

TALLIN UNIVERSITY OF TECHNOLOGY

School of business and governance

Department of law

Lauri Juhani Nykänen

Drug Policy Reform for Finland: *De jure* or *De facto* Decriminalization

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Supervisor: Jenna Uusitalo, PhD student

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I hereby declare that I have compiled the thesis independently and all works, important standpoints and data by other authors have been properly referenced and the same paper has not been previously presented for grading.

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Lauri Juhani Nykänen.....

(signature, date)

Student code: 195092HAJB

Student e-mail address: lanyka@ttu.ee

Supervisor: Jenna Uusitalo, PhD student

The paper conforms to requirements in force

.....

(signature, date)

Chairman of the Defense Committee:

.....

(name, signature, date)

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ABSTRACT

The prevalence of illicit narcotic substances in Finland has been inclining for more than two decades now. The incline does not only concern Finland but can be identified all around the globe. This thesis examines the current policy model of Finland, as well as policy models from other countries, which have used *de jure* or *de facto* decriminalization. With the purpose to suggest a more suitable drug policy methods for Finland.

The research is executed by analyzing different countries drug policies, which are different from what Finland is following. The idea is to identify flaws from the current policy and make room for improvements. Current policy aims are examined by using means and methods from other countries, suggestions on renewed actions are given. This thesis considers the persons who are in need of help, as well as the state which is on a mission to help, but also persons who are enforcing, and executing. The subject has great importance as it considers the wellbeing of the nation.

The aim of the thesis is to research and propose a more suitable methods for Finland to approach a modern narcotics legislation. And to answer the research question: Could Finland benefit changing its narcotics legislation based on *de jure* or *de facto* decriminalization?

Keywords: drug policy, policy models, decriminalization, *de jure*, *de facto*

INTRODUCTION

Since the early stages of the world, narcotics have taken a part of the society to the spiral that they can cause. The problem of drugs has been evident for an extensive period of time. Countries and regions have declared wars against drugs, but the results have not been satisfying on the large scale, as the fight continues.

Methods for acquiring narcotic substances are expanding with the continuous globalization and progression of the world. Internet, which consist of many methods to practice illicit activities, where one of them is the dark web. New drugs are entering the market, cultural trends grow with in the society and attitudes of people with it. This exposes new people to the proximity of narcotic substances. The above listed are some of the causes why states around the globe are pushed to reconsider their actions, policies, and laws around the area of narcotics and the substance use of them.¹

As the prevalence of narcotics usage and production grows, it affects inexorably the rates of penalties, whether fines or incarcerations. The increase creates pressure to the criminal justice systems, which ties resources to the accumulation of cases. Within European countries, 18% of crimes related to drugs were about trafficking, when the rest were about the usage of narcotic substances or possession of narcotic substances. This does not only concern Europe but, globally the figure for possession crimes only, is 83%.² When the drug policy is concentrated solely on prohibition rather than designing a policy which serves the reduction of harm, which is not only more cost-effective, but also increases the humanitarian aspect of the policy and its goals.³

¹ Benfer, I., Zahnow, R., Barratt, M.J., Maier, L., Winstock, A., & Ferris, J. (2018). The impact of drug policy liberalization on willingness to seek help for problem drug use: A comparison of 20 countries. *International Journal of Drug Policy*, 56, 162-175.

² The Global Commission on Drug Policy. (2016). Advancing drug policy reform: A new approach to decriminalization. The Global Commission on Drug Policy. p. 17. Retrieved from: <http://www.globalcommissionondrugs.org/wp-content/uploads/2016/11/GCDP-Report-2016- ENGLISH.pdf> 31.1.2022.

³ Unlu, A., Tammi, T., Hakkarainen, P. (2020). Drug decriminalization policy: literature review: models, implementation and outcomes. p. 13.

This thesis is focused on my home country, Finland. As I have been born and raised in Finland, I feel the tie that I want to make this research regarding it, with the end goal to perhaps give a viewpoint and evidence for something new to the country and advancing its development. This thesis displays the current stage of the Finnish drug laws, and the Finnish drug policy. What are the goals within those legislative acts, and policies? Weighing those goals against the current situation of drug problems within Finland and reflecting different types of policies to counter measure the problems that lie, with a qualitative research. With the aim to give an answer to the research question: Could Finland benefit changing its narcotics legislation based on *de jure* or *de facto* decriminalization? Different countries have implemented different policies, to try and change the imminent drug problems that they face. *De jure* and *De facto* decriminalization are focused on this thesis, as the policies that could create the difference. This thesis weighs the aforementioned policy suggestions by analyzing different approaches and their results, which are taken by other countries. And reflects them to the situation that Finland is currently in. This paper takes in to account the legal aspect of the decriminalization, but also touches up on the social sciences side of the issue, mainly regarding the health and safety of the general public.

The paper is structured in a manner, that in the first chapter the reader will get basic knowledge of the narcotics legislation in Finland at the moment. As well as the impact of the legislation and to certain statistics are presented. The second chapter introduces alternative policy models for narcotics legislation, more precisely *de jure* and *de facto* decriminalization models, in addition with a couple of example countries and how they have managed to implement the aforementioned. Third chapter proposes what Finland should do in the future regarding its narcotics legislation, in the light of the evidence that is explained in the chapter before. The final chapter brings the thesis and its findings together in the form of a conclusion.

1. OUTLINE ON FINNISH DRUG POLICY

The basis for the modern drug policy of Finland develops from⁴ the United Nations (UN) Single Convention on Narcotic Drugs, (1961).⁵ Previously the conventions regarding narcotic drugs, were issuing about the states actions. With this convention the focus shifted to the users of the narcotic substances, this has been the policy for over 60 years now.⁶ In its drug politics Finland has committed to the United Nations Conventions against drugs, as well as to the European Union (EU) drug strategy for the year 2021-2025.⁷

1.1. Drug policy

Finland stands at the current stage in a prohibitionist course, but has progressed with its drug policy, towards a more rehabilitative direction. The Finnish Governments resolution on its drug policy for years 2016-2019 outlined important aspects for the cooperation as: 1) National coordination in drug policy, 2) preventive work and early interference, 3) prevention of illegal narcotic criminality, 4) narcotic addiction treatment and drug problems disbenefits reduction, 5) European Union and international cooperation.⁸ In the Finnish governments resolution on drug policy for the years 2021-2023, few components and priorities have changed. As of for the period of 2021-2023, in the resolution the government mentions specifically that, the aim of the drug policy is to prevent the consumption and spreading of narcotic substances, as well as to minimize the health-, social, and individual harms that develop from the consumption and prevention, would be left at minimal stage. The important aspects regarding the cooperation in lieu of the drug policy is described as: 1) Preventive work and early interference, 2) prevention of drug criminality and establishing criminal liability, 3) treatment for drug addiction, 4) reduction of the harms from drug problems, 5) collection of information and research regarding

⁴ Hakkarainen, P. (2021). Huumeiden käytön dekriminialisointi: Tukea rangaistusten sijaan. Terveiden ja hyvinvoinnin laitos (THL). p. 2. Retrieved from: https://thl.fi/documents/974282/1449788/MIPA+verkostopäivät_070521_P.Hakkarainen.pdf/d3f6dc20-ac63-0840-d840-9be41206096d?t=1620824508459 01.02.2022.

⁵ Single Convention on Narcotic Drugs, 30.03.1961, New York.

⁶ Hakkarainen P. (2021), *supra nota* 4, 2.

⁷ Finnish Government. Finland's Government Resolution on Drug Policy 2021-2023. Retrieved from: <https://valtioneuvosto.fi/paatokset/paatos?decisionId=0900908f80777c5a> 01.02.2022

⁸ Finnish Government. Finland's Government Resolution on Drug Policy 2016-2019. Retrieved from: <https://valtioneuvosto.fi/paatokset/paatos?decisionId=0900908f804fcd5a> 01.02.2022.

drug statistics as well as improvement of communication, 6) European Union and international cooperation.⁹ The attitude has shifted towards a more harm reducing viewpoint, as for emphasizing the importance of, prevention, care, treatment and data.

1.2. Implementation of drug policy

The central legislation in Finland regarding narcotics is the Narcotics Act (373/2008)¹⁰. Chapter 1 section 1 describes the aim of the Act, which is to prevent illicit: a) import, b) export, c) manufacture, d) distribution, e) use, of narcotic drugs¹¹. Narcotics Act consists of particular provisions which regulate issues such as if the action in question regarding narcotic substance is subject to license or illicit. As well as definition, guidance and control, and responsibilities. Another part of the drug legislation forms from the Chapter 50 of the Criminal Code of Finland.¹² Which regulates the crimes of: a) narcotics offence, b) aggravated narcotics offence, c) unlawful use of narcotics, d) preparation of a narcotics offence, e) abetting a narcotics offence, f) abetting an aggravated narcotics offence.¹³ As well as Act on organizing alcohol, tobacco, drugs, and gambling prevention (523/2015) (especially directed for the younger population, to ensure early intervention and minimizing the possibility of a drug problem)^{14, 15} forms a part of the drug legislation of Finland, with the addition of few decrees from the government which stipulate different classification on what is considered as an illegal narcotic substance. In conjunction with programs like the needle exchange program (NEP), which was started gradually during the years 1997-2003. The aim was to exchange fresh needles and cleaning supplies in order to fight infectious diseases like HIV.¹⁶ Another harm reduction method was established during the same period of time, to fight diseases such as HIV. The method in question is opioid substitution

⁹ Finnish Government. Finland's Government Resolution on Drug Policy 2021-2023 *Supra nota*, 7.

¹⁰ Huumausainelaki 30.5.2008/373.

¹¹ *Ibid.*, §1.

¹² Rikoslaki 19.12.1889/39. Chapter 50

¹³ *Ibid.*, §1-§4a.

¹⁴ Finnish Government. Finland's Government Resolution on Drug Policy 2021-2023 *Supra nota*, 7.

¹⁵ Laki ehkäisevän päihdetyön järjestämisestä 24.4.2015/523.

¹⁶ Tammi, T. (2005). Diffusion of public health views on drug policy: The case of needle exchange in Finland. *Beyond Health Literacy: Youth Cultures, Prevention and Policy*. Helsinki: *Finnish Youth Research Network/Finnish Youth Research Society*, Publication, 52, 185-199. p. 187-190.

treatment.¹⁷ Which not only helps with the spread of the diseases but also offers rehabilitation to the persons who use narcotics.

The penalties in Finland for the aforementioned crimes depend usually on the severity of the crime. The background of the offender has a weighing factor in the sentencing as well. If there is a question about a first-time offender, the sentencing can be more forgiving, compared to what it could be on a person who has multiple breaches or crimes on the record. Narcotics offence, offender may get a fine, or up to two years of incarceration.¹⁸ When the severity of the crime increases and the indictment is on aggravated narcotics offence, the offender may get incarceration at least for one year, but no more than ten years.¹⁹ In the case that the person caught has been charged with unlawful use of narcotics the penalty imposed may be a fine, or incarceration for up to six months.²⁰ If the person is facing charges for preparation of a narcotics offence, the possible penalties can be a fine or incarceration for up to two years.²¹ In the case of abetting a narcotics offence possible penalties faced if found guilty may be a fine, or incarceration for up to two years.²² In case the offence is more severe, and charges faced are for abetting an aggravated narcotics offence, penalties faced may be incarceration for at least four months, but no more than six years.²³

With the aforementioned acts, decrees, programs and penalties from the government, there can be seen the aim of the drug policy of Finland. Where there are the prohibitionist views apparent from the Criminal Code of Finland by having clauses for narcotics offence and unlawful use of narcotics. On the other hand, with the 523/2015 act and the example given with the needle exchange program there are harm reduction views present as well. Overall, the legislation reflects the policy's aim. However, question arise from this conclusion. Mainly, how well does the legislation serve the policy aims? Are those the most efficient and productive means in

¹⁷ Selin, J., Perälä, R., Stenius, K., Partanen, A., Rosenqvist, P., & Alho, H. (2015). Opioid substitution treatment in Finland and other Nordic countries: Established treatment, varying practices. *Nordic Studies on Alcohol and Drugs*, 32(3), 311-324. p. 311.

¹⁸ Rikoslaki 1889/39 *supra nota*, 12. §1.

¹⁹ *Ibid*, §2.

²⁰ *Ibid*, §2a.

²¹ *Ibid*, §3.

²² *Ibid*, §4.

²³ *Ibid*, §4a.

accomplishing the intended results? Could be summarized with: How well does the system work?

1.3. Causations of the prevalence of illegal substance use in Finland

1.3.1. Death

The first period that the usage of illicit drugs started to show in Finland, was in 1960. The second time followed thirty-years later in 1990. Since that period, no signs of decrease in prevalence have been detected. But rather the experiments of drug usage, and problem usage has inclined since the start of this century.²⁴ The incline of prevalence of the usage of illicit narcotics can be seen in the statistics of causes of death as well. In the start of this century drug related deaths started at 134 persons. The mortality rate was at its lowest in this century in 2002 when the number of drug related deaths was 97. The highest mortality rate in this area was in 2018 when the statistics recorder 261 deaths for drug related causes. The latest data is from the year 2020 and the relative rate at that time was 258 mortalities.²⁵ The mortality rates present and visualize the incline of not only the mortality rate itself, but it can be concluded that there is an incline with the users of illicit narcotics as well.

1.3.2. Crime

European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) which contributes with its reports and analyzes to and healthier and safer Europe²⁶, has collected data about the substance prevalence in Finland. With this information, there can be seen the progression of the circumstance throughout the years. Purely with the crime statistics the increase of problem users can be detected. The year 2005 statistics show the number of narcotics offences was 15,338, out of those offences 9,310 were use offences.²⁷ Moving forward through the next five years, the

²⁴ Rönkä, S., & Markkula, J. (2020). Huuometilanne Suomessa 2020. p. 18.

²⁵ Official Statistics of Finland (OSF): Causes of death, Appendix table 4. Drug-related mortality 2000 to 2020. Helsinki: Statistics of Finland. Retrieved from: https://www.stat.fi/til/ksyyt/2020/ksyyt_2020_2021-12-10_tau_006_en.html 02.02.2022.

²⁶ European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). Retrieved from: <https://www.emcdda.europa.eu/about/activities> 02.02.2022.

²⁷ Virtanen, A., & Sjöberg S. (2006). 2005 National Report to the EMCDDA by the Finnish National Focal Point-Drugs in Finland. Series and number Statistical Report 2/2006. p. 96.

figures show 17,454 narcotic offences where the number of use offences were 11,119.²⁸ In the years 2017 and 2019 the respective numbers for all narcotics offences were 23,478²⁹ and 27,680³⁰. The latest data available shows the figures from the year 2020. Narcotics offences reported were at all time high with the figure of 36,946 the number for use offences that year was 23,700.³¹ The statistics of the offences above are for offences which are regulated in Chapter 50 of the Criminal Code of Finland.³² These figures leave out some of the crimes that happen because of the use of narcotics. The methods that problem users usually adapt, in order to support their addiction financially are illegal. In order for the problem users to earn money, they usually commit crimes against property. Which cause new crime statistics to increase, as well as the number of cases that detectives need to investigate.

1.3.3. Costs

As it is well established fact, that the usage of narcotics most likely causes some type of costs. Whether it is negative social implications, by drifting into addiction and the social relationships start to vanish, afterwards the person in concern may start to feel like he/she is no longer a part of the society. Or personal economical predicaments, with the same reasoning of drifting into addiction and the realization that, narcotics and work life do not go well with each other. Or personal health problems, that are the causation of the consumption/addiction of/to illicit narcotic substances. These types of costs consider the individual as well as the vicinity in question, they are personal.

Public expenditures are another type of costs that this topic considers. To this category there can be categorized drug related expenses that come from the social protection and health care, as

²⁸ Forsell, M., Virtanen, A., Jääskeläinen, M., Alho, H., & Partanen, A. (2010). Finland drug situation 2010: 2010 national report to the EMCDDA: New developments, trends and in-depth information on selected issues. Statistical report 39/2010. p. 124.

²⁹ European Monitoring Centre for Drugs and Drug Addiction (2017). Finland Country Drug Report 2017. Publications Office of the European Union, Luxembourg. p. 1.

³⁰ European Monitoring Centre for Drugs and Drug Addiction (2019). Finland Country Drug Report 2019. Publications Office of the European Union, Luxembourg. p. 1.

³¹ Official Statistics of Finland (OSF): Statistics on offences and coercive measures. Helsinki: Statistics Finland. Retrieved from: https://www.stat.fi/til/rpk/2020/04/rpk_2020_04_2021-01-19_tie_001_en.html 02.02.2022.

³² Rikoslaki 1889/39 *supra nota*, 12.

well as expenses that come from public order and safety.³³ The first category can consider, research, health institutes, and sickness allowances etc. The latter category comprises of policing, courts, and prisons etc.³⁴ In 2008 estimated of EUR 126 million were allocated to public expenses that were caused by the usage of illicit narcotics. Around EUR 69 millions of those funds were for consumed by the latter category.³⁵ The latest statistics come from 2016 when the total amount for public expenditures that years reached an estimated of EUR 334.2 million. Around EUR 163.76 million were used by the category of public order and safety.³⁶ Overall, in 8 years the raise in public expenditures was 165% and in public order and safety the incline is estimated at 137%.

The above listed statistical elements describe the progress that illicit substance prevalence has had in Finland over the years. When analyzing the results that can be found and comparing those to the policy and to the aims it considers that currently prevails. The increase of deaths, crime and costs shows that even though the costs of the policy and of the methods go up, the statistics follow behind. It does implicate that the system does not work to its full potential, and different approaches should be researched and experimented with.

1.4. Current outlines for the future in Finland

As Finland has fought against the usage, distribution, and overall prevalence of illegal narcotics for a few decades now, there have been check points where the actions of the state and relevant authorities have been reviewed. These have concerned the usage of alcohol, narcotics, tobacco and nicotine products and gambling.³⁷ The check points have shown the past situation, and the prevailing situation. In the light of the aforementioned, new guidelines for the future are formed to succeed in the set goals.

³³ Rönkä, S., & Markkula, J. (2020). *supra nota 24, 3.*

³⁴ Forsell, M., Virtanen, A., Jääskeläinen, M., Alho, H., & Partanen, A. (2010). *Supra nota 28, 35.*

³⁵ *Ibid., 34.*

³⁶ European Monitoring Centre for Drugs and Drug Addiction (2019). *supra nota 30, 3.*

³⁷ Markkula, J., Rapeli, S., Kempainen, J., & Kotovirta, E. (2021). Ehkäisevän päihdetyön toimintaohjelma. Väliarviointi ja jatkossa tehostettavat toimet vuoteen 2025. p. 3.

There are few relevant targets for developments, that consider the area of drug policy, and are relevant in the viewpoint of this thesis. The Ministry of Social Affairs and Health found that improvements should be made in the field of negative stigmas, early identification, intensification of support in services, and advancement of education.³⁸ Persons who use illicit narcotics can develop a negative stigma on them. It can evolve from the fact that they use narcotics, and they are an addict, or it can come from possible sentences that they have on their record. One negative stigma could be just that the person is an outcast of the society. Early identification is related to addiction. Its goal is to identify the problem as early as possible, for the reason that the problem could be obstructed from culminating. Therefore, if a drug addiction is detected and identified early, the problem can be intervened and with more probability, the person can be assisted away from the addiction. In intensification of support in services can refer to giving more means and methods of support to the services that are in field. For example, mental health can be a contributing factor on addictions. Education plays an important part, especially when the discussion is circulated around children. The education about narcotic substances is not the only lecture that needs to be given, although it is also highly important as well, in order for children to realize what drugs are and what they can cause. Education about the social circumstance which follow drugs and influences they can have. Such as in every situation which involves a group of children. Peer-pressure can in some cases lead someone to experience narcotics, therefore it is important to educate about this phenomenon. In addition, it would be highly beneficial to educate about circumstances when the situation has gotten out of control. What to do if you find yourself, or someone close to you in addiction, this will enable people being more liable to seek assistance for themselves or to someone else.

In 2021 Ministry of Social Affairs and Health accumulated guidelines which are followed until the year of 2030. In order for Finland to succeed in its goals regarding its policy plans. The guidelines consider that, the detriments that the usage of narcotics generate to the user, close relatives, community and to society should be reduced. Especially giving emphasize to the mortality rates of persons who use narcotics substances and reducing those rates. With the addition that every time that a new government is elected, a new decision in principle is prepared to strengthen the planned actions. Task forces are assembled to guarantee the best expertise. As

³⁸ *Ibid.*, 3.

well as the cooperation on a national and international level in matters of drug policy is to be ensured.³⁹

Even though the strategies concerning the future of drug policy in Finland seem to focus more on the harm reduction side of the problem, as well as they place an emphasize on the well-being, and over all life of the persons with drug problems, there can be more effective means and methods. The next chapter is going to give overviews drug policies where the focus is shifted from criminalization to decriminalization.

³⁹ Kotovirta, E., Markkula, J., Pajula, M., Paavola., M., Honkanen, R., & Tuominen, I. (2021). Päihde- ja riippuvuusstrategia. Yhteiset suuntaviivat vuoteen 2030. p. 21.

2. DECRIMINALIZATION

Decriminalization is a concept that can sometimes be associated with the word legalization. However, the two do not imply the same. When discussing about decriminalization it means, that an act which has criminal liability in committing it, when decriminalized the criminal liability is non-existent. However, this does not mean that it has become legal. When committing the act there still can be civil liability and repercussions can still follow.⁴⁰ For instance, instead of being sentenced to incarceration for up to two years, the penalty (which is not criminal) can be reduced to being an administrative fine (such as some Australian states have done⁴¹). Or there can be an option for the person who committed the act, to get registered in to care, and thus avoiding the fine. Moreover, in some models of decriminalization policies and legislation, there can be the case that not only the criminal liability but also the civil liability of the act is diminished, and no repercussions are given, but the act in question still remains to be illegal.⁴² There are practically two approaches recognized to decriminalization models, which are *de jure* decriminalization and *de facto* decriminalization.⁴³ Although there are two basic models for decriminalization, there are still number of types of different policies and methods that are taken.

2.1. *De jure* decriminalization

In *de jure* decriminalization model, criminal penalties are removed, with legislative reforms.⁴⁴ In practice there can be multiple different methods that are used. The reforms can have an implication on the crimes of using narcotics and possession of narcotics. It can be drafted to have implication only on one drug, or on all of them. There are numerous policies on what is the quantity of drugs in possession that one person can have, in order for the possession to be minor

⁴⁰ Pacula, R. L., MacCoun, R., Reuter, P., Chiqui, J., Kilmer, B., Harris, K., Letizia, P., Schäfer, C. (2005). What does it mean to decriminalize marijuana? A cross-national empirical examination. UC Berkeley: Center for the Study of Law and Society Jurisprudence and Social Policy Program. p. 4.

⁴¹ Bammer, G., Hall, W., Hamilton, M., & Ali, R. (2002). Harm minimization in a prohibition context – Australia. *The Annals of the American Academy of Political and Social Science*, 582(1), 80-98. p. 88.

⁴² Pacula, R. L., MacCoun, R., Reuter, P., Chiqui, J., Kilmer, B., Harris, K., Letizia, P., Schäfer, C. (2005). *supra nota*, 40, 4.

⁴³ Jesseman, R., & Payer, D. (2018). Decriminalization: options and evidence. Canadian Centre on Substance Use and Addiction. p. 2.

⁴⁴ *Ibid.*, 2.

and not being a criminal act. The decriminalization also concerns the supplies that are used when consuming narcotics, needles, and syringes etc. In *de jure* decriminalization models, there are also few ways of imposing repercussions. As the criminal liability is removed there cannot be criminal penalties, but civil or administrative penalties can be imposed. Such as a simple fine, or the person can be directed to care on mandatory or on a voluntary basis. In some cases, there are no repercussions imposed, it is dependent on the policies that the given country is following.⁴⁵ In conclusion *de jure* decriminalization is through legislative reform, which considers the usage and possession of narcotics and their supplies. Non-criminal sanctions may or may not be imposed. Overall, the legislative reform point of view in the *de jure* model gives the policy model a sturdy foundation, as it is prescribed in the law. However, this can mean that the process of implementing the decriminalization policy model into the country can take a decent amount of time. Which could be seen either as a good matter as if done slowly and all relative point of views are assessed the result could be sustainable. On the other hand, it could a bad matter, as urgency in order to improve the results of the policy, could be needed.

2.2. *De facto* decriminalization

De facto decriminalization model differs from the *de jure* model on the fact that it does not require a legislative reform, but rather it is done with non-legislative measures such as informal guidelines⁴⁶ that can be given to the police, who are overseeing the laws and to the prosecutors as well. In *de facto* decriminalization models the possession and consumption of illicit narcotic substances remain to be a criminal act. However, the difference that is brought by the *de facto* decriminalization is that the prevailing policy and the police of the country makes the practice to be such, that no criminal penalties are imposed. The same policy that can be seen in *de jure* model still follows. That the repercussions can still be present, either from a civil or administrative point of view, whether a by a fine or instructed to treatment. Conversely, it can similarly be the case that no repercussions are imposed.⁴⁷ As *de facto* decriminalization model does not require a legislative reform, but it can be completed thorough policy and guideline

⁴⁵ Godwin, J. (2016). A public health approach to drug use in Asia: Principles and practices for decriminalization, London, UK: International Drug Policy Consortium. p. 14.

⁴⁶ Jesseman, R., & Payer, D. (2018). *supra nota* 43, 2.

⁴⁷ Godwin, J. (2016). *supra nota* 45, 16.

changes, the nature of the reform is that it can be done faster than *de jure* model reform. However, the *de facto* model is lacking the legislative foundations.

2.3. Decriminalization principles

Decriminalization could be seen as something that is new, as it is becoming more common and widely known. However, decriminalization model is not new. There are countries which have used the decriminalization model since 1970. In addition, amongst the countries of the globe, there are countries who have never had a criminalization model policy. Today there are approximately 30 countries who use decriminalization type of policy.⁴⁸ As there are many countries who utilize the decriminalization policy, there are also number of types of policies. However, for the policy to be considerable and to be able achieve desired results, the policy should approach the problem from an evidence-based point of view, with keeping in mind principle of public health, principle of harm reduction, principle of human rights and principle of social inclusion⁴⁹, which are the core principles in this policy model.

2.3.1. Evidence-based viewpoint

Evidence-based viewpoint refers to the style of treatment and care. The issue that this refers to is the addiction and other health issues that may be caused by the use of narcotic substances. It goes without saying that in the modern society, if the person has a disease or sickness, the doctors and care personnel use treatment methods that are recognized and do not try to improvise the treatment plan or try some method which has been evidenced to be faulty. The same approach should be applied in the care of drug addicts. As an example, compulsory drug detention center are used as a treatment method usually for opiate and amphetamine type drugs, however their research and data has evidenced that their effectiveness is lacking and people who are released from the center relapse.⁵⁰ The treatment systems purpose is not to take care for a certain period of time, and after release a relapse follows, rather the treatments should assists the persons in

⁴⁸ Eastwood, N., Fox, E., & Rosmarin, A. (2016). *A Quiet Revolution: Drug decriminalization across the Globe*. (2nd ed.) United Kingdom: Release drug the law and human rights. p. 6.

⁴⁹ Godwin, J. (2016). *supra nota* 45, 12.

⁵⁰ Kamarulzaman, A., McBrayer, J. L. (2015). Compulsory drug detention centers in East and Southeast Asia. *International Journal of Drug Policy*, 25, S33-S37. p. 34.

care to be able to live independently and without an addiction for the forthcoming future and beyond.⁵¹ When implementing methods of treatment that provide desired results, which here would be reintegrating the persons in question back to society, as well as trying to minimize the probability of relapse, the policy aims that are set out are more likely to be achieved as well. The when the treatment achieves the result it does not only concern the one person's life, but the whole society. When the numbers of succussed treatment are multiplied, it begins to show in the statistics of deaths, crimes, and costs as well.

2.3.2. Public health and harm reduction

Harm reduction methods in policies, aim to improve the overall health and conditions for persons who use drugs. Their aim is to minimize the social and economic harms that these persons may face with their addiction. Harm reduction policy does not directly aim to reduce the amount of people who use drugs, but rather treating and ensuring safety for the one involved.⁵² The common methods of harm reduction-oriented policies can be seen in varies countries around the globe. The methods include first and foremost the explicit mention in the drug policy that one of the aims of the policy is to minimize the social and economic costs that the usage of narcotics may cause, thus committing to the harm reduction policy. Secondly, Needle Exchange Program (NEP) which give out fresh needles for persons who use drugs, where the aim is to reduce the spread of certain infectious diseases such as HIV. Third, are the drug consumption rooms, where the aim is to create a safer environment for persons who use drugs to consumer them, improved hygienic conditions and safer environment are offered. Fourth, is the peer distribution of naloxone, naloxone is a drug, which counter acts on the symptoms of opioid usage, thus relieving the user itself. Fifth, is the opioid agonist treatments in prions, where the aim is the same as in the previous, by offering counter active drugs to the symptoms of opioid use disorder. Sixth and the final common method is the needle and syringe programs in prisons, where the aim is similar to the NEP programs, but the operation is focused inside prisons and minimizing the spread of possible contagious diseases within those walls.⁵³ When the government has the harm reduction

⁵¹ International Drug Policy Consortium. (2016). IDPC Drug Policy Guide. (3rd ed.) *s.l.* p. 49.

⁵² Marlatt, G. A., & Witkiewitz, K. (2010). Update on harm-reduction policy and intervention research. *Annual Review of Clinical Psychology*, 6, 591-606. p. 593.

⁵³ Harm Reduction International, (2020). *The Global State of Harm Reduction 2020*. (7th ed.) London, UK: Harm Reduction International. p. 13.

method implemented in their national drug policy, they are directly influencing the public health in their territory, because of the offering of safer facilities, where can be educational sessions as well, more hygienic supplies, treatment in prisons, as well as in the outside world. However, as the above explains few of the common harm reduction methods that are used all over the world, there are other methods as well. But to factor those methods or other new methods, into the drug policy of a nation, the methods must be evidence based as well. Therefore, constant evaluation on the means and methods are required in order to act with greater effectiveness.

2.3.3. Human rights

United Nations is one of the supra national organizations that have human right conventions where there are numbers of countries that have ratified the treaties. Under one of those conventions, more specifically the International Covenant on Economic, Social and Cultural Rights, Article 12, The Right to the Highest Attainable Standard of Health the ratified states (which Finland is)⁵⁴ are obliged, with respect to the people, and by protecting them without discrimination, to fulfill the duty that this Article imposes.⁵⁵ It is claimed that, because in criminalization policy models the fear of getting caught presents deterrence on the persons in question whether they should seek for help or not. This causes them to be more vulnerable and possibly not be able to seek for treatment even if otherwise they would do so.⁵⁶ There are of course limitation possibilities to some of the human rights, but they cannot be without reasonable justification. The justification to the limitation of certain rights is that they have to have a legitimate purpose, the limitations must be proportionate, in addition they need to be a necessity, as well as they must be non-discriminatory.⁵⁷ The criminalization drugs could be described as protection health, where the limitations could be appropriate. But there is evidence on methods that are more effective, as well as they have a humane point of view. These methods are from the

⁵⁴ United Nations Treaty Collection. (2022). Human Rights, International Covenant on Economic, Social and Cultural Rights. Retrieved from: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3&chapter=4&clang=en 08.02.2022.

⁵⁵ UN Committee on Economic, Social and Cultural Rights (CESCR). (2000) General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant), E/C.12/2000/4, Retrieved from: <https://www.refworld.org/docid/4538838d0.html> 08.02.2022.

⁵⁶ Godwin, J. (2016). *supra nota*, 45, 13.

⁵⁷ UN Commission on Human Rights. (1984). The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, E/CN.4/1985/4. Retrieved from: <https://www.refworld.org/docid/4672bc122.html> 08.02.2022.

decriminalization models, and they include the evidence-based, public health and harm reduction, as well as social inclusion principles.⁵⁸ As the human right conventions oblige states to ensure the given rights to the citizens and to respect the rights. Countries where there are criminalization model policies, could search some methods that correspond more to the conventions. It would not only be for the sake of human rights, but the change in policies could help the countries to actually reduce the prevalence of illegal narcotics in their country and increase public health, as well as possibly have more resources directed to investigating the supply of illegal drugs.

2.3.4. Social inclusion

The principle of social inclusion concerns the users and their place in society, and what they look like in the eyes of persons who do not use drugs. The sanctions that are given out in criminalized policy models, could be seen as an incentive for not to commit the act. If they do commit, they get a fine or might even go to prison. But that is not the only consequence that follows. The stigma that has been created towards drug users follows them. The stigma or disapproval for the person can have a negative impact on their day-to-day social activities. When the situation concerns a young person, sometime exclusion from education might be what follows, or the future employment might suffer, if not intervened early enough and with proper impact. In addition, the young person might begin to be driven into the part of the society which has already been stigmatized, which could expedite the exclusion of the person in question. It is also common that the deterrence of a fine is not enough to prevent the person from using drugs, but it does cause worries when the persons in question would have the situation that they need health care. This can lead to the situation that the person does not seek for help, therefore the person is more vulnerable to health problems. In addition, the activities that are performed by police or other authorities in order to locate the persons who use narcotics, do have the tendency to push the users of the grid. This creates difficulties for the programs which consider health and social assistance to reach them.⁵⁹ The policy models where sanction is given over a helping hand, are shown to be less effective towards the goals of minimizing the prevalence of drugs and other

⁵⁸ Godwin, J. (2016). *Supra nota*, 45, 13.

⁵⁹ International Drug Policy Consortium (2012). IDPC Drug Policy Guide (2nd ed.) *s.l.* p. 11.

harms that it creates to individuals and to society.⁶⁰ When policies are focused on minimizing social exclusion the persons who are in danger of that can have a better success rate on getting their life back on track, or not railing of in the first place. Young adults can build up their career, people who have lapsed into the world of narcotics and been stigmatized as users, can get back on their feet and start making a living. People who are afraid of seeking medical help because they will get a criminal conviction out of it are able to go and get treated without any fear. All this is manageable when the stigma and marginalization is removed. It does not only help the individuals or communities, but it also assists on the nation as people could be healthier, there could be more labor force present and possible resources saved from dealing with excessive number of users could be directed towards the supply chain of drugs.

2.4. Decriminalization models

As there are number of different countries that have either implemented *de jure* decriminalization or *de facto* decriminalization modelled policies to their countries, there are also number of ways to implements the models. It varies what narcotics are decriminalized, and to what point. There can be different quantity of narcotics that one persons can possess without getting a criminal penalty. Different type of penalties can be imposed on the offenders as well. Each country should implement the model which suits their needs in the greatest amount, as well as use those methods in implementing which serves the aim of the policy in the greatest manner. In addition to reviewing different models and methods, the results of the renewed policies are reviewed, how have they impacted the statistics that are concerned in the area drug prevalence. The general purpose of this section is to give an outlook of few different models, and how the system could work in practice.

2.4.1. The Netherlands model

The initial turning point of the Dutch narcotics legislation occurred in 1976, when the Opium Act was revised. However, the steps towards that point started to occur before that. Few decades earlier cannabis was criminalized in the Netherlands, this included using, possessing, cultivating

⁶⁰ Gerra, G., & Clark, N. C. (2009). From coercion to cohesion: treating drug dependence through health care, not punishment. p. 2.

or vending the drug. After the criminalization of cannabis in 1953 the prevalence of the drug started to increase, this led to a rising stack of cases with polices and prosecutors. Due to this in 1969 a decision was made that the consumption of cannabis was left on the background in policing as well as in prosecuting, and the focus shifted towards trafficking of cannabis and hard drugs, such as amphetamine. As hard drugs have more severe consequences on health. After this change the usage of cannabis became more visible in youth centers and it was also traded semi-openly in these locations, by trusted dealers who only traded cannabis. There was an informal guideline to let this happen, and the aim was to prevent the teens, who bought their cannabis at these youth centers, from getting exposure on hard drugs, as the dealers there would only sell cannabis. In 1972 heroin became the drug of concern, which eventually had a huge impact on what happened in 1976, when cannabis was officially decriminalized. This led to the situation that a person could possess up to 30grams of cannabis and would not face any criminal charges, but rather a fine or the case could be entirely dismissed. In addition, possession for personal use and possession with intent to distribute were separated from each other, for the reason of minimizing stigmatization.⁶¹ So far in the two decades that happened there can be seen signs of the previously introduced principles and models. *De facto* decriminalization is already visible. As the first step was by using *de facto* decriminalization by giving an informal guideline to let the trade of cannabis happen in the youth centers. Which was followed by official decriminalization by revising the Opium Act. Principle of harm reduction and public health can also be identified, as the shift towards using cannabis was moved to the efforts of trying to minimize the trafficking of cannabis and hard drugs, as hard drugs have more severe consequences on health. As well as in the situation when the trade of cannabis was allowed to occur in the youth centers for the reason that, if it were to be outside of the centers on the streets, young people would be more likely to be exposed to hard drugs. Principle of social inclusion is present with the idea of minimizing stigmatization. This increases the chances that people are not identified as criminals if they have possessed only for personal use.

Soon after the decriminalization of use and possession of cannabis for personal use in Netherlands, the coffee shops started to show in the streets, which still are operating and selling

⁶¹ Grund, J. P. C., & Breeksema, J. J. (2017). Drug policy in the Netherlands. In *European Drug Policies* (1st ed.) 128-148. London, UK: Routledge. p. 129-131.

cannabis legally, but supervised. However, it is a common misconception that cannabis would be legal in Netherlands, this is not the case. The final touch to the decriminalization policy occurred in 1995, when the amount of cannabis that a person could have in its possession without getting criminal repercussions was lowered from 30 grams to 5 grams. In the case of hard drugs, which could be roughly described to be other drugs than cannabis, the threshold is 0,5 grams.⁶²

The strategy that the Netherlands use is referred as “separation of markets”, which means that because they let the coffee shops which are supervised to sell cannabis (in supervised quantities as well), they are able to keep the people who buy cannabis away from other drugs. In a survey, questioning about the availability to buy narcotics other than cannabis from the usual supplier, shows that the rate in Netherlands is relatively low. Between the countries of Sweden and Netherlands the difference is 38%, so 14% of people who buy cannabis in Netherlands said that their usual place where they buy cannabis sells other drugs as well. When in Sweden the percentage was 52. Overall, the statistics surrounding the prevalence of narcotics usage in Netherlands are showing a decrease. In 2009-2013 there was a decrease of 3,000 persons who were considered as problematic opiate users. Drug related mortalities show also a progress in the Netherlands compared to rest of the Europe, as in approximately 17.1 per million people in Europe pass away due to drug related reasons. The relative number in Netherlands stands at 10.2. Overall, the statistics in Netherlands show that the people who are dependent on narcotics grow older, but the amount of young people and new dependent persons is low.⁶³

When comparing the statistics of Netherlands and Finland in the issue of treatment entrants for a specific drug, in 2019 cannabis was the most common drug that was the reason for treatment with the figure of 47% from all cases.⁶⁴ In Finland Opioids took the first spot with the figure of 51%.⁶⁵ From these figures the conclusion can be made that even though there is decrease shown in the statistics of Netherlands, cannabis still causes harm, as the treatment figures show. Most

⁶² Hughes, C., Stevens, A., Hulme, S., & Cassidy, R. (2018). Review of approaches taken in Ireland and in other jurisdictions to simple possession drug offences. *A report for the Irish Department of Justice and Equality and the Department of Health*. UNSW Australia and University of Kent. p. 36.

⁶³ Chatwin, C. (2018). Mixed messages from Europe on drug policy reform: The case of Sweden and the Netherlands. *Journal of Drug Policy Analysis*, 11(1), 1-15. p. 7-8.

⁶⁴ European Monitoring Centre for Drugs and Drug Addiction (2019). *Netherlands Country Drug Report 2019*. Publications Office of the European Union, Luxembourg. p. 1.

⁶⁵ European Monitoring Centre for Drugs and Drug Addiction (2019). *supra nota* 30, 1.

likely the reason is that it can be sold under supervision, but this can grow the amount people who use it. Although the supervision can keep people away from other drugs.

2.4.2. The Australian model

In Australia there are many states and territories, they have their own laws and policies and the power to decide how they want to deal with issues like drugs. Their methods vary between territories but so do the results.

At the end of 1980 South Australia implemented a Cannabis Expiation Notice (CEN) system. The CEN system is operated by the police. The system can be applied if a person who is caught has no more than 100 grams of cannabis in his possession, it also includes if the person has been growing cannabis by himself, and the limit in cultivation is 1 plant. When the CEN is applied in the case, the offender can get a fine up to 300 Australian dollars. In this system at first if the offender does not pay the fine that is issued, they can face conviction for not paying the fine. However, before the situation escalates to court the person is given a second chance to pay with a reminder notice. This model of CEN did not work as planned, and offenders were not paying the fines. The plan changed and two payment options were created. The first was that the fine could be paid in instalments and the second option was that community service could be performed instead of paying money. The alternative options that were given generated desired outcomes and the rate of people who did not pay the fine declined. Regarding the results of the CEN systems, there has not been seen a large decrease in the prevalence of cannabis consumption except in the earlier years, when in the late 1990s the percentage of population who had used cannabis in the last year was almost 20%, in 2007 it had decreased little over 10%. However, CEN has managed to keep persons out of the criminal justice system, which in itself can be seen as a win, as it reduces the harms that the criminal justice system could impose.⁶⁶

Australian Capital Territory which is referred to as ACT has had the Simple Cannabis Offence Notice or SCON, in place since 1993. The notice is given by the local police and the amount that needs to be paid can rise up to 100 Australian dollars. SCON can be applied if the person is not

⁶⁶ Eastwood, N., Fox, E., & Rosmarin, A. (2016). *supra nota* 48, 14-15.

possessing more than 25 grams (later increased to 50g grams) of cannabis, or in case the question is about cultivation, two plants are permissible. At first if the person who was given a SCON did not pay the fine, he could have faced prosecution at court, but later in the beginning of 21st century an option was added that the person could be diverted to a diversion program. ACT has always had relatively small prevalence of cannabis in comparison to rest of Australia, but the since the end of 20th century it has been declining even more.⁶⁷

In the Northern Territory of Australia, the starting point for decriminalization was 1996. There not any similar systems than the two territories before, rather just and infringement notice. Where the limits are, no more than 50 grams of cannabis and fines can rise up to 200 Australian dollars. In addition, difference can be found from the non-payment point-of-view as well. If the persons who is given the fine decides not to pay, the person simply creates a dept for the government, no criminal sanction, nothing is imposed. The Northern Territory of Australia has had the highest prevalence rates, but also the highest rates of decrease in prevalence. As in 1998 36.5% of the population had used cannabis in the last year, but fast forwarding to 2013, the percentage is 17.1.⁶⁸

2004 was the year when Western Australia implemented Cannabis Infringement Notices (CIN). Here the limit where the CIN can be given is, if in the persons possession is found 30 grams or less of cannabis, and in the case of cultivation two plants were permissible. The offender is given three options. The first option is to pay a fine which can be up to 200 Australian dollars. Second option is that the person can go through a cannabis education session. The third and last option is to get prosecuted in court. The west applied the same type of debt system as the northern region in case of the fines were not paid. But if in three-year time span two CIN's were noticed to a person, paying the fine was no longer option, but the persons had to resort to the other two options. Western Territory had created incentives to paying the fines as individuals driver's license could be confiscated in the case of non-payment. But in 2011 the CIN system was removed, because the government which was elected in 2008 had other plans. In addition, there were claims that the decriminalization increased the prevalence of cannabis when the statistics

⁶⁷ *Ibid.*, 15.

⁶⁸ Eastwood, N., Fox, E., & Rosmarin, A. (2016). *supra nota* 48, 15–16

proved the opposite. The CIN was replaced with Cannabis Intervention Requirement (CIR) which included a compulsory intervention. In addition, the amount where the CIR could be used was reduced from 30 grams to 10 grams.⁶⁹

Australia has shown different type of methods, which can be seen in other places in the world as well, for example in Portugal, with the same kind of giving a choice to the offender type of solution.⁷⁰ Overall, the means and results can differ. Whether it has been that the prevalence of cannabis users has decreased. Or the number of persons going into the criminal justice system and possibly getting stigmatized for the rest of the life. It can be said that the implementation has shown results. However, there can be seen that if the fines are too high, people are not so willing to pay them. Also, in the CIR program as there is a compulsory intervention, there can be outcomes that do not correspond to the aims, as explained in sub-chapter 2.3.1..

⁶⁹ *Ibid.*, 16.

⁷⁰ Domoslawski, A. (2011). *Drug Policy in Portugal: The Benefits of Decriminalizing Drug Use*. Warsaw, Poland: Open Society Foundations.

3. PROPOSITION FOR THE FUTURE OF FINLAND

As discussed, Finland has at the moment a criminalization policy model in regards of drugs. However, there are some harm reduction aspects, as discussed above. We can see the harm reduction aspects in the Needle Exchange Programs as well in the opioid substitute therapy. Finland also discusses harm reduction in its policy outline, by emphasizing the importance of minimizing the harms that drug use can bring to the individual or the community surrounding it. There has been research on possible new harm reduction methods as well. The integration of drug consumption rooms has been researched by the Finnish Institute for Health and Welfare. However, the results do not imply that the rooms could be seen in the street picture any time soon. As there are numerous policy barriers in place. The pandemic that the world is suffering from Covid-19 is consuming the resources that Finland has for public health, also unawareness amongst the citizens of Finland in the effects of these type of rooms, create critics and opposing parties for the development.⁷¹ But after the pandemic has been defeated and Finland's budget for public health can be relocated towards something else, the drug consumption rooms, and the following suggestion could be taken into consideration.

First and foremost, the mindset for the policy needs to be changed towards decriminalization and away from criminalization model, as decriminalization is the goal here. Portugal has had a great example behind the reasonings of decriminalization in 2001 as, one of the central reasonings behind the alteration of drug policy was that the persons who use drugs, they are not outside of the society, nor criminals, but they are just as much a part of the society as everyone else is.⁷² This type of mindset can have the influence of reducing the negative stigma of the persons who use narcotic substance, in addition help them to reintegrate to the society after possible successful rehabilitation period. Which mounts to the harm reduction aim. With that in mind, the future policy aims should be concentrated on harm reduction and public health. Stigmatization should be minimized and reintegration into the society of the persons who have suffered from social exclusion should be one goal. Relatively also, trying to minimize social exclusion as well.

⁷¹ Unlu, A., Tammi, T., & Hakkarainen, P. (2022). Policy windows for drug consumption rooms in Finland. *Nordic Studies on Alcohol and Drugs*.

⁷² Van Het Loo, M., Van Beusekom, I., & Kahan, J. P. (2002). Decriminalization of drug use in Portugal: the development of a policy. *The Annals of the American Academy of Political and Social Science*, 582(1), 49-63. p. 55.

What comes to the penalties for persons who get caught using or possessing drugs. The current customs should be changed. At the first stage, *de facto* decriminalization models could be applied. Informal guidelines could be set and the supervisory authority in this case the policy would apply the guidelines in practice. The guidelines could comprehend that persons who are suspected of using narcotics and after proving the fact, could be given choices. Three to be exact. First is the option of being referred to treatment, the second is an administrative fine, third is to get the matter referred to the court and criminal sanction can be imposed there. The three options could be also used if the person is found possessing no more than one day's worth of narcotic substances, otherwise the matter is referred to the court. Regarding the administrative fine that would be given. The fine should be reasonable in its amount, in example 100€. If not paid, the person would be left at dept to the state but like in the Northern Australia the fine option could be used maximum of two times, this is to prevent the exploitation of the system. If a person has been given the fine two times, then the other two options are only available. These options do not consider cultivation, that it to stay prohibited and punishable as a criminal offence. The *de facto* decriminalization would also comprehend that persons who are seeking for help can have it without any repercussion. Meaning that if a person is under the influence of drugs and comes to a treatment center, no penalties are imposed. This could remove the barrier on not seeking for treatment because of the scare of penalties, and the repercussions that those could have for the future. The modifications to the policy could allow possible saved resources from the surveillance and prosecution of users to be redirected towards the supply of the drugs. Which could in itself assist in the area of organized crime, as it is widely known fact that the supply revolves around that area.

De facto decriminalization should be applied at first stage, the reason is that it is more modificative, as there are no legislative reforms in question. The *de facto* decriminalization should be changed accordingly to the results that are shown in the statistics and other observations. After finding a satisfactory system and policy *de jure* decriminalization could be used, for the reason that if the legislation is behind the policy it has a sturdier foundation. The policy and actions towards the persons who use narcotics is not the only matter that can have results in this area. Education has a great impact as well. Not only the education on drugs, and what they can cause, but also education about the policy and the methods it consists of. Why are

we doing things as we are? How does it benefit everyone? With greater public awareness the whole process is more likely to succeed. If more people are behind the cause the greater impact it can have. Overall, the main aim of the scheme is to stop the statistics (mortalities, crime etc.,) from increasing and shift the direction towards decrease, and for that to succeed every person who supports is one closer to success. The research question of this thesis is: Could Finland benefit changing its narcotics legislation based on *de jure* or *de facto* decriminalization? And the answer to the question is yes. Although the decriminalization policy models have not impacted the course of the statistics so that they would be heavily declining, but the case is that they are not also inclining. This means that something works, as the increase of problems has slowed down or even stopped. By considering some of the methods illustrated above we could give an impact for example on the death rates for narcotic users, after which new research should be made emphasizing on the “post caught situation” meaning that what to do with the individuals after they have gotten caught or addiction is identified, what would be the best courses of action for that person, with the goal of reintegrating the persons back to the society. If the answers could be found, it could be possible that the negative impacts of substance use could begin to decrease. But for that we need more research on the area of legislative measure and more importantly on the possible treatment methods.

CONCLUSION

To conclude, in this thesis there have been illustrated the current course of the Finnish narcotics outline as well as the future desires on where Finland is taking its drug policy in line with the European Union's goals on the field. With the aim of finding an answer to the question whether Finland could benefit changing its narcotics legislation based on *de jure* or *de facto* decriminalization? As the current approach and the drug law is more prohibitionist style, which is apparent in criminalization models. However, there are also decriminalization style approaches taken already, which concentrate more on the harm reduction and rehabilitation such as the Opioid Substitution Therapy or the Needle Exchange Program.

In Finland, the problem of the substance use of narcotics has been a problem for quite some time now. Mortality rates, crime rates, and the costs which follow from the problem of drug addictions have been increasing for a couple of decades. Although the same Finnish drug legislation has been in force for over half a century, new courses have been taken on the way, as the case should be. When the methods that are put in place and used are not working correctly or efficiently new methods should be researched, tested and implemented. This seems to be the case in Finland at the moment as well. As the statistics show a constant incline the state should adapt and change its perspectives.

The introduction of *de jure* and *de facto* decriminalization models gives a new possible approaches that the Finnish drug policy could take. Whether to use the *de jure* decriminalization model where the idea is to change the drug policy of the state by legislative reform. And with that clear the criminal liability from certain minor drug offences such as, simple possession or usage of narcotic substances, and possibly replace the criminal liability with civil or administrative fines. Where the benefits especially in this type of policy change would be the concrete foundation what the change would have as it is written in the law. However, as legislative reforms tend to take some time there is also an alternative approach that can be taken. Namely it is the *de facto* decriminalization where the same methods in practice could be used to fight the problem, but this model does not need a legislative reform to change the policy. Rather the change is made by informal policy guidelines that can be given to authorities such as police or the prosecution. This would give the respective authorities discretion on individual cases, to

decide whether the decriminalization guidelines can be used in the case. However, this type lacks the support of the letter of the law.

Examples of the Netherland and Australia are illustrated and how they have managed to implement their policy approaches. It is seen that when changing policies, the results are not always as expected, and something needs to be adjusted. That is the reason why the proposal for Finland would firstly implement *de facto* decriminalization and to measure the effects that it has. This could show the weak points in the policy and if there are some aspects that need to be assessed again and intervened from another perspective. After which *de jure* decriminalization could be used to settle the new policy and concretely write it in the law. As Finland could clearly benefit from changing its narcotics policy towards decriminalization model, as seen from the evidence of other countries. Although the statistics of the countries have not *per se* started to decline, there has not been an incline either. Which suggests that the methods are working to some extent. However, there is still a need for future research on the field. As the methods used in the decriminalization model should be evidence-based, meaning that it should be tested and seen to work and progress the aim. If the If evidence-based treatment methods could be integrated into the policy model, expectation on the results that the policy could give could rise.

Therefore, for future research on the field, there should be researched and tested treatment methods and reintegration methods for narcotics users and addicts in Finland. What would give the best opportunities for persons in troubles to get well and reintegrated into the society. More specific research in lieu of legislative measures behind the policy change would assist the change in policies in the future as well. As Finland has taken some steps in to more harm reductive policy model, the shift towards the decriminalization model is not as wide as it could be. With the education of the people and research of evidence-based methods in treatment, Finland could benefit from changing its narcotics legislation to decriminalization model.

LIST OF REFERENCES

Scientific Articles

1. Bammer, G., Hall, W., Hamilton, M., & Ali, R. (2002). Harm minimization in a prohibition context – Australia. *The Annals of the American Academy of Political and Social Science*, 582(1), 80-98.
2. Benfer, I., Zahnow, R., Barratt, M.J., Maier, L., Winstock, A., & Ferris, J. (2018). The impact of drug policy liberalization on willingness to seek help for problem drug use: A comparison of 20 countries. *International Journal of Drug Policy*, 56, 162-175.
3. Chatwin, C. (2018). Mixed messages from Europe on drug policy reform: The case of Sweden and the Netherlands. *Journal of Drug Policy Analysis*, 11(1), 1-15.
4. Domszlawski, A. (2011). *Drug Policy in Portugal: The Benefits of Decriminalizing Drug Use*. Warsaw, Poland: Open Society Foundations.
5. International Drug Policy Consortium (2012). IDPC Drug Policy Guide. (2nd ed.) *s.l.*
6. International Drug Policy Consortium. (2016). IDPC Drug Policy Guide. (3rd ed.) *s.l.*
7. Eastwood, N., Fox, E., & Rosmarin, A. (2016). *A Quiet Revolution: Drug decriminalization across the Globe*. (2nd ed.) United Kingdom: Release drug the law and human rights.
8. Gerra, G., & Clark, N. C. (2009). From coercion to cohesion: treating drug dependence through health care, not punishment.
9. Godwin, J. (2016). A public health approach to drug use in Asia: Principles and practices for decriminalization, London, UK: International Drug Policy Consortium.
10. Grund, J. P. C., & Brecksema, J. J. (2017). Drug policy in the Netherlands. In *European Drug Policies* (1st ed.) 128-148. London, UK: Routledge. p. 129-131.
11. Harm Reduction International, (2020). *The Global State of Harm Reduction 2020*. (7th ed.) London, UK: Harm Reduction International.
12. Hughes, C., Stevens, A., Hulme, S., & Cassidy, R. (2018). Review of approaches taken in Ireland and in other jurisdictions to simple possession drug offences. *A report for the Irish Department of Justice and Equality and the Department of Health*. UNSW Australia and University of Kent.
13. Jesseman, R., & Payer, D. (2018). Decriminalization: options and evidence. Canadian Centre on Substance Use and Addiction.
14. Kamarulzaman, A., McBrayer, J. L. (2015). Compulsory drug detention centers in East and Southeast Asia. *International Journal of Drug Policy*, 25, S33-S37.
15. Marlatt, G. A., & Witkiewitz, K. (2010). Update on harm-reduction policy and intervention research. *Annual Review of Clinical Psychology*, 6, 591-606.

16. Pacula, R. L., MacCoun, R., Reuter, P., Chriqui, J., Kilmer, B., Harris, K., Letizia, P., Schäfer, C. (2005). What does it mean to decriminalize marijuana? A cross-national empirical examination. UC Berkeley: Center for the Study of Law and Society Jurisprudence and Social Policy Program.
17. Rönkä, S., & Markkula, J. (2020). Huumetilanne Suomessa 2020. Vantaa, Finland: PunaMusta Oy.
18. Selin, J., Perälä, R., Stenius, K., Partanen, A., Rosenqvist, P., & Alho, H. (2015). Opioid substitution treatment in Finland and other Nordic countries: Established treatment, varying practices. *Nordic Studies on Alcohol and Drugs*, 32(3), 311-324.
19. Tammi, T. (2005). Diffusion of public health views on drug policy: The case of needle exchange in Finland. *Beyond Health Literacy: Youth Cultures, Prevention and Policy*. Helsinki: *Finnish Youth Research Network/Finnish Youth Research Society*, Publication, 52, 185-199.
20. Unlu, A., Tammi, T., & Hakkarainen, P. (2022). Policy windows for drug consumption rooms in Finland. *Nordic Studies on Alcohol and Drugs*.
21. Unlu, A., Tammi, T., Hakkarainen, P. (2020). Drug decriminalization policy: literature review: models, implementation and outcomes.
22. Van Het Loo, M., Van Beusekom, I., & Kahan, J. P. (2002). Decriminalization of drug use in Portugal: the development of a policy. *The Annals of the American Academy of Political and Social Science*, 582(1), 49-63.

EU and International Legislation

23. Single Convention on Narcotic Drugs, 30.03.1961, New York.
24. UN Commission on Human Rights. (1984). The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, E/CN.4/1985/4. Retrieved from: <https://www.refworld.org/docid/4672bc122.html>
25. UN Committee on Economic, Social and Cultural Rights (CESCR). (2000) General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant), E/C.12/2000/4, Retrieved from: <https://www.refworld.org/docid/4538838d0.html>
26. United Nations Treaty Collection. (2022). Human Rights, International Covenant on Economic, Social and Cultural Rights. Retrieved from: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3&chapter=4&clang=en

Other Countries Legislation

27. Huumausainelaki 30.5.2008/373 Accessible in:
<https://www.finlex.fi/fi/laki/ajantasa/2008/20080373>
28. Laki ehkäisevän päihdetyön järjestämisestä 24.4.2015/523 Accessible in:
<https://www.finlex.fi/fi/laki/alkup/2015/20150523>
29. Rikoslaki 19.12.1889/39 Accessible in: <https://www.finlex.fi/fi/laki/ajantasa/1889/18890039001>

Other Sources

30. European Monitoring Centre for Drugs and Drug Addiction (2017). Finland Country Drug Report 2017. Publications Office of the European Union, Luxembourg. p. 1.
31. European Monitoring Centre for Drugs and Drug Addiction (2019). Finland Country Drug Report 2019. Publications Office of the European Union, Luxembourg. p. 1.
32. European Monitoring Centre for Drugs and Drug Addiction (2019). Netherlands Country Drug Report 2019. Publications Office of the European Union, Luxembourg. p. 1.
33. European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). Retrieved from:
<https://www.emcdda.europa.eu/about/activities>
34. Finnish Government. Finland's Government Resolution on Drug Policy 2021-2023. Retrieved from: <https://valtioneuvosto.fi/paatokset/paatos?decisionId=0900908f80777c5a>
35. Finnish Government. Finland's Government Resolution on Drug Policy 2016-2019. Retrieved from: <https://valtioneuvosto.fi/paatokset/paatos?decisionId=0900908f804fcd5a>
36. Forsell, M., Virtanen, A., Jääskeläinen, M., Alho, H., & Partanen, A. (2010). Finland drug situation 2010: 2010 national report to the EMCDDA: New developments, trends and in-depth information on selected issues. Statistical report 39/2010.
37. Hakkarainen, P. (2021). Huumeiden käytön dekriminialisointi: Tukea rangaistusten sijaan. Terveyden ja hyvinvoinnin laitos (THL). p. 2. Retrieved from:
https://thl.fi/documents/974282/1449788/MIPA+verkostopäivät_070521_P.Hakkarainen.pdf/d3f6dc20-ac63-0840-d840-9be41206096d?t=1620824508459
38. Kotovirta, E., Markkula, J., Pajula, M., Paavola, M., Honkanen, R., & Tuominen, I. (2021). Päihde- ja riippuvuusstrategia. Yhteiset suuntaviivat vuoteen 2030.
39. Markkula, J., Rapeli, S., Kemppainen, J., & Kotovirta, E. (2021). Ehkäisevän päihdetyön toimintaohjelma. Väliarviointi ja jatkossa tehostettavat toimet vuoteen 2025.

40. Official Statistics of Finland (OSF): Causes of death, Appendix table 4. Drug-related mortality 2000 to 2020. Helsinki: Statistics of Finland. Retrieved from: https://www.stat.fi/til/ksyyt/2020/ksyyt_2020_2021-12-10_tau_006_en.html
41. Official Statistics of Finland (OSF): Statistics on offences and coercive measures. Helsinki: Statistics Finland. Retrieved from: https://www.stat.fi/til/rpk/2020/04/rpk_2020_04_2021-01-19_tie_001_en.html
42. The Global Commission on Drug Policy. (2016). Advancing drug policy reform: A new approach to decriminalization. The Global Commission on Drug Policy. p. 17. Retrieved from: <http://www.globalcommissionondrugs.org/wp-content/uploads/2016/11/GCDP-Report-2016-ENGLISH.pdf>
43. Virtanen, A., & Sjöberg S. (2006). 2005 National Report to the EMCDDA by the Finnish National Focal Point-Drugs in Finland. Series and number Statistical Report 2/2006.

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