



**Intervention by Ms Karen Mamo on behalf of ReLeaf Malta at the INCB  
civil society hearing on the trend to legalise the non-medical use of drugs  
with an emphasis on cannabis, 25 May 2022.**

Good morning,

Thank you Chair for giving me the floor.

Malta has been recently heralded as a trailblazer in the cannabis reform sweeping across different regions, including the European region. The words legalisation, liberalisation, and freedom of choice resonated loudly in some quarters of Maltese society. In other quarters, the mere mention of cannabis drug policy reform sent shockwaves of anger, mistrust and fear. Some asked if this would create a new little Amsterdam in the Mediterranean, and repeatedly mentioned the corruption of young minds inebriated on cannabis and a hedonistic life. Sea, sun and Cannabis. The conditions are perfect for a new commercial niche. These two polarised positions unfortunately miss one very important point: **The role of drug policy directly infringing the rights of people who use drugs, in this case cannabis.**

Before I continue to speak about the Malta process, I wish to share with you three foundational elements which will guide my speech today, and which I hope will better clarify the nexus between international human rights law and drug policy.

- The Right to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, is indivisible, interdependent and interrelated to human, social, economic, and cultural rights
- The concept of a drug free world has failed, and is causing numerous ‘unintended consequences’, with criminalisation and excessive law enforcement identified as key perpetrators of stigma and discrimination
- The voice of peer led organisations is imperative and should be respected as an equal partner in discussions pertaining to drug policy reform

Furthermore, I wish to make it clear that, by an evidence and human rights based approach, I do not mean the unlimited right to consume mind altering substances. Neither do I aim to profess an innate right to advance personal rights and freedoms. I believe a similar discussion is beyond the scope of our meeting here today. By an evidence based and human rights-based approach, I refer to the fundamental human rights bestowed upon every individual. This is **IRRESPECTIVE** if using a mind-altering substance prohibited by the UN Drug Control Conventions.

### **1.1 An urgent need to correct the wrongdoings of the past**

What exactly does the evidence show?

If we looked at the number of arraignments for **Drug Law Offences for the use and possession of drugs**, and therefore people arrested, interrogated, potentially detained, and later taken to

court for a final sentencing, we would find staggering numbers. May I please add a side note that Malta is a small island with an estimated population of a little bit over 500,000.

Back to the evidence.

The National Report on the Drug Situation in Malta explains that between 2015 and 2020, a total of 2,642 people were arraigned for possession charges, with those related to cannabis amounting to 1,667 cases. I am here speaking about cases, but it would be better to speak about human lives and opportunities missed due to a tainted criminal record, lengthy court cases, and in some cases imprisonment for the sole crime of possessing and using cannabis.

Maybe many of you will not be familiar with the names of Daniel Holmes, Christopher Bartolo MarieClaire Camilleri, and Kevin Bellotti. These are just a few of the names, identities and lives trampled upon by a draconian and inhumane approach to drug policy. Some are in court till this very day, fighting for their freedom. To me, these people and their families are unsung martyrs caught up in between extreme interpretations of the UN Drug Control Conventions, and an ever-looming sentiment of stigma attached to people who use drugs.

## **1.2 Civil society advocating a human rights-based approach.**

As per legal amendments to depenalise drugs enacted through the Drug Dependence (Treatment not Imprisonment) Act of 2015, people found in possession for the first time of very small amounts of drugs are directed to appear in front of the Commissioner of Justice and given a fine. These changes recognised that people who use drugs do not harbour intrinsic criminogenic traits. In fact, even the title of the Act, Treatment (not imprisonment), emphasised that drug use should no longer be viewed from a criminal perspective, but rather embedded

within a public health framework. In fact, this novel approach promised to be a positive development following harrowing cases of people sent to prison for the simple act of possessing and using drugs. National statistics explain that between 2016 and 2020, cases amounted to 3,219, with cases related to cannabis possession of up to 3.5 grams reaching 1,897. These people were not spared being handcuffed and taken to the police station for questioning. Therefore, although shielded from lengthy court cases, over three thousand people continued to be traumatised by being picked up in public spaces and shamed.

In fact, when one looks at National Statistics, and the level of arrests both leading to arraignments and to a tribunal hearing in front of the Commissioner for Justice, one observes perseverance in persecuting possession. Interestingly, a downward turn was experienced in 2020 only as a direct effect of lockdown and minimum social activity.

This cat and mouse game continued in part, to reflect the injustices and wrongdoings of the past. Furthermore, it in no way effectively impacted drug trends or public health.

As presented by national statistics, year after year, the majority of Drug Law Offences for possession are mostly related to cannabis. A proposal for a regulated cannabis market presented by ReLeaf Malta to Government in 2019, and active contribution to the public consultation on the responsible use of Cannabis taking place in 2021, promoted for the very first time the role of a peer led NGO within the drug policy debate in Malta.

ReLeaf Malta advanced a harm reduction approach, whereby cannabis consumption, sharing, possession and cultivation should be fully decriminalised and accompanied by sound and non-judgmental educational tools. Thus, ensuring policy shields law abiding citizens from the trauma of being arrested, hand cuffed, strip searched and interrogated for a non-violent crime related to cannabis. A proposal to focus on harm reduction and the right to health for people who use cannabis, therefore ensuring access to non-contaminated and non-commercialised

cannabis, and the need of including expungement of criminal records, have been at the cornerstone of ReLeaf Malta's proposal.

The Cannabis Social Club model published by the European Coalition for Just and Effective Drug Policy (ENCOD), work by Transform: Drug policy Foundation, and the Transnational Institute, constituted the core philosophical standing upon which ReLeaf Malta designed its policy documents and outreach to local stakeholders, including members from the political class.

### **1.3 A bumpy road ahead**

The partial decriminalisation of cannabis in late 2021 is the result of over five years of intensive discussions and debates between different stakeholders. It is also a reflection of a legislator willing to listen to peer led civil society organisations and needs originating at grassroots level. Most importantly, it reconfirms that a criminal or a strictly medicalised approach to the personal possession and cultivation of a drug, in this case cannabis, is not impacting consumption levels, and is not conducive to promoting the wellbeing of society.

Does this mean Cannabis has been liberalised in Malta?

Certainly not!

Testimony to this is confusion on the legal status of CBD and people arrested for importing CBD flowers but not CBD oil. Testimony to this are also the hundreds of people still in prison or awaiting trial.

So where does the law stand exactly?

When one digs deep, the law is a mosaic of legalistic terms. In fact, Maltese legislation has a mix of **decriminalisation, depenalisation and criminalisation.**

In brief, Maltese legislation has now in part recognised the wrongdoings of the past and included provisions to minimise the negative impacts of a criminalised approach to cannabis.

Therefore, the decriminalisation of up to 7 grams of cannabis, the decriminalisation of cannabis seeds, the inclusion of a minimum THC limit to differentiate THC from CBD dominant strains (that of 0.2%), the possibility to cultivate 4 cannabis plants at home, and the establishment of the Authority for the Responsible Use of Cannabis to regulate not-for-profit cannabis associations in the near future, are measures which DO NOT encourage or normalise cannabis use. On the contrary, the legislative changes shift cannabis users from pathologized persons in need of treatment, to responsible adults capable of taking responsible decisions. The new policy framework is giving cannabis users additional tools to stay away from the negative effects of the illicit market, but also potentially more devastating effects caused by incarceration. Most importantly, it is adopting a more balanced and proportionate approach to the risks associated with cannabis. Furthermore, provisions depenalising up to 28grams of cannabis and safeguards to shift persons under 18 years of age from criminal consequences towards treatment and training further champion the role of a human rights based approach to address cannabis use in society.

By adopting a less criminalised approach to regulate cannabis on a not for profit basis, whereby regulation and dialogue replace persecution and mistrust, Maltese society is finally restoring dignity for a group so frequently misrepresented in the media and shunned by mainstream society.

Nonetheless, several discriminatory practices still pervade the legislative text. One of the most pressing matters is the criminalisation of sharing, considered as trafficking by sharing, and the total ban on consumption within cannabis associations. Pertaining to a harm reduction approach, adjusting these two simple measures would further protect users from criminal

consequences, whilst encouraging responsible use and increased dialogue between peers. Ultimately, by providing a 'safe space' and a non-judgmental approach, including considerations for commitments taken under the UN Sustainable Development Goals (2030), Maltese legislation would be reflective of a growing movement of countries adopting a Just say Know!, in the sense of Knowledge, to drug use in society.

As we are at the dawn of a new era of regional and international drug policy, weaving together an evidence-based approach with strong human rights and harm reduction language provides member states and individual citizens with better tools of resilience against the recognised unintended consequences of international drug control.

#### **1.4 Conclusion**

In conclusion, espousing the de jure and de facto implementation of a harm reduction and human rights based approach to drug policy will be one of the most challenging tasks ahead. Particularly urgent is the need to design non-judgmental educational material, and to permit and facilitate open and safe dialogue between people who use cannabis. As attested for other drugs, a harm reduction approach equips policy makers with evidence on how to promote the well-being of people who use drugs, and by extension that of society. After all, as a global family, WE all share the same vision, that of **promoting the health and well-being of humankind.**