction, and the rigid focus on quantity and sort has had the consequence that the penalty levels are higher than necessary (Träskman, 2012).

Table 3. Penalty guidelines for possession for personal use according to amount of cannabis, Sweden

Amount of cannabis (gram)	Penalty value
Max. 1 gram	30 day fines (df)
Up to and including 3 grams	40 df
Up to and including 5 grams	50 df
Up to and including 10 grams	60 df
Up to and including 15 grams	70 df
Up to and including 20 grams	80 df
Up to and including 25 grams	90 df
Up to and including 30 grams	100 df
Up to and including 35 grams	110 df
Up to and including 40 grams	120 df
Up to and including 45 grams	130 df
Up to 50 grams	140-150 df

Amount of cannabis (gram)	Penalty value (months)
50	0,5

(Åklagarmyndigheten, RättsPM 2012:7; 2016:1)

Penal sanctions system

The penalty levels for drug offences have increased over the last 50 years (Andersson et al., 2012; Träskman, 2012). The whole penalty scale is used with no comparison to any other crime. Before the practice changed in 2011, many court sentences hit the higher end of the scale (Andersson et al., 2012), resulting in long sentences based on the prerequisites of quantity and sort of substance. The average time of imprisonment was about 17 months in 2000–2011. After 2011 to 2015, the average time has decreased to about 12 months of imprisonment due to changes in practice (as we saw in the previous section) (Brå, 2017a). Because of the decreasing prison times for aggravated drug crime, the government has tried to again increase the sentence length by introducing *particularly* aggravated drug crime as an offence.

The maximum penalty is still lower than in Denmark, Norway, Finland, and Iceland. As repeat and concurrent offending may result in higher penalties than the maximum scale, it is possible to find sentences that are close to 20 years of imprisonment (Träskman, 2005).

In 1993, the penalty scale for use was integrated into the minor drug offences scale, which introduced imprisonment on the penalty scale and gave the police

access to more coercive methods, such as urine- and blood sampling. Another consequence of introducing the prison penalty on the scale was the possibility to impose supervised sanctions or treatment sanctions (Brå, 2016). In practice, this happens very rarely for minor drug violations, because treatment sanctions would be too intrusive for a fining crime, according to the interviewed prosecutor.

By 2009, over half of the sanctions for violations against the Narcotics Act were fines (Holgersson & Knutsson, 2011). Fines can be issued by a prosecutor in order to avoid trial (summary procedure), or issued by the court. Fines by a summary procedure became more common in the mid-1990s and the mid-2000s. In 2014, the most common sanction for a minor drug offence as main crime were fines (72%) and waivers of measures in 25% of the cases. For normal drug offences, imprisonment was the most common type of sanction (36%), followed by probation (25%). For aggravated drug offences, 99% of the sanctions were imprisonment (Brå, 2017a). It is worth noting that in 2000–2012, the number of fines increased by 315% (from 1662 to 6991) (Brå, 2013). The rise is due to an increased number of police-registered offences, suspects, and legal proceedings for minor drug crimes. It is very uncommon to impose fines for normal and aggravated drug violations (ibid.).

Unpaid fines may be converted to a prison sentence from 14 days up to three months (SFS 1979:189: Fine Enforcement Act § 15). The prosecutor may try to convert fines to imprisonment when 'it is obvious that the fined person out of non-compliance has neglected to pay the fines or if conversion for any other particular reason is called for from a public point of view (ibid. 1st section). This includes fines imposed through a summary fine procedure. A conversion of fines must be set through a new court procedure in the lowest penal court - a procedure that is seldom, if ever, used.

Table 4. The number of court verdicts for drug offence and the distribution of sanctions between year 2000 and 2016, Sweden (Source Brå, 2010a; Brå, 2018a)

Penalty	Year								
	2000	2002	2004	2006	2008	2010	2012	2014	2016
Total number of court verdicts, summary procedures, and waivers	8808	10629	11497	14474	16817	20021	22672	21434	20508
Court verdicts	4086	5028	5626	6392	7116	8772	9845	10344	10875
Prison	1424	1800	2029	1959	1638	1518	1141	1234	1320
Inpatient youth care	1	4	2	0	0	3	0	0	1
Forensic psychiatric care	9	14	13	12	10	6	4	2	5
Probation	530	682	674	768	861	921	859	920	998
<i>Incl. prison</i>	28	41	21	19	18	17	16	22	30
<i>Incl. contract care</i>	62	88	108	146	147	139	74	93	64
<i>Incl. community service</i>	61	94	80	110	118	155	175	175	187
Conditional sentence	168	204	168	176	186	301	369	523	607
<i>Incl. community service</i>	77	118	93	110	129	202	268	299	294
Transfer to care within the social services	73	103	104	86	- ⁷				
<i>Incl. youth service</i>	10	10	15	9	- ⁷				
Youth care	-	-	-	-	78	193	246	304	300
Youth service	-	-	-	-	26	43	55	39	47
Inpatient substance abuse care (The Care of Abusers Act)	2	1	1	6	4	2	2	4	2
Fines	1677	1988	2399	3102	4017	5535	6901	7069	7398
Summary procedures (fines)	3210	3766	3762	4876	4859	5588	6220	6374	6078
Waivers of measures	1512	1835	2109	3209	4842	5661	6607	4716	3555

⁷ Replaced by youth care and youth service in 2007

Waiving of measures

According to the interviewed prosecutor, waivers for any drug offence are uncommon, apart from cases which are waived due to a pending sentence where the drug violation would have no additional effect on the penalty.

In the early 1970s and before, possession of rather large quantities of drugs could result in waivers of measures (Holgerson & Knutsson, 2011). This changed in the 1980s when the general prosecutor sharpened the implementation regulations for waivers of measures (Brå, 2016). When the law changed in 1993 to include imprisonment on the penalty scale for personal use, an exemption from sanctions for people with drug problem that sought treatment was removed. The idea was that waivers of measures would cover that need (Brå, 2000), but this has not been enforced. Waivers are hardly ever used in cases of use and possession for personal use for reasons such as social circumstances (Träskman, 2011).

The many waivers of measures visible in the table result from concurrent crimes: if a person commits several crimes at the same time, minor ones with no effect on the sanction are not prosecuted. In certain cases, offenders under 18 may also be granted a waiver from measures according to the Code of Judicial Procedure. It is possible to waive measures for persons under 20 if the individual is under active treatment (Socialstyrelsen, 2018). If the accused is in psychiatric care, there is room for the prosecutor to waive measures according to ch. 20 art. 7 (SOU 2011:6a).

A study (Brå, 2018c) has shown that waivers of measures are more common for girls than for boys (47% and 30%, respectively). The study could not provide an explanation for the discrepancy. There are wider possibilities for the prosecutor to decide on the waiving of measures – or penalty warning as it is called for persons who were under 18 when the crime was committed (Socialstyrelsen, 2018). A waiver for young offenders is combined with correctional measures or treatment within the social service.

Alternative sanctions to imprisonment and fines

There are alternatives to imprisonment and fines, some with treatment for drug or alcohol abuse. The Swedish Government Official Report from 2011 (SOU 2011:6a) on substance use and abuse and care concludes that although there are possibilities to sentence and/or transfer individuals to the care system, other Nordic countries have more opportunities than Sweden (ibid.).

In more severe drug cases, the court may leave the convicted person to treatment under *The Care of Abusers Act*, and in that case she/he is transferred to the social services according to Criminal Code § 231 ch., if the penalty value is under one year (SOU 2011:6a). As we can see in the chart above, only few individuals are sentenced to compulsory treatment by court order.

Contract care is a sentence specifically meant for substance abusers, replacing prison sentences for up to two years (Hildebrandt 2016). The individual must follow a certain treatment plan in an inpatient or outpatient setting. The number of individuals sentenced to contract care has decreased in the last ten years (Brå, 2017b). The Swedish Crime Prevention Council proposes that the low numbers of illicit substance abusers in contract care can partly be explained by low motivation, lack of resources for the individual assessment process, and that few have enough problems related to illicit substance use, as opposed to people with alcohol issues that receive contract care more often (Brå, 2010b).

Probation is only applicable for crimes where the sanction is more severe than a fine. Probation is first and foremost a supervised sentence outside of institutions but can be combined with, for example, imprisonment from 14 days up to three months, fines, provision for individual treatment plans, or contract care (Kriminalvården a). Probation is an alternative to prison if the court rules that probation rather than imprisonment is beneficial for avoiding recidivism and if the person may benefit from substance abuse treatment (SOU 2011:6a). The sentence can be combined with provisions of care and treatment (ibid.). In 2008 about 57% of those sentenced to probation had a treatment provision; two thirds related to substance abuse treatment (ibid.).

Conditional sentence is a more lenient intervention than probation and is applied when there is no reason to believe that the accused will commit further crimes. A conditional sentence comes with a trial period of two years according to Criminal Code § 3 ch.27. The probation period is without supervision, which is why it is deemed as more lenient than probation and less suitable for drug offenders. The Supreme Court has found that a conditional sentence combined with fines is applicable for drug violations if the penalty value is no more than a month (NJA, 2012). Borgeke (2013) also argues that there should be legal room to apply a conditional sentence with fines or probation under such circumstances, but in practice it happens only rarely for lenient drug violations.

Community service can be combined with probation or a conditional sentence. The sentenced person should perform unpaid labour during spare time for a minimum of 40 hours to a maximum of 240 hours (Kriminalvården b). The sen-

tence is based on consent, and the probation service must assess the appropriateness of the sanction. It is a rather unusual sentence for drug violations because 1) it is intrusive and 2) because there may be substance abuse during the sentence, as a prosecutor told us in an interview.

Young drug offenders

In 2016, 4296 young individuals received a sentence for violations against the Narcotics Act as main crime (Socialstyrelsen, 2018). If secondary crimes against the Narcotics Act are included, the number was 5318. About 98% of the violations concerned use and possession.

Criminal justice measures have proved important in the latest sanction reforms for young offenders (ibid.). The main principle is still that young offenders are the responsibility of the social service rather than the justice system. Youth sanctions or fines are the standard procedures for young people under 18 at the time of the crime.

Even though fines make up most of the sanctions for minor drug violations, there are other care- or treatment-oriented possibilities. For young people the treatment-oriented sanctions are probably relevant for cannabis, as it is the most common drug for use and possession for personal use. Among adolescents in outpatient care at the Maria clinics in the three biggest cities in Sweden – Stockholm, Göteborg and Malmö – cannabis dominates as the main drug (80%) (Dahlberg & Anderberg, 2016).

There are different alternative sanctions for young people between 15 and 21 years. For the most serious offences (often violent crimes), the court may impose *inpatient youth care* in a special treatment facility (SIS) (SOU 2004:122). The court determines the length of inpatient care, the scale ranging from a minimum of 14 days to a maximum of four years without the possibility of parole (ibid.). These are not specific sanctions for drug offences, but a part of the general sanctions system for young offenders.

Another possibility for less severe offences is *youth care*, normally imposed due to substance use problems. The social services have the responsibility to establish individual youth contracts or treatment plans. The recent sanctions reforms for young offenders have restricted access to treatment by trying to differentiate between young people with special treatment needs and those with lesser treatment needs that can be met by youth community service rather than youth care (Socialstyrelsen, 2018). The social services must assess the need for care

and make recommendations for an adequate sanction and an individual treatment plan, otherwise the courts are not allowed to impose youth care (ibid.). More in depth-investigations show that the definitions of special treatment needs vary among the regions, as well as what kind of measures are offered (ibid.). Youth care is imposed to a very limited extent for individuals above 18 years of age (ibid.).

Youth care (not specific for drug violations) consists most often of a dialogue contact and correctional programmes, but also of contact persons/family, drug testing, and family treatment (Socialstyrelsen, 2018). *Youth service* is a sentence similar to community service for people above 18, but the responsibility lies within the social services and not the correctional system (Brå, 2011). There are studies about the effect of youth care on recidivism (see for example Brå, 2011), but there is little knowledge on the effect of fines compared to youth community service (Socialstyrelsen, 2018).

Treatment in prison

The Swedish Prison and Probation Service has treatment offers for individuals with substance abuse problems, but according to an official report they need further development (SOU 2011:6b). Clients in the correctional care have the same right as any other person to demand treatment and care which exists in the public health care or social services (Göransson, 2011). The Prison and Probation Service is not allowed to build their own treatment institutions and thus relies on external partners. In 2008 there were six special treatment institutions within the prison system dedicated to people with substance problems (Brå, 2008). Clients can apply to be transferred to one of these institutions. The stay is voluntary (Göransson, 2011). Apart from that, the Prison and Probation Service have a contract with treatment facilities for family treatment and outpatient and inpatient care under, for example, contract care or other arrangements.

A substantial number of individuals in the correctional care system have problems with illegal substance use. Previous data indicate that about 60% of the total prison population have illegal substance abuse problems; the share has increased during the last 30 years (Göransson, 2011). The most recent statistics from the Prison and Probation Service (Kriminalvården, 2018) show that 58% of the imprisoned population were assessed to have some kind of substance abuse problem – 10% with alcohol problems, 18% with polydrug problems, and 30% with an illegal substance problem (ibid.). In a client survey from 2013 over 70% had substance abuse problems, so the number varies (Kriminalvården, 2014). According to statistics from 2016, 758 young person under 21 were released

from prison, and more than half of them were assessed to have substance abuse problems (Socialstyrelsen 2018).

Criminal record

The sanction decides how long a liability stays in the criminal record in accordance with the Criminal Register Code (SFS 1998:620).

Waivers of measures count as a criminal liability. They are registered in the criminal record and disappear after three or ten years depending if the person was under 18 when the crime was committed. For other sanctions, the record is valid from five to up to ten years after the sentence is served. Also, forensic psychiatric care and inpatient youth care are visible in the record ten years after completion of the sentence.

Summary: Sweden

The control of use of narcotics as a homogenous concept has since long been a focus in the Swedish criminal justice system, but the importance has grown over the recent decades. Compared to the other Nordic countries, Sweden focuses more on minor drug violations such as consumption and possession of small quantities. Over time, more and more crime-controlling resources have been invested for the justice system to discover and hinder the use of drugs. Penal sanctions sharpened during 2000–2013, and reported drug crimes per 100,000 inhabitants have tripled (including drugged driving and smuggling). Personal consumption was criminalised in 1988.

Sentencing is advised by guidelines from the state attorney, based primarily on the type and amount of a substance but also on other, aggravating and mitigating circumstances surrounding the specific case. Due to a change of court practice, the penalty levels have decreased for aggravated drug offences since 2011.

Acts related to cannabis are regulated in the Narcotic Drugs (Punishments) Act (SFS 1968:64), which has four different penalty scales depending on the severity of the violation. Consumption and possession of a small quantity is a minor drug offence that normally results in a fine. Most fines are issued by a prosecutor outside of the court, given that the suspect confesses to the crime and accepts the fines. Possession of more than 50 grams of cannabis or distribution is a drug offence where prison mostly applies. Waivers of measures are very rare for cannabis offences, and there is nothing in the legislation or enforcement practices that exempts people from sanctions, as exists in Finland and Denmark. Waivers of measures for drug offences appear very common in the crime statistics, but this is probably down to the high number of minor registered drug offences that are written off by the prosecutor due to other pending sanctions for more severe crimes.

Because of the keen focus on youth consumption of cannabis and possession of small substances, about 40,000 urine- and blood samples are taken each year based on suspicion of use. The share of young people being sampled is increasing. Seen in this light, urine- and blood sampling is a practice often directed at suspected cannabis offences. The use of this intrusive practice needs more systematic investigation in terms of aspects of when and where, regional and group differences, and personal and societal consequences of a measure often directed at young people. Another related area of research is to what extent young people with substance problems pass through the justice system and to what extent they get access to care and treatment from the social services.

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Report summary

This report has dealt with the control of cannabis use in Denmark, Finland, Iceland, Norway, and Sweden. We have asked how cannabis is used and how consumption and possession of cannabis is viewed and regulated in legislation and official guidelines. We have further asked how this legislation is enacted in practice, not only in the judicial context but also in police work and in the interplay between the legal actors and treatment actors. We also ask how the users are influenced by all this. The report mainly leans on available literature, studies, and reports as well as official statistics. We have also interviewed experts where there is a lack of published material.

The discussion below compares the control models in Denmark, Finland, Iceland, Norway, and Sweden, emphasising the central tendencies in all countries and also how the control models differ from each other. The Nordic countries clearly rely on a restrictive approach in their cannabis control. All countries, except for Denmark, are influenced by the vision of the *drug-free society* where the justice system is seen as the main actor in 'solving' the drug problem. The focus lies on controlling 'narcotics'; cannabis is usually not viewed separately. However, in some cases the dangerousness of the drug may have consequences for the sanction.

The extent and nature of cannabis treatment and drug treatment varies between the countries. There are treatment alternatives within the justice system in all countries, but the sanctions system is first and foremost an imposer of penal sanctions and not a channel to treatment or other, alternative sanctions. Drug strategies look different in different Nordic countries. There are also variations within the countries regarding how these strategies are enacted. Regional variation mostly occurs in police enforcement. The practice of prosecutors and courts is more uniform, as they rely on national, very detailed circulars for prosecution and sanctioning.

Table 1. Summary table for penalties for possession of cannabis in the Nordic countries

	<i>TYPE/AMOUNT</i>	<i>PENALTY^a</i>	<i>ACT OF LAW</i>	
DENMARK*	Fine	Use	x	
		Possession hashish < 10g**	270 €	Euphoriant Substance Act
		Possession hashish 50-100g**	670 €	Euphoriant Substance Act
		Possession marihuana < 50g**	270 €	Euphoriant Substance Act
		Possession marihuana 250-500g**	670 €	Euphoriant Substance Act
	Imprisonment	< 100 g hashish	Imprisonment	Euphoriant Substance Act
		< 500g marihuana	Imprisonment	Euphoriant Substance Act
		ca 10 kg hashish	10 months-1 year	Criminal code
		ca 10-15 kg marihuana	10 months-1 year	Criminal code
		ca 100 kg	2-2,5 years	Criminal code
FINLAND*	Fine	Use/possession <10 g hashish/ <15 g marihuana	10-20 day fines (420 €***)	Drug use offence (50:2a§)
		Use/possession 10-50 g	20-50 day fines	Drug use offence (50:2a§)
		Use/possession 50-100 g	50-80 day fines	Drug use offence (50:2a§)
	Imprisonment	40-100 g	1 month	Narcotics offence (50:1§)
		1-3 kg	1 year	Aggravated narcotics offence (50:2§)
>100 kg		7 years +	Aggravated narcotics offence (50:2§)	
ICELAND	Fine	Use	x	
		Possession	245 €	
		Possession 15 g	700 €	
	Imprisonment	Possession 50 g	1 850 €	
		90-200 g	30-45 days	
	201-600 g	45-90 days		
	601-1000 g	3 months		
NORWAY	Fine	1-2 user dose	avg fine in 2015: 370€	Medicinal Products Act
		13 g cannabis (Supreme Court verdict)		Criminal Code §231.1
		Limit for summary procedure: 15 g	avg fine in 2015: 600€	Criminal Code §231.1
	Imprisonment	75 g	36 hours community service (24 days in prison)	Criminal Code §231.1
		< 1 kg	< 2 years	Criminal Code §231.1
		> 1 kg	< 10 years	Criminal Code §232.1
> 80 kg		3-15 years	Criminal Code §232:2	
SWEDEN				
Fine	Use	30 day fines (880 €***)	Minor drug offence	

Imprisonment	Possession < 1g	30 day fines	Minor drug offence
	Possession < 25g	90 day fines	Minor drug offence
	Possession < 50g	140-150 day fines	Minor drug offence
	< 100 g	1 month	Drug offence
	< 2kg	1 year	Drug offence
	< 40 kg	4,5 years	Aggravated drug offence
		No practice yet	Particularly aggravated drug offence

Footnote: Approximations of fines were calculated for Finland and Sweden based on the median wage for the year 2017 in each country and the number of day fines. This was done in order to give the reader an approximation of what the sanction could mean financially, rather than just to report the number of day fines.

*** Caution**

**** first time offence**

*****based on the median wage in 2017**

The majority of all cannabis crimes in the Nordic countries have to do with use and/or possession for personal use. The proportion has varied over the decades depending on enforcement priorities. The number of drug user crimes per capita reported to the police and prosecuted varies across the Nordic countries. The number of (drug use) crimes is influenced by the extent of drug use but also by how/whether use is criminalised, by the rules for police work, and how these rules are enforced in practical policing. Also, the view of the reprehensibility of different types of drugs may matter at times.

The largest number of consumption offences reported to the police per capita are found in Sweden; about 90% of those concern consumption and possession of illicit substances. In Sweden around 40,000 urine samples are taken yearly for proving consumption.

Denmark has historically focused less on consumption and more on criminalising sale. Consumption is not controlled, neither by law nor through official guidelines issued from the Prosecution Agency. Denmark has the lowest offence rate among the Nordic countries, with considerably lower penalties for more serious cannabis offences. However, the perception of cannabis has changed in Denmark since the late 1990s. The previous separation between 'soft' and 'hard' drugs has almost completely vanished in the Danish legislation and practice.

Changes in legislation and practice are influenced by cannabis and an increased willingness to control it.

Norway is moving towards a decriminalisation of consumption and possession for personal use, following in the footsteps of the Portuguese example.

In some respects, the prevailing drug legislation is or has been enforced quite strictly both with regard to cannabis and other drugs. Cautions for cannabis offences are used very restrictively in practice (Denmark) or with regional variations (Finland). Practice has in fact developed in unintended directions: for example, the use of waivers is more restrictive than intended in the preparatory legislative work (Sweden). The introduction of summary procedures for drug violations in Finland – a change that simplified the fining procedure – had the consequence that the possibility to *not* sanction or issue cautions was in practice forgotten for a time.

There are also indications of miscalculations: when Sweden introduced imprisonment on the penalty scale for consumption of illicit drugs in 1993, the prediction was that the possibility for harsher punishments would result in more treatment through the justice system and a more varied sanctions practice. However, we know today that the consumption and minor possession of cannabis and other substances are fining crimes in all Nordic countries. The fines are often heavy – with considerable variations between the countries – followed by an entry in the criminal record. Even though it can be argued that fines are a relatively lenient sanction, it has consequences on an individual level as well as on a societal level, as drug violations (specifically fining crimes) constitute a large share of the total number of suspects of all crimes in the Nordic countries and are a considerable cost for the justice system and society in general.

The fact that the justice system is seen as the main agent for cannabis control has consequences on who will receive treatment. The extent and focus of treatment vary among the countries depending on to which extent they have developed effective and extensive treatment, both in the society and within the correctional system. To what extent individuals' social problems are addressed within the justice system relies heavily on treatment models but mostly on how the sanctions system is founded and structured. Are there alternative sanctions to fines and prison? To whom are they applicable – and what is the need for cannabis treatment among those who enter the justice system?

A central tendency in all the Nordic countries is that alternative sanctions for cannabis violations are mostly applicable to serious cannabis violations such as sale, distribution, or possession of large amounts. Severe drug violations open

up the possibility to impose more intrusive sanctions, including treatment alternatives. For minor violations we are mostly talking about fines, with few sanctioning alternatives – also for people under 18. For young people the sanctions systems are more diverse in general, but the imposed sanctions tend to be more intrusive than for adults, often with contract-based treatment/care with mandatory urine testing. What the justice system can provide is a carrot and stick for young people to enter some form of treatment, a tool that should not be dismissed.

Problems arise when fines are used as a main consequence for minor cannabis violations among individuals with less financial means than the general population. In Norway, harsher fines are imposed in so-called 'problem areas' frequented by groups of socially marginalised drug consumers who may have great problems paying the fine. In Finland and Denmark, the police and prosecutors have built-in possibilities to issue a caution instead of a fine. Norway has over the recent decade investigated and developed a comparatively diverse sanctions system for cannabis offences (as well as other drug offences and drug-related offences) with drugs courts and specific youth penalties and youth contracts.

Young adults make up a large proportion of cannabis consumers in the Nordic population, and much of the implementation of the drug legislation is directed towards young people. In this, the system relies on both general preventive measures (total consumption model, recruitment prevention) and individual preventive measures. That said, only a small number of offenders (cannabis consumers and distributors) enter the justice system. An unknown number of offenders enter the justice system as drug offenders because of other crimes where the drug crime is a by-product. What is clear from the overview in the report is that there is disparate enforcement, and there are indications that certain groups are more controlled than others, which cannot always be explained by consumption patterns. Particularly women are underrepresented in the justice system, as are people in wealthier areas.

Cannabis is the most common psychoactive substance in the Nordic countries apart from alcohol, with some country variations. In contrast to many other social issues that are traditionally handled by the welfare state – and considering the extensive cannabis controls in all Nordic countries –, the control and general prevention of cannabis and related social problems are grounded in the justice system. Drug legislations are generally structured in more or less complicated ways around consumers versus suppliers, that is, around minor or more severe cannabis violations.

In court practice, prosecution practice, and police practice there are considerable variations between the Nordic countries. Historically and currently, there are also variations in how the control system is motivated, which sanctions are used, and how the penalty levels are determined. There are also differences in treatment offers within and outside the justice system and cannabis expertise within treatment.

There is a need to discuss and evaluate cannabis control models and different aspects of these models on an individual level (recidivism, unintended future consequences, and treatment outcomes), public health level (total consumption), and economic level (resource efficiency). What is the role of the justice system and other actors and on what level? The majority of cannabis users are not problem users and do not need/receive treatment. However, their use can lead to legal consequences.

It is not insignificant how society responds to use of drugs or cannabis. The responses show how society views the problem of cannabis use: is it a social problem, a health problem, or a problem of law and order? The response matters a great deal for the user. As the use of cannabis increases, it is also likely that problems related to cannabis will increase. This puts pressure on the societal responses to cannabis, even if the majority of cannabis users are not problem users in need of treatment.

Suggested research

- Who is the cannabis user: Compare between different countries, and consider the frequency of use and the background variables for use over time. Have background variables changed over time as cannabis has become more prevalent? The role of alcohol and other substances, also tobacco? Possible data: existing drug surveys.
- Cultural representations of the 'cannabis user': 1. how do the public perceive the cannabis user? 2. How do professionals perceive the 'cannabis user'? Differences between layers in the justice system and practitioners? This is significant knowledge in terms of the measures we propose for dealing with cannabis.
- Police methods: Systematic studies on who is controlled that test different explanatory models: Gender, neighbourhood/environment, and intersectional aspects of control. Which drug scenes are controlled and

what do we know about purchase (online/offline) and consumption patterns (what, when, where)? How many cannabis violations are by-products of other crimes?

- Waivers of measures: How are cautions for cannabis imposed (situations, regional variations, and group variations)? How are waivers of measures used (situations, regional variations, and group variations)? – register data as well as qualitative fieldwork.
- Consequences of youth sanctions: Compare health- and crime-related outcomes for different youth sanctions (fines vs treatment sanctions).
- Increase in potency in cannabis products: Should types of cannabis be differentiated more in research, since the THC levels and CBD vary very much depending on what is used? The fact that THC levels and CBD levels vary may have indications for treatment, harm reduction, and information to the public, but also for control and the obligation to refer users to treatment, maybe also for control and the control agents.
- Criminal record: Does a criminal record for cannabis use affect future prospects and possibilities, such as job opportunities? If so, in what ways?
- How do the police perceive cannabis use? Is it a health problem, a social problem, or a crime? Do the countries vary in this? Do the attitudes in different police units differ from each other?
- Treatment praxis: how does cannabis treatment differ in the Nordic countries and regions within countries?
- The justice system: more extensive research on how cannabis cases are treated in the different phases of the legal system compared to other substances. This includes police enforcement, prosecutor practice, and the sanctioning agencies. To what degree are the different types of sanctions used?
- Coercive measures: The costs and practice of urine tests in different countries should be studied, because they are used quite unevenly. A cost analysis should be done also in the correctional settings.
- Cost effectiveness: The costs of the practices on different levels of the legal system where possible. Possibly comparing drug crimes to other crimes.
- A gendered perspective, and when necessary, an intersectional perspective is needed in most of the issues brought up.

Appendice. List of interviewees

Some of the interviewees have asked to remain anonymous. In these cases we only mention their affiliations

Denmark:

Senior prosecutor (senior anklager), Copenhagen police

Iceland:

Helgi Gunnlaugsson, Professor in sociology, University of Iceland, Faculty of Social and Human Sciences

Norway:

Bård Dyrdal, Superintendent, Norwegian police

Sweden:

Police inspector, Stockholm

Prosecutor and administrative official drug offences, Stockholm

Finland:

Important insights and advice on where to find data have been provided by professor Heini Kainulainen and state prosecutor Leena Metsäpelto

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