



THE ADULT CULTIVATION AND CONSUMPTION OF CANNABIS IN MALTA 2020

FIVE YEARS OF PR STUNTS AND NO CHANGE

“Under the Drug Dependence (Treatment not Imprisonment) Act 2014, a person found in possession of a small amount of drugs for personal use is required to appear in front of the Commissioner of Justice. If found guilty, a fine of EUR 50 to 100 is imposed for possession of cannabis or of EUR 75 to 125 for possession of other drugs. Any offender who commits a second offence within a period of two years is required to appear before the Drug Offenders Rehabilitation Board, where he or she is assessed for drug dependence and any necessary order may be issued; failure to comply with an order may be punished by a fine or three months in prison. A person found in possession of one cannabis plant for personal use is not liable to a mandatory prison term”

- Numbers are an important tool that provide a picture of the situation at hand and accordingly guide policy makers towards informed decision making. When one looks at the numbers pertaining to cannabis consumption in Malta, the estimated [forty thousand](#) people reported by a government study earlier this year, highlight that the use and sale of cannabis, irrespective of its legal status, is up and running.

- The National Drug Report (2019) highlights that the *majority of cases in the criminal court that were decided in 2016 were attributed to the possession of cannabis (110 cases) and that the total number of cases heard amounted to 2710, some 57% were for simple possession of cannabis.*
- The report also explains that the statistical data provided by the Malta Police Force indicate that *most drug law offences in 2017 were related to possession, with the majority of these related to cannabis and that cannabis is the most frequently seized drug in Malta.* It is interesting to note that the report specifically underlines that *cannabis is the only illicit drug known to be produced in the country (cannabis plant), mostly on a small scale for personal use.*
- Considering that the cultivation and consumption of cannabis predominantly fall within a [human rights and public health framework](#), the numbers quoted by the National Drug Report (2019) provide a somewhat bleak outlook on the way local authorities are enacting legislation aimed to promote a more humane and evidence-based approach. In fact, it is confusing why in the same report, drafted by various local experts in the field of rehabilitation services and signed by the Minister, one finds continued injustices resulting from half-baked legislation and dubious implementation measures.
- Furthermore, it is also curious to ponder the logic behind the handing down of court judgments, since a number of such sentences indicate an inconsistency in the judiciary's approach. In fact, in some instances, [persons who consume cannabis are treated as criminals](#) and given harsh sentences in criminal courts, whereas in other instances the court has declared that over [100gr of cannabis can be considered as an amount intended for the personal use of a regular cannabis consumer](#).
- It seems that as a country we have so easily forgotten the torments and abuses sustained by Mr Daniel Holmes at the hands of the local criminal justice system, sentenced to ten years for the meagre reason of cultivating five cannabis plants. Many others continue to languish in prison or await their sentence, under great psychological, financial and social stress, merely for engaging in a personal, non-violent choice of cultivating and consuming a plant.

- In the meantime, the current policy continues to negatively impinge on the right to privacy and the right to health for people who use cannabis by not allowing the possibility to home grow cannabis or set up a Cannabis Social Club aimed to promote responsible accessibility and consumption of cannabis. Furthermore, the present situation continues to provide the criminal market with continued monopoly and control on the quality and price of cannabis.
- The legal provision stating that a person found cultivating one cannabis plant ‘*is not liable to a mandatory prison term*’ has been mis-interpreted and abused so many times by the criminal justice system that it is unclear as to whose benefit this law was drafted in the first place.
- In five years, thousands of people continued to face the negative effects of a system created to foment, and not rectify, the mistakes and abuses of the past. It is somewhat tragicomic that the Parliamentary Secretary for Equality and Reforms, the Hon. Rosianne Cutajar, was so eager to speak about stigma and discrimination and to ride on the PR bandwagon of cannabis consumers’ ‘celebrated anniversary’ on April 20th 2020, yet continues to delay the introduction of the much needed legislative overhaul.
- In December 2019 ReLeaf Malta, together with a number of other NGOs proposed an 8-point proposal revolving around three cardinal principles:
 - I. The right to health, privacy and accessibility for people who use cannabis
 - II. The importance to ensure social equity and expungement of criminal records
 - III. Sustainability and protection of local resources
- When considering the numbers quoted above and the repeated calls by cannabis consumers and magistrates on the need to quickly amend the current law, some pertinent questions arise:

1. If the criminal justice system no longer considers the cultivation of cannabis as being liable to a criminal offence, why is there the need for the local police force to continue to persecute, interrogate and proceed criminally against persons who cultivate and consume cannabis?
2. What are the effects on the person's health, finances, social and psychological wellbeing caused by the current semi-depenalised regime, and what is the national expenditure to sustain a pantomime-policy between continued police cannabis hunts and arrests, fancy government PR stunts and incongruent court judgments?

ReLeaf Malta reiterates the urgent need to implement change by prioritising the right to health and the right to privacy for cannabis consumers and calls on the Government to announce the following in the first quarter of 2021:

1. **Full decriminalisation** of the adult cultivation and consumption of cannabis, thus ensuring no more persons go through the harrowing experience of the criminal justice system;
2. Introduction of a **larger quantity margin** for cannabis possession, thus ensuring legal provisions reflect different levels of cannabis consumption;
3. Create a governmental working group, composed of key stakeholders from the health, human rights, legal and educational fields, including a strong participation by civil society organizations, to develop a more **comprehensive human rights-based policy** for people who use cannabis.

December 11th, 2020

Releaf Malta