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## Unintended consequences of drug policies experienced by young drug users in contact with the criminal justice systems

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### ABSTRACT

The aim of this paper is to assess to what extent prohibitive drug policies hamper the management of drug problems from the perspective of young people who have experience with the criminal justice systems (CJS). Qualitative, in-depth interviews were carried out in six European countries (Austria, Denmark, Germany, Italy, Poland, and the UK) following a common interview guide to obtain comparative data on the life trajectories of drug experienced youth. Altogether 198 interviews with people aged 14–25 years were collected and analysed by national teams following a common coding book. Unintended consequences of drug policies for the individual and society were identified. Individual consequences included health consequences and traumatic experiences with law enforcement. Social consequences included those affecting social relations such as stigmatisation and those impacting on institutions, for example, focusing on drug use and neglecting other problems. This paper confirmed earlier research indicating unintended consequences of prohibitive drug policies but also added to the literature its cross-national perspective and use of young people narratives as a source of analyses. There are, however, policy measures available that may reduce the volume and range of unintended effects. Their implementation is crucial to reduce the array of unintended consequences of prohibitive drug policies.

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Drug policy; drug use; youth; criminal justice system; interventions; drug treatment

### Introduction

This paper is based on research from a European Commission funded project EPPIC – ‘Exchanging Prevention Practices on polydrug use among youth In Criminal justice systems’ conducted in Austria, Denmark, Germany, Italy, Poland, and the UK.<sup>1</sup> The paper examines the extent to which prohibitive drug policies produces unintended, adverse consequences from the perspective of young people who have experience of different drug-related interventions, including those provided by the criminal justice system (CJS) in six European countries with different histories, socio-economic contexts and patterns of drug use. We will describe how the criminal status of drugs has negative consequences not only for individuals but also for social relationships and for those institutions providing support for young people experienced with drugs.

### Unintended effects – theoretical background

The International Drug Control Conventions (United Nations, 2013) aim at terminating the supply of substances defined as

illicit, reducing demand for them as well as diminishing associated harm. So far, successes in this field are moderate while unintended effects or consequences are numerous, including organized crime, social exclusion and the very high human, social and economic burden of implementing prohibitive drug policies (Bretteville–Jensen et al., 2017; MacCoun & Reuter, 2001; Reuter, 2009). Since its emergence as a distinct scientific discipline, sociology has been interested in the unintended effects of apparently rational or purposive human action. Even though it is mostly attributed to Merton and his functionalist perspective, this question is also present in other theoretical approaches, for example, in rational choice theory, and is of importance in contemporary criminology (Krajewski, 2007). In his classic paper Merton (1936) differentiates unintended consequences into those affecting the actor and those affecting other persons mediated through the social structure, the culture and the civilization. Merton’s typology was then elaborated by Baert (1991) who proposed five dimensions to classify unintended consequences including who is affected and how by an action; what values are attached to the effect by the author of an action, that is, of a

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policy or intervention; the relationship of the effect with the initial intention; awareness of expected and unanticipated effects; and finally temporal dimensions covering synchronic and diachronic effects. All dimensions distinguished by Baert are important to understand better the context and unintended consequences of current drug policies and have been explored previously (e.g. MacCoun & Reuter, 2001; Reuter, 2009). However, this paper will focus on Baert's first dimension (who/what and how is affected) as our study was limited to, and based on, interviews with young people who experienced the adverse effects of drug policies. The remaining dimensions, covering such issues as the intentions of those who launch action and their awareness of expected and unexpected effects, go beyond the scope of our study.

The first dimension distinguishes consequences for individuals and consequences for society, which are then subdivided into systemic and aggregate consequences. According to Baert, systemic effects affect social relations between individuals and social classes/groups, for example, strengthening or weakening solidarity or societal cohesion, while aggregate effects refer to the overall transformation of the socio-economic system (Baert, 1991). Good examples of aggregate effects are the American prohibition of the 1920s which changed power relationships in the US (Gusfield, 1986) or the anti-alcohol crusade initiated by Gorbachov in the late 1980s that contributed to a collapse of the Soviet Union (Simpura & Moskalewicz, 2000). The legacy of these attempts at prohibition was evident in the alcohol policies that followed as both the US (Pennock & Kerr, 2005) and Russia (Simpura & Moskalewicz, 2000) were very reluctant for decades to adopt population-based strategies such as reducing affordability and availability of alcohol.

The unintended effects tend to be interrelated and overlap with each other. As an example, alcohol prohibition in the US produced unintended aggregate effects transforming power relationships, systemic effects manifested in a growing wave of crimes, as well as individual effects affecting the lives of individual drinkers, who did not reduce or give up their drinking as expected but increased consumption of spirits (Gusfield, 1986).

Fortunately, unlike some Latin American countries (e.g. Columbia: Piaggio & Vidwans, 2019), current drug policies within the European Union do not produce unintended effects that could be classified as aggregate ones affecting or accelerating the transformation of socio-economic systems. Therefore, in this paper we deviate from the original Baert typology; we omit aggregate consequences as irrelevant within a European context, and make a distinction between individual and social consequences, dividing the latter into those which affect social relationships and those that affect institutions in their relationship with drug consumers.

### **Unintended consequences of drug policy**

Drug legislation and in particular international drug conventions aimed overtly at curbing the supply of psychoactive drugs have produced numerous unintended effects such as negative consequences for individuals, who suffer not only

from drug use disorders but also from contact with the criminal justice system (Apel et al., 2010; Nieuwbeerta & Piquero, 2008). Of course, drug consumers cannot be considered just as victims as they are often engaged in offences which are related directly to drug use, such as possession of drugs, purchase or cultivation of controlled drugs for personal consumption, drug supply-related offences, but also indirectly in crimes, such as robbery, theft, assault, burglary and more serious crimes which harm other people, attributable to drug use as an underlying factor (United Nations Office on Drugs and Crime & World Health Organization, 2018).

Social adverse effects manifest in the deterioration of relations between individuals and social groups, exclusion of wide societal groups and/or their Stigmatisation (Dodge & Pogrebin, 2001; Huebner, 2005; Western et al., 2004). Aggregate effects may be observed in endeavors such as 'wars on drugs' that have seriously damaged the economies of a number of countries as well as the sense of security at individual, regional, national and international levels (DiNardo & Lemieux, 2001; Piaggio & Vidwans, 2019).

It is arbitrary to claim that all the above listed negative consequences that produce enormous social costs could be regarded as unintended. As argued by Reuter 'Unintended refers to a state of mind, an expectation. There is, however, not a single decision maker for these policies and interventions' (Reuter, 2009, p. 3). However, it can be assumed that the policy and decision-makers who are behind drug policies do not intend to produce adverse consequences. Therefore, unintended effects will be defined in this paper as those which the targets of these policies, that is, drug experienced young people, believe to be adverse. The concept of unintended is not value-free and therefore some effects considered unintended such as traumatization of young people could be regarded as intended by some law enforcement agents who may believe in the effectiveness of deterrent measures.

### **EPPIC project**

This study is a part of the Exchanging Prevention Practices on polydrug use among youth In Criminal justice systems (EPPIC) which focuses on drug experienced young people aged between 14 and 25 who are/ have been in contact with the criminal justice system (CJS) due to drug-specific offences or ordinary crimes in six European countries (Austria, Denmark, Germany, Italy, Poland, and the UK).

The EPPIC project aimed to gather knowledge, exchange best practice and identify transferable innovations and principles of good practice on interventions to prevent illicit drug use, the development of polydrug use and the use of new psychoactive drugs (NPS) among vulnerable young people in contact with the CJS in partner countries.

Based on statistics published by EMCDDA ([http://www.emcdda.europa.eu/countries/drug-reports/2019/drug-laws-and-drug-law-offences\\_en](http://www.emcdda.europa.eu/countries/drug-reports/2019/drug-laws-and-drug-law-offences_en)) and national sources where available (e.g. <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesappendixtables>), it can be claimed that the number of drug

offences in Europe is indeed substantial, as exemplified by EPPIC countries where it ranges from over 26,000 (including close to 18,000 offenders) in Denmark, 33,000 offences (including 30,000 offenders) in Poland, 42,000 offences in Austria, 73,000 offenders in Italy, over 180,000 in the UK to over 350,000 cases with 276,000 suspects in Germany. Most of these offences against drug laws are associated with possession or handling of cannabis. The data presented by EMCDDA are not fully comparable as some countries report offences, some report offences including offenders, and some offenders only. Nevertheless, it can be estimated that in the six EPPIC countries more than half a million people annually are in contact with the police, or more generally with the criminal justice system. A large proportion of these offenders are young or very young people. Youth aged 14–25 years who are the target group of the EPPIC study constitute one-third of all drug offenders in Italy (Department of Anti-Drug Policies, 2018) while the rate in Denmark and Poland is approximately 50% (Polish Police HQ, 2019; Statistics Denmark, 2017).

In sum, in all EPPIC countries, the illicit status of numerous psychoactive substances is very likely to lead young drug consumers to be in ‘touch’ with the criminal justice system which may affect their life trajectories, their drug consumption, as well as their course of treatment.

### Aim

A particular aim of this paper is to assess to what extent prohibitive drug policies hamper the management of drug problems from the perspective of young people who have experience of different drug-related interventions, including interventions provided by CJS. Inspired by Baert’s (1991) typology, we distinguish between three types of unintended consequences: one individual and two social ones (first, impact on social relations, for example, Stigmatisation of drug users, and second, affecting institutions, for example, inadequate treatment modalities).

### Methods and sample

Qualitative, in-depth interviews were carried out in all participating countries following a common interview guide to obtain similar data on the life trajectories of drug experienced youth in contact with the criminal justice system. The interviews were conducted in different settings such as community-based interventions, prison/arrest settings, forensic psychiatry and therapeutic communities. In each country, one to three researchers or trained practitioners were involved in conducting interviews. The interviews were conducted face-to-face and the anonymity and confidentiality of interviewees were assured following General Data Protection Regulation rules.

Young people were recruited by the staff of these institutions but participation was absolutely voluntary. Consent was obtained from all interviewees prior to the interview. In some countries small incentives such as vouchers and gifts worth up to €10 were offered to encourage participation. As a rule,

the interviews were tape-recorded. Altogether 198 young people were interviewed between September 2017 and August 2018. Close to 80% of the interviewees were male, divided fairly equally between the two age sub-cohorts (14–18 and 19–25 years). Most of them had no partners or children and had a low educational level, even considering their young ages. In the samples in Austria ( $n=26$ ), Denmark ( $n=30$ ), Germany ( $n=12$ ) and Italy ( $n=41$ ) young people of migrant background constituted 40% or more of all interviewees. In the UK sample ( $n=38$ ), there were only 9 young people who reported their ethnicity as Black British or Asian British or mixed race. In Poland ( $n=51$ ) nobody of migrant descent was interviewed (Rolando et al., 2020). Most of them were in contact with the CJS due to a broad variety of crimes, not exclusively related to drugs. In fact, only a minority of crimes could be directly attributed to the violation of drug legislation.

Due to different recruitment opportunities, the samples from individual countries differed from each other and so could not be directly compared. Therefore, our analysis is based on a sample that represents different aspects of, and the complexities of, the relationship between drug use, offending behaviors and their consequences as revealed in the life trajectories of young people (Simpson, 2003). The quotes in the results section were selected as the best examples and are not indicative of the prevalence of unintended adverse effects in individual country samples.

The interviews were transcribed *verbatim* and then analyzed by national teams in individual countries following a common coding book. It included a list of family-codes and codes based on the study aims and the corresponding interview guidelines; but it was also open to the addition of different codes, free codes and memos throughout the analysis, as further information and hypotheses emerged from the data. After that, all country partners wrote their national reports, following a common report template (see: <https://www.eppic-project.eu> for all country reports). While these reports fostered the idea and the basic structure for this paper, further analysis has been conducted by all EPPIC country partners in order to extend and deepen the earlier analyses.

When required, the study was approved by relevant ethical and/or data protection bodies in all participating countries.

### Results

Based on the theoretical assumptions mentioned earlier, three types of unintended adverse consequences will be presented below: individual and social subdivided into those affecting interviewees’ social relationships and those which affect primarily institutions. All these adverse consequences emerged as most visible and important in the narratives of young people interviewed in the six countries, although with varying intensity.

### **Individual consequences**

As clarified in the introductory section individual unintended consequences cover adverse effects on individual drug consumers. These include health risks magnified by the illicit status of drugs, policy that makes quality control less likely. Moreover, what we call individual consequences includes traumatic experiences with law enforcement agents both with the police and prison staff. Finally, our interviewees stressed that in addition to immediate consequences, criminalization of drugs and related behavior may affect their lives and opportunities in the long term.

### **Health risks due to lack of quality control of illicit drugs**

It is obvious that illicit commodities are subject to lesser quality controls compared to legal goods that have to meet quality standards stipulated by the state (Reuter, 2009) or self-imposed by the producer. In the case of illicit drugs, whose status is defined by drug conventions and also drug laws in individual countries, their consumers often have no way to check their content or composition before use. This may lead to different adverse effects. Some interviewees claimed that NPS is particularly dangerous and believed that traditional narcotic drugs do not carry such a high risk, as reported from Poland:

No, I used NPS very sporadically, very rarely, have very bad memories. Thank you, not for me. This is simply stupid. It is not known what the side effects are, because it is not investigated in any way. Of course those substances that I mentioned a moment ago [cannabis, LSD, mushrooms] are also not allowed, but we certainly know more about them than about that shit they sell. (PL\_07\_ALT\_M\_24)<sup>2</sup>

Similar experiences are reported by interviewees from the UK who also complain about NPS, called 'legal highs' in the UK:

That's what brought on my panic attacks, ever since I took Ching [synthetic stimulant], I always took panic attacks since that, legal highs are really dangerous. (UK\_12\_ALT\_F\_18)

In Italy only a small minority of interviewees had ever tried NPS because of the generalized opinion that they are dangerous:

NPSs really kill you, they kill you immediately, at least cocaine kills you afterwards. That is a thing that I never did, neither heroin. I've always felt rather disgusted with these things here. (IT\_01\_PRI\_M\_23)

However, interviewees also reported adverse mental and physical health effects with more familiar illicit drugs. One young woman described a 'scary' few weeks just after her 16th birthday:

I got a scare where I had to have my heart monitored for two weeks and the same night I took ecstasy, Charlie, speed and stuff like that... I thought I was going to end up having a heart attack so the doctors had to keep an eye on it. I had to keep going back to my GP. (UK\_18\_ALT\_F\_17)

In fact, young people in our study reported numerous health problems, including mental problems such as panic attacks and physical ones, for example, cardiac irregularities

resulting from the use of substances whose compositions are unknown. In particular, when talked about, NPS have a very bad reputation and complaints about their low quality came frequently from most countries (cf. Patterson et al., 2017). It has been suggested that NPS were invented in response to prohibitive policies (Measham & Newcombe, 2017) and therefore in themselves could be regarded as an unintended effect of prohibitive drug policy.

### **Negative experiences with the police and of deprivation of freedom**

Drug use carries a risk for young people who would probably not have legal problems if these substances had been legal. In our study, not all young people were in the criminal justice system because of their drug use or drug possession. But, some young people had been caught by the police due to drug possession or had been accused of drug dealing if they possessed an amount higher than legal limits and these young people reported to have been subject to an array of unpleasant criminal procedures. Others had committed offences while under the influence of drugs or had been involved in acquisition crimes (Rolando et al., 2020). Some reported being exposed to humiliating and degrading treatment by the police. A 15-year-old Polish girl describes her first experience with the police:

Then we were at the police station ... they caught us around 1p.m., then we sat for about 2 hours at one police station, then we went to another police station somewhere else where we were searched. Well, we had to strip naked ... We had to undress, then we came back again. We waited until 8 p.m. for parents. (PL\_14\_ALT\_F\_15)

Another interviewee from Denmark described a traumatic experience with the police in this way:

I spat on them because they [police] kept beating me, because I was so affected [by drugs] that I didn't react on the pain of the beating. So, lying with my face against the asphalt, they kept beating me, because I called them all these bad things. And then they claim that I attacked them, you know. That's what they write in my papers, anyways. (DK\_INT\_7)

Humiliating treatment was reported from Poland:

They behaved like stupid dicks, stood on my boot, fucking, that I would not run away anywhere. They were mocking, they called me druggy (...) and they were talking some fucking shit. I don't know, I think this technique is a bad, good policeman, because when I went to the next one, he was already very nice. (PL\_07\_ALT\_M\_24)

The traumatic experiences with the police may be extended and affect families of young people as well, illustrated by quotes from the Italian interviewees who recalled police intervention when they were teenagers:

When nine policemen and a dog arrived at home I was not there, at 8 am they arrived and my mother went to open the door in her pyjamas. (...) This event alone, I told myself, is not bearable. (IT\_13\_ALT\_M\_21)

Everything was traumatic. (...) They [policemen] came to my home. It was weird and traumatic because my sister was sleeping and the policemen told her: now you tell us what the hell your brother does, if you tell us we catch him only, otherwise we bring you too. (IT\_14\_ALT\_M\_20)

Contacts with the police and CJS, in general, can increase the problem because drug use can be a way to cope with these negative experiences:

When something happens and I have severe stress with the police, a blunt [marihuana] removes everything. For a while, it fades everything away. You are able to forget it and you think, fuck you all, fuck what happened, and all these things. (GER\_02\_ALT\_M\_16)

Traumatic experiences with the police may even be reinforced after being deprived of freedom because of being arrested or put in prison:

I never got along with police personnel, neither outside nor here. Because they go beyond the power they have, they do much more. For example, [after a search] they give you a report where it is written: we searched you, respecting dignity and everything. Actually, they strip you naked and they make you do genuflections. (...) We have made mistakes and we are paying for these errors. (...) it's not that the guards beat you up, but they can be violent with words. This doesn't seem right to me at all. (IT\_2\_PRI\_M\_19)

Instances of humiliating behaviors by law enforcement agents were reported from all countries no matter the level of criminalization and its enforcement. Such experiences are also present elsewhere, outside Europe (Cooper, 2015; Miller et al., 2008). Young people often feel humiliated and Stigmatised in their first contact with the police and then with other law enforcement agencies. They do not expect such harsh behavior and do not consider it proportional to the relatively 'innocent' act of possessing drugs.

These individual, often traumatic, experiences could also be seen as social consequences as they may have affected the perceptions of the police, of correctional institutions and even of the State by the young people. As a result, they are very likely not to trust the State and its agencies in the future and become marginalized from society rather than grow up and eventually be socially integrated.

### *Long-term consequences of criminalization*

Being criminalized can have long-term consequences. Two main aspects emerged from our data, on employment opportunities and on the 'normalization' of time spent in prison.

Criminalization is likely to affect (already scarce) employment opportunities as people with criminal records are less likely to get a decent job and have to continue the criminal activity, including drug dealing (Bretteville-Jensen et al., 2017; Kurtovic & Rovira, 2017). This was stressed particularly by migrants living in Italy who saw that they needed a change in their structural conditions to enable them to stay away from drugs and crime. Indeed, the lack of legal opportunities to get an income – as reported by illegal immigrants – easily leads to involvement in drug dealing and drug use.

Thanks to a friend I found a place as a courier. I went there, I worked, all right, after a couple of days of testing he says "Yes, I'll hire you, you have to bring me the criminal certificate" and I say "I had problems, I was in prison" and he "I can't take you". And that was the coup de grace, since before I was busy, I was doing well and everything, but after that I couldn't find a job anymore, I had no way to do anything, you know, so a couple of days later I spent an evening with friends and started using and dealing again. (IT\_01\_PRI\_M\_23)

However, even where drug dealing is not the issue, ongoing contact with the legal system is a disadvantage when applying for a job:

I've always just been interested in the army and stuff. ... I just wanted to leave school and join the army but I got, before I left school I was in trouble with the police and stuff and so I was in the courts, so they wouldn't let me join the army until my court cases were dealt with first. So that kind of fucked my application up. (UK\_11\_ALT\_M\_17)

Even when there are no legal impediments, the stigma of having been in prison and lack of knowledge about how to find a job present major hurdles to recovery:

Like you need a CV to get a job, but I don't even know what a CV is. I was like a wee boy walking in there (the Job Centre), you know scared and all that, because it just feels like everybody's judging you because you've been in the jail and you're there just to get money. (UK\_20\_ALT\_M\_20)

For one Austrian young man, the legal consequences of his former drug activity interrupted his recovery as arrest came after he had stopped drug use and found employment:

On the day when I was arrested, police officers appeared at my work place and searched the office, all desk drawers, the lockers and my car, but they found nothing. I had nothing to do with drugs anymore after I started my job. (AT\_18\_CO\_M\_19)

The second aspect of the long-term consequences of criminalization is the 'normalization' of custodial experiences, so that time in prison is taken for granted as part of life or as a welcome release from the outside world. In the Austrian sample, for instance, some young people were permanently 'on probation' and under the supervision of the criminal justice system. A minor described how he oscillated between pre-trial detention, freedom, and prison (AT\_3\_PRI\_M\_17). Young people reported feeling quite comfortable – and even secure – in custodial settings and, for different reasons, preferred to be 'inside' rather than 'outside.'

Another interviewee felt that a short jail sentence was not too bad and could see himself going in and out of jail for the rest of his life:

I've never really worked ... I've been in a few times and, like, that could be the rest of my life and that. I suppose it's alright when you have friends, I know it's a jail, but it's not like a jail proper. I mean like if you're doing a heavy stretch like 12 years or something, but I don't mind that it's only 2 or 3 or that, but if it was for that long I'd be broken ... (UK\_15\_PRI\_M\_20)

According to one young woman, being 'locked up' at an early age had affected her psychologically and had made her unable to cope with life outside custodial institutions:

I don't think you should keep locking kids up because you don't put a kid in a locked home at 13 and keep them in like for their whole teenage years and expect the brain to function normally outside, when they're used to being locked up. That was like, I used to do something on purpose to get locked back up, because that was normally my life and there was no way I could cope by being inside. So it normalizes in your brain, so that's left me with anger and that is partly from anxiety and my drug use, I can't handle outside sometimes. (UK\_12\_ALT\_F\_18)

Similarly, a young man from Poland was scared of freedom as he was facing the prospect of ten years in prison

I'm afraid that prison will change me, that I will go wild. 10 years is a lot. I am afraid of going free, because rehabilitation is only on paper. Someone must have a purpose in prison. (PL\_34\_PRI\_M\_24)

In short, for some young people, long-term employment opportunities were compromised if the young person had a criminal record or was in touch with the criminal justice system when applying for employment. It is likely that there could be other long-term consequences, for instance, on training or finding accommodation. For other young people especially for those who had repeated or prolonged stay in prison or secure services, there may be negative psychological effects, so that life inside an institution feels more acceptable, safe, or manageable than life in the outside world (Moore et al., 2013; Roca et al., 2009).

### **Social consequences**

As it has already been stated, two types of social unintended consequences were distinguished in the young peoples' narratives: affecting social relationships and affecting institutions. There were two main ways in which accounts from young people highlighted unintended consequences affecting social relationships: being exposed to criminal networks and being Stigmatised. Criminalization affects also institutions that have been established to address problems related to drug use but their activities are limited by the requirements of the criminal justice system.

#### **Social consequences affecting relationships**

Young people identified by the criminal justice system are pushed towards criminal networks and may soon become members (Kreager et al., 2016), which is very likely to be reinforced by social rejection and Stigmatisation. The more so as prosecution, itself, is highly Stigmatising and perpetuates the deviant status of a young person affected (Moore & Tangney, 2017)

**Exposure to criminal networks.** First of all, being put in prison or in secure institutions with others who had committed offences, exposed the young person to criminal networks. Incarceration is likely to involve a sudden culture shock, as recounted by one young Danish person:

Being sent to prison when I was 18 years has fucked up a lot for me. It did not help to place me together with other people who were sentenced for man slaughter and things like that. It did not help. I don't think it is helpful for any young 18 years old. (DK\_INT\_22)

Rather than providing a supportive 'safe place' for young people, sometimes prisons may become a kind of 'school' where young inmates socialize within criminal sub-cultures:

I sold a little for two years, I have known the area a little. I started slowly with hashish. Then, since being in the prison, I've learnt everything. (IT\_06\_PRI\_M\_24)

As it comes out from this study, the first encounter with the criminal networks may constitute a cultural shock which is very likely to be followed by trauma on the one hand, but

also by attempts to adapt to new norms by imitating behavioural patterns of other inmates (Kreager et al., 2016).

**Stigmatisation.** A second way in which unintended consequences impact on social relationships is through the experience of Stigmatisation and labelling. Prohibitive drug policies reinforce the stigmatisation of drug consumers in moral terms. They are not seen as vulnerable individuals who need treatment and care but rather as immoral persons whose immorality extends to other areas. A young woman interviewed in prison told us that she was considered a prostitute as she started to take drugs:

Then as I started to take drugs, a lot of people knew about it in the city and thought very badly about me ... They rumored that I earn some money with guys on the side or something. Did you get me? (PL\_42\_PRI\_F\_25)

Stigmatisation and labelling is increased by association with those involved in the criminal networks encountered in prisons. It was stressed by a young man from Italy of migrant background, that a prison sentence in itself is very Stigmatising:

It's hard when you leave the prison, because even the people who know you ... my Italian friends looked at me differently, did not trust me, 'cause in the end prison remains the place of criminals. (IT\_21\_PRI\_M\_24)

An interview from Denmark shows how explicit a process of Stigmatisation by CJS may be:

In the eyes of the CJS, I will always be considered as a criminal. That's just how it is. The last time I got out, I went to one of those meetings for the first time, where she writes on the computer, you know, and then she says: 'well you are a criminal'. And then I say: 'No I'm not'. But 'yes you are, you are a criminal'. Then I say: 'I just did some criminal stuff, and I don't see myself as a hardcore criminal like some of the others who are in prison .... (DK\_INT 8)

Drug use increases the risk of a young person being in contact not just with the criminal justice system but also with criminal networks which can be attractive for young people, offering easier access to drugs and acceptance of drug use. Young drug consumers who have been Stigmatised as a result of their drug use and contact with the criminal justice system may find that a criminal network provides a safe shelter where they feel accepted and even respected.

#### **Social consequences affecting institutions**

Unintended consequences of prohibitive policies also affect institutions that offer interventions in the field of drug prevention and treatment. As reported by our interviewees, what they can provide for young people is limited by the criminal justice context; the young people are not voluntary participants which can mean that they do not fully engage. Institutions providing interventions within the criminal justice system are required to focus primarily on drug problems, and other problems or needs are neglected. Moreover, harm reduction approaches are rarely offered in a coercive context

while other treatment modalities available outside the criminal justice system are seen as inadequate in prisons.

**Low motivation to participate in interventions.** As reported by our interviewees' participation in interventions targeting young drug consumers may bring them some short-term benefits, the commitment of participants is often low; they attend the intervention to prevent further criminal investigation or to gain other 'privileges' if an intervention is offered in the prison setting. Moreover, the level of engagement in treatment is even lower due to rigid and inflexible treatment regimes which leave no space for clients to influence their course of treatment. These kinds of unintended effects are framed as affecting institutions because involuntary participation in an intervention may deteriorate the relationship with the staff and lead to poor results of treatment.

A young girl emphasized that some people attended the intervention program just to get a certificate to present to CJS in order to suspend criminal procedures; they were not committed to the intervention and did not take it seriously. As a result, they discouraged others in the group from becoming involved:

They will be kidding about this intervention, they participate just to get a paper and bring to the police as one girl did, or to the court as one boy did. They were laughing openly in the room. (PL\_12\_ALT\_F\_16)

Some interviewees openly questioned the usefulness of treatment, as in the following quote in which a 24-year-old young man, detained in a special section for drug users, criticized psychological intervention:

I have nothing against the psychologist, but I do not want to get [general psychological] counseling. (...) If I had thought it was so, I did not come. (...) I came here to treat myself and that's it. (IT\_06\_PRI\_M\_24)

Also, group therapy offered to non-motivated people in a prison setting was perceived as unhelpful as reported from Poland:

Group therapy is useless. The guys are making jokes about each other, they shout over each other, it's hard to hear what the therapist is saying. Perhaps because this group is large (15 people) and half of them are not interested in quitting drugs. They just want a certificate to leave early. There should be more individual therapy to understand your problems and how to deal with them. (PL\_41\_PRI\_M\_23)

**Focus in prison-based interventions on drug problems only and neglect of other problems and needs.** The young people in this study reported that, from their experiences, the interventions they participated in focused primarily on drug problems, and other problems or needs were neglected. Co-morbidity is a rather common problem among drug consumers, in particular in prisons (Mundt & Baranyi, 2020). Some of our interviewees experienced a lack of help in relation to mental health problems. They felt these problems were ignored by the interventions, as for example, one of the Polish participants says,

As for the weaknesses of the program, there is no psychiatric background. My psychiatrist recommended me first to use

addiction therapy, and then I have to deal with depression, because the effects of depression and marijuana smoking overlap. I would rather deal with both matters at the same time. (PL\_05\_ALT\_M\_24)

Some of the interviewees reported severe withdrawal symptoms while they were in prison. Despite suffering sickness, headache, fever, and severe back pain (called 'cracking') they did not receive proper medical care:

I felt the withdrawal, and only received pain medication, Vitranal, that was four to five days. I only laid on the bed and waited until it was over. (AT\_24\_PRI\_F\_24)

Young people who enter the CJS, and become involved in drug interventions, present with very different histories and experiences of drug use and a range of drug-related health harms that may influence how they react to attempts to help them change their drug use behavior. Unintended problems may arise if services and interventions fail to recognize the extent and nature of a young person's experiences prior to, or in the course of, contact with the criminal justice system.

**Limited opportunities for harm and risk reduction approaches.** Closed-door institutions such as prisons or forensic hospitals appeared to be preoccupied with confinement, keeping their institutions drug-free and offering drug-free treatment. But we know from the literature that some drug consumers who do not accept total abstinence from drugs are, however, willing to reduce consumption or to reduce risks or harms related to drug use (McKeganey et al., 2004). While some intervention programs, notably in the UK and Denmark, have adopted harm and risk reduction approaches, zero-tolerance policies and penalization of drug possession means that existing intervention programs in most of the EPPIC countries rarely offer harm and risk reduction approaches. As the following quote shows, this is also what the young people who are in contact with these programs experience:

I think that the approach of the majority of therapists in Poland is that if you do not abstain you do not improve. That is totally untrue as I reduced only my use and I made great progress in my life. (PL\_07\_ALT\_M\_24)

The potential benefits of harm and risk reduction were, however, articulated by some interviewees who had attended services that were based on these rather than abstinence approaches. For one young man:

I feel like it's helped me understand why I turn to drugs when I'm feeling down and how to be safe around them and to try and help me find the best way to abstain from them, or if not abstain from them, use them safely. (UK\_20\_ALT\_M\_17)

Another young man who had significantly decreased his cannabis use in the two and a half months he had been attending sessions explained:

It's helped me with my cannabis like quite a little bit, because if not, ... I wouldn't have cut down on the cannabis at all. I didn't want to at the start and then I realised I do kind of need to a little bit, it would save me ten times my money and just my health, my mental and physical health will be ten times better if I actually stop. (UK\_21\_ALT\_M\_17)

Interviewees stressed the importance of having an approach that avoided telling them 'don't take drugs' but rather enabled them to make informed decisions about their drug use:

Probably the most helpful thing about the support is the, is just the education of what's actually going on, because there's no point telling me not to do it if I don't know why... educated me in what it's actually doing, and I think I'm a knowledgeable enough person to make my own decisions based on what I've been given, so that's really helped me... it has all helped me to like minimise my drug use and has stopped me taking all these things. (UK\_29\_M\_ALT\_17)

These quotes highlight a point raised by interviewees that an approach based on 'stop taking drugs' is likely to be resisted by young people and could even be counter-productive (McKeganey et al., 2004).

Also in Denmark, there are tensions between the zero-tolerance approach of the CJS and the harm-reduction approach which overall marks the youth treatment system. For instance, when a young person is on parole with an electronic tag, this means that s/he has to be drug-free and deliver negative urine tests. However, this does not necessarily comply with the norms of the drug treatment program that the young person might also be enrolled in where the reduction of drug use and harm reduction is the focus. Professionals, as reported elsewhere, point to differences in norms, values and rules in different welfare systems, but also to how Prison Service rules (always) take precedence over other welfare services' way of dealing with these young people (Frank & Kolind, 2008).

### ***Inadequate approach to drug treatment in prison.***

Attempts to deliver treatment approaches that take account of specific conditions of incarceration are not always successful. Our interviewees considered that direct adaptation of treatment approaches widely used outside the prison was inadequate in the context of strict prison policies which impede the effectiveness of prison-based drug treatment in achieving positive outcomes. A female interviewee who experienced how a therapeutic community works outside the prison saw the difference:

And these were - so-called- therapeutic communities and people really said what they think. It's a bit different here, because we're in prison (...) And because of it people here are not completely honest with each other. They try to be nice to each other, because they benefit from it. In the treatment centre there was a ban on any deals, borrowing, giving, and people said what they really thought, and it was useful. Here you can not do it. (PL\_49\_PRI\_F\_23)

Another female interviewee spoke about the incompatibility of prison rules with the principles of therapy which were developed for people outside a prison:

It seems to me that this therapy is not at all adapted to the conditions of the prison. It is based on the principle of free therapy, when we are free, we have a choice, we can change something. Here we are closed in and they require things from us that we can not achieve. We are supposed to feel good, we have to change, we have to control our emotions, we have to develop or something like that, but we have no possibility because we are in a prison... I think it is inadequate considering the situation. (PL\_46\_PRI\_F\_19)

For this reason, referral for treatment outside prison may be more appropriate and effective, as claimed by a young woman from Austria who was released on probation after she had served half her prison sentence, to receive psychotherapy. She appreciated that group drug therapy was led by an outside out-patient organization, which gave her the impression of trust and independence:

It is different to talk to people from the outside because one can trust them more. Because one cannot really talk about what is going on without being afraid that this will affect one's sentence or so [when people are employed by the prison]. This is very helpful. (AT\_25\_PRI\_F\_19)

Furthermore, in some cases, inmates might change their drug use patterns or stop using drugs altogether while in prison. This can be an instrumental adaptation to prison confinement or to the prison environment and not a real decision to give up drug taking altogether (Frank et al., 2015). After release, however, many restarted drug use:

I stopped smoking, I stopped smoking weed, I stopped smoking fags when I was in jail. I just started hitting the gym and just started focusing on fitness and stuff like that. So that was a good period, I just had a clean head. But as soon as I got back out, I was just kind of back to, being with the same people in the same situations and the same circumstances, so I just kind of slipped back into smoking weed and that. (UK\_32\_ALT\_M\_23)

In principle, therapeutic approaches applied in prisons are adapted from relevant treatment ideologies prevailing outside the prison, including therapeutic communities which assume open discussions and mutual trust (de Andrade et al., 2018). According to our interviewees, these values are not necessarily preserved in the prison environment. Therefore, the key unintended consequences for institutions in the CJS are that drug treatment in prison does not seem to be persuasive to inmates and for many reasons treatment successes are not sustainable after release from prison. The attempt to import values and prerequisites of treatment from outside meets cultural and structural barriers in prisons.

## **Discussion and limitations**

The use of psychoactive substances, especially among young people constitutes numerous risks for their consumers and their social environment. Drugs produce acute health problems (such as poisoning, injuries) as well as chronic complications, for example, liver damage or dependence (Newcomb & Locke, 2005) in addition to social risks such as Stigmatisation and marginalization. Following the international conventions, most European countries applied prohibitive policies for drugs other than alcohol, tobacco and medicines (Measham & Newcombe, 2017; Reuter & Pardo, 2017). Drug laws are aimed at curbing drug supply, reducing use and its harmful consequences. They may have a deterrent effect as the proportion of people consuming illicit drugs is clearly lower compared to consumers of alcohol. In addition to a deterrent effect, incarceration may sometimes interrupt a long period of intensive drug-taking and save the health and the lives of those affected. Prison stay offers an opportunity to reflect and think over drug experiences which in turn may facilitate

a decision to give up drug-taking. Moreover, drug laws also have symbolic meaning; criminalization of certain substances suggests that these are more dangerous compared, for example, to alcohol and therefore may affect risk perception and discourage their use.

However, drug laws and regulations can often have negative unintended consequences related to health and the socio-economic situation of people and their families. A report from the Council of Europe (Bretteville-Jensen et al., 2017) comprehensively discusses the issue of social costs of drug criminalization indicating, among other issues, stressful contact with the police, during which violence may occur, negative effects of contact with the prison subculture during incarceration, the transition from the substance of the first choice to a substance which is less controlled but often more dangerous, like some NPS. These kinds of social costs or adverse consequences were also confirmed by our study. Last but not least, the report stresses that offers of harm reduction are extremely limited, especially in prison conditions. In many countries, the prevailing approach to drug treatment in prisons is abstinence and there is limited support for interventions aimed at reduced consumption. The lack of such offers may discourage young people from participating in prevention or treatment interventions (Carlson et al., 2004).

There has been an increasing awareness that prohibitive drug policies produce unintended effects which can mostly be considered negative. Even the Executive Director of the United Nations Office on Drugs and Crime – a major guardian of international drug conventions – admitted in his report to the General Assembly, the significance of unintended consequences. From his perspective, major unintended consequences cover the emergence of huge black markets which lead to policy displacement towards increasing the role of law enforcement at the expense of demand reduction policies, geographical displacement, for example, increased local cultivation of cannabis to replace imported drugs, displacement of substances towards less detectable ones, and what we would call perception displacement which results in exclusion, marginalization and Stigmatisation of those ‘who fall into the web of addiction’ (Costa, 2008). This typology fits the global political debate on drugs but could only partially be applied to understand the negative effects reported by young drug consumers interviewed in a course of the EPPIC project.

In this paper, attempts were made to apply Merton (1936) classic concept of unintended or unanticipated consequences to understand better the complexity of managing drug-related problems within a frame of prohibitive policies, in particular as applied to young people. On the basis of Baert’s (1991) typology, a major distinction was made between consequences that may be considered individual and social. Within social consequences, two sub-types emerge, those that affect social relationships and those affecting institutions. As shown by this study, this typology captures well a range of unintended effects of current prohibitive drug policies as perceived by young drug consumers having experienced interventions from the criminal justice system.

It can be argued, however, that some unintended consequences may be regarded as intended. For example, humiliating young drug consumers can be in line with the intentions of a law enforcement agent who believes in the deterrent effects of their action but maybe against the spirit of the legislation, which does not presume explicitly any adverse consequences for (young) drug consumers. Similarly, the policy of individual institutions that precludes harm reduction approaches may be intentional from a perspective of the staff or prison administration but could be viewed as withholding evidence-based treatment. This approach is likely to diminish the willingness of young people to be treated and potentially lead to a deterioration in their health – the latter being clearly an unintended effect.

### ***Unintended individual consequences***

Lack of proper quality control of illicit drugs is inherently associated with their (il)legal status. Individual risks and consequences of their use have been magnified in recent decades due to the emergence of NPS, known also as ‘legal highs.’ Health problems mentioned by our interviewees include both mental health and somatic complications that may require intensive care. Against this background, these apparently individual unintended effects affect others, including people close to drug consumers, but also include extra costs to health systems that have to take care of individuals suffering from these complications (Bretteville-Jensen et al., 2017).

Traumatic experiences with the police and the consequences of early deprivation of freedom emerged as very dramatic individual consequences which may have long-lasting effects. Locking an adolescent in correctional institutions does not guarantee any promising outcomes. A young person deprived not only of freedom but also of regular contact with their family and other young people without drug problems, may come to perceive themselves as ‘deviants,’ an identity that may be reinforced by their experiences in the criminal justice system and may stay with them into later life.

The transition to adulthood is a critical period in the life course where individuals acquire the social capital and material resources needed in the future to develop constructive social relationships and have a secure financial situation (Settersten et al., 2005). People who are in prison at a young age have limited possibilities in this area. Moreover, many prisoners do not have access to education, work and therapeutic programs (United Nations Office on Drugs and Crime & World Health Organization, 2018).

### ***Unintended consequences affecting social relationships***

Incarceration is connected with shame and stigma both during and after imprisonment, deteriorating family relationships, and family instability (Esposito et al., 2017). Drug use and its criminalization may drive drug users to the margins of society and create distance between them and their communities and families (Paternoster & Iovanni, 1989).

These primarily individual consequences may also have their social dimensions. The negative perception of police can be generalized to the State and all its agencies. Individuals deprived of freedom in their teenage years may grow away from mainstream culture and join alternative criminal networks. Isolation can consolidate negative patterns of behavior, without providing a chance to improve or learn new patterns. Young people after being released do not often have family support or social capital, which can contribute to the return to their old life and to committing crimes (Lambie & Randell, 2013). For young immigrants, negative experiences with CJS can furthermore affect their already difficult integration into a new country (Rumbaut, 2005).

### ***Unintended consequences affecting institutions***

The illicit status of drugs constitutes to be a serious barrier to adequate intervention. For instance, young people entering the criminal justice system can be burdened with multiple problems such as academic failure, emotional problems, physical health issues, family problems, and a history of traumatic life events in addition to substance use which is often not taken into account (Rolando & Baccaria, 2019). Addressing these problems requires offering comprehensive assessment (including mental and physical health evaluation), effective, tailored to the needs of the individual and of long enough duration, case management and monitoring over time, coordination of drug abuse treatment with correctional requirements, as well as planning the transition to community-based treatment and contact with appropriate post-release services (National Institute on Drug Abuse, 2014).

The interviews with drug experienced young people within the criminal justice system confirmed that interventions offered in prison place too much emphasis on controlling the availability of drugs, so that other needs or problems experienced by young people are pushed into the background. Priority given to reducing drug use in prison is very likely to entail the application of disciplinary measures, such as limiting communication with family, or a ban on home visits, as a penalty. Such measures have short-term effects and may have even more adverse consequences in the long-run. Lipsey (2009) stressed that programs based primarily on discipline are least likely to be successful, and may in fact increase post-incarceration crime.

Last but not least, interventions provided in prison are inspired by programs elaborated and applied in other settings and are not tailored to the sub-culture prevailing in closed-door institutions, for example, correctional institutions, forensic psychiatry wards and prisons. Thus cultures dominating in therapeutic communities that promote openness and mutual trust are in conflict with prison sub-cultures. If abstinence is the only goal of treatment in closed settings it lacks the integration of differentiated drug services developed outside including harm reduction.

### ***Differences between EPPIC countries***

Despite substantial differences between participating countries including political history, economic development, specificities of drug legislation and epidemiology, numerous similarities were identified such as, poor quality of illicit drugs, traumatic experiences with the law enforcement sector, Stigmatisation and social exclusion as well as imperfection and inadequacy of interventions, in particular interventions offered within the criminal justice system. Most of the unintended effects were related to the illicit status of drugs used by our interviewees. To use a distinction elaborated by MacCoun and Reuter (2001), who identified three potential sources of harms, namely properties of drugs and their use, prohibition itself and its enforcement, it can be concluded that our interviewees rarely reported harms associated with drug use – with the exception of complaints about drug quality – and attributed most consequences to prohibition itself. However, in comparing EPPIC countries, we found that the range of adverse effects is related to the strictness of the criminal justice system in general and of drug policies, in particular. Despite the illicit status of drugs, attempts are made with varying intensity in all countries to promote a more holistic approach defined in the existing rules and guidelines that were adopted and are implemented to divert individuals out of the criminal justice system and into medical and social treatment. In the prison setting, however, zero-tolerance often takes priority in all countries.

Although within the EPPIC project we did identify interventions which adopted harm and risk reduction approaches and heard the testimony of young people who felt they had benefitted from such approaches, on the whole, interventions targeting young people in touch with CJS offer very limited space for reduction of use or harm reduction approaches. Total abstinence seems to be a prevailing treatment option that may reduce involvement in treatment or discourage potential participants who wish just to reduce their consumption (Lozano et al., 2006).

### ***Study limitations***

This study has its limitations. In some countries and/or settings selection of interviewees may be biased as staff members who recruited them may have selected those that they were on good terms with as they were more likely to agree to participate. Therefore, some young people who were not happy with an intervention or who held critical opinions, may not have been contacted or may not have agreed to participate. In the closed-door institutions, the interviewees there might have been suspicious that their answers and opinions could perhaps be leaked to the staff, even though they were assured about confidentiality and anonymity of their interviews and gave informed consent to participate. In settings where participation in an interview was awarded with vouchers or other gifts, the sense of confidentiality might have been even lower as, in some countries, participants had to confirm receipt of vouchers or gifts, including their signature and personal identification number to comply with record-keeping procedures.

## Conclusions

This paper does not constitute yet another call for drug legalization. Despite relatively new developments in drug policies towards marihuana in the US, which for decades used to be an initiator and guardian of international conventions, the majority of countries will probably continue prohibitive drug policies with the numerous negative effects presented above. However, as this study suggests, some policy measures may be considered for revision in order to prevent some of those unintended effects. Criminal procedures, including police interventions, should not be applied as first measures and opportunities to waive or to interrupt intervention by the criminal justice system should exist and be applied in everyday practice. Interventions outside and within the CJS need to cover a wide spectrum of needs of young drug users who suffer from multiple problems which are only reinforced by drug use. Many young people suffer from mental and somatic disorders that do not have priority in their drug treatment. Efforts should be made to increase the social and cultural capital of young drug consumers, to offer them educational and job opportunities, to improve their relations with the family whenever possible and feasible. Last but not least, interventions need to offer elements of harm reduction or use reduction for those who do not consider total abstinence as an optimal option.

## Notes

1. The project 768162/EPPIC, which has received funding from the European Union's Health Programme (2014-2020). Its Polish part was co-funded by the Polish Ministry of Science and Higher Education.
2. Quotations are accompanied by a code indicating the country, the interview number, the measure (home arrest – HO, therapeutic community – CO, prison – PRI, other alternative measures – ALT), gender M/F and the age - number of years). Only quotations from Denmark are not accompanied by standard codes because of privacy issues.

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