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PENAL RESPONSE TO *LESS SERIOUS* DRUG DISTRIBUTION OFFENSES: THE CASE OF LITHUANIA IN THE REGIONAL CONTEXT

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ABSTRACT

Drug distribution is considered one of the most serious crimes in general and the most serious drug offense in particular. Drug distribution may cover behavior of very different levels of seriousness, ranging from the social supply of small quantities of illicit drugs in friend circles to international drug trafficking organized by powerful global crime syndicates. The article explores the criminological contexts of less serious drug distribution and penal frameworks of the relevant countries in the Baltic region. The article argues for a more nuanced penal approach to such offenses in the Lithuanian penal law.

KEYWORDS

Drug policy, drug offenses, proportionality, less serious drug distribution.

INTRODUCTION

One of the fundamental principles of justice requires treating like cases alike and unlike cases differently.[1] The principle of proportionality requires striking the right balance between the offense's seriousness and the sanction's severity.[2] In the illicit drug distribution context, both ideas usually translate into legislation that provides different sanctions for less serious and serious illicit drug distribution. This approach is generally accepted in the Baltic region (among the states bordering the Baltic Sea), except Lithuania, Latvia, and Russia, where penal laws formally classify any illicit drug distribution, even in fact less serious, as a serious or very serious offense.[3] Consequently, the offenders are routinely sanctioned with grave punishments of long-term imprisonment. The exceptionally severe penal response to less serious illicit drug distribution in Lithuania is a third-rail issue in both political and academic discourses. There is a void in knowledge of the topic, and the discussion is absent. This article aims to shed light on the issue and discuss it with a particular focus on the Lithuanian penal system, taking into account the approaches in the states of the Baltic Sea region. It also explores the roots of Lithuanian harsh penal policies against even less serious illicit drug distribution.

The authors provide a criminological background for their legal implications and elaborate on the concept of less serious drug distribution, which describes small-scale drug dealing, including social supply. They emphasize the need for considerate treatment of addicted user-dealers, who are commonly involved in less serious illicit drug distribution. In such cases, the line between drug users and drug dealers is somewhat blurred, as addicted users (especially those who inject drugs) look to drug dealing as a common income generation strategy, and they are moving into or out of low-level drug selling depending on circumstance and economic necessity.[4] Diverting offenders with problem drug use from imprisonment towards rehabilitative measures may effectively target the core of their problematic behavior and help them escape the drug–crime circle. Thus, less severe offenses, especially when committed by vulnerable offenders who need treatment for their addiction, call for an adequately moderate penal response.

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1 Michael Cavadino, James Dignan, George Mair and Jamie Bennet, *The penal system: an introduction (6th ed.)* (Sage Publications, 2019).

2 Art. 49 Section 3 of the EU Charter of Fundamental Rights provides that the severity of penalties must not be disproportionate to the criminal offense. More on sanction proportionality: Sarah J. Summers, "Proportionality"; in: *Sentencing and Human Rights: The Limits on Punishment* (Oxford Academic, 2022) // https://doi.org/10.1093/oso/9780192870384.003.0003

3 In Lithuania, the penal law provides for formal classification of the offenses (Art. 10–12 of the Penal Code of Lithuania), where serious crimes are those with a maximum penalty above 6 years and no more than 10 years of imprisonment. Very serious crimes are the ones with a maximum sanction above 10 years of imprisonment. The sanction for any illicit drug distribution without aggravating circumstances provides from 2 to 8 years of imprisonment; thus, these crimes fall into the category of serious crime. Latvian penal law provides the same sanction for any illicit drug supply without aggravating circumstances. Similarly, the offense falls into the serious crime category defined in the Art. 7 of the Latvian Penal Code as an offense punishable with the sanction of a maximum length from 3 to 8 years of imprisonment. Russian penal law represents a kind of combined Latvian-Lithuanian approach. It classifies offenses as serious crimes when the maximum sanction provided is between 3 and 10 years of imprisonment (Art. 15 of the Russian Penal Code). Any illicit drug supply offense without aggravating circumstances is punishable by 4 to 8 years of imprisonment.

4 Gillian Kola and Carol Strike, "Practices of care among people who buy, use, and sell drugs in community settings," *Harm Reduct J* 17, 27 (2020) // https://doi.org/10.1186/s12954-020-00372-5

These calls appear little or even completely unrecognized in the Lithuanian legal system. A similar approach is reflected in the legislature of Latvia and Russia.

The legal comparative method reveals that Lithuanian, Latvian, and Russian legal frameworks, regarding of less serious illicit drug supply, fundamentally differ from the laws of the rest of Baltic region states. The study also exposes close similarities and repeating patterns in Lithuanian, Latvian, Russian, and former Soviet legal frameworks that, together with geopolitical and historical contexts, allow for making assumptions about the common roots of their specific penal policy on less serious illicit drug distribution.

Legal framework analysis is supplemented with the qualitative analysis of relevant precedents of the Supreme Court of Lithuania. In Lithuania, the precedents are mandatory for the lower courts and define their practice.[5] The main jurisprudence research question is if the courts acknowledge the inadequacy of the legal classification of less-serious drug supply offenses as *serious* crimes and if they have taken any steps to establish precedents that would mitigate the issue - either by excluding some less serious drug distribution cases from the concept of serious drug offenses or at least using court discretion to challenge the severe sanctions provided in the law.

THE CONCEPT OF *LESS SERIOUS* DRUG DISTRIBUTION

On public and political levels, considerations on drug distribution tend to focus on the most harmful and severe cases and generalize them. Coomber observes that foundational beliefs that provide a framework for fears around drugs and often frame policy responses are dangerous adulteration, instant addiction, predatory (and "evil") drug "pushers," inherently violent drug dealers/markets, and the offer of free drugs to the youth. Most of these beliefs are totally or partially wrong. For example, in the UK the supply of cannabis to young people is almost exclusively by other young people and mostly for little or no profit. This is something that has been termed "social supply," a form of supply that is not considered to be "proper" drug dealing.[6]

The drug supply market represents the continuum from large-scale international drug trafficking to low-level drug dealers who operate at the street, community, or close friends network level and may not have extensive networks or ties within the broader drug trade or organized crime. The instance of the lowest level drug supplier could be a person who shares a small amount of low-risk drug (cannabis) with friends for instant use.

The authors suggest that the concept of "less serious drug distribution" refers to illegal drug distribution activities of relatively low danger to individuals and society due to various factors and their combinations. What type of drug distribution behavior might be considered less serious from the criminological point of view? Important factors to consider in such cases are small quantities of the substance, non-commercial or very low-level commercial motivation of the distributor, low intensity and scale of activities, and also relatively low harmfulness of substances involved.

Sharing free doses of illicit drugs with the intent of instant collective consumption has an evident non-commercial motive. In small-scale commercial distribution (often – street distribution), commercial interest exists but at a low level, mainly to maintain the

[5] Constitutional Court of Lithuania (2006, No. 33/03; 2007, No. 26/07).

[6] Ross Coomber, "Chapter 1. Social Fear, Drug-Related Beliefs and Drug Policy": 21; in: Geoffrey Hunt, Maitena Milhet and Henry Bergeron, eds., *Drugs and Culture: Knowledge, Consumption and Policy* (Farnham: Ashgate, 2011).

basic needs of the distributor (often including those caused by drug addiction). Thus, the scale, the range, and the intensity are still at relatively moderate levels. Coomber and Moyle refer to such activities as "minimal commercial supply,"[7] emphasizing the "minimal" nature of such actions. In fact, the absence of intent to make profits but only to maintain the basic needs of the distributor might be seen as a non-commercially motivated form of drug supply.[8]

Should the kind and harmfulness of the distributed drugs also be the criterion for the seriousness of illicit drug distribution? It would be difficult to accept that a supply of highly harmful substances posing high risks of overdose and even death (like fentanyl) could be covered by the concept of low-seriousness distribution. This approach is clearly reflected in the penal laws of Denmark and Finland, where the supply of particularly dangerous drugs constitutes an aggravated offense.[9] However, the relatively low harmfulness of a distributed drug like cannabis, especially with unusually low THC concentration barely exceeding the legal concentration for hemp (for example, 0,4 percent of THC), would strongly speak for lesser seriousness of an offense. Other jurisdictions in the Baltic region do not explicitly make formal differentiation of drug offenses based on the kind and harmfulness of the drug, except for Germany, where controlled distribution and use of limited amounts of cannabis has been legalized recently.[10]

DRUG POLICY RESPONSES TO THE DRUG PROBLEM AND ADDICTION

Drug policy responses (including criminal law as one of the policy's tools) tend to address the "drug problem," which can be conceptualized in very different ways. One of the approaches defines the problem as a high prevalence of any illicit drug use. Another approach focuses on the prevalence of the "problem drug use."[11], which usually goes hand in hand with the high mortality rate and transmission of infectious diseases. One may focus on criminal prosecution as "the cure" of the problem; harm reduction is the answer for others. Accordingly, different approaches to the "drug problem" differ in their ideological background, underlying assumptions, goals, and strategies. For instance, the prohibitionist approach is based on the belief that drug use is inherently evil and should be eliminated from society. Consequently, this approach aims to reduce drug use by making it difficult, risky, and costly socially or economically. However, proponents of public health and harm reduction believe drug use is a complex social and health issue that can be addressed using less punitive and more health-oriented strategies. It is important to note that the aforementioned approaches are not mutually exclusive, and many drug policies combine elements of multiple approaches. For instance, somewhat

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7 Ross Coomber, Leah Moyle and Nigel South, "The normalisation of drug supply: The social supply of drugs as the 'other side' of the history of normalization," *Drugs: Education, Prevention and Policy*, Vol. 23, Issue 3, (2016), 257 // doi:https://doi.org/10.3109/09687637.2015.1110565

8 Ibid.

9 EMCDDA, "Penalties for drug law offenses in Europe at a glance," (15 March 2024) // https://www.emcdda.europa.eu/publications/topic-overviews/content/drug-law-penalties-at-a-glance_en

10 German Bundestag approved the "Cannabis Gesetz" on 23 February 2024 and Bundesrat approved it on 22 March 2024. The law comes to force on the 1 April 2024. Deutsche Welle, "Germany approves partial legalization of cannabis from April," (22.03.2024) // https://www.dw.com/en/germany-approves-partial-legalization-of-cannabis-from-april/a-68641043 // https://www.bundesgesundheitsministerium.de/presse/pressemitteilungen/eckpunkte-cannabis-12-04-23.html

11 "Problem drug use" is defined by the EMCDDA as "injecting drug use or long duration / regular use of opioids, cocaine and/or amphetamines." This definition specifically includes regular or long-term use of prescribed opioids such as methadone but does not include their rare or irregular use nor the use of other drugs, such as ecstasy or cannabis. EMCDDA (European Monitoring Centre for Drugs and Drug Addiction), "Statistical Bulletin 2021 — problem drug use," (27 September 2023) // https://www.emcdda.europa.eu/data/stats2021/pdu_en

"soft" policies regarding addicted or recreational drug users could coexist with harsh drug distribution penalties, even if it is small-scale drug dealing.

An important building block for particular drug policy is the concept of addiction. Drug addiction is the phenomenon that fuels both drug crime and drug-related crime, and that is why it should be addressed appropriately. Drug use and abuse could be triggered by traumatic experiences or socially learned, and some people even assume that it is just a matter of will and/or choice. Notwithstanding, these days, the most influential scientific model of explaining the phenomenon of addiction is **the brain disease model of addiction (BDMA),** which is based on neuroscientific research findings. Proponents of the BDMA argue that repeated drug exposure is related to neuroplastic changes in the brain, and neuroscientific knowledge of it has already resulted in several effective medications[12] and ongoing clinical trials are taking advantage of this knowledge to test new targets. Furthermore, they state that "the mere framework of BDMA has benefits in treatment as it significantly diminishes the stigma attached with addiction and gives hope for recovery to those fighting this devastating disease."[13]

Drug addiction often plays a central role in a person's motivation to engage in criminal behavior, which we define as less serious drug distribution. Addicted individuals tend to seek out drugs even when faced with significant risks and negative consequences. The first thing they care about is their fix. It is worth mentioning that addicted drug dealers face a unique set of challenges and risks. They risk more than their non-dealing counterparts regarding legal consequences or business risks in the criminal underworld. Addressing the challenges faced by addicted drug dealers requires a comprehensive approach that combines criminal prosecution and addiction treatment. This may involve providing access to effective addiction treatment and support services and addressing the underlying social and economic factors that contribute to drug use and addiction. At the same time, it may involve enforcing drug laws and imposing legal consequences for drug dealing while providing opportunities for individuals to exit the drug trade and rebuild their lives. According to Coomber and Moyle, the criminal justice system should consider and process social suppliers differently to commercially motivated suppliers and addicted user-dealers of heroin and other similar substances might reasonably be seen as closer to social suppliers than to drug dealers.[14]

Reflections of these considerations in police practice may be found in Germany. German police officers distinguish between users, 'addicted drug dealers', and 'non-addicted drug dealers'; the last group is especially targeted by police measures. According to interviewed police officers, even dealers are shown sympathy if they are themselves 'addicted' because they finance their own 'addiction' by dealing in illegal drugs, whereas 'non-addicted dealers' are scorned by the police officers.[15]

It could be speculated that the increasing popularity of BDMA in scientific and political circles and its ingraining into public discourse will eventually lead to the subsequent

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[12] Naloxone and acamprosate for alcoholism, buprenorphine-naloxone for opioid addiction, and varenicline for tobacco addiction. Nora D. Volkow and George Koob, "Brain disease model of addiction: why it is so controversial?" *The Lancet, Psychiatry*, Comment, Vol. 2, Issue 8, (2015), 677–679 // doi:https://doi.org/10.1016/S2215-0366(15)00236-9

[13] Ibid.

[14] Ross Coomber and Leah Moyle, "Beyond drug dealing: Developing and extending the concept of 'social supply' of illicit drugs to 'minimally commercial supply'," *Drugs, Education, Prevention and Policy*, Vol. 21, Issue 2, (2013), 157–164 // doi:https://doi.org/10.3109/09687637.2013.798265

[15] León von der Burg and Svea Steckhan, "Dilemmas in German police practice: Obstacles to responsible police work when interacting with people who use illegal drugs": 95; in: Caroline Chatwin, Gary R. Potter and Bernd Werse, eds., *Who?Variation and Distinction in the European Drugs Landscape* (Lengerich: Pabst Science Publishers, 2021).

framing of drug addiction as a pure disease or illness. Accordingly, theories based on free will and choice will be less important in the future, leading to less judgment of addicted persons on moral grounds. Consequently, this could lead to less stigma but also to a more deterministic approach, partly negating personal responsibility for recovery from addiction. In the legal field, the increasing popularity of BDMA could lead to the development of a less punitive and more health-oriented approach.

The West has consistently moved toward the doctrine of harm reduction concerning illicit drug use, and many countries support basic harm reduction innovations, such as methadone maintenance and needle exchange. Some countries (e.g., Portugal, Italy and Spain) removed criminal penalties for possessing any drug for personal use. Some countries even introduced or are planning to introduce Heroin Assisted Treatment as another treatment option.[16] According to recent research, heroin-assisted treatment can be even more effective than methadone in order to reduce certain criminal activities[17]. In Lithuania, however, "problem drug users" are treated more punitively than individuals with other mental or medical problems, even though addiction should be seen first as a health issue. This prevailing legislative approach creates many obstacles to ensuring the right to health and other basic human rights and enabling this segment of society to recover.[18]

DIVERSION OF DRUG-USING OFFENDERS FROM IMPRISONMENT AND DRUG-USING OFFENDERS IN PRISON

Addicted drug users usually commit drug offenses and other crimes to finance their addiction. The grim reality is that many addicted offenders who commit drug offenses or drug-related offenses to sustain their drug habit are being sentenced to imprisonment.[19] Recent EMCDDA insights report showed that people in prison report high levels of lifetime prevalence of substance use before imprisonment and increased levels of consumption, especially of heroin, cocaine, and amphetamines, compared with the general population. Although many people will stop injecting drugs when they enter prison, for those that continue, the use and reuse of contaminated equipment are not uncommon, contributing to an increased risk of transmission of infectious diseases in these settings.[20]

Diverting offenders with problem drug use away from incarceration may have several positive effects, such as preventing the high risks of involvement in the criminal subculture, health risks (including the progress of drug use), risk of deterioration of social skills, receiving social stigma and also it may help reducing prison system costs (e.g., infrastructure, staff, etc.). Alternatives to prison are available in some European

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16 Peter Reuter, "Chapter 13. Assessing Global Drug Problems, Policies, and Reform Proposals": 228; in: Geoffrey Hunt, Maitena Milhet and Henry Bergeron, eds., *Drugs and Culture: Knowledge, Consumption and Policy* (Farnham: Ashgate, 2011).

17 Rosanna Smart and Peter Reuter, "Does heroin-assisted treatment reduce crime? A review of randomized controlled trials," *Addiction,* Vol. 117, Issue 3, (2021), 518–531 // doi:https://doi.org/10.1111/add.15601

18 Mindaugas Lankauskas and Aurelijus Gutauskas, "Chasing the High: Drug Users as a Vulnerable Group in Lithuania": 322–323; in: Agnė Limantė and Dovilė Pūraitė-Andrikienė, eds., *Legal Protection of Vulnerable Groups in Lithuania, Latvia, Estonia and Poland. European Union and its Neighbours in a Globalized World*, Vol 8., Springer, Cham (2022) // doi:https://doi.org/10.1007/978-3-031-06998-7_14

19 Mindaugas Lankauskas, *Narkotikai ir įkalinimas: kriminologiniai baudimo už disponavimą narkotinėmis ar psichotropinėmis medžiagomis aspektai ir jų vartojimo kalinimo įstaigose ypatumai* [Drugs and Incarceration: criminological aspects of punishing illicit handling of narcotic and psychotropic substances and their use in prisons, in Lithuanian] (Vilnius: Lietuvos socialinių mokslų centro Teisės institutas, 2022).

20 EMCDDA (European Monitoring Centre for Drugs and Drug Addiction)*, Prison and drugs in Europe: current and future challenges* (Luxembourg: Publications Office of the European Union, 2022), 7.

countries, although approaches to diversion vary considerably, and overall availability remains limited.[21]

It is common for drug users and distributors to belong to vulnerable social groups, making their situation even more complicated and difficult to overcome. Statistical data and relevant case law show that young people are often those being charged with drug possession and distribution; therefore, preventive, rehabilitating, and resocialization measures should be the main focus.[22]

The Council of the European Union stresses the need for alternative measures to coercive sanctions for drug-using offenders. It encourages the Member States "to provide and further promote the availability, effective implementation, monitoring and evaluation of measures provided as an alternative to coercive sanctions for drug using offenders, such as education, (suspension of a sentence with) treatment, suspension of investigation or prosecution, rehabilitation and recovery, aftercare and social reintegration."[23]

However, in Lithuania law enforcement and judiciary have little choice in drug distribution cases because drug distribution is considered a serious crime, regardless of the context. No viable alternatives to imprisonment are available for the moment. Rethinking our legal regulation concerning less serious drug distribution offenses could be a helpful tool in order to avoid potential harm related to incarceration.

LEGAL FRAMEWORK ON CRIMINAL LIABILITY FOR THE DISTRIBUTION OF DRUGS IN LITHUANIA IN THE CONTEXT OF THE BALTIC REGION

The United Nations Conventions on drugs[24] obliges states to criminalize drug supply. However, it has already been noted before that drug distribution may vary in seriousness broadly. Well-organized large-scale drug trafficking for enormous profits would stand on the top of the spectrum, and social distribution – sharing drugs for instant consumption together with buddies for no profit would appear on the lower end of the spectrum, close to the seriousness levels of drug consumption. Street distribution – the lowest level in drug retail for profit – would stand in the spectrum somewhere above social supply. The difference in seriousness and blameworthiness between drug distribution cases appearing on the upper and lower sides of the spectrum is immense.

It appears that the majority of jurisdictions in the Baltic region fairly regard the discussed differences and the actual seriousness of less serious illicit drug supply (1 picture). They categorize drug distribution of varying seriousness into different definitions of offenses under various levels of sanctions. For less serious illicit drug supply, the sanctions provide rather low or moderate maximum imprisonment sanctions that are common for less serious offenses (up to 2, 3, or 5 years). In contrast, in the penal laws

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21 EMCDDA (European Monitoring Centre for Drugs and Drug Addiction)*, Prison and drugs in Europe: current and future challenges* (Luxembourg: Publications Office of the European Union, 2022), 8.

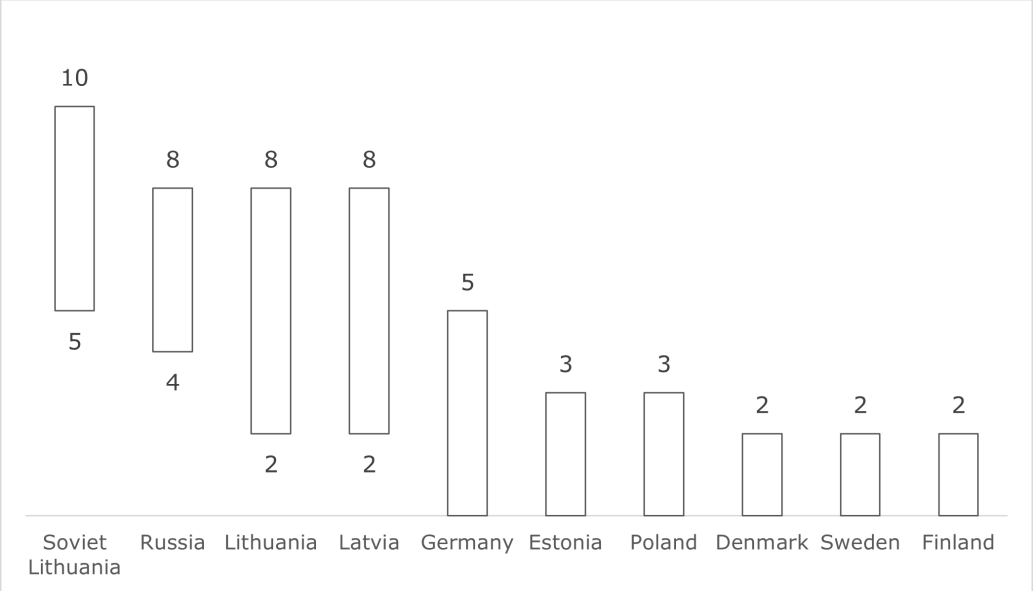
22 Mindaugas Lankauskas and Aurelijus Gutauskas, "Chasing the High: Drug Users as a Vulnerable Group in Lithuania": 323; in: Agnė Limantė and Dovilė Pūraitė-Andrikienė, eds., *Legal Protection of Vulnerable Groups in Lithuania, Latvia, Estonia and Poland. European Union and its Neighbours in a Globalized World*, Vol 8., Springer, Cham (2022) // doi:https://doi.org/10.1007/978-3-031-06998-7_14

23 Council of the European Union, "Promoting the use of alternatives to coercive sanctions for drug using offenders," Brussels (8 March 2018), No. 6931/18.

24 *Single Convention on Narcotic Drugs, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs* (United Nations, 1961) // https://www.incb.org/documents/Narcotic-Drugs/1961-Convention/convention_1961_en.pdf; *Convention On Psychotropic Substances* (United Nations, 1971) // https://www.unodc.org/pdf/convention_1971_en.pdf; *Convention Against Illicit Traffic In Narcotic Drugs And Psychotropic Substances* (United Nations, 1988) // https://www.unodc.org/pdf/convention_1988_en.pdf

of Lithuania, Latvia, and Russia, even social supply and other cases of lower seriousness drug supply fall into the category of serious offense.

The jurisdictions that categorize social supply and other cases of low seriousness distribution as serious offenses provide grave legal implications for the offenders. First, sanctions for serious offenses are usually stripped of the alternatives to imprisonment. Second, high maximum imprisonment terms and certain minimum imprisonment terms apply. Third, any diversion from the prosecution is impossible (even based on a treatment for drug dependence).[25] Fourth, suspension of imprisonment sentence for most serious crimes is not allowed.[26] Altogether, these restrictions imply that a person who is sentenced for a low-seriousness drug distribution offense would face a nearly unavoidable imprisonment sentence.



1 picture. Imprisonment sanctions for basic illicit drug distribution (in years, minimum and maximum limits)[27]

As far as imprisonment should be reserved only for most serious offenses, nearly unavoidable imprisonment for less serious offenses, including less serious illicit drug distribution, challenges the principles of proportionality and the idea that imprisonment should be used only as a measure of last resort. Dünkel explains that:

> the international consensus that imprisonment should be used as only a last resort has never been questioned in Europe, with few exceptions and periods of crime policy, whereas incapacitation and deterrence flourished in the USA from the mid-1970s until recently. Since the 1965 Council of Europe Resolution (65) 1 on suspended sentences, probation, and other alternatives to imprisonment, the principle of imprisonment as a last resort and for the shortest possible period

[25] Latvian penal law Art. 58[1] specifically forbids diversion for offenders suspected of any illicit drug supply.

[26] In the Lithuanian Penal Code, only partial (delayed) suspension of the sentence is allowed for some serious offenses. However, illicit drug supply is specifically disallowed for even partial suspension of the sentence. Partial suspension means that the convicts must serve part of their sentence, and their sentences get suspended only afterward.

[27] The chart is made by the article authors and is based on data from original texts of penal laws, except for those from Denmark, Sweden, and Finland, where data is collected from the EMCDDA database. It shows sanctions for basic illicit drug supply offenses without aggravating circumstances.

has repeatedly been emphasized in many international recommendations and resolutions.[28]

However, in Lithuanian political and academic discourse, the issues with the proportionality of penal response to less serious illicit drug supply have never been discussed or challenged. We may assume that the very conservative attitudes of the political majority had some cooling effects on academic motivation for time and effort investment into the "utopian" discussions on mitigating punishments for illicit drug distribution. Even ideas on softening policies on illegal possession of drugs for personal use still receive fierce rejection by the majority of politicians. On the other hand, the academic attention has been long focused on one even more evident issue of excessive punitive action.[29] The provision on aggravated smuggling in Art. 199 section 4 of the Penal Code, which was an actual duplicate of the provision in Art. 77 of the Soviet Lithuania Penal Code[30], provided imprisonment from 3 to 10 years without any alternatives for the import of small quantities of illicit drugs for personal use. Only very recently, the offense was reclassified from serious to non-serious, and the sanction lowered to a maximum of 2 years; alternative sanctions have also been provided. The law came into force on 1 June 2023.[31] This exceptional case of penal drug policy mitigation was the first and only in the last 20 years in Lithuania.

Historical context[32] and comparative analysis of penal provisions (both their structure and sanctions) allow for the assumption that Lithuania and Latvia both inherited and accepted severe penal provisions on illicit drug supply from their Soviet past. As shown in Table 1, Lithuanian, Latvian, Russian, and former Soviet penal codes on drugs exhibit a shared foundational concept and structure. The offender's intent to distribute the controlled substances is the primary determinant of sentence severity.

Examining the sanctions reveals a high degree of similarity in both their structure and the range of applicable minimum and maximum values. The relatively narrow range of sanctions prescribed across legal provisions suggests a potential underlying principle: a limited degree of trust in judicial discretion regarding sentencing. This approach may further complicate the challenges associated with achieving proportionality in sanctions. While broader judicial discretion in sentencing could offer greater flexibility in achieving proportionality, such discretion is inherently restricted by the existence of minimum sanctions.

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28 Frieder Dünkel "European penology: The rise and fall of prison population rates in Europe in times of migrant crises and terrorism," *European Journal of Criminology* 14(6) (2017), 629–653 // doi.org/10.1177/1477370817733961

29 Darius Pranka, "Criminal liability for illegal disposal of narcotic and psychotropic substance problems in court practice and shortcomings in regulation" (in Lithuanian), *Teisės problemos* 2(98) (2019).

30 In terms of placement in the law and exactly the same lower and upper limits of the sanction.

31 *Lithuanian Law on Amendment of Penal Code* No XIV-1925, Official Gazette (2023, No. 2023-08475).

32 Provisions of Codes of every Soviet Republic were designed after the Soviet Penal Code of the Russian Federation. Soviet Republics had very little, if any, discretion in designing their laws.

Table 1. Criminalization of illegal possession of drugs for personal use and distribution in Lithuania, Latvia, and Russia

	Unlawful possession of drugs for the purpose other than distribution	Unlawful possession of drugs (less than a large quantity) for the purpose of distribution
Lithuanian Penal Code[33]	Article 259 Paragraph 1	Article 260 Paragraph 1
	A fine of up to 2000 minimum survival income (100 000 Eur), or arrest up to 90 days, or imprisonment up to two years.	Imprisonment from two to eight years.
Latvian Penal Code[34]	Article 253 Paragraph 1	Article 253-1 Paragraph 1
	A fine of up to one thousand minimum monthly wages (up to 500 000 Eur) or community service, or temporary deprivation of liberty, or probation supervision, or imprisonment for up to three years.	Imprisonment from two to eight years, w/o confiscation of property and three years of supervision.
Penal Code of the Russian Federation[35]	Article 228 Paragraph 1	Article 228-1 Paragraph 1
	A fine of up to 40000 RUB or the defendant's income of up to three months, or compulsory work, or restriction of liberty or imprisonment for up to three years.	Imprisonment from four to eight years, w/o a year of supervision.
Penal Code of former Lithuanian Soviet Republic (1961)36	Article 232(1) Paragraph 1	Article 232(1) Paragraph 3
	Correctional labor is up to two years or imprisonment is up to three years.	Imprisonment from five to ten years.

The presence of the Soviet and Russian patterns in the penal laws of Lithuania and Latvia should not surprise anyone. The Baltic States of Lithuania, Latvia, and Estonia, all geographically, historically, and culturally appear to stand at the border between the West and the East. After the restoration of independence, they all had to choose their path in penal policies. That could hardly be done by avoiding the influences and patterns from the inherited legal system (Soviet/Russian legal system) and (or) from the major ones in the neighborhood (German legal system). Interestingly, the Baltic States made different decisions and followed different patterns in framing their penal legislation and developing their penal policies. These different patterns are clearly seen in the context of penal response to the drug offenses. Soviet or Russian legal patterns have left clear footprints in the penal legal framework of Lithuania and Latvia. Estonia tried to depart from Soviet and Russian legal traditions radically and followed German penal law.[37] These fundamental differences resulted in different legal approaches to the less serious drug distribution offenses among the three Baltic States.

[33] *Lithuanian Penal Code*, Official Gazette (2000, No. 89-2741). With the amendments up to the 19 July 2022.
[34] *Latvian Penal Code*. Krimināllikums, Official Gazette (1998, No. 199/200). With the amendments up to the 23 June 2022.
[35] *Penal Code of the Russian Federation*, Official Gazette (1996, No. 25, 17 June 1996, 2954). With the amendments up to 14 July 2022.
[36] Law on Penal Code of the Soviet Socialist Republic of Lithuania, 1961. The version before the amendments of 3 February 1998.
[37] Priit Pikamäe and Jaan Sootak, "Estonian criminal law: Reform as a path to independence," *European Journal of Crime, Criminal Law and Criminal Justice*, Vol. 8/1, (2000), 70. Jüri Saar, "*Criminal Justice System and Process of Democratization in Estonia*," NATO Democratic Institutions Research Fellowship Final Report, Tallinn, (1999), 20 // https://www.nato.int/acad/fellow/97-99/saar.pdf

In contrast to the Lithuanian, Latvian, and Russian approaches, drug possession and low-seriousness drug distribution offenses in the German and Estonian penal framework are defined in the same law article that provides sanctions of relatively low severity.[38] That approach mainly eliminates the issue faced in the Lithuanian, Latvian, and Russian penal systems, where the low-seriousness illicit drug distribution falls under extremely severe sanctions.

Table 2. Criminalization of illegal possession of drugs for personal consumption and distribution in Estonia and Germany[39]

	Illegal handling of drugs, including distribution of less than large quantities	Illegal handling of drugs, including distribution of large quantities
Estonian Penal Code40	Article 183 Paragraph 1	Article 184 Paragraph 1
	From 30 to 500 day-fines or imprisonment up to 3 years.	From 1 to 10 years of imprisonment.
German Law on Drugs (BtMG)41	Article 29 Paragraph 1	Article 29a Paragraph (1) 2
	From 5 to 360 day-fines or imprisonment up to 5 years.	From 1 to 15 years of imprisonment.
		Article 29a Paragraph (3)
		In less serious cases, imprisonment is from 3 months to 5 years.

Interestingly, the Lithuanian new Penal Code[42] had progressive regulation of drug distribution offenses. Though the distribution of less than a large quantity of drugs was still provided in a separate article from other less serious drug-related offenses (Article 260 Paragraph 1), the sanction provided only a maximum of three years of imprisonment. It was classified as a non-serious offense. This approach could have prevented the challenges associated with inadequate legal sanctions for low-seriousness drug distribution offenses. Unfortunately, the extensive last-minute amendment was adopted less than a month before the new Penal Code entered into force (it came into force on 1 May 2003).[43] With this amendment, the advocates of the punitive approach managed to preclude the liberal regulation model. They restored the highly punitive legal regime for drug distribution-related offenses based on Soviet legal tradition, which is followed in Lithuania to this day.

RELEVANT CASE LAW IN LITHUANIA

In Lithuania, the judicial discretion in sanctioning illicit drug distribution offenses is very limited. No alternatives to imprisonment are provided in the sanction of Art. 260 section 1 of the Penal Code. The minimum sanction is relatively high (2 years). The suspension of the sentence is not possible. Only Article 54 Paragraph 3 of the PC provides

[38] Except for the fact that the Estonian Act on Narcotic and Psychotropic Substances and Their Precursors provides administrative fines for handling a tiny quantity of drugs. *Narkootiliste ja psühhotroopsete ainete seadus* (1997, No. RT I 1997, 52, 834).

[39] It is worth noting that not only the structure of drug-related conduct criminalization from the perspective of conduct's relevance to distribution but also the structure of the sanctions and even the common method of a fine calculation indicate that Estonia and Germany share the penal legal mindset.

[40] *Estonian Penal Code*. *Karistusseadustik*, Official Gazette (2001, No. RT I 2001, 61, 364). With the amendments up to the 28 April 2022.

[41] *German Law on Turnover of Drugs (BtMG*), Official Gazette (1994, No. I S. 358). With the amendments, *in*cl. 8 November 2021.

[42] *Lithuanian Penal Code*. Original version, Official Gazette (2000, No. 89-2741).

[43] *Lithuanian Law on amendment of the Penal Code IX-1495*, Official Gazette (2003, No. 38-1733).

the power for the court to apply more lenient sanction than provided by the law for the offense where the court is convinced that even the minimum sanction provided by the law would "clearly infringe the principle of justice." However, according to the jurisprudence of both the Constitutional Court and the Supreme Court, the power to apply less severe sanction than the minimum sanction provided by the law should be reserved for cases where exceptional mitigating circumstances were established.[44] Less serious drug distribution cases are not exceptional, their circumstances are ordinary. So, at least formally, a minimum of 2 years of imprisonment for any distribution, even of the lowest seriousness, is unavoidable. Unless the courts take an unorthodox stance and start employing Art. 54 section 3 of PC in rather common, not exceptional, circumstances that indicate very low seriousness of an offense. Until recent amendments to the Penal Code, this power was regularly used in cases of import of small quantities of drugs where no intent of distribution was established. Article 199 of the PC provided draconian sanction of imprisonment from 3 to 10 years for drug smuggling in any amount. This sanction (even the minimum limit) in said cases was commonly regarded as evidently infringing the principle of justice, and the courts applied the exception provided in Art. 54 Paragraph 3 of the PC in most cases of this kind. However, there is currently no evidence of widespread judicial resistance to imposing sanctions provided by the law for low-seriousness drug distribution offenses.

Although the long-term solution to the problem discussed could be the amendment of the penal law by reclassifying less serious illicit drug supply from serious to non- or mid- serious offence, some short-term solutions have been employed in the Lithuanian judicial practice. The narrower interpretation of distribution could, at least partially, solve the issue of overly severe punishment in less serious drug distribution cases.

Since 2013, the Lithuanian judicial practice has made specific steps toward a narrower interpretation of drug distribution. It introduced the concept of pre-paid collective consumption of illicit drugs. The concept encompasses situations where a group of individuals intending to use illegal drugs collectively pool the cash and delegate the acquisition of individual doses to a single member of the group. If the concept is not employed, a person who delivers illicit drugs to their friends in said situation would be sentenced as a serious offender for drug distribution (from 2 to 8 years, Article 260 Paragraph 1 of the PC). The receivers would be sentenced only for a misdemeanor of illegal possession of drugs (Article 259 Paragraph 2 of the PC provides a fine or custody of up to 90 days). The differences in severity of liability in said situation clearly contrast with the similarity of actual seriousness of the acts of all defendants and ignore the element of collective decision, which also speaks against the differentiation of the liability. In 2013, the Supreme Court Case Law Analysis Department noted in the report on judicial practice in drug-related cases that said situations should not be interpreted as distribution, and everybody in the group of pre-paid drug co-users should be equally charged for illegal possession of drugs only.[45] However, the concept of pre-paid collective consumption remained mostly unnoticed in judicial practice for a few years, and the courts continued convicting defendants who brought drugs for their friends upon their collective pre-paid request as drug dealers. After the concept was cited in the Supreme

[44] Constitutional Court of the Republic of Lithuania (2003, No. 13/02-22/02). Supreme Court of the Republic of Lithuania (2022, No. 2K-104-976/2022).

[45] Supreme Court of the Republic of Lithuania, "Review of judicial practice in cases on criminal acts related to the illegal possession of narcotic, psychotropic substances or first category precursors (precursors) of these substances (Articles 259-261, 263-264, 266 of the Penal Code) No. AB-40-1," *Teismų praktika*, Nr. 40 (2013).

Court case law in 2018 ("cannabis date" case), some more visible turns in the judicial practice happened.[46] The courts began citing the Supreme Court's judgment as a precedent, and some judgments were overturned in the appeal instance with reference to this new Supreme Court's interpretation of distribution.[47]

In contrast, the results of our analysis of Latvian judicial practice have shown that the Latvian Supreme Court has not elaborated on any limitations on the concept of distribution of drugs yet to mitigate the issue of disproportionally severe sanctioning for the less serious drug supply. This negative finding aligns with the comments of local experts who also observed no effort from the Latvian Supreme Court to provide any narrower interpretation of drug distribution.[48]

Lithuanian courts, however, did not take a step further than the concept of pre-paid collective consumption to recognize the general concept of collective consumption that would also cover un-paid collective consumption. Individuals who share a free dose of an illicit drug with the intent to consume it with their friends are still being sentenced for a serious offense of drug supply with imprisonment sanction. Such an approach is inconsistent. The same arguments that support the pre-paid collective consumption concept could justify the general concept of collective consumption. Furthermore, we argue that the fact of absence of pre-payment may not reasonably play a decisive role in estimations of offense seriousness and lead to their classification as a serious offense.

In the pivotal Supreme Court's "cannabis date" case, the Court referred to the pre-paid collective consumption concept. However, it did not apply it because the defendant was convicted of an unpaid supply of cannabis for collective consumption. The facts of the case were as follows: a defendant purchased a tiny quantity of cannabis, invited his girlfriend to a date, offered her a joint, and they smoked in his car in a parking lot. Then the police came. The defendant was charged with drug distribution and sentenced for a serious crime with two years of imprisonment (which was the minimum sentence provided in Article 260 of the PC). The Supreme Court ruled that a group of drug users agreeing to buy some drugs and consume them together may not be interpreted as drug distribution. In contrast, in this particular case, two people smoked cannabis together, but they did not buy the drug together. Thus, the defendant's free provision of the cannabis joint to his girlfriend with the aim to smoke it together was considered a serious offense of drug distribution, and he was sentenced to two years of imprisonment (the sentence was suspended).[49]

In the following precedents – the "Friday LSD" case (2023) and the "low THC cannabis" case (2024) – the Supreme Court supported the previous precedent. It did not recognize unpaid collective consumption as a possible limitation of the concept of drug distribution. In the 2023 "Friday LSD" case, a defendant was convicted for giving away a free single dose of LSD to his girlfriend and a friend of hers on Friday night before they headed to the nightclub together. The defendant was convicted of a serious crime of drug distribution for unsuspended imprisonment.[50] Since 2019 amendments to the Lithuanian penal code, suspension of the imprisonment sentence for serious drug offenses is no longer possible, and the proportionality of sanctions in less serious cases of drug dis-

[46] Supreme Court of the Republic of Lithuania (2018, No. 2K-95-489/2018).
[47] Court of Appeal of the Republic of Lithuania (2021, No. 1A-180-654/2021). Kaunas district court (2022, No. 1A-53-530/2022). Klaipėda district court (2019, No. N1-57-651/2019).
[48] Personal communication with Agnes Zīle-Veisberga, University of Latvia, and Latvian Ministry of Interior, Latvian representative at the EMCDDA.
[49] Supreme Court of the Republic of Lithuania (2018, No. 2K-95-489/2018).
[50] Supreme Court of the Republic of Lithuania (2023, No . 2K-187-976/2023).

tribution has become even more debatable.[51] Thus, in the 'Friday LSD' case, the courts could not suspend the imprisonment sanction. The Court of Appeal imposed punishment that was close to the minimum sanction provided by the law - imprisonment for 2 years and 6 months. The Supreme Court took the approach that imprisonment, even for the minimum term provided in the sanction for drug distribution (2 years) in this case of low seriousness, would be manifestly unjust and applied the exceptional rule that allows imposing more lenient punishment than the minimum provided in the sanction. The Court changed the punishment to imprisonment for 7 months without suspension.

However, the Supreme Court's approach that collective consumption intent for distribution of low quantities of illicit drugs demonstrates exceptionally low seriousness of the offense was not supported in following the Supreme Court's jurisprudence.

In the very recent "low THC cannabis" case (2024), the Supreme Court again interpreted the acts of drug distribution in unpaid collective consumption as serious offense and spoke against the mitigation of the punishment below the minimum sanction of 2 years.[52] The defendant (young adult) was sentenced to 3 years of imprisonment (without suspension) for sharing 0,8 g of cannabis containing only 0,4 percent of THC with another adult and for 4 years of imprisonment for sharing 0,8 g of the same substance with a 15 years old minor before they all smoked it together. The estimated average concentration of THC in illicit cannabis on the black market is around 14 percent.[53] Thus, the possible effect and related harmfulness of the illicit substance in this case might be estimated as around 30 times lower than in average cannabis. Nevertheless, the Court of Appeal and the Supreme Court insisted that the defendant had committed serious offenses and that his acts were dangerous even to adult users.[54] In their motives, the courts took the formal generalized approach that any supply of any illicit drug in any quantities and for any motives speaks by itself against the imposition of any milder sanction than 2 years of imprisonment (the minimum sanction provided by Art. 260 Illicit drug supply).[55] The formal generalized approach is highly debatable in the context of the principles of proportionality and justice. These principles require addressing particular characteristics of the offense that might show its lesser seriousness and making sure that long imprisonment sentences would be reserved only for serious and harmful offenses. In the context of less serious illicit drug distribution, a generalized approach is not supported in the legislature of any other Baltic region state except those (Russia, Latvia, and Lithuania) that inherited an over-generalized and harsh Soviet penal approach towards any (including less serious) illicit drug distribution.

CONCLUDING REMARKS

There is a solid criminological background to distinguish the concept of less serious drug distribution, which refers to non-commercially or minimally commercially motivated activities of small scale and involving relatively low-risk substances. In many such cases, incarceration (especially long term) would appear to be a disproportionately severe penalty, which would bring an unjustified burden both for a person and for society.

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[51] *Parliament of the Republic of Lithuania*, Official Gazette (2019, The Law No. XIII-2263).
[52] Supreme Court of the Republic of Lithuania (2024, No. 2K-69-489/2024).
[53] Statista, "German customs data from year 2016-2021" // https://de.statista.com/statistik/daten/studie/1175275/umfrage/entwicklung-des-wirkstoffgehalts-von-marihuana-in-deutschland/
[54] Court of Appeal of the Republic of Lithuania (2023, No. 1A-33-627/2023).
[55] The courts also considered that the defendant had a criminal record for a minor offense, a record for a misdemeanor, and several records of administrative infringements.

Though legal frameworks of most Baltic region states recognize less serious forms of illicit drug distribution and provide lower sanctions, Lithuanian and Latvian (as well as Russian) jurisdictions remain an exception.

In Lithuania (and similarly in Latvia), the severe state response to less serious drug distribution offenses primarily stems from the inflexible categorization of drug offenses. The law that automatically classifies any drug distribution offense (including less serious illicit drug supply) as a serious crime and thus limits the discretion of the courts should be reconsidered. Less serious drug distribution offenses with no aggravating circumstances should receive a lower rank in the offense classification that would allow 1) alternatives to imprisonment, 2) the lowest range for the bottom limit for the punishments, 3) diversion from the prosecution (especially based on the need for treatment from drug dependence) and 4) suspension of imprisonment sentence.

The Lithuanian Supreme Court has undertaken some initiatives to address the challenges associated with overly harsh sanctions for minor drug distribution offenses. However, these efforts remain limited in scope and consistency, often constituting exceptional cases rather than a systematic approach.

BIBLIOGRAPHY

1. Cavadino, Michael, James, Dignan, George Mair and Jamie Bennett. *The penal system: an introduction (6th ed.).* Sage Publications, 2019.
2. Coomber, Ross. "Chapter 1. Social Fear, Drug-Related Beliefs and Drug Policy": 15–31. In: Geoffrey Hunt, Maitena Milhet and Henry Bergeron, eds. *Drugs and Culture: Knowledge, Consumption and Policy*. Farnham: Ashgate, 2011.
3. Coomber, Ross, and Leah Moyle. "Beyond drug dealing: Developing and extending the concept of 'social supply' of illicit drugs to 'minimally commercial supply'." *Drugs, Education, Prevention and Policy*, Vol. 21, Issue 2, (2014): 157–164 // doi:https://doi.org/10.3109/09687637.2013.798265
4. Coomber, Ross, Leah Moyle, and Nigel South. "The normalisation of drug supply: The social supply of drugs as the 'other side' of the history of normalisation." *Drugs: Education, Prevention and Policy*, Vol. 23, Issue 3, (2016): 255–263 // doi:https://doi.org/10.3109/09687637.2015.1110565
5. Deutsche Welle. "Germany approves partial legalization of cannabis from April." (22.03.2024) // https://www.dw.com/en/germany-approves-partial-legalization-of-cannabis-from-april/a-68641043
6. Dünkel, Friedel. "European penology: The rise and fall of prison population rates in Europe in times of migrant crises and terrorism." *European Journal of Criminology* 14(6) (2017): 629–653 // https://doi.org/10.1177/1477370817733961
7. EMCDDA (European Monitoring Centre for Drugs and Drug Addiction). *Prison and drugs in Europe: current and future challenges*. Luxembourg: Publications Office of the European Union, 2022.
8. EMCDDA (European Monitoring Centre for Drugs and Drug Addiction). *Statistical Bulletin 2021 — problem drug use.* (27 September 2023) // https://www.emcdda.europa.eu/data/stats2021/pdu_en
9. EMCDDA. *Penalties for drug law offences in Europe at a glance.* (accessed 15 March 2024) // https://www.emcdda.europa.eu/publications/topic-overviews/content/drug-law-penalties-at-a-glance_en

10. Kola, Gillian and Carol Strike. "Practices of care among people who buy, use, and sell drugs in community settings*." Harm Reduct J* 17, 27 (2020) // https://doi.org/10.1186/s12954-020-00372-5
11. Lankauskas, Mindaugas and Aurelijus Gutauskas. "Chasing the High: Drug Users as a Vulnerable Group in Lithuania": 309-325. In: Agnė Limantė and Dovilė Pūraitė-Andrikienė, eds. *Legal Protection of Vulnerable Groups in Lithuania, Latvia, Estonia and Poland. European Union and its Neighbours in a Globalized World*. Vol. 8., Springer, Cham (2022) // doi:https://doi.org/10.1007/978-3-031-06998-7_14
12. Lankauskas, Mindaugas. *Narkotikai ir įkalinimas: kriminologiniai baudimo už disponavimą narkotinėmis ar psichotropinėmis medžiagomis aspektai ir jų vartojimo kalinimo įstaigose ypatumai* [Drugs and Incarceration: criminological aspects of punishing illicit handling of narcotic and psychotropic substances and their use in prisons, in Lithuanian]. Vilnius: Lietuvos socialinių mokslų centro Teisės institutas, 2022.
13. Pikamäe, Priit and Jaan Sootak. "Estonian criminal law: Reform as a path to independence*." European Journal of Crime, Criminal Law and Criminal Justice*, Vol. 8/1, (2000): 61–78.
14. Pranka, Darius. *"Criminal Liability For Illegal Disposal Of Narcotic And Psychotropic Substance Problems In Court Practice And Shortcomings In Regulation"* (in Lithuanian). *Teisės problemos* 2(98) (2019).
15. Reuter, Peter. "Chapter 13. Assessing Global Drug Problems, Policies, and Reform Proposals": 225–240. In: Geoffrey Hunt, Maitena Milhet and Henry Bergeron, eds. *Drugs and Culture: Knowledge, Consumption and Policy*. Farnham: Ashgate, 2011.
16. Saar, Jüri. "Criminal Justice System and Process of Democratization in Estonia." In: *NATO Democratic Institutions Research Fellowship Final Report*. Tallinn, 1999 // https://www.nato.int/acad/fellow/97-99/saar.pdf
17. Smart, Rosanna and Peter Reuter. "Does heroin-assisted treatment reduce crime? A review of randomized controlled trials." *Addiction,* Vol. 117, Issue 3, (2021): 518–531 // doi:https://doi.org/10.1111/add.15601
18. Statista. "German customs data from year 2016–2021." (15-03-2024) // https://de.statista.com/statistik/daten/studie/1175275/umfrage/entwicklung-des-wirkstoffgehalts-von-marihuana-in-deutschland/
19. Summers, Sarah J. "Proportionality"; in: *Sentencing and Human Rights: The Limits on Punishment.* Oxford, Oxford Academic, 2022 // https://doi.org/10.1093/oso/9780192870384.003.0003
20. Supreme Court of the Republic of Lithuania. "Review of judicial practice in cases on criminal acts related to the illegal possession of narcotic, psychotropic substances or first category precursors (precursors) of these substances (Articles 259-261, 263-264, 266 of the Penal Code) No AB-40-1." *Teismų praktika* 40 (2013) // https://www.lat.lt/data/public/uploads/2018/06/ab-40-1.docx
21. Volkow, Nora D., and George Koob. "Brain disease model of addiction: why it is so controversial?" *The Lancet, Psychiatry,* Comment, Vol. 2, Issue 8, (2015): 677–679 // doi:https://doi.org/10.1016/S2215-0366(15)00236-9
22. Von der Burg, León and Svea Steckhan. "Dilemmas in German police practice: Obstacles to responsible police work when interacting with people who use illegal drugs": 89–107. In: Caroline Chatwin, Gary R. Potter and Bernd Werse, eds. *Who? Variation and Distinction in the European Drugs Landscape*. Lengerich: Pabst Science Publishers, 2021.

LEGAL REFERENCES

1. Constitutional Court of the Republic of Lithuania, 2003, decision No. 13/02-22/02.
2. Constitutional Court of the Republic Lithuania, 2006, decision No. 33/03.
3. Constitutional Court of the Republic Lithuania, 2007, decision No. 26/07.
4. *Convention On Psychotropic Substances.* United Nations, 1971 // https://www.unodc.org/pdf/convention_1971_en.pdf
5. *Convention Against Illicit Traffic In Narcotic Drugs And Psychotropic Substances*. United Nations, 1988 // https://www.unodc.org/pdf/convention_1988_en.pdf
6. Court of Appeal of the Republic of Lithuania, 2021, No. 1A-180-654/2021.
7. Court of Appeal of the Republic of Lithuania, 2023, No. 1A-33-627/2023.
8. Council of the European Union. "Promoting the use of alternatives to coercive sanctions for drug-using offenders." Brussels, 8 March 2018, No. 6931/18.
9. Deutsche Bundestag. *Nach langem Ringen: Bundestag verabschiedet Cannabis-Legalisierung*. (15.03.2024) // https://www.bundestag.de/dokumente/textarchiv/2024/kw08-de-cannabis-990684
10. *Estonian Penal Code*. *Karistusseadustik*. Official Gazette, 2001, No. RT I 2001, 61, 364. With the amendments up to the 28 April 2022.
11. *German Law on Turnover of Drugs (BtMG*). Official Gazette, 1994, No. I S. 358. With the amendments, incl. 8 November 2021.
    Kaunas district court, 2022, No. 1A-53-530/2022.
12. Klaipėda district court, 2019, No. N1-57-651/2019.
13. *Law on Penal Code of the Soviet Socialist Republic of Lithuania*. 1961, The version before the amendments of 3 February 1998.
14. Parliament of the Republic of Lithuania. 2019, The Law No. XIII-2263 on amendment of Articles 42, 43, 46, 47, 48, 49, 50, 51, 55, 67, 70, 71, 74, 75, 85, 92 and 243 of the Penal Code the Republic of Lithuania. Official Gazette, 2019, No. 11177.
15. *Lithuanian Law on amendment of the Penal Code* No IX-1495. Official Gazette, 2003, No. 38-1733.
16. *Lithuanian Law on Amendment of Penal Code* No XIV-1925. Official Gazette, 2023, No. 2023-08475.
17. *Latvian Penal Code. Krimināllikums.* Official Gazette, 1998, No. 199/200. With the amendments up to the 23 June 2022.
18. *Lithuanian Penal Code*. Official Gazette, 2000, No. 89-2741. With the amendments up to the 19 July 2022.
19. *Lithuanian Penal Code*. Original version. Official Gazette, 2000, No. 89-2741.
20. Ministry of Health. *Concerning Amendments to Recommendations for Assessment of Small, Big and Very Big Quantity of Drugs and Psychotropic Substances*. 2003, Decree No. V-239.
21. *Narkootiliste ja psühhotroopsete ainete seadus.* 1997, No. RT I 1997, 52, 834.
22. Parliament of the Republic of Lithuania. 2019, The Law No. XIII-2263.
23. Parliament of the Republic of Lithuania. *Law on the approval and entry into force of the Penal Code*. 2000, The Law No. VIII-1968.
24. Parliament of the Republic of Lithuania. 2023, The Law No. XIV-1925.
25. *Penal Code of the Russian Federation*. Official Gazette, 1996, No. 25, 17 June 1996, 2954. With the amendments up to the 14 July 2022.
26. *Polish law on Act on Counteracting Drug Addiction (Ustawa o przeciwdziałaniu narkomanii).* Official Gazette, 2005, No. 179–1485.

27. *Single Convention on Narcotic Drugs, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs.* United Nations, 1961 // https://www.incb.org/documents/Narcotic-Drugs/1961-Convention/convention_1961_en.pdf
28. Supreme Court of the Republic of Lithuania, 2018, No. 2K-95-489/2018.
29. Supreme Court of the Republic of Lithuania, 2022, No. 2K-104-976/2022.
30. Supreme Court of the Republic of Lithuania, 2023, No. 2K-187-976/2023.
31. Supreme Court of the Republic of Lithuania, 2024, No. 2K-69-489/2024.