



Proposal for the Responsible Handling of Cannabis in Germany

Necessary Steps towards the Efficient Implementation of a
Regulation of Cannabis for Recreational Use

Imprint

Publisher

Cantourage GmbH
Heinrich-Mann-Str. 12
14532 Kleinmachnow

public-affairs@cantourage.com
Tel: 0049 (0)30 / 4701 350 - 50
Fax: 0049 (0)30 / 4701 350 - 55

Disclaimer

This publication represents general, non-binding information. The content reflects the opinion of the authors at the time of publication. Although the information was created with the greatest possible care, there is no claim to factual or legal correctness, completeness and / or topicality. Any liability is excluded. All rights, including the reproduction of extracts, are held by Cantourage GmbH.

Content

- Imprint 2
 - Publisher 2
 - Disclaimer 2
- Abstract 4
- Definitions..... 6
- 1. The Plans of the Coalition Parties 7
- 2. Problems of Decriminalisation and Legalisation 8
- 3. Integration within the National and International Legal Framework..... 9
 - International Legal Framework..... 9
 - Legal Framework in Germany 11
 - Solution: Cannabis continues to be a narcotic but will be available without a prescription as an OTC..... 11
- 4. Controlled Conditions from Planting to Dispensing: Cultivation, Processing, Logistics, Distribution 13
- 5. Existing Monographs on Product Categories and Possible Amplifications 15
 - Dosage forms of medicinal cannabis in Germany..... 15
 - Dosage forms after Legalisation..... 16
- 6. Preventive Measures and Fight against Crime..... 16
- 7. Tax Revenues, Cost Savings, Police Work 17
 - Finance Model along the Wealth Creation Chain..... 18
- Conclusion 19

Abstract

The parties striving to form a coalition have, in their electoral programmes, spoken out in favour of handling cannabis differently. The aims therefore are, first and foremost, health protection, youth protection and decriminalisation. However, financial aspects such as increased tax revenues and reduced costs for the judicial and police systems also play their parts. Whilst the aims of the parties in the coalition are, fundamentally speaking, congruent to a large extent, the approaches and ideas thereto differ, or rather have not been presented in detail yet. These concepts, in the opinion of the authors, have serious drawbacks; on the one hand because the set targets will not be achieved, and on the other because the concepts come up against legal and bureaucratic hurdles.

The use of cannabis for medical purposes has been regulated by law in Germany since 2017, at the same time, a regulatory solution for the entire value chain from cultivation to importation, processing, logistics and distribution via pharmacies have been established. Product categories have also been defined by way of monographs. The gross dispensing prices for medical cannabis are currently, on or in part under the level of the black-market prices and thus prove the efficiency of this system. Dispensing through pharmacies, which in Germany are privately owned by the respective pharmacist, is not only safe and protected against intervention from the realm of organised crime, but is also very efficient and could be operationalised at once when the law comes into force. For these reasons the authors recommend not to legalise cannabis in Germany but to regulate it. The products should still be treated as a narcotic, but exempt from the prescription requirement and dispensed as an over-the-counter (OTC) medical product in pharmacies to adult citizens. The authors see possibilities for the incorporation of this framework in national law, in which cannabis is an OTC medical product, that could be freed from the current laws on narcotics.

In this way, not only would the aims of the coalition parties as set down in Chapter 1 be achieved, but a legal framework would be created which, as described in Chapters 3 and 4, would not require any changes to international regulations. In the context of the Single Convention on Narcotic Drugs, the export of cannabis to Germany and thus an ensured supply and short-term availability for the entire spectrum of cannabis would then certainly be possible for the participating countries in the future, provided that international conventions are not violated. Also, not to be underestimated thereby are, in comparison with all other models, easily understandable aspects requiring new legal solutions, which will lead to a rapid realisation. The entire value chain has already been qualified (GACP/GMP), product-specifically (monographs), and also operatively (licences for companies involved in the trading in cannabis) legally regulated. The introduction of new aspects within this functioning system, such as the creation of new product

categories, is thus not only efficient and effective, but also legally practicable. Under the proposed model, the new coalition government will be able to successfully implement one of its projects for the coming legislative period within a short time and deploy resources for other important future tasks.

This paper is intended as food for thought and a basis for a discussion for an alternative path towards the responsible treatment of cannabis in Germany and to roughly outline the initial necessary steps towards the efficient implementation of the regulation of cannabis. The authors have been working for some years in the field of medicinal cannabis and, for example, in the year 2015 already implemented the first imports from abroad, have exported cannabis to more than half a dozen European countries and successfully participated in tenders for the cultivation of medical cannabis. The authors would be delighted to receive any relevant feedback, stimuli and alternative proposals and hope to be able to make, in the shape of this paper, a meaningful contribution to the current discussions.

Definitions

Cannabis – this concept is used in this paper as an umbrella term for the following items and products, based upon the draft for a Cannabis Control Act proposed by the Party “Bündnis 90 die Grünen”:¹

- Seeds, plants and parts of plants of the genus cannabis,
- The isolated resin of the plants belonging to the genus cannabis (hashish)
- The extracted oil (cannabis oil) and other concentrates and extracts and
- Preparations, mixtures or foodstuffs containing cannabis

Insofar as they should have a THC content of more than 0.2 percent or, in the case of seeds and plants yet to be harvested, if they, according to their biological properties, could regularly reach such a level of THC content in the further stages of their development.

Decriminalisation – certain manners of conduct or actions will no longer be classed as criminal from an administrative or penal law point of view. This does not render any such legal conduct; other penal law sanctions may still be applied as before. In regard to the debate on cannabis, it is first and foremost referring to regulations pertaining to the possession and own consumption as opposed to drugs dealing.

Legalisation – Refers to the annulment of a prohibition regarding an action that had previously been subject to such a prohibition. In the context of drugs this is mostly a matter of discontinuing the penal and other sanctioning, whereby other regulations may continue to restrict their permissibility. This concept is above all used in the context of drugs dealing.

Regulation – this means that the trading or consumption of a substance is regulated based on a number of provisions and restrictions, as is the case with alcohol and tobacco. Regulatory systems such as age restrictions and the monitoring of sales points control access to a substance as a general rule. Restrictions may also apply to the advertising of substances. In the event of a violation of any such provisions, penal or other sanctions may be imposed.²

¹ Drucksache 19/819, German Parliament – 19th legislative period

² European School Survey Project on Alcohol and Other Drugs, 2019

1. The Plans of the Coalition Parties

In Germany and many other countries, cannabis is the most frequently illegally traded and consumed type of drug. In 2020, the authorities accordingly registered almost 32,000 cases of illegal cannabis trading.³ Cannabis is no more a marginal phenomenon but has found its place in the heart of society.

The possible coalition partners in the new Federal Government have agreed that the current manner of dealing with cannabis in both politics and society must be revised and wish to do more for youth protection and prevention.

As the election victor, the SPD is planning the approach of controlled dispensing of cannabis to adults in model projects, as well as the abolition of criminal prosecution of the possession of small quantities.⁴

The Grünen (Green Party) is counting on prevention and help rather than punishment and wishes to make the sale of cannabis in licensed specialised shops possible.⁵

The FDP is also counting upon the controlled dispensation of cannabis in specialised shops in order to guarantee high quality and youth protection. Dispensing via pharmacies was also recently proposed.⁶

TARGETS	SPD	DIE GRÜNEN	FDP	NARCOTICS AS OTC
YOUTH & HEALTH PROTECTION / PREVENTION	Yes	Yes	Yes	Yes
REDUCTION OF CRIMINAL STRUCTURES	No	Yes	Yes	Yes
CONTROLLED DISPENSATION	Yes	Yes	Yes	Yes
HIGH (MEDICAL) QUALITY	In part	In part	In part	Yes
TAX REVENUES	No answer	No answer	Yes	Yes
COMPATIBLE WITH SINGLE CONVENTION	No	No	No	Yes

Table 1: Comparison of models for the regulation of cannabis

³ <https://www.zeit.de/gesellschaft/zeitgeschehen/2021-07/cannabis-illegale-drogen-meist-konsumiert-deutschland-bundeskriminalamt-rauschgiftkriminalitaet-2020>

⁴ The Future Programme of the SPD, p. 52

⁵ Federal Election Programme 2021 BÜNDNIS 90 / DIE GRÜNEN, p. 129

⁶ The Programme of the Free Democrats for the Federal Election 2021, p. 30

2. Problems of Decriminalisation and Legalisation

The debate about legalisation raises many questions about the practicality of legalisation in Germany. Due to the lack of empirical values, these questions are not easy to answer. German politics by no means stands alone with its plans to legalise the consumption of cannabis. Consequently, empirical values and studies on legalisation from those countries that are planning to legalise the consumption of cannabis or have already done so, may be of value for the implementation of step-by-step regulation in the context of Germany.

In the public debate, “Legalisation of Cannabis” is mostly assumed to mean that cannabis is no longer classified as a narcotic. A further assumption is that the products will be freely available for sale as are alcohol or tobacco, but merely subject to constraints. This is the model which the legislative powers in Canada and Uruguay are operating. Those countries are thus violating the UN conventions on the handling of addictive substances (cf. Chapter 3). According to the authors’ understanding, the consequence of this violation is that none of the member countries may export cannabis (at least not for recreational use) to those countries. Some of the largest cannabis producers in the world are residents in Canada and able to satisfy the local demand in Canada. It is indeed the case that, cannabis is also currently being grown in Germany for medicinal purposes, but the production capacities do not even come close to catering for the overall need. The authors see the risk that Germany too would violate the UN conventions referred to in the event of the legalisation of cannabis, as the country could no longer be supplied with cannabis from external producers and thus not be able (in the short- and medium terms) to offer any products for the legal market.

The de facto decriminalisation of the possession and trading of cannabis, such as is the case in the Netherlands, whilst it does not directly contradict the UN conventions, nonetheless gives rise to other problems. For example, “Decriminalisation” is not equivalent to “Legalisation”. Planting, processing and selling, in particular, cannot be practised legally, but at best tolerated. A drastic strengthening of organised crime is one of the consequences within the Netherlands, as it is those very activities of cultivation, processing and selling that form particularly lucrative links of wealth creation.⁷

From the authors’ point of view, both legalisation as described above and decriminalisation are neither practical, nor desirable in Germany. It is rather the case that the aims of youth and health protection, prevention and substances control should be regulated in other ways.

⁷ <https://www.dw.com/de/niederlande-liberale-drogenpolitik-mit-folgen/a-51443345>

3. Integration within the National and International Legal Framework

International Legal Framework

Germany is a contractual party to the Single Convention on Narcotic Drugs of 1961⁸, the Convention on Psychotropic Substances of 1971⁹ and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988¹⁰. The convention of 1961 prohibits the cultivation and trading in naturally growing drugs such as cannabis; the contract of 1971 prohibits the manufacturing and trading in synthetic drugs such as barbiturates and amphetamines; and the convention of 1988 demands that the states should criminalise the possession of illegal drugs.

These contracts are intended to prevent the abuse of drugs by way of the participating nations undertaking to criminalise the possession, cultivation, production, importation, selling and distribution of the substances described for non-medicinal purposes¹¹. Subject to their own constitutional principles and the fundamental concepts of their legal systems, each contractual party takes those measures that are necessary to declare the possession, acquisition and cultivation of addictive substances or psychotropic drugs to be punishable offences according to their own national laws, if committed intentionally.

Generally speaking, the *International Narcotics Control Board* interprets this stipulation in such a way that the states are compelled to prosecute criminal offences relating to the possession of drugs. The conventions clearly stipulate that controlled substances are to be restricted to scientific and medicinal purposes.

Some UN member states have, however, already deviated from the practice of criminalising the possession of drugs. The individual implementation ranges from subtle increases in the quantities tolerated for one's personal use in Portugal via the non-enforcement of laws criminalising drug possession in the Netherlands to a de jure legalisation of a regulated market for Cannabis in Canada, Uruguay and some US Federal States.

⁸ United Nations Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol

⁹ United Nations Convention on Psychotropic Substances of 1971

¹⁰ United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988

¹¹ HABIBI, Roojin; HOFFMAN, Steven J. Legalizing cannabis violates the UN drug control treaties, but progressive countries like Canada have options. *Ottawa L. Rev.*, 2017, 49.yr.,p. 427.

Cindy Fazey, former Chief of Demand Reconstruction on the Drugs Control Programme of the United Nations believes that the contracts contain a sufficient number of ambiguities and loopholes to leave a certain margin for discretion. In her report entitled *The Mechanics and Dynamics of the UN System for International Drug Control* she comes to the conclusion that:

“Many countries have decided in the meantime not to apply the full weight of criminal sanctions against persons who are in possession of drugs for their own personal consumption. It is stated in the conventions that a criminal offence must be given according to national criminal law, but not that the law must be enforced or that sanctions should be imposed. [...] Despite such grey areas, the margin for discretion is by no means unlimited. The centrality of the basic principle of the restriction of narcotics and psychotropic drugs for medicinal and scientific purposes offers no leeway for the legal possibility of recreational consumption [...] The nations may currently be shifting the boundaries of the international system but the prosecution of all measures for the formal legalisation of non-medicinal and non-scientific drugs consumption would require either a revision of the contracts or a complete or partial withdrawal from the current regime.”¹²

It cannot, from the authors' point of view, be ruled out that the Federal Republic of Germany, –unless it adapts its manner of proceeding to accommodate that risk–in the event of an extensive legalisation of use of cannabis for any purposes other than purely medicinal ones, violate the UN Single Convention on Narcotic Drugs of 1961¹³. In order to combat this risk of legislation that would violate international law, it would, in principle, be conceivable that the Federal Republic of Germany could withdraw from the aforementioned agreements and, subject to the proviso of the legalisation of cannabis for non-medicinal use, immediately rejoin them.¹⁴ However, it is probable that – irrespective of a potentially controversial appraisal of the permissibility of such a manner of proceeding under international law – in this respect not an inconsiderable amount of administrative and political effort would have to be reckoned with under all circumstances.

¹² Bewley-Taylor, Dave & Fazey, Cindy & Solinge, Tim. (2003). *The Mechanics and Dynamics of the UN System for International Drug Control*. Forward Thinking on Drugs.

¹³ <https://www.incb.org/incb/en/news/press-releases/2018/statement-by-the-international-narcotics-control-board-on-the-entry-into-force-of-bill-c-45-legalising-cannabis-for-non-medical-purposes-in-canada.html>

¹⁴ BT-Drs. (printed matter) 19/819, p. 44

Legal Framework in Germany

According to Section 1 of the German Narcotics Law (BtMG), the following acts are punishable offences in connection with cannabis: possession, purchasing, selling, importing, exporting, forwarding and bringing into circulation. Only the consumption of cannabis itself in Germany is not explicit.

In the shape of the Act on the “Amendment of the Provisions of Narcotics Law and Other Regulations, which came into force on 10/03/2017, the legislator altered the position of cannabis in Annexes I to III pursuant to Section 1, Para. 1 BtMG. Since then, the BtMG has differentiated between cannabis in Annex III (use for medicinal purposes) and cannabis in Annex I (Cannabis that is fundamentally neither trafficable nor eligible for prescription). Annex I provides exceptions for industrial hemp.

Solution: Cannabis continues to be a narcotic but will be available without a prescription as an OTC

In the current situation, Germany is already dependent upon the import of cannabis. For example, in the year 2019, 20,774 kg of cannabis were imported to Germany; tendency on the increase.¹⁵ So far, licences for planting in Germany have been granted for a quantity of 10,400 kg spread over a period of four years,¹⁶ which is not even close to being enough to satisfy the need.

Germany is thus dependent upon the import of cannabis flowers, especially when access to products containing cannabis has been opened to a larger circle of people.

If, in the wake of “Legalisation”, cannabis should no longer be dispensed as a medical product, Germany would be guilty of a direct violation of the International Drug Control Conventions and could therefore not be supplied with cannabis by any country that follows these conventions (at least not for recreational use).

In order to avoid violations of contracts under international law and as a solution for this scenario, cannabis should retain its status as a medical product and narcotic. In order to enable simplified access thereto as an OTC medical product in pharmacies, the prescription requirement should be annulled. However, an amendment to the BtMG is hereby conceivable, in order to exempt cannabis as an OTC from the narcotics law provisions of the prescription requirement. Furthermore, cannabis should no longer be

¹⁵ German Parliament (Printed Matter 19/21739) Reply to the Federal Government to a parliamentary question posed by the FDP – Printed Matter 19/21416 – Import of cannabis blossoms from abroad

¹⁶ Press Release, BfArM (Federal Institute for Drugs and Medical Devices), Issue 4/19 dated 20/05/2019

considered a preparation, but be granted a separate classification of its own, in order for cannabis to be dispensed, without any further processing, as an OTC in the pharmacy. For this reason, the authors recommend the development of a Standard Approval in accordance with the "Regulation on the Standard Approval for Medical Products" for cannabis flowers in order to realise the status of said flowers as a finished medical product. Currently, cannabis flowers may be sold as prescription medical products.

The controlled dispensing by apothecaries remains guaranteed. With a network of more than 20,000 pharmacies, the infrastructure for the ability of direct dispensing nationwide in Germany is available. Thanks to the continued strict control thereof as a narcotic as well as to the ban on third-party and multiple ownership of pharmacies, the wealth creation chain from cultivation via production through to dispensing would be well protected against intervention of criminal organisations.

The necessary amendment to the law in the context of the narcotics legislation is subject to the national legal situation and does not directly contradict the International Drug Control Conventions.

By way of contrast to the solutions adopted by other states (cf. Chart 2), only the German model proposed by the authors would fulfil international obligations, guarantee controlled quality and dispensation, have recourse to an already available infrastructure and achieve total freedom from prosecution for all participants in the wealth creation chain, including the consumers.

	ADHERENCE TO INTERNATIONAL OBLIGATIONS	CONTROLLED DISPENSATION	CONTROLLED (MEDICINAL) QUALITY	AVAILABLE INFRA-STRUCTURE	FREEDOM FROM PROSECUTION
CANADA	No	Yes	In part	No	Yes
NETHERLANDS	Yes	No	No	Yes	In part
PORTUGAL	Yes	No	No	-	In part
URUGUAY	No	Yes	Yes	-	Yes
NARCOTIC AS OTC	Yes	Yes	Yes	Yes	Yes

Table 2: Models for Cannabis Legalisation

4. Controlled Conditions from Cultivation to Dispensing: Cultivation, Processing, Logistics, Distribution

If cannabis should remain in principle a medical product in Germany, the legislator will be able to build upon the current regulations for the cultivation, processing, logistics and distribution. In the following, the underlying regulations are briefly described and the need for very slight adaptation in comparison to other models, outlined.

In Germany, the cultivation of cannabis is oriented towards the pharmaceutical legislation (Medical Products Act (AMG) and in particular the Pharmaceuticals and Active Agent Manufacturing Ordinance (AMWHV)), regulated under national realisation of the European medical products framework conditions of the European GMP Guide. In the EU-GMP Guide, the manufacturing of phytopharmaceuticals is regulated in Part 2, ANNEX 7. The preceding quality aspects when cultivating medicinal plants, on the other hand, are regulated by the Good Agricultural and Collection Practice (GACP). Furthermore, there are also DAB (German Pharmacopoeia) and DAC (German Pharmaceuticals Codex,) monographs for blossoms and extracts and dronabinol. Under pharmaceutical legislation, medicinal cannabis has, for the first time, been eligible for prescription in Germany since March 10th 2017, when the “Amendment to Narcotics Law and Other Regulations” came into effect. It is listed as a trafficable narcotic, eligible for prescription under narcotics law in Annex III and BtMVV (Prescription Regulations for Narcotics) BtMAHV (Foreign Trade Regulations for Narcotics) and SGB V (Social Statute V) have been adapted accordingly.

It is already the case today that it is not necessary that all classic therapy options must be exhausted if other therapies promise the same success. The formal prescription prerequisites of the BtMVV must also be heeded with respect to Cannabis.¹⁷

The prescribing of cannabis as a phytopharmaceutical is possible. Doctors decide upon the diagnosis and dispensing follows via the pharmacy as a prescription.

Attention is also to be paid to the fact that, according to Section 15 of the German Narcotics Act (BtMG), every participant in the circulation of narcotics is required to store those narcotics in their possession separately and to protect them against unauthorised removal. The relevant guideline on measures for the securing of narcotics stocks for permit holders according to Section 3 of the German Narcotics Act is currently thereby applied not only to the storage of cannabis but also to the cultivation within Germany.

¹⁷ Prescription Regulation for Narcotics of January 20th 1998 (Federal Gazette, I p. 74, 80), last amended by Article 2 of the Regulation of May 18th 2021 (Federal Gazette, I p. 1096).

The result of this is that cannabis is to be grown in enclosed buildings of clinker brickwork or reinforced steel of a thickness of at least 24 cm with double-sided steel wire fabric and very costly security technology. The consequences are high costs for the buildings and a poor environment balance due to the cultivation with artificial light and climate.

In order to be able to continue to distribute cannabis via pharmacies as a narcotic but as an OTC available without a prescription in the future, appropriate adaptations to the AMG or AMWHV, the BtM of the safety guidelines for cannabis and a revision of the monographs are thus being proposed.

Should this proposal be adopted, the future but also the short-term supply to a newly arising cannabis market in Germany would be ensured. International companies that today already supply cannabis to Germany in large quantities (>10t per year at the present), possess sufficient production capacities to be able to supply this market. Legally, the import is already regulated as described in the above for medicinal cannabis and would thus not mean any (significant) changes for companies in other countries.

	<u>GACP</u>	<u>GMP</u>	<u>AMG/AMWHV</u>	<u>BtM</u>	<u>Monographs DAB/DAC</u>
Today: cannabis as a medicine since March 2017	Yes	Yes	Yes	Yes	Yes
Proposal: cannabis as a prescription-free OTC (narcotic)	Yes	Yes	To be adapted	To be adapted	To be adapted
	Product quality ensured all the way along the entire value chain		Only adaptations in national law necessary		

Table 3: Necessary amendments to laws, so that Cannabis may be dispensed as an OTC narcotic

The sale of cannabis as an OTC narcotic can legally – as is the case today – only be affected via the 20,000 pharmacies in Germany. The current necessity of repackaging and inspection should, in the future, be avoided by adapted regulations, i.e. re-categorisation is required here.

The advantages of distribution via pharmacies are obvious to the authors:

- The already available experience of a multitude of pharmacies with cannabis and in the cases of more than 100,000 patients
- Existing dispensing points; no need to establish new businesses and relevant regulations
- No dependency on the part of the dispensing points of cannabis as their sole category of product and thus less potential for criminal structures (Negative example: the current problems with coffee shops in Netherlands)
- Pharmacies in Germany are in the private possession of the respective apothecary, thus guaranteeing independence
- Easily controllable dispensing, solely to adult citizens, operated by personnel with experience of controls
- Well-trained personnel for information and youth protection

5. Existing Monographs on Product Categories and Possible Amplifications

The existing monographs on cannabis products cover, inter alia, flowers, extracts, tinctures and capsules. Further monographs are required in order to reflect the true consumption behaviour with regard to non-medically used cannabis.

Dosage forms of medicinal cannabis in Germany

If both doctor and patient view treatment with medicinal cannabis as a promising option, the question's surrounding the dosage is frequently posed thereafter. Here, attention should be paid to the fact that it is the quality of the flower that plays the most important part in every kind of cannabis consumption. Cannabis should only be consumed if the product has been proven to be pure and free of additives.

The high quality in the medical field in Germany is regulated by GACP, GMP, and GDP, as well as be the following NRF monographs:

- 22.7 Dronabinol capsules
- 22.8 Oily Dronabinol-´ Drops 25 mg/ml
- 22.10 Oily Cannabidiol Solution 50 mg/ml
- 22.12 Cannabis flowers for inhalation after evaporation; with an enclosed 1-mL-dosage spoon, preferably for individual doses of 0.1 g
- 22.13. Cannabis flowers in individual doses for inhalation after evaporation; individual doses of between 0.01 g and approx. 0.1 g

- 22.14. Cannabis flowers for making tea; with an enclosed 1.7-mL-dosage spoons for individual doses of 0.25 g or a multiple thereof
- 22.15. Cannabis flowers of 0.25 g / 0.5 g / 0.75 g / 1 g for making tea

Dosage forms after Legalisation

If one compares the medicinal dosage forms in Germany described in the above with consumption rates on legalised markets, it is edibles (foodstuff containing cannabis) and vape pens in particular that are consumed, in addition to flowers and extracts.

In the wake of legalisation and with the aim of containing the black market, the authors therefore recommend the inclusion of these and other dosage forms in the regulations.

This may already be observed in countries such as Canada, in which the legalisation of cannabis has progressed much further (cf. Illustration 1). A wider selection of products may furthermore motivate cannabis consumers to rethink their current consumption methods and possibly to change to healthier alternatives to smoking ((cf. Illustration 1). The decline in the smoking of cannabis flowers in Canada by, in absolute terms, almost 20% between 2017 and 2020 is particularly significant and an indication that cannabis consumers, after legalisation, prefer other consumption methods. ¹⁸

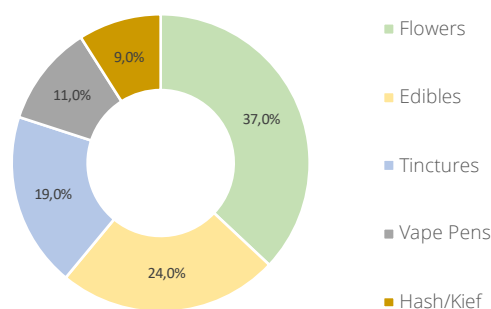


Figure 1: Consumed cannabis products, Canada, 2020

6. Preventive Measures and Fight against Crime

¹⁸ Health Canada – 2020 Canadian Cannabis Survey (CCS)

In the wake of any legalisation, politics will also have to concern itself with topics such as addiction prevention, information campaigns, youth protection and the fight against organised crime.

Attention should be paid here to the fact that, despite the prohibition on cannabis, the number of cannabis consumers has, for years, remained consistently high. Among adolescents and young adults, consumption has indeed increased still further in recent years.¹⁹ Youth or consumer protection is non-existent on the black market; both the concentration and purity of the product ingredients remain hidden. Pollution by way of dangerous extenders such as lead, glass or added synthetic cannabinoids increases the health risk. Procurement on the black market also furthers the procurement of harder drugs and supports organised crime.

A regulated and monitored system for the cultivation, trading and dispensing of cannabis no longer criminalises adult consumers and dries out the black market. This is a relief to the prosecuting authorities who are currently fighting with ineffective and costly methods on the cannabis battlefield. Furthermore – in contrast to today – consumer- and youth protection schemes and programmes for addiction prevention also take effect. Regulation thus protects those who need protecting, namely minors and those with problematic consumption patterns. Finally, it should be taken into account that levied cannabis tax is to be used for the financing of public information and prevention campaigns as well as for educational measures.

7. Tax Revenues, Cost Savings, Police Work

Type of tax	Revenues/savings in euros
Cannabis tax	1,800,000,000
Turnover tax	650,000,000
Trade tax	25,978,909
Corporation tax	58,867,248
Income tax	279,892,152
Volume of social insurance contributions	525,949,740
Saved police costs	1,051,185,370
Saved costs for courts	272,302,843
Saved costs for prisons	41,111,200
Total	4,705,284,462

Table 4: Potential savings and revenues to be achieved through a legal dispensing model¹⁹

¹⁹ <https://www.tagesschau.de/inland/cannabis-151.html>

The regulation of cannabis in Germany would go hand in hand with a number of positive economic consequences. The state would collect turnover tax and, possibly, cannabis tax from sold products, new jobs would be created, new companies would pay corporation and trade tax, the employees income tax and social insurance contributions. Additionally, costs would be saved within the judicial system, for example for courts, public prosecutors and prisons as well as the police force, or capacities could be freed for the prosecution of other types of crime.

Current calculations quantify the sum totals of savings and additional revenues resulting from a discontinuation of the prohibition at approx 4.7 billion € per year²⁰.

Finance Model along the Wealth Creation Chain

The model described in the above does not, however, cover all points along the wealth creation. Thus, it is the case that no realistic margin for the dispensing institutions, in this case the pharmacies, has been considered.

The following model is intended to supplement this: the current purchasing prices of cannabis flowers lie between € 4.30 and € 9.52,²¹ whereby some types may also be more expensive to buy. By way of simplification, this price range has been assumed collectively for the costs of cultivation, processing, logistics and, if applicable, importing. On the black market, one gram of cannabis flowers costs approx. € 10 per gram.²² In order to motivate consumers on the black market to switch to the legal acquisition of cannabis, the dispensing prices should correspond roughly to that price. The dispensing price for final consumers in the pharmacy is composed of VAT, the prices for cultivation, production, processing and logistics, a surcharge for the pharmacy and, possibly, a tax on cannabis.

Cultivation, processing, importing, logistics	€ 4.30 – (€ 5.90 –) € 9.52 €
Pharmacy	€ 0.50
Cannabis tax	€ 2.00
VAT 19%	€ 1.30 - € 1.60 - € 2.28
Sales price (gross)	€ 8.10 – (€ 10.00 –) € 14.30

Table 5: Finance model for the dispensing of cannabis in pharmacies, our own calculation

²⁰ Haucap, Knoke – Fiscal impacts of the legalisation of cannabis in Germany: an update; Düsseldorf Institute for Competition Economics; 16/11/2021

²¹ LAUER-TAXE® As of 01/11/2021

²² <https://de.statista.com/statistik/daten/studie/259953/umfrage/verkaufspreise-ausgewaehlter-illegaler-drogen-in-deutschland/>

Conclusion

A reappraisal of how to deal with cannabis for non-medicinal purpose has now, with the likelihood of a coalition of SPD, Grünen and FDP, come closer to reality. In the public debate, a number of different options are being discussed as to how this could be implemented. It is hereby often a matter of model projects, decriminalisation or complete legalisation. The authors have revealed that these models bring problems with them that are not to be solved trivially.

The available infrastructure for medicinal cannabis guarantees the high quality of the goods from cultivation to dispensing to the final consumer as well as protection against dispensation to persons not entitled and against intervention on the part of criminal organisations. An adaptation of national laws (such as BtMG and AMG) could enable dispensing of cannabis also to non-patients via this system. The authors propose that cannabis should continue to be treated as a narcotic but freed from the prescription obligation and dispensed in pharmacies as an Over-the-Counter medical product.

As youth and health protection, as well as addiction prevention are the main aims of the new regulation of the handling of cannabis both for the coalition partners and in the public debate, the use of a safe and already available infrastructure for dispensing, such as the network of 20,000 pharmacies with their good spatial coverage and highly qualified personnel, almost proposes itself.

Observations to be made in countries such as Canada, where cannabis for recreational use has already been legal for years, have revealed that, thanks to people turning their backs on the black market, alternative and, in comparison to the classic manner of smoking, less risky forms of consumption such as vape pens or edibles (foodstuff containing cannabis) have been established. Corresponding products would also be conceivable on the German market.

Current studies show that a shifting of the wealth creation chain for the non-medicinal use of cannabis from black market to a legal infrastructure, would promise, in addition to anticipate tax revenues of ca. 3.3 billion euros, additional costs savings for the police force and the judicial system of approx. 1.4 billion euros each year. The revenues from any cannabis tax that might be levied should be used for youth and health protection as well as for addiction prevention.

The model proposed here for a regulated dispensing of cannabis for non-medical purposes is quickly realisable, it guarantees high quality products and a safe dispensing to persons who are suitable and merely demands changes in the law on a national level, by way of which the violation of obligations under international law would be avoided.