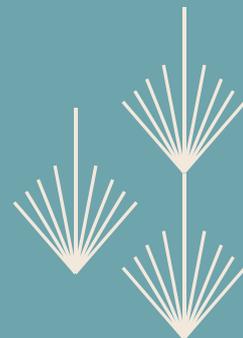


Which models for cannabis adult- use regulation in Europe?

Findings, objectives and proposals for legalisation



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**Augur Associates is a
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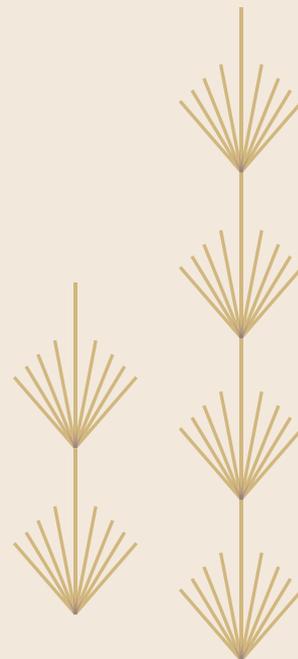
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Sum- mary

Introduction

The European cannabis prohibition system has been a failure for more than a century, in part because the issue at hand is far from being simple.

From its progressive domestication throughout the world leading to various proven uses – going as far back as 6,000 to 12,000BC, the plant has accompanied the development of many cultures and societies. In fact, despite a century of prohibition it is worth remembering that **cannabis has not always been illegal.**

As one of the first substances – along with coca and opium – to be placed under a restrictive international prohibitive system, **cannabis was nevertheless never subjected to scientific scrutiny by international organisations until 2018.** The main treaty on cannabis – **the 1961 Single Convention** – was drafted even before the “War on Drugs” began, rendering anachronistic the description of this Convention that initiated the said “war”. Above all, its provisions established **a comprehensive and harmonised regulation of the medical and pharmaceutical uses of the plant.** The words “recreational use” are absent, and the term “prohibition” is very rarely mentioned in the text. Together with the 1971 and 1988 Conventions, these three international treaties are now the global foundation of our drug regulation system.

The global rise of cannabis consumption, as well as the decade-long start of regulatory reversals within a growing number of States are **not only** questioning the obligation to penalise simple cannabis consumption, **but also the feasibility to legally regulate non-medical domestic cannabis markets.**

The prohibitive interpretation and the regimes that have subsequently been implemented have failed for several decades to fulfil their objectives, namely limiting the use of drugs. Today, **the emergence of national regulatory frameworks for non-medical uses,** operating within a restrictive international trading system, **is less of a legal-conceptual obstacle than often thought.** Indeed, the historical reality of the legal construction of these laws is primarily to be sought internally, within the culture, prejudices and socio-economical forces of one’s country. **As Malta currently shows, it is possible to move forward at the national level with the legalisation of non-medical cannabis use in a way that is in full and faithful compliance with international cannabis obligations.** The Single Conventions’ signatories can now therefore begin to discuss options for substantive changes at the domestic level.

Cannabis is not without potential harmful effects. And that is why it is **necessary to treat the subject seriously in order to regain control over a situation that has been harmful to individuals and European societies for decades**. The Cannabis plant contains hundreds of active ingredients – including cannabinoids, terpenes and flavonoids. This full spectrum potentially creates an “entourage effect”, where the use of the whole plant would exert greater effects than the sum of its separate components. This is why Cannabis should be assessed on its full genetic profile.

There is no simple answer to the risks linked to cannabis consumption. A 2017 meta-analysis of more than 10,000 articles concluded that there was both a severe lack of relationship between science and policies and **no proven serious adverse health effects of moderate cannabis consumption in adults**. For instance, it remains almost impossible to overdose on it. Nonetheless, different forms of consumption involve different types of risks.

While “smoking joints” – a mixture of tobacco and cannabis, often in the form of resin – is the most widespread mode of consumption in Europe, **it is far from being the only way to consume cannabis**. In a regulated ecosystem, each form of consumption (smoking, vaping, sublingual, ingestion, topical, rectal, etc.) could be made available and would represent different properties in terms of speed of action and potency of effects, which are also influenced by **the unique endocannabinoid fingerprint of each individual**.

It remains therefore complex to set a threshold defining when adult cannabis consumption becomes problematic. The term “problematic consumption” is coined from the moment when it causes problems for the consumer in his/her social or professional life. It remains up to the consumer to weigh up the benefits and risks of his or her consumption. The reasons why younger people consume or do not consume cannabis are multifaceted and therefore equally complex. However, it remains important to highlight the very **strong link between the precocity of first-time consumers and problematic use**. This can particularly impact brain development up to the age of 21 to 25, especially with younger consumers.

Cannabis prohibition is often hard to understand, especially as substances that are scientifically proven to be more dangerous for human beings and society, such as tobacco and especially alcohol, are legally regulated. **The hard/soft drug distinction**, which is still very popular – despite research progress and a scientific refutation dating back to the 1970s –, **is not based on any scientific study**. In similar fashion, **the “stepping stone” theory that presents cannabis consumption as a bridge – or gateway – to the consumption of drugs perceived as “more dangerous” is erroneous**. Over the years, **various scientific publications have disproved this theory**.

Alternative policies for cannabis have existed for some time now (Spain, Netherlands, Portugal), and are increasingly being implemented (Luxemburg, Switzerland, Germany, Denmark, Canada, Morocco). While it is often too early to draw a definitive conclusion, they provide some answers to legitimate concerns about their impacts on crime or public health, all of which can be useful to European countries heading towards future legal regulations. **If different objectives can be achieved, it is necessary to define the priority assigned to each of them in order to determine the concrete modalities of any kind of legal reform.**

Chapter 1. France

The failure of European prohibition is eloquently illustrated by the French case. As early as 1916, the Hexagone banned all cannabis activity in mainland France. The country introduced its current drug prohibition legislation in 1970. Today, there remains an urgent need to regain control over a situation that has been in decline for several decades. **Despite massive public investment,** the vast majority of which is aimed at repression, **the control of cannabis in France is a clear failure.**

Thanks to a policy based on “numbers” – i.e. artificially boosting results by increasing the level of enforcement through specific metrics – the total number of people arrested for simple consumption has increased 50-fold since 1970. **France’s legal arsenal is known to be one of the “toughest” in Europe, yet it failed to reduce the highest rate of cannabis consumption on the continent.** Resin, which was massively available in the 1980s, has now been largely replaced by “flower”, while self-cultivation has also developed widely in recent years. The policy of total repression has not succeeded in keeping the most vulnerable populations away from the most problematic forms of consumption, **prevention remaining one of the major weaknesses of the French prohibitive model.**

For fifty years, every seven months on average, the French legislator has modified the law on drugs to reinforce repression, without success. Repression of drug consumption in its various forms has become the **third cause of conviction, all offences combined.** However, penalisation remains a sham: a time-consuming policy that generates inequalities between people and territories, degrading the very fragile relationship between the police and the population. The 2021 French fixed fine further takes on the attributes of the law of 31 December 1970: **inefficient, unfair and arbitrary.**

The effects of this strategy to “combat” demand can also be seen in the French courts. As a result, 14.7% of the incarcerated population was convicted on the basis of a drug offence. At the end of 2021, more than **3,000 magistrates (out of 8,355 in the country) published an open letter expressing their alarm at the loss of meaning in the profession and of a justice system that is out of breath.** At the same time, the indignity of the conditions of detention in many French prisons has been denounced for many years. Five prisons in the country have been considered by the French justice system as exposing detainees to inhuman or degrading treatment. **France has also been condemned on 19 occasions by the European Court of Human Rights (ECHR), for gross misconduct and systemic discrimination,** which are illegal under both French and international human rights law.

The more intense the repression, and the more successful it is in limiting supply and creating scarcity, the higher the price for the consumer, which ultimately leads to greater profitability for (illicit) cannabis producers and distributors. More than a hundred years of illicit drug prohibitionist policy dominated by law enforcement activities have revealed few sustainable and geographically widespread successes. Far from being scaled down and eliminated, **markets have survived by adapting to law enforcement surveillance.** The achieved outcome is not satisfactory in terms of the aims stated and sought by the public authorities. Relationships between the population and the police are constantly deteriorating. Beyond this, **the figure of public power and the rule of law are being undermined,** further deteriorating relations between members of the police and communities living in the most impoverished areas of the country where cannabis distribution has been outsourced.

While public security should not have to be a financially profitable operation, it does need to be effective and evaluated. Prohibition weighs heavily on the French budget: an estimated one billion euros per year. Today, 75% of the state budget dedicated to the policy of “combating” drug consumption and addictive behaviours is devoted to the “fight” against these offences. **In the 50 years of its existence, this repressive policy has never been evaluated by the French Parliament.**

Today, there is a need to go beyond the “for or against” cannabis legalisation debate. **The question today should no longer be whether or not to legalise, but how to do so.** Because such reform often amounts to starting from scratch, it remains fundamental not only to learn from past and current global policy successes and failures, but also to consider that **a responsible approach has to phase in change over a period of months or even years, allowing for the carefully monitoring and evaluating outcomes on key indicators.** Hence, one dimension of this question must be focused on the **primo-implementation of a decriminalisation policy.**

The rationale for decriminalisation is to treat cannabis consumption, and in particular problematic consumption, as a health and social issue; not as a moral or criminal justice one. Relatively simple to implement, the policy most often replaces criminal sanctions with administrative sanctions, and helps reduce the stigma around consumption while mitigating negative social consequences. A fine system will be avoided, making the situation *de facto* legal only for those who can afford it. **Beyond the sole question of cannabis, the decriminalisation of the consumption of all illicit drugs should be concerned**, potentially bringing major safety and public health benefits.

The question of decriminalisation remains highly pertinent for Germany, whose plans to legalise cannabis for adult-use will (hopefully) take time to implement. Hopes for a complete regulatory draft law published in Autumn 2022 are not only improbable but also undesirable. **By strong-arming Ministers to push through legislation rapidly, the German Government could risk enacting frameworks which have not been fully thought through, causing problems for the market, society and consumers in years to come.** These timeframes for formulation, implementation and sustainability mean that it is necessary to think about what needs to happen in the intermittent time frame. Decriminalisation is not an end goal. Or a one-size-fits-all solution to the harms of drug prohibition. Rather, it is **a means to ensure more justice and better protection of human rights, allowing for immediate positive impact on the lives of many people and sufficient time to set up a proper legal regulation of the market.**



Chapter 2. Malta

On the other end of the European policy spectrum, **Malta announced in 2021 its intention to regulate cannabis for non-medical consumption**, allowing individuals and non-profit organisations to grow cannabis. The stated objectives of the reform are based on **the triptych of stopping the criminalisation of consumers, strengthening prevention, and tackling the black market head-on.**

While the new regulation thankfully reaffirms that a cannabis consumer does not forfeit its human rights, the maltese approach is to be highlighted for its effort to avoid “corporate capture” i.e. the means by which corporate entities pursue profit and power by exerting undue influence over domestic and international decision-makers and public institutions. By safeguarding public health, human rights, personal freedoms and autonomy, and by moving away from the criminal approach, Malta is finally giving cannabis consumers the necessary tools to take informed decisions and know how to mitigate risks. This reform is therefore **not a choice between a Malta “with” or “without cannabis” but one between a cannabis market controlled by criminal profiteers or one regulated by a responsible government agency.**

On the legal side, **Malta is setting an example for its European colleagues by making sure that the policies and procedures they will be putting in place respect international law and give results.** Indeed, the Maltese approach is alleviating rule tensions and the risks of norm decay or non-compliance cascade. The articulation of domestic reforms regulating non-medical cannabis use with the interpretation followed by Malta also provides an interesting approach that could be, if not reproduced, at least **be inspirational to, for a similar applicatory contestation of EU drug-related rules.** This could provide a way for European countries to undertake sovereign reforms without forcing others to do so.

Malta's geographical position between North Africa and Europe – the islands being just short of 500 km from Tunisia – has long made it a transit point for illegal drugs, including cannabis. The latter (resin and “flowers”) remain today the most seized illicit substance in the country. Supply offences are often dealt with in the lower courts, which can serve between 6 months to 10 years prison sentences. **For more than forty years, thousands of people on these islands have faced the risk of incarceration and of trouble with the police.** However, while contrevenants do not necessarily end up in front of a judge in case of minor DLOs anymore, the police still heavily criminalises cannabis consumers. **The issue of “trafficking by sharing” has also been central in regard to the penalisation of consumers on the islands,** demonstrating sheer disproportionality of sentences compared to offences. Especially when considering that the act of consuming in a group and of sharing a set of norms, serve as protective factors against the development of problematic use or other unwanted behaviour.

If Malta has been fairly conservative in the past in regard to drug policy, the new reform is a **complete paradigm change that will be needing continuous political and administrative support in order to replace old habits**. Having adopted a “self-restrained legalisation”, focussing its efforts on “harm reduction” rather than drug control, the bottom-up approach chosen by Malta has been **led by a strong civil society debate giving due space to the role of harm reduction as an important tool to promote public health**, and a more dignified approach to people who consume or cultivate cannabis.

Set up by the new law, the Authority for the Responsible Use of Cannabis (ARUC) has been given a sound mandate, an inclusive management, and a sufficient budget in order to achieve its goals and missions: to advance the goals of public health and safety. **These will need to be sustained and reinforced as the “real work” is only beginning**. The authority has also been given a mandate to allow for the assessment of the associated public health risks through data gathering and scientific research, making sure that the professional knowledge for the cultivation, storing, and distribution of cannabis is integrated by staff, as well as basic skills in dealing with members and their needs, including harm reduction training. **The larger public health actors as well as law enforcement professionals should also be concerned primarily with such training**.

Alongside legalising homegrowing, the establishment of Non-Profit Organisations (NPOs) rests on the core principles of adopting a social equity approach towards people who use and cultivate cannabis. By ensuring a safe, affordable, and welcoming social space, associations would be in practice **transposing the unregulated social aspect of shared cannabis consumption, already spread across the islands, within the perimeters of a members-only-club**. In that regard, heavy emphasis will be placed on clubs to follow the law, abide by their ethics and not try to cheat the system. **Any funds made by the non-profit associations are to be used to pursue the organisation’s objectives and keep it running**. No profits can be distributed to the group’s members, directors, employees or officers. Employees will be entitled to wages that do not fall under profit for accounting purposes. **All NPO applications will need to provide a clear plan of action** in order to be considered as part of a larger community of other organisations who strive to work together, with **the aim of creating a safer environment for people consuming cannabis**.

Although the law has been heralded as historic by many involved in the process from civil society, the process will need to ensure continuously that it integrates feedback from NPO members and the rest of the Maltese society. People operating the Non-Profit Organisations will need to cooperate closely with the ARUC. **When the NPOs will be finally set up, the goal is for a consumer to be able to obtain cannabis from a legal outlet, knowing that the quality of the cannabis has been tested and is safe.**

The reform still needs to further address the issue of social justice, that is to say: the injustice present and past caused by the prohibition of cannabis. **For any reform project, there is indeed an absolute need to fix what is broken before a new system can work or be implemented properly.** Although a lot has been said, one thing is certain: social dialogue about cannabis will not be over anytime soon. This is indeed potentially the first time Maltese society is in a position to have an open and frank dialogue with its cannabis community.

If the first objective of any cannabis reform should be to push back against the black market, a successful alternative must therefore be more attractive than what is already offered. Communication in regard to drug policy should be concerned with honest assessments, while economic interests shall not be reason enough not to act on a health and security situation that has been left to rot for decades. Similarly, **the implementation of quasi-pharmaceutical quality control could only reinforce the black market as the offer will unequivocally bring higher pricing and lower “cannabis quality”.**

While passing a reform can often take decades of activism and advocacy, **it remains important to consider the vote of a new legal framework only as a first step. The “real work” starts now for Malta and in order to see an optimum model be activated, all parties involved must remain focused on the task ahead.** The aim here is in part **for NPOs to become “safe spaces”** where members can share a mutual bond and interest about cannabis in order to exchange best practices and seek advice related to cultivation and consumption. The Maltese supply chain for legal cannabis would need to be “competitive” in order to progressively gain ground from the black market. **In order to keep alive the political momentum, and achieve the intended paradigm shift in cannabis legal treatment, its consumers, and regulation itself, flexibility will prove decisive in efforts.**

Chapter 3. European model

In Europe, the domestication and consumption of Cannabis sativa is thought to have begun in the Copper or Bronze Age. Current uses by the continent's inhabitants are now considerably widespread while

regulation is starting to increasingly appear to be one of the keys to a post-COVID-19 economic recovery, just as the end of alcohol prohibition helped the US emerge from the Great Depression.

The initial feedback from territories that have legally regulated their adult market shows **the possibility of finally reducing crime and risky consumption in a potentially effective way, while protecting the most vulnerable and repairing damages caused by a century of European prohibition.**

Germany, the continent's largest economy, is set to join the club of reforming countries. In 2021, the legalisation of the adult market for cannabis was federally enshrined into the governance pact of the new party coalition. While drafting the new law will not be easy, pledges of expediency have been given: draft law by Autumn 2022, and operational by the end of the legislature (2024-2025). **This operational implementation will arise from the strategic choices related to the desired objectives of this public policy reform. In the operationalization of the reform, these objectives may conflict, hence the importance of prioritising them.**

The objectives of a legalisation project are not to reduce general consumption. In agreement with research and regional context, the focus of a cannabis legalisation in Europe could integrate several specific objectives: **1) Drying up the black market; 2) Genuinely protecting European youth and shifting public health focus on problematic consumption; 3) Giving back meaning to the professions of justice and police; 4) Developing a sustainable European industry.**

1 → Drying up the black market

A truly proactive approach to the gradual elimination of the illegal cannabis market is **key to a comprehensive regulatory model**. Without a competitive market, without predatory pricing, without mechanisms to prevent the emergence of private oligopolies, without appropriate taxation and without befitted access: no objectives of the legalisation can be achieved. Furthermore, this priority goal **must be built around a social justice vertebral column**, to help repair and proactively integrate legacy.

A century of cannabis prohibition in Europe has made it the biggest illegal cannabis market in the world. Not only in terms of the number of consumers, but also in regard to the financial weight of its illicit actors. **This situation strengthens organised crime day by day and yields disasters**, not only regarding health and security but also ecological and social. If illicit cannabis-related expenditures in the EU are estimated to amount to €9 billion / year, the main cost of the repressive approach to illicit drugs is the empowerment of transnational organised crime taking charge of cannabis trafficking. **Let's keep in mind that a century of prohibition has given ample financial means for criminal organisations to diversify. Legalising cannabis will not make criminal organisations disappear.** However, it is paramount to properly regulate the legal market as it strongly influences the ability of consumers to turn away (or not) from the illicit space.

Prohibition advocates regularly point out that traffickers are likely to turn to other illicit activities to compensate for their losses on cannabis. While the impact of cannabis legalisation on criminal networks cannot be known in advance, studies have shown that less than 7-11% of them switch to the distribution of other substances as a result of regulatory change. Hence the **need for a legal transfer to take place gradually**, integrating today's situation where cannabis is almost exclusively in the hands of criminal organisations which had more than a century of drug prohibition to build-up wealth and power. **Only a vast reform of the global financial system would enable the fight against money laundering, the real "sinews of war".**

The continent's backwardness allows us to take in lessons from experiences abroad, notably about regulation pertaining to cost, offer, and accessibility. Quebec and Uruguay for example, having made the choice of **quasi monopolistic endeavours ended up creating too many constraints for legal market players, too little access for consumers and too high a price for products**. Public monopoly of production also presents major structural problems, notably stock-outs. These two experiences, observed in the short term and in different contexts, allow us to analyse the **harmful consequences of a regulation that has not been able to get rid of reflexes stemming from more than a century of prohibition**.

Other dimensions decisive to tackle the black market concern the authorisation for self-cultivation as well as for the creation of non-profit Cannabis Social Clubs (CSCs). The former being integrated in most regulatory models in place around the world, is **a fundamental right** which must be supervised but is before all based on individual liberties. The Social Club model should also be authorised, in order **to create ethical complementary non-commercial short circuit ecosystems as to balance an environment solely based on profit**. **Subjecting cannabis to a dual logic, that of the regulated market and that of the non-profit model, combining a free choice of products and prices, makes it possible to obtain a sufficiently competitive level of accessibility and a satisfactory quality of service to hope to significantly reduce the black market**. This associative model, as a complement to a regulated market system, and to self-production, would be able to generate potentially three times more job creation than forecasts based solely on commercial market sales.

Studies found that **price outweighed ease of access as the most important reason people continue to opt for black market products**. **The pre-tax sales price must therefore be high enough to ensure the profitability of the entire production and distribution chain**, while guaranteeing sufficient legal supply. Secondly, the **price inclusive of tax must be low enough to be more advantageous than the illicit market, a *sine qua non* condition for the eradication of trafficking**. Allowing for a market sufficiently clear, transparent, traceable, diversified, accessible financially and favouring quality is **a real balancing act**, requiring flexible, smart and evolving regulation.

Foreign experiences call for caution with regard to taxes intended to compensate for the social cost of cannabis (also known as "pigouvian taxes"), which remain counterproductive in the presence of a strong competitive illicit market. Legal cannabis in California is for example heavily taxed, making it uncompetitive with the illicit market. **European regulators ought to keep in mind the excluding duality regularly observed between the objectives of significant tax revenue or the fight against the black market**.

The health of the legal cannabis industry in Europe will notably depend on finding a consensus on the fiscal front. A form of mixed taxation according to price and weight, could therefore potentially limit the problems linked to too great a drop in prices. **This proactive supply policy must be accompanied by wide access to a whole range of derivative products**, which currently exist on the black market.

The creation of an independent regulatory body is a crucial point in order to avoid the windfall effect of tax revenues from legalisation. This agency will be responsible for managing business licences, supervising technical, advertising and health standards, and regularly evaluating the budgetary allocation of tax revenues. The regulator's control over production should not mean rationing production. Rather, it is a matter of controlling that the volumes released are those actually grown by strengthening statistical monitoring of the market. Although it is preferable not to put a numerus clausus on these licences, more specific support in the regulatory and financial procedures for the small hands of the illicit traffic and the inhabitants of the neighbourhoods where open dealing is rife today, will be crucial in order for them to be able to take an active part in the legal market. **Administrative procedures must be financially accessible and be able to be carried out within a reasonable timeframe.**

By controlling the majority of the tax revenues from regulation, the independent authority could be allowed to promote prevention and education policies, as well as to support the transformation of the illicit economy into a legal zone. These revenues could, in the mid-term, be used to implement ambitious and efficient public health and social justice policies.



In a public health context, it can be seductive for the regulator to put a regulatory limit on issues that today often allow for a moral panic to rise. However, these reflexes remain linked to prohibition, scientifically unfounded and which at best can only benefit the illicit market. For example, **a THC limit has no scientific ground and should be considered as a gift to the illicit market.** Consumption habits will, by definition, remain in place among consumers who seek to obtain such products. Hence why the products must be visible and should be allowed to be handled, legally accessible to adults, whether or not they are residents of the country, so as not to create a privileged niche for the black market aimed at tourists.

One of the fears that is often attached to the legalisation of cannabis in European countries is that of **the impact that this reform could have on peripheral and impoverished urban geographical areas where open trafficking has been able to develop**, too often because of the withdrawal of the state and the lack of alternative economic opportunities. However, research carried out on these subjects most often undermines those arguments, showing in particular that these geographical areas suffer more than they benefit from traffic and other illicit drugs representing smaller markets, could hardly replace the cannabis trade. That said, it is essential to consider these areas and the people who live there specifically, particularly from a social justice perspective. **With legalisation, comes the need to devise an appropriate legal and economic framework to reintegrate as many of these people as possible into the rule of law.** This issue of social justice is perhaps structurally **the most important challenge of any cannabis legalisation project in Europe.**

All existing cannabis regulatory policies – including the legal regulations implemented in Canada or Uruguay – have been developed within a continuing prohibitionist paradigm. Legalisation reforms can often perpetuate the exclusion, stigmatisation, criminalisation and harm of affected populations, or policies that continue to hinder the prospects of a dignified exit from illegality. In particular, by placing excessive barriers to accessing means of carrying out legal cannabis activities. **Lowering barriers to entry into the legal market, whether for licensing, bank loans or regulatory approval is effective for drying up the black market, but also for tapping into the pool of knowledge, interest and skills of its former players.** “Suburban/rural” skills exchanges could be set up, as could training programmes aimed at developing and maximising the skills of these (former illicit) cannabis professionals. Alongside free trade zones, vocational and university training in the legal industry, and easy access to banking services, a proactive communication and support policy towards these groups must be put in place to encourage their reintegration.

2 → Genuinely protecting European youth and shifting public health focus on problematic consumption

By integrating prevention campaigns worthy of the name, appropriate education on consumption, and a range of harm reduction health services, a legal market will work more effectively in prohibiting sale to minors and help further out primo-consumption age.

Legal regulation reforms have not led to a significant increase in general consumption in jurisdictions that have chosen to recognise and acknowledge the failure of cannabis prohibition. Consumption patterns across all age groups have changed little since the reforms were introduced, notably in the USA and Canada. Perhaps more importantly, **studies do not find a significant increase in cannabis consumption among adolescents, highlighting even significant decline in certain U.S states and canadian provinces,** mainly due to the weakening of the black market which makes it more difficult for younger consumers to obtain supplies.

However, even if legalisation were to lead to an increase in overall adult cannabis consumption (which has yet to be demonstrated), the effect on public health would not necessarily be negative: **the important dimension being to consider first the share of problematic consumption, as well as of prevalence of first time use.** By developing culturally specific social control mechanisms, European nations can allow their citizens to develop relatively healthy and non-issue relationships with cannabis.

Legal regulation of cannabis could put in place efficient public health measures targeting the most vulnerable groups and the most dangerous form of consumption. For this reason, **minors and adults with problematic consumption should be the priority targets of the new reform's prevention measures.** It is by talking objectively about the risks and benefits of consumption that prevention will regain credibility among young people whose perception of risk is often in European countries, at its lowest level recorded regarding cannabis consumption.

Cannabis is indeed not a harmless substance and can have a stronger impact on developing brains. **Ensuring that minors do not have access to the product is therefore paramount and any failure to comply should strongly be sanctioned.** Regulating the communication and advertising of the legal cannabis industry is also fundamental to ensure that it does not target youth under 18's. However, **regulation must avoid a complete ban on advertising, which would favour the biggest players.** Interdiction should however apply to creation of attractive packaging or marketing/promotion to young people, or the sale of cannabis in a "self-service" format (where people help themselves) or in vending machines.

In Colorado and Washington, **cannabis legalisation has not had a significant effect on the number of accidents or road deaths.** Similarly, the share of people reporting driving under the influence of cannabis did not change significantly in Canada one year after legalisation. Current cannabis consumers in jurisdictions where cannabis is used for "recreational" and medical purposes are also significantly less likely to report driving within three hours of use in the past 30 days, compared with consumers living in states without legal cannabis.

3 → Giving back meaning to the professions of justice and police

Legally regulating the cannabis market can, and should, be accompanied by a repressive policy against the illegal sector. **Shifting budget and policies from law enforcement to public health will allow penal law actors to focus on organised crime and money laundering,** while allowing for the rebuilding of the broken links between the police forces and specific populations currently living in (visible) trafficking zones and often discriminatory targeted by prohibition policies.

Studies now show a decline in violent crime following the implementation of decriminalisation and legalisation policies, allowing for the **redeployment of the funding and members of these administrations towards useful public service missions,** positively influencing their performance. Police could also **better pursue non-compliance with the ban on the sale of legal psychotropic drugs** (alcohol, tobacco, cannabis) to minors, which could in turn highlight the reduction in the number of young people being arrested for cannabis related offences as well as the increasing market share of the legal cannabis market.

4 → Developing a sustainable European industry

The issue of regulation is not to be for or against cannabis, but rather to adopt a model that allows everyone to make their own choices in conscience, to protect the most vulnerable, and to pacify society. **While a purely commercial model is to be avoided, the regulatory set up can foster good practices and sustainable standards from a private sector based on Social and Solidarity Economy (SSE) as well as non profit practices such as Cannabis Social Clubs (CSC) and homegrowing.** In the face of the certain future decrease in global production costs through the development of international commerce, **Europe will only stand out from the crowd by favouring healthy and high quality products.**

A single European policy of legalisation seems neither desirable nor possible, both for geographical reasons and because of the diversity of uses and products of the plant. This makes it difficult for consensus models of cannabis policy to emerge (that can be exported and generalised) – and makes **any attempt at a universal model a chimaera**. In that regard, States need to exercise regulatory and discretionary power to set the rules of the game, to attract responsible investors, and to find appropriate buyers and outlets.

Cannabis entrepreneurs are often faced with a real obstacle course: stigmatisation of cannabis, lack of knowledge of recent legal and economic developments, improper access to corporate tools and services, lack of experts to properly assess the risks of the market and thus reduce them, and finally an intrinsic difficulty in setting rates and establishing support policies. **Regulatory projects will be advised to set up a specific framework and an administrative culture in line with the specificities of this plant and the market that will be attached to it.**

There is an opening for the creation of an economic and industrial sector whose direct and indirect spin-offs could be highly beneficial to European countries and their populations. **For a time, national markets will remain protected from international competition and will be able to give local entrepreneurs the opportunity to develop.** This could allow for the **creation of a vibrant ecosystem** around this market **before the rules of free competition are ultimately imposed regionally and globally.**

→ A regulatory authority to regain control

Cannabis regulation can also learn from the mistakes of the alcohol and tobacco regulatory frameworks. Because it represents such a significant financial windfall while being backed by a potentially addictive product, **the European Social and Solidarity Economy (SSE) sector seems today to be the best placed to both respond competitively to the enormous need of the millions of consumers estimated in Europe while avoiding the pitfalls of mercantilism** which are detrimental to public health.

An excessive model of free trade is undesirable because the main motivation for most profit-making enterprises – similar to the illegal market – is to increase consumption in order to maximise profits. In an over-connected global village where the behaviour of our societies – from pandemics to climate change – is disrupting nature to the highest degree, the decade 2020–2030 calls for a renewed vision of nature and a renewal of our connection with it. **Cannabis as a plant in its entirety, and policies related to its multiple uses, can be a lever for these goals. A market for cannabis centred on empowerment, local knowledge, protection of natural heritage and fair trade principles would have much to offer for the sustainable development of a global cannabis industry.**

The alignment of the axes of new legalisations with the UN 2030's Sustainable Development Goals agenda (SDGs) is however a *sine qua non* condition for their effectiveness. Studies have shown that the plant *Cannabis sativa* L. and the public policies regulating consumption are directly linked to at least 64 of the 169 targets in 15 of the 17 SDGs of the 2030 Agenda. Beyond “industrial” uses, it remains essential to reform the current policies of repression, prohibition and marginalisation of other uses of the plant (wellness, therapeutic and non-medical) in order to be able to achieve objectives 3, 4, 5, 8, 10, 13, 16 and 17.

Legal cannabis markets have experienced substantial growth rates and unprecedented investment over the past decade. With little or no regard for the long-term viability of the companies, economic irrationality has inevitably led to unethical and socially damaging practices. Fifteen years ago, **Environmental, Social, and Governance (ESG) factors** emerged as guidelines for assessing the sustainability of an investment. They are now at the heart of long-term investment trends and represent the new standard for prudent asset management. **The cannabis industry has deep permeability with innovation and is thus naturally positioned for ESG adherence** because of its lack of adherence to dogmatic and exclusionary models of corporate and social governance. **ESG adherence not only increases shareholder value, but will also brand and enhance a company's position with potential investors interested in long-term value creation.**

The EU has committed itself to becoming the world's first climate-neutral continental entity by 2050. The newly implemented obligations for ESG disclosures, and the likely requirement for human rights, environmental and governance due diligence has created a jigsaw of interrelated regulations. The trend in Europe is clearly towards a relatively rigid due diligence law, in contrast to previous human rights laws in the supply chain. **The best way for cannabis companies to address these concerns – as well as to guard against forthcoming due diligence legislation – is to take steps to address ESG concerns.**

It is not news that the cannabis trade is not always environmentally friendly: energy consumption, use of pesticide, land and water for example represent environmental variables that can help reduce the overall footprint of the industry. **As consumers increasingly seek out environmentally friendly companies, implementing sustainable practices in order to become fully regenerative will become a strong competitive advantage.** Lastly, the need for transparent, independent, diverse and consensus-based governance should be **of paramount importance given the level of public and regulatory oversight of the industry.** Regenerative farming systems will allow for the reuse or recycling of resources in as many stages of the cannabis plant's life cycle as possible and ultimately trying to lower carbon footprint in any way possible. Notably, by using living soil, implement crop rotation for outdoor growth, capturing wastewater, integrating pest-management systems and eliminating synthetic fertilisers and plastic use. A social licence to operate is also absolutely necessary to gain the support of society and prohibition's impacted neighbourhood communities.

Entry into the legal cannabis market could potentially add value for small-scale agricultural actors, if the framework is set up to allow them to become involved in processing, including the production of whole plant extracts, rather than being restricted to selling raw material. If European farmers are to be free to experiment with different production methods, **adherence to the rules of organic or living soil production should be fiscally encouraged.**



To avoid a profound misunderstanding of the adult-use market and what its consumers are looking for (and will be willing to pay for), it is paramount (as currently shown by the German debate) that in terms of adult-use consumption, **medical cannabis companies are not (and should not be) considered as the most legitimate actors to influence future market regulations.** Indeed, the difference between these two markets lies not only in their distinct production and distribution processes, but in their very raison d'être: the former exists to meet the therapeutic needs of patients; the latter to overcome the illicit market. **By definition, pharmaceutical quality production will tend towards stabilisation and reproducibility, as-well-as a limited pool of seed varieties. This is the exact opposite of what an adult-use market needs. Under the guise of quality and safety concerns, the influence of pharmaceutical stakeholders is often used as a front to hide the defence of financial and commercial interests.** Above all, it is a hindrance to the right to cultivate – thus preventing the success of a legal regulatory reform from the outset.

It is a basic principle of drug policy: if you don't regulate properly to meet demand, the illicit markets will do it for you.

When drinking, people do not look for grapes produced under EU-GACP certification and distilled into wine in EU-GMP facilities. **For cannabis, consumers will pay attention to genetic information and lineage of cultivars, quantified presence of cannabinoids and terpenes, how and where it is grown, but increasingly also whether it is grown locally, sustainably and organically, and thus progressively to terroir.**

The genetic diversity of the cannabis plant is one of its most important assets in order to allow for informed personal experience and research towards specific needs. For these reasons, it is necessary, as soon as legislation is introduced, **to protect the heritage of European countries and the genetic diversity of the plant from continental and overseas territories.** Cannabis-growing areas have long been, and still are for the most part, illegal areas, and as such have not enjoyed the same reputation as other territories. Risks of biopiracy and misappropriation of traditional knowledge exist wherever cannabis has been endemic, especially in the intertropical areas – where a large part of the overseas territories of European countries (France, Netherlands, UK, Spain, Portugal) are located.

It is also advisable to establish regional or geographical indicators for cannabis products that would protect cannabis varieties, as well as traditional knowledge and know-how, notably via ABS (Access and Benefit Sharing): a major vector of development for the local populations that provide genetic material. In addition to the passive protection offered by ABS and the Nagoya Protocol, it is essential to deploy a proactive sustainable development strategy.

Protected designation of origin (AOP), Controlled designation of origin (AOC) and Protected Geographical Indications (PGI) can represent relevant tools to enhance the market value of quality, specificities, organoleptic properties linked to the origin and to traditional cultivation and/or processing practices.

Initiatives that aim to do for Californian cannabis what the AOC designations did for Champagne in France are currently being deployed on the other side of the Atlantic. The general idea here is to protect the intellectual property of farmers that have developed unique growing methods and strains that tend to thrive in different microclimates i.e. a specific terroir. **The intended goal here is to formalise designations of origin to reflect the cultivation communities that have formed over the years around certain strains** through the delineation of environmental and cultural boundaries defining a designation of origin district in continental and overseas Europe.

Additionally, **reform has brought about significant security issues that will need to be taken into account**, including protecting staff and products at every stage of the process, cash-management, training personnel and comprehensive security procedures for all stages of the supply chain. **Clear identification rules for consumers are also important.** In a well-regulated cannabis market, consumers should be able to understand and titrate their dose without difficulty with the help of packaging and labelling standards. Current labelling practices in reformed jurisdictions generally provide little guidance on the “expression of dose”, i.e. how the “dose” of THC translates into the amount to be consumed for a specific product (in particular with edibles).

While **cannabis “lounges” can play the same role as a “safe consumption room” as bars do today for alcohol**, in order to compete effectively with the black market, **online ordering and home delivery should also be allowed.** Today’s consumers now have almost instant access to cannabis, via an increasingly sophisticated illegal supply, accessible continental-wide, with a large number of distribution entry points, online and in physical locations. Consequently, **a successful legal transition must incorporate the same level of accessibility and convenience for distribution. Issues often arise when, for example, pharmacies or tobacco shops, wish to co-opt this dimension of the market.** This question took place in Uruguay and is now being debated in Germany. It is therefore important to remember that a non-medical cannabis distribution in pharmacy for example, besides the incongruity of such concept, will necessarily integrate additional unnecessary costs, as well as a potential problem of insufficient supply, a probable lack of knowledge of cannabis for non-medical use by the pharmacist and of what consumers are looking for, **leading de facto to a strong resilience of the black market.**

If the customer is the main weapon to combat the illicit market, it is important to pay attention to what he/she wants, in this instance quality cannabis. To that effect, the emergence of craft implies favouring the production of raw and manufactured cannabis products with a high attention to quality and attention to detail, usually associated with smaller-scale production, short supply-chain, the use of appropriate and/or labour-intensive cultivation, drying and processing methods, and a strong focus on cultivar selection and the legacy grower experience. These micro-productions generally require less capital and the associated licensing fees should therefore be lower. Micro-licences are generally seen as a tool to encourage diversity in the sector by facilitating the transition of expertise from black/grey markets to legal markets.

The issue of cannabis tourism should also be considered as to identify and minimise the potential cross-border issues associated between European jurisdictions with different regulatory approaches to cannabis. Uruguay, which has restricted cannabis sale to residents has seen an illegal market emerge to meet the demand: 63% of the tourists declared to have consumed cannabis during their stay. If the modalities of access are too restrictive, it will enable the sustainability of a parallel criminal market of opportunity. Border control responses are therefore likely to be costly, ineffective and counterproductive. **Cannabis tourism is a problem that can only really be addressed by the full legal regulation on both sides of a border.** In the absence of this, the challenge has no obvious solution. Bear in mind that repressive measures would probably only make things worse. In reality, **this is an issue that must be tolerated and managed pragmatically.** The focus should be primarily on responding to any real emerging social harm, rather than targeting foreign cannabis consumers with punitive enforcement measures. **For the most part, this problem should remain marginal and localised, and should not be overstated in the policy debate.**

The production of cannabis for the adult market in Europe could be controlled through the establishment of a seed-to-consumer traceability system following the sanitary and phytosanitary standards of other agricultural products. In addition, the industry could rely on new security technologies available, such as the blockchain, some of which operate in a sustainable and environmentally responsible manner, as underlined by the OECD and several UN agencies.

One of the substantial problems of the cannabis industry worldwide is the **lack of standardisation of quality control protocols and concentrations of the plant's active ingredients**. Often, companies in the sectors are concerned exclusively with showcasing the best side of their products, without reflecting the actual content. The lack of standardisation of testing also undermines the industry's ability to make a convincing case on key issues. If being draconian and dictating too strict methodologies to laboratories could limit innovation, being too distant could distort results by allowing certain actors to take advantage of regulatory loopholes to the detriment of consumer safety.

The inspiring idea here is therefore not to reinvent the wheel, but to use everything that exists and make it specific to cannabis. To address this, several initiatives are being developed to enable the establishment of robust and standardised methods for analytical laboratories. In particular, these new techniques will need to be validated using internationally accredited guidelines. **Providing a consistent, systematic and predictable methodology to improve products and services in a cost-effective, accessible and value-adding process for all sectors.** While value chain actors in the adult market will benefit from independent laboratory testing, it will still represent significant costs for farmers and small entrepreneurs. **The support and financial accessibility of producers, processors and distributors in the cannabis sectors for the implementation of these controls will be the key to developing this market with confidence.**

Routine cannabis testing services include cannabinoid concentration and determination of terpenes, aflatoxins, heavy metals, moulds, bacteria, pesticides, herbicides and residual solvents. Concentration testing should improve as chemical standards for known principles become more readily available. Mass spectrometry is likely to play a more important role in quantification, as detection levels are lower and confirmatory testing is needed. However, the legal cannabis industry as a whole and specialised testing laboratories remains in their infancy. **Concentration analysis, together with appropriate product labelling, is therefore necessary to ensure that consumers know exactly how much cannabinoids they are taking.**

In the era of COVID-19, the legal regulation of cannabis for adults in Europe could have a significant impact on long-term economic recovery efforts. It is therefore **essential not only to regulate the legal cannabis market, but also to do so fairly**. The violence stemming from illicit drug trafficking (and the fight against it), strikes first and foremost at people living and growing up in the economically peripheral territories of our continent. **It has long been asserted that prohibition is in fact a war against certain specific categories of the continent's populations**. A war against people. Analyses and evaluations of public policies on illicit drugs in the U.S. have indeed repeatedly demonstrated their use as a repressive tool targeting ethnic and economic minorities. Although there is a significant lack of scientific studies on the subject in Europe, parallel elements can be observed and further feed this hypothesis: importance of ethnic origin, age, gender and supposed standard of living in regard to arrests and detentions.

A sustainable and fair reform needs to address the injustices caused by decades of uneven enforcement of prohibitive laws, particularly against the continent's most economically disadvantaged ethnic minorities and populations. A few examples can be observed in the U.S. notably. New York State expects to generate more than \$1.25 billion (€1.19 billion) in tax revenue over the next six years. These revenues will be reinvested to promote social equity, with 40% going to support public education, 20% to problematic consumption treatment and prevention programmes, and the remaining 40% to the Community Grants Reinvestment Fund. This fund is part of the operationalisation of one of the founding principles of the State reform: repairing the past and present damage of prohibition. At the federal level, the MORE Act (Marijuana Opportunity reinvestment and Expungement), passed several times by the House of Representatives and rejected by the Senate, explicitly based its approach on addressing the past and present harms associated with cannabis prohibition.

Building a circumstantial coalition of allies and framing the debate is absolutely critical to achieve these reforms. The success and clarity of a reform campaign depends on bringing together the actors involved behind a broad set of key principles. These become the basis for reform and guide the roll-out of regulation and licensing. It is therefore not only a question of reversing a catastrophic situation, but also of **recognising by whom the burden of prohibition has been borne, and how to begin to repair the damage caused**.

All other things being equal, the North American and European contexts remain relevantly comparable. The demand for cannabis is a global demand of a largely guilt-free European society, especially among the urbanised middle classes. Because of prohibition, this demand weighs mainly on the vulnerable points of our social fabric. Thus, for the consumption of cannabis, **there is today a *de facto* decriminalisation for the majority of the population when a repressive regime is applied to others.**

Not to take this issue full on under the guise of wanting to maintain a certain social peace is an unacceptable renunciation. Nevertheless, it touches on an important subject: what will become of the geographical areas that depend in part directly or indirectly on traffic? While only a tiny minority of cannabis traffickers earn high incomes –the remaining 90% of the people involved in trafficking are small-time workers who barely earn the legal minimum and do not pay any social contributions–, it is imperative to put in place an ambitious social policy for the inhabitants of the geographical areas where drug dealing openly takes place (and the “fight” against drug dealing) by channelling a significant part of the tax revenues from this new regulated economy to these areas.



Conclusion

The system of prohibition still promoted in the vast majority of European countries is a failure: not only does it only benefit criminal organisations, but it is incapable of protecting the most vulnerable, especially the youngest within the European population. Moreover, it weighs heavily on public spending as there is no tax revenue to match these costs. **No other public policy has survived such an evaluation for so long without being called into question.** The perception of the dangerousness of the product has decreased for the youngest. It can therefore be argued that regulating and legalising cannabis could better protect our children. The application of a repressive policy towards cannabis is profoundly unequal and affects above all the most vulnerable people: ethnic minorities and the poorer classes. **This is a European emergency.**

A choice must be made: the cannabis trade can either be left to criminal organisations or legally controlled by a public body.

The issue is eminently political. Thankfully, governing authorities are increasingly listening to science, public policy evaluation and feedback from new alternative policies. The current situation isn't satisfactory, which has led an increasing number of observers and researchers, but also of exercising law-enforcement officers, to criticise the current status quo. Those who, guided by ideology, seek to maintain it, are complicit. **A century of inaction, prohibition and moral posturing has been instrumental in empowering traffickers all around the European continent.** Maintaining this situation strengthens them more and more every day.

The time has come today for more accountability on the impact of prohibition. While climate change and human rights issues remain intertwined with the question of Cannabis, this pressing societal and structural topic demands that all relevant stakeholders examine and discuss interdisciplinary data, in order to attempt to find consensus on the most appropriate methods of reform via regulation which will vary from one country to another, depending on local contexts and needs.



Recom- men- dations

Axis 1. Black market

General 1 → Gradually reduce the illicit market

Specific 1.1 → Set up a competitive legal market

Operational:

- **1.1.1:** Ensure the production and distribution of sufficient legal supplies to meet demand.
- **1.1.2:** Promote the quality (short circuit, regenerative and organic cultivation, valorisation of territories) and diversity of products available on the legal market (no arbitrary limitations on varieties, forms, cannabinoid levels, etc.).
- **1.1.3:** Charge competitive prices per the illicit market and take into account regulatory constraints on price (quality analysis, cultivation and distribution control, taxation, etc.).

Specific 1.2 → Facilitate the transition from the illegal to the legal market

Operational:

- **1.2.1:** Proactively support the conversion of black market actors (outreach services, information campaign, tax, banking and regulatory facilities, etc.).
- **1.2.2:** Develop specific training for the actors of the sector in reconversion (initial training, continuous training, exchange of skills, etc.).
- **1.2.3:** Criminal amnesty, and automatic retroactive erasure of criminal records (and expungement of fines) for small-scale dealing and non-violent acts (vendors, touts, nannies, lookouts, local micro-producers, etc.), as well as for consumption, homegrowing, and small possessions.

Axis 2. Public health and protection of minors

General 2 → Prioritise public health and the protection of minors

Specific 2.1 → Protect minors and push-back the age of primo-consumption

Operational:

- **2.1.1:** Prohibit consumption by and to sales to minors, with the obligation of systematic control.
- **2.1.2:** Establish dissuasive sanctions for sales to minors.
- **2.1.3:** Implement a proactive primary prevention policy involving the socio-educational sector on the front line of contact with the youngest.
- **2.1.4:** Prohibit consumption in public places, provide for individual and/or collective private consumption in dedicated, open and closed private spaces.
- **2.1.5:** Establish a regulatory body for marketing associated with cannabis use.

Specific 2.2 → Reduce the share of problematic consumers

Operational:

- **2.2.1:** Implement a proactive policy of secondary prevention, harm reduction and care (involving civil society, guidelines for education on consumption, harm reduction, etc.).
- **2.2.2:** Promote early identification and referral of problematic consumption by health system actors and supply-side actors, who, for their clients, are the main intermediaries for user education.
- **2.2.3:** Adopt the conclusions of current research and alternative policies implemented by countries where cannabis has been legally regulated.

Specific 2.3 → Act on subjective representations of drug consumption

Operational:

- **2.3.1:** Moving from a deterrence logic to an information perspective.
- **2.3.2:** Set up information and education campaigns for the general public based on scientific popularisation.
- **2.3.3:** Support private and public research on cannabis market and uses, including medical.

Axis 3. Legal market

General 3 → To enable the sustainable development of a European cannabis market consistent with the societal challenges targeted by the regulation

Specific 3.1 → Foster the development of a sustainable European industry

Operational:

- **3.1.1:** Engage in informal regional cannabis policy discussions to enable the development of a sustainable European cannabis industry.
- **3.1.2:** Align with the UN SDGs by favouring, through regulation and taxation, actors committed to sustainable development; focusing on ESG criteria; or committing to an approach in line with SSE principles.
- **3.1.3:** Secure the financial aspect of commerce (cash-flow, funding operation, public subsidies, etc.), combat money laundering and allow full access to banking and insurance services via a proactive approach involving the concerned parties.

Specific 3.2 → Define production, quality and distribution standards consistent with the needs of the adult legal market to compete effectively with the illicit market

Operational:

- **3.2.1:** Provide clear and authenticated information on the genetic profile and content of by-products.
- **3.2.2:** Introduce strict advertising regulations for retailers, including a neutral and discreet shop front, with an identifying logo, similar to that of tobacco shops present in most European jurisdictions.
- **3.2.3:** Ban all types of promotional sales, as well as television, radio and cinema advertising, but regulate in print and online media (except for young people), as well as for specialised events.
- **3.2.4:** Set up a system to secure the supply chain “from seed to consumer” (traceability tool, blockchain, etc.).

Specific 3.3 → Develop a competitive market with a plurality of actors and production and distribution standards consistent with consumer needs

Operational:

- **3.3.1:** Allow self-cultivation with a limit on the number of plants (e.g. 6 plants per person, 12 per household) as well as private production via social clubs in a non-commercial and harm reduction approach.
- **3.3.2:** Establish an accessible system of flexible licensing to allow the integration of former black market actors.
- **3.3.3:** Give tax preference to actors committed to sustainable and fair production (SSE, ESG standards, organic, etc.).
- **3.3.4:** *No numerus clausus* on the number of licences, and specific access for former black market players.
- **3.3.5:** Enable distribution while integrating dedicated consumer spaces, online sales, delivery, and direct-to-consumer sales for micro-producers.

Axis 4. Regulation and taxation

General 4 → A sustainable and responsible regulation

Specific 4.1 → Establish rigorous non-dissuasive production standards

Operational:

- **4.1.1:** These standards must meet the appropriate quality challenges for consumption (aflatoxin, microbiological, pesticide, stability (drying, rancidity, oxidation).
- **4.1.2:** Define standards for homogeneity and quantitative accuracy of cannabinoid and terpene profiles specific to the adult market.
- **4.1.3:** Set standards for mandatory packaging and information focusing on transparency, traceability, information and consumer health.
- **4.1.3:** Make these standards, including analyses, financially accessible to as many supply-chain parties as possible.

Specific 4.2 → Establish an independent regulatory authority

Operational (Responsible for):

- **4.2.1:** Defining market standards and monitoring compliance.
- **4.2.2:** Ensuring statistical monitoring of cannabis consumption and production to allow sufficient responsiveness to market developments.
- **4.2.3:** Attesting compliance with international obligations.
- **4.2.4:** Defining the focus of budget allocations and tax revenues, and the monitoring of their effects.
- **4.2.5:** Setting a broad representative governing body including from science, specialised civil society, cannabis farmers & industry, and relevant administrations.
- **4.2.6:** Foster scientific research as well as training and education towards relevant parties.

Specific 4.3 → Define market rules and taxation to meet the challenges of cannabis market development

Operational:

- **4.3.1:** Implement the reform in a progressive, transparent and collegial manner, including the structural integration of experts from civil society and the scientific community.
- **4.3.2:** Establish a comprehensive decriminalisation of drugs allowing for a shift towards a public health-oriented policy.
- **4.3.3:** Gradually introduce taxes and define budgetary allocations for these objectives, limiting the threshold in order to remain competitive with the illicit market.
- **4.3.4:** Define a level of taxation that allows the financing of social justice measures while ensuring that a moderate selling price is maintained.



Axis 5. Social justice measures

General 5 → Regulation for social justice

Specific 5.1 → Make law enforcement jobs meaningful again

Operational:

- **5.1.1:** Organise the deferral of law enforcement to enforce the ban on sales to minors by those involved in the legal supply of tobacco, alcohol and cannabis, as well as missions aimed at suppressing illicit trafficking, combat organised crime and money laundering.
- **5.1.2:** Enable law enforcement agencies to take on a role in identifying and directing first-timers and problematic consumers towards prevention, harm reduction and care services.
- **5.1.3:** Restore the link between law enforcement and the population by integrating a preventive community policing role while refocusing their missions on other crimes (in particular violent crimes).

Specific 5.2 → Channel part of the savings from the reorientation of criminal budgets and new tax revenues for targeted reparation for the areas and people that have been victims of the “war on drugs”

Operational:

- **5.2.1:** to finance social justice measures via urban policy (urban cohesion and solidarity for economically disadvantaged neighbourhoods); education and vocational integration (poverty, employment, public service) towards visible trafficking areas (and the fight against it) to limit the attraction of delinquent opportunities linked to the illegal market and to act as a remedy for past policy failures in these areas.

- **5.2.2:** to fund education and employment measures related to the new cannabis industry (aimed at visible trafficking areas).
- **5.2.3:** to finance redeployment measures: of public services (transport, culture, etc.) in the least economically developed areas; as well as parapublic services (associations).

Axis 6. Climate justice and environmental measures

General 6 → Allow the development of a Cannabis ecosystem respectful of human rights that can become a driver for ecological transition

Specific 6.1 → Define an eco-compatible framework that favours actors with low impact on the ecosystem; positive externalities on fauna and flora

Operational:

- **6.1.1:** Favour low and negative carbon impact cannabis related activities, strongly deter high-impact players and prohibit emissions beyond a certain threshold.
- **6.1.2:** Define environmentally friendly production criteria for the use of fertilisers and biocides (pesticides, fungicides) and other products that are dangerous to health and the environment, with specifications specific to the adult cannabis market.

- **6.1.3:** Define criteria for rational water management (moderation, sustainable irrigation techniques, protection of groundwater) in the context of cannabis production and promote the implementation of these models through financial incentives.
- **6.1.4:** Promote respect for the land and preservation of local ecosystems through methods conducive to the creation of a virtuous agro-ecosystem around outdoor cultivation areas and greenhouses (crop rotation, compulsory area of floral meadow, hedges, ponds, energy-saving, etc.).

Specific 6.2 → Establish high standards of respect for human rights, compensation for victims of cannabis prohibition and stigmatisation, such as territories, gender and communities

Operational:

- **6.2.1:** Provide equal and effective protection against discrimination in cannabis laws, policies, and practices, ensuring that particularly marginalised or vulnerable groups can effectively exercise and realise their human rights by monitoring impact and collecting data.
- **6.2.2:** Remove legal barriers that unreasonably restrict or prevent the participation of affected individuals and communities in the design, implementation, and assessment of cannabis laws, policies, and practices.
- **6.2.3:** Ensure that adequate means of redress are accessible for individuals and groups whose rights have been found to be violated as a result of cannabis control laws, policies, and practices.
- **6.2.4:** Ensure the availability and accessibility of harm reduction services as recommended by UN technical agencies such as the WHO, UNAIDS, and the UNODC.
- **6.2.5:** Make the driving code evolve to reflect current research and alternative policies.

Specific 6.3 → Take into consideration the preservation of the plant, soils and climates

Operational:

- **6.3.1:** Consider Cannabis as a dual genetic resource: natural, and cultural/scientific by offering passive protection through Access and Benefit Sharing (ABS, 1992 Convention on Biological Diversity & Nagoya Protocol), and actively through the establishment of Appellations of Controlled/Protected Origin (AOC/AOP) and Protected Geographical Indications (PGI)), particularly in endemic European overseas territories.
- **6.3.2:** In order to better achieve at least 64 of the 169 targets in 15 of the 17 SDGs of the 2030 Agenda, encourage and subsidise hemp-related activities, allowing for capacities to create hemp-based alternatives to gasoline, plastic, and other petroleum products, as-well-as industrial and farming sustainable alternative capacities, soil-cleansing properties, CO2 sequestration, biochar uses, etc.
- **6.3.3:** Build the foundation for an international market under inclusive and fair trade guidelines to protect small-scale farmers, notably from the Global South.
- **6.3.4:** Properly legally regulate the adult-use, wellness, and medical cannabis markets to be able to achieve UN SDGs 3, 4, 5, 8, 10, 13, 16 and 17.



Glossa-
ry

a

- **AO:** Appellation of Origin
- **AOAC:** Association of Official Agricultural Chemists
- **AOC:** Appellations of Controlled Origin
- **APA:** Access and Benefit Sharing
- **ASBL:** Association Sans But Lucratif (Belgium non-profit association)

c

- **CAE:** Comité d'Analyse Économique (Economic Analysis Committee; France)
- **CASP:** Cannabis Analytical Science Program
- **CAST:** Cannabis Abuse Screening Test
- **CDOR:** Colorado Department Of Revenue
- **CEIP:** Centres d'Evaluation et d'Information sur la Pharmacodépendance (Drug Information and Assessment Centres)
- **CFDA:** California Department of Food and Agriculture
- **CICD:** International Drug Control Conventions
- **CPVO:** Community Plant Variety Office
- **CSC:** Cannabis Social Club

e

- **ECHR:** European Court of Human Rights
- **EMCDDA:** European Monitoring Centre for Drugs and Drug Addiction
- **ESG:** Environmental, Social and Governance
- **EU:** European Union
- **EU-BGACP:** Good Agricultural and Harvesting Practices
- **EU GBS:** European Green Bond Standard
- **EU-GMP:** Good Manufacturing Practic

f

- **FOCUS:** Foundation of Cannabis Unified Standard

g

- **GC:** Gas Chromatography
- **GC-FID:** Gas Chromatography – Flame Ionisation Detector
- **GC-MS:** Gas Chromatography – Mass Detector

h

- **HACCP:** Hazard analysis critical control point
- **HPLC:** High Performance Liquid Chromatography

i

- **ILS:** Infraction to the Law on Narcotics (France)
- **INCB:** International Narcotics Control Board
- **INHESJ:** Institut national des hautes études de la Sécurité et de la Justice (Former French institute for security and justice higher studies)
- **INSERM:** Institut national de la santé et de la recherche médicale (French National Institute for Health and Medical Research)
- **ISO:** International Organisation for Standardisation

l

- **LEAP:** Law Enforcement Action Partnership

m

- **MAP:** Mendocino Appellations Project
- **MILDECA:** Mission interministérielle de lutte contre les drogues et les conduites addictives (French interministerial mission to combat drugs and addictive behaviour)

n

- **NSDUH:** National Survey on Drug Use and Health
- **NGO:** Non-governmental organisation

o

- **ODD:** Objective of Sustainable Development
- **OFDT:** Observatoire Français des Drogues et des Toxicomanies (French observatory for drugs and drug addiction)
- **OIP:** International Prison Observatory
- **OSHA:** Occupational Safety and Health Administration

p

- **PDO:** Protected Designation of Origin
- **PGI:** Protected geographical indications

r

- **RoR:** Risk Reduction

s

- **SFDR:** Sustainable Finance Disclosure Regulation
- **SINTES:** System for the National Identification of Toxic Substances
- **SMIC:** French minimum wage
- **SPD:** Sozialdemokratische Partei Deutschlands
- **SQDC:** Société Québécoise Du Cannabis
- **SSDP:** Simple Service Delivery Protocol
- **SSE:** Social and Solidarity Economy

u

- **UN:** United Nations
- **UNDP:** United Nations Development Programme
- **UNFPA:** United Nations Food and Agriculture Organisation
- **UNGASS:** United Nation General Assembly Special Session
- **UKAS:** United Kingdom Accreditation Service
- **UNODC:** United Nations Office on Drugs and Crime

v

- **VoG:** Vereinigung ohne Gewinnerzielungsabsicht (German non-profit association)

w

- **WFTO:** World Fair Trade Organization
- **WHO:** World Health Organisation
- **WTO:** World Trade Organisation



**Key
definitions**

→ b

Bud / “Flower” / Top

Although commonly considered as a ‘flower’, the upper part of the female *Cannabis sativa* L plant is actually a dry (i.e. seedless) **parthenocarpic fruit**¹. As this is the part of the plant which contains the highest concentration of (phyto)cannabinoids, as well as the vast majority of its other active ingredients, it is often understood as the whole plant: “flower = cannabis”.

→ c

Cannabis

Cannabis sativa L. is the botanical name of a plant belonging to the Cannabaceae family. Modern research has shown that the genus Cannabis is monospecific (i.e. within the genus Cannabis, the only existing species is sativa). According to **UNODC**², although cannabis is commonly referred to by various subspecies names (e.g. indica, ruderalis...), *“the chemical and morphological distinctions by which cannabis has been divided into these subspecies are often not easily discernible, appear to be environmentally modifiable and vary continuously. In most cases, it is sufficient to apply the name Cannabis sativa to all cannabis plants encountered”*.

Cannabinoids

Cannabinoids are the active ingredients that support the endocannabinoid system. They can be both naturally secreted in the human body (endocannabinoids³), by the Cannabis plant (phytocannabinoids⁴), or synthetically made (synthetic cannabinoids). As reforms in the various cannabis markets develop, research into these molecules and their effects is **increasing daily**⁵. They bring together a set of activating neuronal receptors in the body; these receptors form the endocannabinoid system (ECS), which is involved in maintaining the body’s homeostasis.

More than **a hundred different cannabinoids have been discovered in the Cannabis plant to date**⁶. The best known of these for its psychoactive effects is probably delta-9-tetrahydrocannabinol or THC. Among other active ingredients that induce different effects can be cited cannabinoids such as CBD (cannabidiol), CBN (cannabinol), and other molecules of the plant: terpenoids and flavonoids, which are found in large quantities in many other plants and fruits.

¹“Cannabis’ ontologies I: Conceptual issues with Cannabis and cannabinoids terminology”, K. Riboulet-Zemouli, Cannabis Epistemology, Drug Science Policy and Law, December 2020.

²“Recommended methods for the identification and analysis of cannabis and cannabis products”, UNODC, (ST/NAR/40), 2009.

³From the ancient Greek (endon), “internal”; endocannabinoids are endogenous, internal to the human body.

⁴From the ancient Greek (phutón), “plant”; phytocannabinoids are the cannabinoids found in plants.

⁵“Recent advances in Cannabis sativa genomics research”, Bhavna Hurgobin, Muluneh Tamiru-Oli, Matthew T. Welling, Monika S. Doblin, Antony Bacic, James Whelan, Mathew G. Lewsey, New Phytologist, 7 December 2020.

⁶“The pharmacologic and clinical effects of medical cannabis”, L. M. Borgelt, K. L. Franso, A. M. Nussbaum, G. S. Wang, Pharmacotherapy, 33: 195–209, 2013.

Cannabidiol / CBD

The second most common cannabinoid in the Cannabis plant that does not produce psychotropic/intoxicating effects. This molecule is not considered a drug at the international level. It is being extensively investigated in medical research and has shown promising potential for a number of properties including anti-inflammatory, anticonvulsant, antipsychotic, antioxidant, neuroprotective, immunomodulatory and anti-cancer⁷.

Concentrates

Concentrates are extractions from the cannabis plant that allow for the selection of all or part of the plant's active ingredients, in various forms (rosin, crystals, oil, etc.).



Decriminalisation

Decriminalisation is the removal of the simple consumption of cannabis, or even self-production, from the criminal law. Decriminalisation does not create a legal market, leaving the supply chain mostly to the black market, but considers the user as a consumer, or even, if he or she suffers from problematic consumption, as a person in need of help by redirecting him or her to health care channels. This public policy is often a prerequisite for any legal regulation of the adult-use cannabis market⁸.



Edibles / Infused foods

The term edible refers to any food product infused with cannabis. The best known are probably space cakes, but there are now different forms (chocolate bars, candies, THC salt, infused oil, etc.).

Endocannabinoid system (ECS)

Like the respiratory and cardiovascular systems, at least every mammal has an [endocannabinoid system \(ECS\)](#)⁹. This is responsible for keeping all body systems in balance with each other throughout our lives. Naturally, the body produces its own cannabinoids, which interact with the ECS.

When SEC receptors are stimulated by cannabinoids, the human body communicates more effectively with itself and maintains its internal balance. [The ECS thus helps](#)¹⁰ *“regulate many aspects of the body's internal functioning, including immune function, appetite, metabolism, energy regulation and pain.”*

⁷“Effects of cannabinoids and cannabinoid-enriched cannabis extracts on TRP channels and endocannabinoid metabolic enzymes.”, L. De Petrocellis, A. Ligresti, A. S. Moriello, J Pharmacol; 163:1479–94, 2011; “Cannabinoids as novel anti-inflammatory drugs”, P. Nagarkatti, R. Pandey, S. A. Rieder, V. L. Hegde, M. Nagarkatti, Future Med Chem, 1: 1333–49, 2009.

⁸“Decriminalisation – Building a future without punishment for people who use drugs”, J. F. Ochoa, J. Bridge, M. Nougier, IDPC, 2022; “Drug Decriminalization”, Drug Policy Alliance, 2022; “A Quiet Revolution: Drug Decriminalisation Policies in Practice Across the Globe”, A. Rosmarin, N. Eastwood, Release, July 2012.

⁹“The endocannabinoid system: Essential and mysterious”, P. Greenspoon, Harvard Health Publishing, Harvard Medical School, 11 august 2021.

¹⁰“Sensible Cannabis Education A Toolkit for Educating Youth”, Student for Sensible Drug Policy (SSDP), 2018.

These “endocannabinoids”, produced by the body, activate this system, as do the active ingredients of cannabis, the “phytocannabinoids”. The mechanism underlying medical cannabis is thus based on a process of filling an internal imbalance in endocannabinoids with an external supply of phytocannabinoids, to restore an eroded balance (homeostasie).

The variability and individual differences between the endocannabinoid systems of each human being thus partly explain why the experience of cannabis and its effects can vary considerably for each consumer.

Entourage effect

“The ‘entourage effect’” is the theory that all cannabis compounds work better when used together (cannabinoids, terpenes, flavonoids, etc.) than when used separately. This arrangement is also believed to be [present in most medicinal plants](#)¹¹.



Flavonoids

Cannabis also contains **flavonoids, which are responsible for the colour of the plant**, and have recognised [anti-inflammatory properties](#)¹², as-well-as promising leads for antifungal, antioxidant and anti-cancer properties. **The metabolism of flavonoids in C. sativa and the surrounding effect are still currently little studied**¹³. Nevertheless, new flavonoids present in specific varieties [are regularly isolated](#)¹⁴ (23 in 2022).



Hashish / Hashish / Resin

Hashish, or resin, is a concentrated form of cannabis created by manually or mechanically extracting and compressing the plant’s resin glands, the trichomes. These glands contain the majority of the active ingredients in cannabis. In Western Europe, the consumption of hashish, mainly from Morocco, has long been the cultural majority.

Hemp

Hemp – is the vernacular name historically given to Cannabis sativa L. Nowadays, its meaning has evolved to refer to crops explicitly grown [for purposes other than psychopharmacological](#)¹⁵, such as clothing fibre, paper, fuel, building materials from the fibre, or food and oil from

¹¹“Herbal Medicinal Products.”, F. Gaedcke; B. Steinhoff; H. Blasius, Boca Raton, 2001.

¹²“Isolation from cannabis sativa L. of cannflavin—a novel inhibitor of prostaglandin production”, M.L.Barretta, D.Gordona, F.J.Evans, Biochemical Pharmacology Vol°34(11), p.2019–2024, 1 June 1985.

¹³“Flavonoids in Cannabis sativa: Biosynthesis, Bioactivities, and Biotechnology”, J. L. Bautista, S. Yu, L. Tian, CS Omega, Vol°6(8), p.5119–5123, 18 February 2021.

¹⁴“Flavonoid glycosides and cannabinoids from the pollen of Cannabis sativa L.”, S. A. Ross, M. A. ElSohly, G. N. N. Sultana, Z. Mehmedic, C. F. Hossain, S. Chandra, Phytochemical Analysis, Vol°16(1), p.45–48, 24 January 2005.

¹⁵ [Augur Hemp Report](#), Augur Associates, 2022.

the seeds. This dissociation of “hemp” and “cannabis” (sometimes called “marijuana”) is however **purely artificial and mainly legal and terminological**¹⁶. It is not based on botany or other sciences. Nevertheless, jurisdictions have adopted various – potentially useful, but necessarily arbitrary – thresholds to distinguish between legal and illegal Cannabis, for example according to THC content. This definition therefore varies from jurisdiction to jurisdiction and corresponds, for example, to plants with 0.6% THC in Italy, 0.3% in the France, or 1% in Switzerland.



Legalisation / Legal regulation

Legalisation of cannabis means making the plant legal, regardless of its composition. In the processes underway in different countries around the world, the term used is more regulatory, which is the establishment of a legal framework for the production, processing, consumption and all operations surrounding Cannabis. The plant is thus legalised and its market regulated.



Medical / Medicinal / Therapeutic use

Refers to all uses of cannabis products (related to its psychoactivity) applied to the detection, prevention, diagnosis and treatment of disease and, where appropriate, to the remediation of health risks produced.



Neocannabinoids / NPS / “Spice” / “synthetic cannabinoids”

In recent years, modern chemistry has created new artificial molecules that attempt to mimic the cannabinoids that activate the human endocannabinoid system. They are called neocannabinoids¹⁷ and have emerged, like other derivatives, **in response to prohibition**¹⁸. These molecules do not occur in a natural environment and can only be obtained, among other things, through in vitro chemical synthesis or biotechnological inventions.

¹⁶ “Cannabis’ ontologies I: Conceptual issues with Cannabis and cannabinoids terminology”, K. Riboulet-Zemouli, Cannabis Epistemology, Drug Science Policy and Law, December 2020.

¹⁷ From the ancient Greek (neos), “new”, “young”; neocannabinoids are new synthetic drugs, new psychoactive substances. See: “Cannabis’ ontologies I: Conceptual issues with Cannabis and cannabinoids terminology”, K. Riboulet-Zemouli, Cannabis Epistemology, Drug Science Policy and Law, december 2020; “Cannabis de synthèse: dites bonjour aux Néocannabinoïdes”, K. Riboulet-Zemouli, 16 February 2021; “El Spice debería llamarse ‘neocannabinoide’ y no ‘cannabinoides sintético’, dice un investigador”, Canamo, 2021.

¹⁸ “The Iron Law of Prohibition”, M. Baltzer, The Governance & Justice Group, 26 October 2015.



Recreational / Social / Adult / Non-medical use

The commonly mentioned “recreational” use of cannabis only partially covers the spectrum of uses that underlie this market dimension. This use in fact also includes self-medication, which may account for up to 40% of so-called “recreational” users in [the most recent European studies](#)¹⁹.

The use of the terms “social” or “adult” use are therefore more representative of the issue. The latter implies that access to minors is genuinely forbidden, a provision that is only possible when legal regulation is in place. For this reason, the terms “social” or “adult” use will be used in this report to refer to uses commonly referred to as “recreational”.



Strain / Chemovar / Variety

A strain refers to the unique chemical and genetic composition of the Cannabis plant, including the cannabinoid and terpene profiles, which determine the effects of a given product.

There are a huge number of different strains of Cannabis. Each has a unique profile and produces different effects. Although hybrid varieties are nowadays often the only ones available, there are two main subspecies: cannabis indica and cannabis sativa. Sativa strains originally included strains with more cerebral, energising and stimulating effects; whereas indica strains generally produce more sedative and relaxing effects²⁰. They also distinguish between plant types, with sativas being more slender and stemmy than the bushes produced by indica.

Hybrid varieties, which are in the majority today, contain elements of both indica and sativa varieties (and sometimes ruderalis), and these different combinations can produce different effects. Importantly, research is beginning to move away from these simplistic categories²¹, whose [classification and history are disputed](#)²², and is looking at how [the full genetic profile of the plant](#)²³, including its terpenoid and flavonoid concentrations, are also responsible for the effects experienced from cannabis.

¹⁹ “Enquête Cannavid 1”, Bus 31/32 et Plus Belle La Nuit (PBLN), en collaboration avec l’INSERM, December 2020.

²⁰ “A chemotaxonomic analysis of cannabinoid variation in cannabis (cannabaceae)”, K. W. Hillig, P. G. Mahlberg, American Journal of Botany, 91(6): 966–75, 2004; “Genetic evidence for speciation in Cannabis (cannabaceae)”, K. W. Hillig, Genetic Resources and Crop Evolution, 52(2): 161–80, 2005.

²¹ “Cannabis sativa and Cannabis indica versus ‘Sativa’ and ‘Indica’”, J. M. McPartland, Botany and Biotechnology, p.1001–121, 24 May 2017; “How to Move Past the Sativa–Indica Classifications of Cannabis”, C. Livesay, Cannabis Business Times, 8 October 2019; “Why Indica, Sativa, and Hybrid Classifications Mean Close to Nothing”, D. S. Brand, Queen of Bud, 2022.

²² “Why The Cannabis Industry Can’t Get Rid of Sativa and Indica Labelling – Yet”, K. Delamont, Weedmaps, 16 May 2019.

²³ “Taming THC: potential cannabis synergy and phytocannabinoid–terpenoid entourage effects”, E. Russo, Br J Pharmacol, 163(7): 1344–64, 2011.



THC / Tetrahydrocannabinol

Δ^9 -tetrahydrocannabinol is a cannabinoid found in Cannabis plants and is responsible for the psychotropic effect or “high²⁴”. It is often explicitly prohibited by national legislation and also has a potentially large number of therapeutic and other properties.

Terpenes

Terpenes are the compounds that give plants their smell and flavour and also influence the overall effect of the strain; the Cannabis plant has **one of the highest terpene diversities of any plant flora**²⁵.

Each strain has its own **profile of terpenoids**²⁶ and flavonoids that contribute to its aroma, colour and effect. For example, limonene is a terpene with a lemon aroma and is known to have uplifting effects. It is also found in other foods, such as oranges and lemons. Taken together, these molecules contribute to a potential overall effect of cannabis: the “**entourage effect**”.

Trichomes

Flavonoids are metabolites that are largely produced in the glandular trichomes of the female plant’s crown. Trichomes come in three variants defined by their appearance: bulbous, sessile and pedunculated. Little is known about how these different forms affect the chemical production process of the plant. Recently, researchers have developed a microscopy technique²⁸ to study the internal structures of different trichomes. The results show that trichomes are the “**biochemical factories of the hemp plant**²⁹” and further research could help to understand how they make and store the active ingredients of the plant.



Vaporisation

Vaporisation is a consumption technique that heats the plant below its burning point and produces a vapour rich in active ingredients. It is often used as an alternative method of consumption to combustion.

²⁴ “Towards a better cannabis drug”, R. Mechoulam, L. Parker, Br J of Pharmacol; 170(7): 1363–64. 2013.

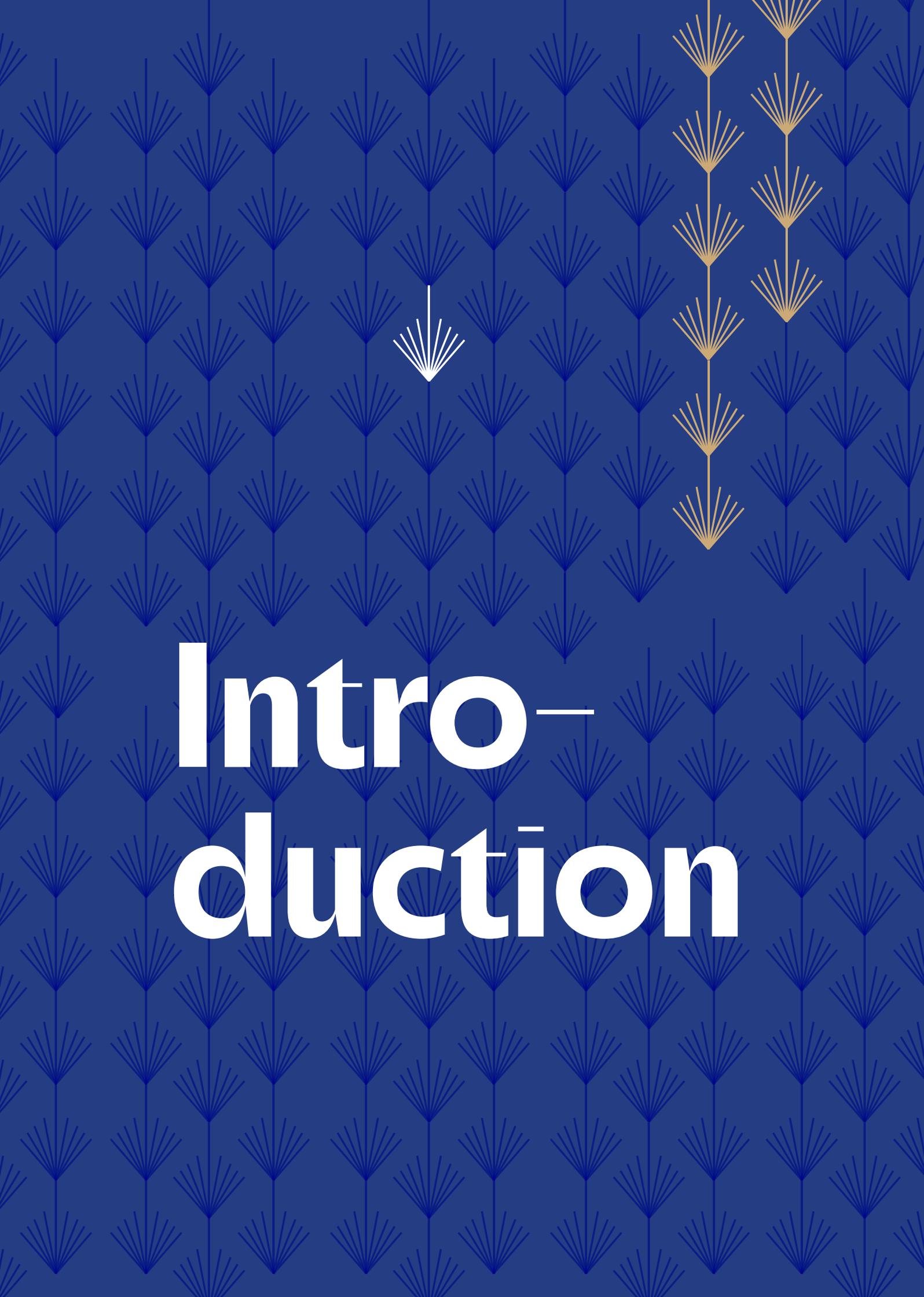
²⁵ “Chapter 1 – The Botany of Cannabis sativa L.”, F. Brian, T. Mahmoud, A. El Sohly, The Analytical Chemistry of Cannabis Quality Assessment, Assurance, and Regulation of Medicinal Marijuana and Cannabinoid Preparations, pp.1–26.

²⁶ “Variations in terpene profiles of different strains of Cannabis sativa L.”, S. Casano, G. Grassi, V. Martini, M. Michelozzi, Acta Horticulturae; 925: 115–21, 2011.

²⁷ “Taming THC: potential cannabis synergy and phytocannabinoid–terpenoid entourage effects”, E. Russo, Br J Pharmacol, 163(7): 1344–64, 2011.

²⁸ S. J. Livingston, T. D. Quilichini, J. K. Booth, D. C. J. Wong, K. H. Rensing, J. Laflamme–Yonkman, S. D. Castellarin, J. Bohlmann. L. Samuels, “Cannabis glandular trichomes alter morphology and metabolite content during flower maturation”, The Plant Journal, 30 august 2019, <https://onlinelibrary.wiley.com/doi/abs/10.1111/tpj.14516>

²⁹ S. Wickramasinghe, “The frostier the flower, the more potent the cannabis”, The University of British Columbia News, 28 octobre 2019, <https://news.ubc.ca/2019/10/28/the-frostier-the-flower-the-more-potent-the-cannabis-ubc-study/>



Intro- duction

1. What are we talking about?

The European prohibition system on cannabis has been a failure for more than 50 years. Not only has it come up short in terms of protecting citizens, whether they consume or not (particularly young people), but it also places a heavy burden on the public finances of Member States whilst allowing transnational criminal organisations to thrive.

The issue is not simple. Cannabis consumption can indeed be both harmful and beneficial to a person's physical and psychological health, depending on many factors, including age, medical and family history, frequency of consumption, work, personal environment, and the type and quality of cannabis consumed.

As cannabis is almost universally classified as illegal throughout the world, a wealth of research has historically focused on the negative effects of the plant. More limited [research on benefits](#)¹, especially therapeutic, have been amplified in recent years as the legal regulation of the different uses of cannabis progresses.

This report will start with a brief introduction to the plant, the modern history of its deregulation, and the different forms of consumption that exist.

a → The plant

Cannabis is [the botanical name for the hemp plant](#)², under the scientific name *Cannabis Sativa* L. **Its first confirmed uses**³ **date back to at least 6,000 BC**⁴ **and potentially as far back as 12,000 BC**⁵. **They attest to a progressive domestication throughout the world**⁶ **deploying various proven uses**, ranging from handicrafts, to medical and religious practices, as well as consciousness alteration. This plant **has accompanied the development of many cultures and societies**, from the Celts and the Han, to the European expeditions to the American continents, until its inclusion in the main pharmacopoeias and the scientific rediscovery of its effects.

¹ "Cannabis sativa research trends, challenges, and new-age perspectives", T. Hussain, G. Jeena, T. Pitakbut, N. Vasilev, O. Kayser, Biology, iScience, 1 November 2021.

² "The Genomics of Cannabis and Its Close Relatives", I. Kovalchuk, M. Pellino, P. Rigault, R. van Velzen, J. Ebersbach, J. R. Ashnest, M. Mau, M. Schranz, J. Alcorn, R. Laprairie, J. McKay, C. Burbridge, D. Schneider, D. Vergara, N. Kane, T. Sharbel, *Annual review of plant biology*, Vol°71, p.713–39, 10 March 2020.

³ "Large-scale whole-genome resequencing unravels the domestication history of Cannabis sativa", R. G. Ren, X. Zhang, Y. Li, K. Ridout, M. L. Serrano-Serrano, Y. Yang, A. Liu, G. Ravikanth, A. Nawaz, A. Samad Mumtaz, N. Salamin, L. Fumagalli, *Science Advances*, Vol°7(29), 16 July 2021.

⁴ "Physical evidence for the antiquity of Cannabis sativa L", M. P. Fleming, R. C. Clarke, *Journal of the International Hemp Association*, January 1998.

⁵ "History of cannabis and the endocannabinoid system", M. A. Crocq, *Dialogues in clinical neuroscience*, Vol°22(3), p.223–228, 2020.

⁶ "The Cannabis Spread throughout the Continents and its Therapeutic Use in History", I. A. Charitos, R. Gagliano-Candela, L. Santacroce, L. Bottalico, *Endocr Metab Immune Disord Drug Targets*, 21(3), p.407–417, 2021. See also: "Was cannabis first grown in eastern China?", J. McPartland, O'Shaughnessy's Online, 19 July 2021.

⁷ "Despite the fact that medicinal plants always contain several active ingredients (in the case of medicinal hemp: THC, CBD, etc.), they are most often considered as a single "substance". See: "Herbal Medicinal Products". F. Gaedcke; B. Steinhoff; H. Blasius, Boca Raton, 2001.

⁸ "Frequently asked questions, Marijuana FAQs", Center for Disease Control and Prevention, 2022.

⁹ "Drug harms in the UK: A multi-criterion decision analysis", D. Nutt, L. King, L. D. Phillips, *The Lancet* 376, November 2010.

¹⁰ "The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research.", National Academies of Sciences, Consensus Study Report, National Academies of Sciences, Engineering, and Medicine, 2017.

Cannabis is a particularly complex active plant⁷.

Unlike other drugs, such as cocaine, heroin, or alcohol, it is **almost impossible to overdose on it⁸**. It has also been measured as **significantly less addictive than other legal (alcohol, tobacco) and illegal (methamphetamines, heroin, etc.) substances⁹**. **A 2017 meta-analysis¹⁰ of more than 10,000 articles concluded that there were no proven serious adverse health effects of moderate cannabis consumption in adults.** The complexity of the plant is further compounded by its many therapeutic applications, whose effects are gradually being recognised throughout the world for a number of identified pathologies – even in historically prohibitionist countries such as Thailand¹¹, Japan¹², or Malaysia¹³ – and promising for others as individual experiments and clinical research multiply.

Nevertheless, the associated risks exist. And it is **because of its potential danger that it is now necessary to treat the subject of cannabis seriously in order to regain control over a situation that is harmful to individuals and to society.** Scientific research generally agrees that it is recommended not to consume it before adulthood except for prescribed medical use¹⁴.

The plant contains hundreds of active ingredients grouped mainly within three main subgroups: **cannabinoids** (such as CBD and THC which are the most known, but there are more than **144 cannabinoids discovered so far¹⁵**), **terpenes** (taste and smell) and **flavonoids** (colour), as well as **a large number of other molecules in smaller quantities¹⁶**. All of these components have their own properties – notably therapeutic – and **represent together the full spectrum of the plant.** The effect of this synergy potentially implies that the use of the whole plant could exert greater effects than the sum of its separate components: the **“entourage effect”¹⁷**.

Recent research¹⁸ has demonstrated that the compounds found in cannabis (phytocannabinoids) closely mimic compounds naturally produced by the body (endocannabinoids). To that effect, the plant works through the endocannabinoid system of humans and **animals¹⁹** and is responsible for the wide ranging effects of cannabis. **Each individual and their endocannabinoid system is unique²⁰** which contributes to the potential varying effects between consumers.

¹¹ “Medical Cannabis in Thailand”, A. Fongsri, Health products consumer protection department, Songkhla provincial public health office, 2020; “Thailand Legislators Overwhelmingly Endorse Medical Cannabis Legalisation”, A. Tharoor, Talking Drugs, 26 November 2018; “Why is medical marijuana a high ranking priority for Thailand’s military?”, M. Walden, ABC News, 12 January 2020.

¹² “Health ministry mulls legalizing marijuana for medical use”, K. Ichino, The Asahi Shimbun, 26 May 2022; “Japanese Ministry of Health to Discuss Medical Cannabis Legalization”, N. Potter, High Times, 27 May 2022; “Le Japon envisage de légaliser le cannabis médical”, A. Bernard, Newsweek, 30 May 2022.

¹³ “Legalising medical cannabis under spotlight in Malaysia”, H. Hassan, The Straits Times, 13 April 2022; “Import and use of medical marijuana products allowed in Malaysia if legal requirements are met: Khairy”, R. S. Bedi, Channel News Asia, 9 November 2021.

¹⁴ See in particular: “The Effects of Marijuana on the Teenage Brain”, M. Kaliszewski, American Addiction Centers, 12 November 2021; “Statistics on Marijuana Use in Teens”, A. Morin, VeryWellMind, 14 February 2022; “An Examination of the Legal Marijuana Use Age and its Enforcement in California, a State where Recreational Marijuana is Legal”, J. C. Fell, T. Toomey, A. H. Eichelberger, J. Kubelka, D. Schriemer, D. Erickson, IIHS, March 2021; “Alcohol and Cannabis Use and the Developing Brain”, B. Lees, J. Debenham, L. M. Squeglia, Alcohol Research Current Reviews, Vol^o 41(1), 9 September 2021; “A Population-Based Analysis of the Relationship Between Substance Use and Adolescent Cognitive Development”, J-F. G. Morin, M. H. Afzali, J. Bourque, S. H. Stewart, J. R. Séguin, M. O’Leary-Barrett, P. J. Conrod, American Journal of Psychiatry, Vol^o 176, (2), p.98–106, February 2019; “Impact of adolescent marijuana use on intelligence: Results from two longitudinal twin studies”, N. J. Jackson, J. D. Isen, R. Khoddam, D. Irons, C. Tuvblad, W. G. Iacono, M. McGue, A. Raine, L. A. Baker, PNAS, Vol^o 113, N^o 5, p.500–508, 19 January 2016; “Cannabis and the adolescent brain”, H. Shen, PNAS, Vol^o 117, N^o 1, p.7–11, 7 January 2020.

¹⁵ “What are cannabinoids?”, E. Earlenbaugh, C. Peterson, The Cannigma, 16 May 2021.

¹⁶ “Cannabis Pharmacology: The Usual Suspects and a Few Promising Leads”, Ethan B. Russo, Jahan Marcu Published in Advances in Pharmacology, 19 February 2020.

¹⁷ “Taming THC: potential cannabis synergy and phytocannabinoid–terpenoid entourage effects”, E. B. Russo, British Journal of Pharmacology, 1 August 2011.

¹⁸ “Phytocannabinoids and endocannabinoids: different in nature”, M. Maccarrone, Rendiconti Lincei. Scienze Fisiche e Naturali, Vol^o 31, p.931–938, 15 October 2020.

¹⁹ “The Endocannabinoid System and Phytocannabinoids”, G. Richter, Today’s Veterinary Practice, 5 August 2020.

²⁰ “From Phytocannabinoids to Cannabinoid Receptors and Endocannabinoids: Pleiotropic Physiological and Pathological Roles Through Complex Pharmacology”, A. Ligresti, L. De Petrocellis, V. Di Marzo, Physiological Review, Physiological Reviews, Vol^o 96, (4), p.1593–1659, October 2016.

The relevance of its current global prohibition – which started under the second Geneva Convention of 1925²¹ and was globally fostered in the late 1930s by conservative political movements –, was first called into question by the rediscovery in the 1970s of its therapeutic potential during the HIV/AIDS epidemic, most notably in California and then in Canada. **As one of the first substances (along with coca and opium) to be placed under international control, cannabis was never subjected to scientific scrutiny until 2018²².**

b → The history of its (de)regulation

Cannabis was not always illegal. The history of this substance can therefore **inform and contextualise the evolution of its regulation on the European continent²³.** Prohibition of the plant took shape in the early 20th century, taking root in the aftermath of the **two Opium Wars in China²⁴**, under the dual impetus of virtue and temperance leagues in the **United States²⁵**, the **United Kingdom²⁶**, **South Africa²⁷** and **Egypt²⁸**, as well as **competing technological innovations and economic interests²⁹**, before being militarised by US President Richard Nixon under the title of the **“War on Drugs”³⁰** in the 1960’s.

It is important to consider that **the main treaty on cannabis – the 1961 Single Convention³¹ – was drafted even before the “War on Drugs” began.** Although it can be strongly argued that this treaty remains an enterprise strongly imbued with a colonialist logic³², **it is anachronistic to describe this Convention as a treaty that initiated the said “war”.** Nevertheless, if the Single Convention is not a “War on Drug” instrument: its predominant interpretation and implementation may very well be.

The 1961 Convention was intended to regulate “drugs”, the latter term needed to be understood primarily as “medicine”. **Its provisions established before everything else a comprehensive and harmonised regulation of the medical and pharmaceutical sector³³.** While the Convention uses terms such as “control” and establishes mainly regulatory requirements related to the medical and pharmaceutical uses of drugs, **the words “recreational use” are absent, and the term “prohibition” is very rarely mentioned in the text.**

²¹ Coming in force on September 25th, 1928, and although not signed by the U.S., the Convention was intended to impose global controls over a wider range of substances, including, for the first time, cannabis, which was referred to as “Indian hemp” in Article 11 of the Convention. See also: “International Opium Convention”, Chap.6, Vol°1 Narcotic Drugs and Psychotropic Substances, 6.6, 6a, 6b Geneva, 19 February 1925; “Dagga and Prohibition: Markets, Animals, and the Imperial Contexts of Knowledge, 1893–1925”, U. Chattopadhyaya, South African Historical Journal, Vol°71(4), p.587–613, 11 Dec 2019.

²² “Cannabis amnesia – Indian hemp parley at the Office International d’Hygiène Publique in 1935”, K. Riboulet–Zemouli, F. Ghehiouche, M. A. Krawitz, FAAAT, 2022. See also “Obligations and flexibilities under European & international law: a path towards domestic cannabis adult-use regulation”, B–A. Jeanroy, A. Bernard, Augur Associates white paper, p.12, April 2022.

²³ “What the History of Drugs Can Teach Us About the Current Cannabis Legalization Process: Unfinished Business”, M. Adrian, Substance Use & Misuse, Vol°50, Issue 8–9, 11 September 2015.

²⁴ “Opium’s Orphans – The 200-YEAR History of the War on Drug”, P. E. Caquet, Reaktion Books, 2022.

²⁵ “The International Law of Treaties and United States Legalization of Marijuana”, Columbia Journal of Transnational Law, Vol°10, N°2, p.413–441, 1971.

²⁶ “Cannabis Britannica: Empire, Trade and Prohibition”, V. Berridge, The English Historical Review, Volume 119, Issue 483, September 2004, p.1075–1076, September 2004.

²⁷ “North–American Bias and non–American roots of cannabis prohibition”, S. Scheerer, In: L. Böllinger, Cannabis Science: From Prohibition to Human Right, p.31–36, 1997.

²⁸ “Cannabis prohibition in Egypt, 1880–1939: From Local Ban to League of Nations Diplomacy”, Middle Easter Studies 47(3), p.443–460, May 2011.

²⁹ See: “The rise and decline of cannabis prohibition. The history of cannabis in the UN drug control system and options for reform”, Transnational Institute, 2014; The Oxford Handbook of Global Drug History, Edit. P. Gootenberg, Oxford Handbooks, March 2022.

³⁰ “Legalize It All”, D. Baum, Harper’s Magazine, June 2013.

³¹ “The IHO as Actor: The case of cannabis and the Single Convention on Narcotic Drugs 1961”, J. Mills, Hygiea Internationalis Vol° 13, N°1, p.95–115, 2016.

³² “Decolonizing drug policy”, C. Daniels, A. Aluso, N. Burke–Shyne, K. Koram, S. Rajagopalan, I. Robinson, S. Shelly, S. Shirley–Beavan & T. Tandon, Harm Reduction Journal, Vol°18, Art. n°20, 2021; “The UN Drug Control Conventions”, Transnational Institute, 2022.

Together with the 1971 and 1988 Conventions, [these international treaties](#)³⁴ are now the foundation of our illicit drug regulation system and have shaped contemporary national drug policies overall. The prohibitionist interpretation, which prevailed for decades, has in many countries (starting with the United States) allowed consumers of certain drugs to be considered as criminals and potentially imprisoned. The likelihood of this occurring is impacted by their colour, social status or [gender](#)³⁵.

Since the almost unanimous ratification of these treaties, scientific and social research, the global growth of cannabis consumption, as well as the regulatory reversals of a growing number of States (notably on the American and European continents) are not only questioning the obligation to penalise simple cannabis consumption, but also the feasibility to legally regulate non-medical domestic cannabis markets.

As presented in the Augur Associates' white paper "[Obligations and flexibilities under European and international law: a pathway to national regulation of adult-use cannabis](#)³⁶", the emergence of national regulatory frameworks for non-medical uses, operating within a restrictive international trading system, is less of a legal-conceptual obstacle than often thought.

Indeed, cannabis regulation and control policy is often presented as an external imposition. However, the historical reality of the legal construction of these laws is primarily to be sought internally: in the ruling class interests, the assumptions of modernisation, and even the racist and classist underpinnings of national policy choices. As [the Commentary on the 1988 Convention](#)³⁷ notes, conventions, "*necessarily operating at the level of public international law, do not in themselves prohibit behaviour by an individual or group of individuals*". Their actual legal establishment within States ultimately determines their implementation.

Beyond the harmful effects, which must continue to be studied, science and policy are now moving towards a more detailed understanding of the action of this plant on the human body, as well as the consequences of a prohibitive interpretation and subsequent regimes that has failed for several decades to fulfil their objectives, notably to reduce the risks for consumers and to make societies safer.

³³ "High compliance: a lex lata legalization for the non-medical cannabis industry – a method to regulate adult uses of cannabis in accordance with the Single Convention on narcotic drugs, 1961", K. Riboulet-Zemouli, FAAAT editions, 15 March 2022.

³⁴ "Drug Conventions, Transnational Institute (TNI), 2022.

³⁵ "Gendering Drug Policy", F. Macaulay, in *The Impact of Global Drug Policy on Women: Shifting the Needle*, J. Buxton, 19 November 2020.

³⁶ "Obligations and flexibilities under European & international law: a path towards domestic cannabis adult-use regulation", B. A. Jeanroy, A. Bernard, K. Ziboulet-Remouli, Augur Associates white paper, April 2022.

³⁷ "Commentary on the UN Convention against illicit traffic in narcotic drugs and psychotropic substances 1988", United Nations, p.52, 20 December 1988.

As the Maltese case³⁸ currently shows (to be discussed in the second Chapter of this report), **it is possible to move forward at the national level, and legally regulate the market for non-medical cannabis use, in a way that meets, in good faith, full compliance with international cannabis obligations³⁹.**

The Mediterranean islands demonstrate that the international drug control conventions provide a place for the legalisation of *“non-medical and scientific uses in the context of the industry.”* This model via a flexible, functional and pragmatic interpretation and implementation of the conventions appears to be the **most successful, and indeed preferable, outcome of international cannabis policy reforms⁴⁰.**

The obligation to prohibit remains virtually absent from the conventions, appearing only in broad and ill-defined terms under national prerogatives allowing States, exceptionally, to enact prohibition. Therefore, **signatory Member States can now begin to discuss options for substantive changes** to create a clear space within international law for legal regulation and other policy experimentation to promote the ultimate objectives of the treaties, namely *“to promote social progress and better standards of living in larger freedom⁴¹”.*

C → Different forms of consumption

Contrary to what is generally associated with cannabis, combustion⁴², with or without tobacco, is far from being the only way to consume the plant⁴³. Cannabis can, for example, be consumed by vaping to avoid the harmful effects of combustion and tobacco, but also in concentrates, presented as such or in *vape pens*, as well as infused foods, capsules, patches, suppositories, cosmetics... Thus, the duration of the effects of psychoactive substances contained within cannabis varies greatly and can be broken down into 6 parts: (1) total duration, (2) onset, (3) rise, (4) peak, (5) lag, and (6) residual effect. Depending on the type of product and the way it is consumed, each produces separate and continuous effects.

³⁸ “Obligations and flexibilities under European & international law: a path towards domestic cannabis adult-use regulation”, B. A. Jeanroy, A. Bernard, K. Ziboulet-Remouli, Augur Associates white paper, p.39, April 2022.

³⁹ “High compliance: a lex lata legalization for the non-medical cannabis industry – a method to regulate adult uses of cannabis in accordance with the Single Convention on narcotic drugs, 1961”, K. Riboulet-Zemouli, FAAAT editions, 15 March 2022.

⁴⁰ “A Brief History of Cannabis and the Drug Conventions”, J. Collins, American Journal of International Law, Vol^o114, p.279-284, 12 October 2020.

⁴¹ Charter of the United Nations, Preamble, 1945.

⁴² “Cannabis isn’t the health problem – the tobacco people mix with it is”, Adam Winstock, Ian Hamilton, The Conversation, 24 May 2017.

⁴³ While, the ECDD does not consider smoking in its literature –since intoxication is already considered contrary to therapeutic benefits, “smoking a joint” remains the number one general public perception when referring to “cannabis”. See: “Cannabis recommendations”, World Health Organisation Expert Committee on Drug Dependence (ECDD), WHO Reference Number: ECDD41, 24 January 2019.

Figure 1: Types of consumption and associated effects

Mode of consumption / Route of administration (ROA)	“Onset” / Effect onset time	“Come up” / Rise of the effects	“Peak effects”	“After effect” / Residual effect	Total	Remarks
Smoking	0 - 10 minutes	5 - 10 minutes	15 -30 minutes	45 -180 minutes	1 - 4 hours	Varies according to the presence or absence of tobacco (“onset”), the dosage and concentration of the product and its form (flower, extract...)
Vaping	0 - 10 minutes	5 - 10 minutes	15 -30 minutes	45 -180 minutes	1 - 6 hours	Varies according to the vaping temperature, the dosage and concentration of the product and its form (cartridge, oil, extract, flower...)
Sublingual (oil, tincture, etc.)	0 - 10 minutes	5 - 15 minutes	15 - 45 minutes	45 - 180 minutes	2 - 4 hours	Varies according to the form (extract, oil, tincture...)
Ingestion (“edibles” / edible)	20 - 120 minutes	20 - 40 minutes	2 - 5 hours	6 - 12 hours	4 - 10 hours	Biological factors as well as the product form can impact the duration and intensity of the effects. Certain components of edibles can also increase bioavailability (sugar, fruit, chocolate, peanut butter, etc.)
Topical (cream, massage oil, etc.)	1 - 5 minutes	5 - 10 minutes	10 - 15 minutes	1 - 6 hours	2 - 6 hours	Varies according to product form and concentration. Topical application provides local effects with little to no psychoactivity.
Rectal (suppositories)	30 - 45 minutes	30 - 60 minutes	60 minutes	1 - 8 hours	2 - 6 hours	Mild to no psychoactivity.

Source⁴⁴: Augur Associates, 2022.

Each form of consumption has different properties in terms of speed of action and potency of effects. The variety in perceived effectiveness of each consumption method is **influenced by the unique endocannabinoid fingerprint of the consumer.** In the legal markets, people rely nowadays mostly on the stated cannabinoid percentages to dose and temper their consumption. This represents a **step towards the ideal goal of assessing the full genetic profile of the plant.**

⁴⁴ Table created from data taken from: “The effect of orally and rectally administered delta 9 – tetrahydrocannabinol on spasticity: a pilot study with 2 patients”, R. Brenneisen, A. Egli, M. A. Elsohly, V. Henn, Y. Spiess, Int J Clin Pharmacol Ther, Vol°34(10), p.446–523, Oct 1996; “Human cannabinoid pharmacokinetics”, M. A. Huestis, Chem Biodivers. Vol°4(8), p.1770–1804, 2007; “Acute Effects of Smoked and Vaporized Cannabis in Healthy Adults Who Infrequently Use Cannabis: A Crossover Trial”, T. R. Spindle, E. J. Cone, N. J. Schlienz, et al. JAMA Netw Open, Vol°1(7), 2018; “What are marijuana’s effects?”, NIDA, 2021, 19 April 2021; “Edible cannabis”, J. S. Zipursky, O. D. Bogler, N. M. Stall, CMAJ, Vol°192(7), Feb 2020; “The therapeutic potential of cannabis and cannabinoids”, F. Grotenhermen, K. Müller–Vahl, Dtsch Arztebl Int; Vol°109(29–30), p.495–501, July 2012; “Reasons for Marijuana and Tobacco Co–use Among Young Adults: A Mixed Methods Scale Development Study.”, C. J. Berg, J. Payne, L. Henriksen, et al, Subst Use Misuse, Vol°53(3), p.357–369, 2018; “Psychonaut wiki cannabis ROA x duration”, 2022.

2. Associated risks

There is no simple answer as to what are the risks in consuming cannabis. They vary according to the person, the environment, the amount, the way and the frequency of consumption.

Intuitively and quite legitimately, it may seem natural to think that the most dangerous drugs are or should be banned, while those that would be considered less dangerous or useful, are or could be allowed (or tolerated). However, this logic is problematic on two levels. Firstly, current regulations are **not based on scientific grounds**⁴⁵, nor on the level of “dangerousness” in order either to ban or regulate a substance. Secondly, following this logic, one may be led to believe as a consequence that an authorised drug is not or only slightly dangerous, or on the contrary that an illicit drug is dangerous and useless in every respect. Because of this **lack of relationship between science and regulation**, one of the pillars of regaining control on the subject of cannabis must be the implementation of a coherent information and prevention policy⁴⁶.

Cannabis consumption involves various risks, which the report “**Cannabis in question(s)**”⁴⁷ by the independent foundation Addiction Suisse presents under several categories:

- **Personal characteristics:** children and adolescents are still developing and are therefore more vulnerable to the effects than adults. People with health problems such as asthma, bronchitis, high blood pressure, heart problems or mental illness are also at greater risk.
- **The situation:** a person who consumes in situations where a high level of attention and concentration is required increases the risk of accidents (e.g. on the road). Similarly, cannabis consumption can lead to performance problems (e.g. at school or at work).
- **The frequency of consumption:** the more frequently a person consumes, the greater the risk of developing problematic consumption or, in case of combustion, of damaging the airways through smoking. However, problems can also occur with occasional consumption, for example in case of driving a vehicle, or with pre-existing health problems.

⁴⁵ “Toward an Improved Multi-Criteria Drug Harm Assessment Process and Evidence-Based Drug Policies”, V. Dubljevic, *Frontiers in Pharmacology*, Vol^o9, p.898, 2018.

⁴⁶ The EMCDDA published a comprehensive hand-book for decision makers, opinion makers and policy makers in science based prevention of substance use and aimed to provide a European wide document focusing on preventive approaches which can be adopted in different settings. Therefore, including in schools, family settings, environmental, media, community and advocacy opportunities. The handbook underlines the importance to focus on evidence based research and encourages member states to: 1) Implement science based approaches and advocate for the discontinuation of ineffective approaches; 2) Create an environment where front line prevention practitioners are encouraged to improve their knowledge and skills. See: “European Prevention Curriculum (EUPC): a handbook for decision-makers, opinion-makers and policy-makers in science-based prevention of substance use”, EMCDDA, September 2019.

⁴⁷ “Le cannabis en question(s)”, Addiction Suisse, Lausanne, 2013.

→ **How it is used:** smoking cannabis is particularly harmful to the respiratory tract. Eating it carries a higher risk of overdosing with adverse effects than, for example, vaporising it.

→ **The dosage of the active substance:** when a large amount of an active substance (such as THC) is absorbed on one occasion, the intoxication may be more pronounced. The higher and the more unexpected the dose, the greater the risk of experiencing “bad trips”.

Finally, the Augur report also integrates two structural dimensions:

→ **The overall environment:** the less close a person is to his relatives, or the less stable the family and friends circle, or the less balanced the professional and social environment, the greater the risk of problematic consumption. It is **above all a lack of connection⁴⁸ that more easily leads to a switch to problematic use.**

→ **The endocannabinoid system:** some people are less suited to active compounds than others.

⁴⁸ “Can Connection Cure Addiction?”, J. Hari, Greater Good, Berkeley University, 27 January 2015.

a → Effects and risks of short-term consumption

In the short term, cannabis consumption can potentially:

→ Lead to cognitive impairments that may compromise the ability to drive or operate hazardous equipment safely. Generating a sedative effect, resulting in drowsiness that can slow reaction time, **reduce attention and negatively impact the ability to coordinate simultaneous actions⁴⁹.**

→ Lead to learning and memory difficulties and therefore may impair reasoning, concentration, decision making and can, in some cases, contribute to work or school failure.

→ Impact negatively on mental health: although cannabis can produce a euphoric state, it can also cause anxiety, distress and in rare cases **in predisposed individuals,** can act as a **trigger for a psychotic episode⁵⁰** (derealisation, paranoia, hallucinations).

⁴⁹ “Cannabis effects on driving skills”, R. L. Hartman, M. A. Huestis, Clin Chem, Vol^o59(3), p.478–92, March 2013.

⁵⁰ “The health and social effects of nonmedical cannabis use”, World Health Organization, 2016.

b → Long-term risks

Frequent (regular, even daily) or prolonged (several months or years) cannabis consumption can have the following consequences:

- Damage to the respiratory tract (throat, trachea, lungs) and difficulty in breathing if smoked. Cannabis smoke contains many of the same **harmful substances**⁵¹ that can be found in burning tobacco (e.g. tars).
- Harm to mental health: a risk of intensification of anxiety disorders or depression **for those with a family predisposition or history of mental illness**, with a risk of dependence due to prolonged consumption⁵². These risks are increased by the level of consumption and the concentration of the products⁵³. Cessation or reduction can also potentially **improve the mental health of consumers**⁵⁴. On the other side, **specific cannabis strains**⁵⁵ can themselves aid anxiety depending on the genetic profile.

The risks presented here are general risks, as cannabis consumption carries specific risks for pregnant and/or breastfeeding women, children, adolescents, etc. **This concerns in particular the impact on the development of the brain when it is still developing (up to the age of 21 and 25), and much more so in the case of very young**⁵⁶ consumers. **These effects may be reversible**⁵⁷, but **not systematically**⁵⁸.

The risk of dependence exists with cannabis but has been **scientifically evaluated as less important than with alcohol or tobacco**. It is above all a psychological dependence which can lead to a withdrawal syndrome but which is not comparable to a physical addiction associated with physiological readjustments during withdrawal which are present with products such as alcohol, tobacco, heroin or benzodiazepines.

This dependence can affect the social, educational or professional life of consumers. In this regard:

- Frequent consumers during adolescence increase their risk of addiction in adulthood.
- Approximately 1/10 consumers are likely to develop a dependence on cannabis. This tendency is greater for early consumers. Almost 1/6 who started in their **teens will be affected**⁵⁹.
- **A quarter to half of daily consumers**⁶⁰ are likely to develop problematic use.

⁵¹ "A systematic review of the respiratory effects of inhalational marijuana", M.P. Martinasek, J.B. McGrogan, A. Maysonet, *Respir Care*, Vol°61(11), p.1543–51, November 2016.

⁵² "Association of Cannabis With Long-Term Clinical Symptoms in Anxiety and Mood Disorders: A Systematic Review of Prospective Studies", G. Mammen, S. Rueda, M. Roerecke, S. Bonato, S. Lev-Ran, J. Rehm, *The Journal of clinical psychiatry*, Vol°79(4), 2018; "Association of cannabis use in adolescence and risk of depression, anxiety, and suicidality in young adulthood: a systematic review and meta-analysis", G. Gobbi, T. Atkin, T. Zytynski, S. Wang, S. Askari, J. Boruff, N. Mayo, *JAMA psychiatry*, 2019; "Cannabis use and disorder: Epidemiology, comorbidity, health consequences, and medico-legal status", S. A. Gorelick, R. Hermann, Vol°2, p.150, September 2017; "Risks of increasingly potent Cannabis: the joint effects of potency and frequency: as THC levels rise, the risk of psychosis, cognitive deficits, and structural brain changes increases", J. M. Pierre, *Current Psychiatry*, Vol°16(2), p.14–21, 2017.

⁵³ "Associations between butane hash oil use and cannabis-related problems", M. H. Meier, *Drug and Alcohol Dependence*, Vol°179, p.25–31, 2017; "Examining the profile of high-potency cannabis and its association with severity of cannabis dependence", T. P. Freeman, A. R. Winstock, *Psychological medicine*, Vol°45(15), p.3181–3189, 2015.

⁵⁴ "Reductions in cannabis use are associated with mood improvement in female emerging adults", E. Moitra, B. J. Anderson, M. D. Stein, *Depression and anxiety*, Vol°33(4), p.332–338, 2016.

⁵⁵ "Feeling Anxious? Here's 9 Weed Strains You May Want to Try", A. Drury, *Weedmaps*, 6 December 2019.

⁵⁶ "Cannabis use during adolescent development: Susceptibility to psychiatric illness", B. Chadwick, M. L. Miller, Y. L. Hurd, *Front Psychiatry* Vol°14(4), p.129, 1 October 2013.

⁵⁷ "Effect of Abstinence on Memory Functions in Cannabis Users", S. Rathee, R. Shyam, *Journal of Psychosocial Research*, Vol°13(2), p.443–451, 2018.

⁵⁸ "Persistent cannabis users show neuropsychological decline from childhood to midlife", M. H. Meier, A. Caspi, A. Ambler, H. Harrington, R. Houts, R. S. Keefe, T. E. Moffitt, *Proceedings of the National Academy of Sciences*, Vol°109(40), p.E2657–E2664, 2012.

⁵⁹ "Persistent cannabis users show neuropsychological decline from childhood to midlife", M. H. Meier, A. Caspi, A. Ambler, H. Harrington, R. Houts, R. S. Keefe, T. E. Moffitt, *Proceedings of the National Academy of Sciences*, Vol°109(40), p.E2657–E2664, 2012.

⁶⁰ "Adverse health effects of marijuana use", N. D. Volkow, R. D. Baler, W. M. Compton, S. R. Weiss, *N Engl J Med*, Vol°370(23), p.2219–27, June 2014.

Specific risks to certain populations have been briefly discussed here. However, the main focus is on the main risks to individuals. The report will deal with some of the specific risks in a later section, which will address some of these risks from a public health perspective. (See: Failure from a public health perspective, Chapter 1)

C → Specific risks of mixing tobacco and cannabis

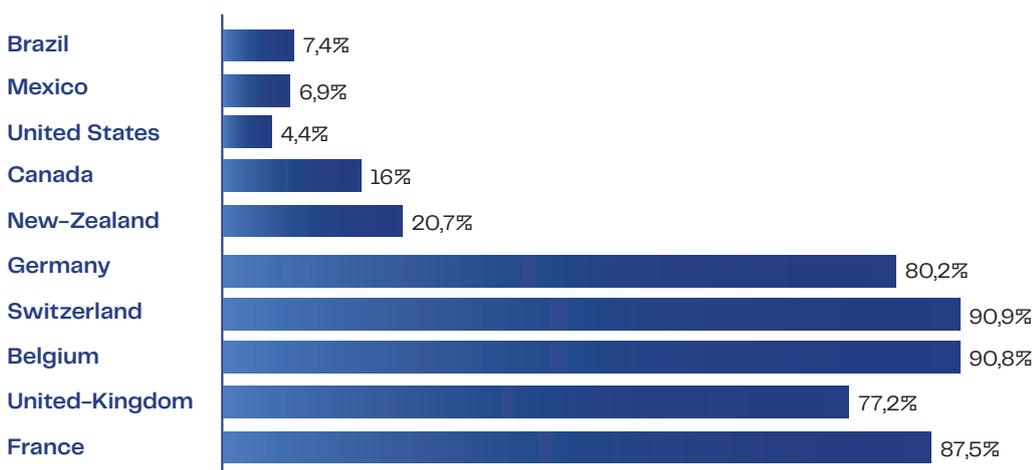
Unlike North American consumers, **“smoking joints” – a mixture of tobacco and cannabis, often in the form of resin – is the most widespread mode of consumption in Europe**⁶¹. This European specificity underlines a strong issue in terms of public health and risk reduction and has a strong influence on the harmfulness of cannabis (as well as on how it is perceived). **This practice is concomitant with an illicit market where prohibited consumption offers few alternative options.**

⁶¹ “No Smoke without Tobacco: A Global Overview of Cannabis and Tobacco Routes of Administration and Their Association with Intention to Quit,” C. Hindocha, T. P. Freeman, J. A. Ferris, M. T. Lynskey, A. R. Winstock, *Front. Psychiatry*, 5 July 2016.

⁶² “No Smoke without Tobacco: A Global Overview of Cannabis and Tobacco Routes of Administration and Their Association with Intention to Quit” C. Hindocha, T. P. Freeman, J. A. Ferris, M. T. Lynskey, A. R. Winstock, *Front. Psychiatry*, 5 July 2016.

Figure 2: Tobacco/cannabis mix by country

Worldwide: 65.6%



Non-EU category:

U.S.: 4.4%
 Brazil: 7.4%
 Mexico City: 6.9%
 Canada: 16%
 New-Zealand: 20.7%
 Australia: 51.6%

Non EU but in Europe:

UK: 77.2%
 Switzerland: 90.9%

EU Category:

Germany: 80.2%
 Ireland: 81.4%
 Spain: 86.4%
 Denmark: 87%
 France: 87.5%
 Hungary: 89.3%
 Austria: 89.4%
 Portugal: 89.8%
 Belgium: 90.8%

Mixing tobacco and cannabis poses specific risks. Indeed, **tobacco is more addictive than cannabis** when consumed in isolation. The addictive potential of tobacco mixed with cannabis is thus increased compared to cannabis alone. In a [study published in Frontiers](#)⁶³, it has been pointed out that among consumers wishing to quit, those using cannabis without tobacco encountered fewer difficulties. Research has also shown that tobacco has been found [to increase severity of psychosis episodes](#)⁶⁴ and that rates of psychosis were lower in countries that consume cannabis [with no tobacco](#)⁶⁵.

Thus, **European cultural consumption patterns, developed under prohibition and favoured by high rates of tobacco consumption, remain particularly linked to this mixture, which also reinforces the risks at the respiratory level compared to other forms of consumption.**

d → Risks of cannabis consumption compared to other psychoactive substances

Cannabis prohibition is often hard to understand, especially as [substances that are scientifically proven to be more dangerous](#)⁶⁶ for human beings and society, such as tobacco and especially alcohol, are legally regulated.

Several studies have attempted to compare these different substances, sometimes looking at whether they act as a complement or a substitute. As [the Conseil d'analyse économique](#)⁶⁷, which reports to the French Prime Minister, explains, *“most of these studies conclude that [alcohol and cannabis are rather substitutes](#)⁶⁸. Regarding the link between cannabis and tobacco, there is a positive correlation between tobacco and cannabis use (co-use), but the authors find it difficult to identify a causal link⁶⁹ although there are leads concerning the [synergy between tobacco and cannabis](#)⁷⁰. However, they agree that co-use of cannabis and tobacco is harmful because it prevents individuals from quitting smoking (tobacco or cannabis), thus locking them into [repeated use](#)⁷¹”.*

⁷⁹ “Working group on the criminal response to drug use” Mildeca, 2016.

⁸⁰ “Conseil des ministres du 15 septembre 2021. Amende forfaitaire délictuelle pour usage de stupéfiants.”, Vie publique, French Government, 15 September 2021.

⁸¹ “Le spectre de la loi du 31 décembre 1970”, Y. Bisiou, Swaps – 1970, N°96–97, Winter 2020–2021.

⁸² “If the penalty for a crime is a fine, then that law only exists for the lower class”, The Big Apple, 25 November 2020. See also: “The Constitutionality of Income-Based Fines”, A. Schierenbeck, The University of Chicago Law Review, 2015; “Fines and Fees Are Inherently Unjust”, O. Nimni, 9 May 2017.

⁶⁶ “Drug harms in the UK: A multi-criterion decision analysis”, D. Nutt, L. King, L. D. Phillips, The Lancet 376, November 2010.

⁶⁷ “Cannabis: How can we take back control?” K. E. Auriol, P.-Y. Geoffard, Notes du conseil d'analyse économique, Vol°52(4), p.1–12, April 2019.

⁶⁸ “Do Youths Substitute Alcohol and Marijuana? Some Econometric Evidence”, F. J. Chaloupka, A. Laixuthai, Eastern Economic Journal, Vol°23, No. 3, p.253–276, 1997.

⁶⁹ “Tobacco Smoking and Cannabis Use in a Longitudinal Birth Cohort: Evidence of Reciprocal Causal Relationships”, A. Badiani, J.M. Boden, S. De Pirro, D.M. Fergusson, L.J. Horwood, G.T. Harold, Drug and Alcohol Dependence, no. 150, p.69–76, 2015.

⁷⁰ “Reasons for Marijuana and Tobacco Co-use Among Young Adults: A Mixed Methods Scale Development Study”, C. J. Berg, J. Payne, L. Henriksen, et al, Subst Use Misuse, Vol°53(3), p.357–369, 2018.

⁷¹ “Is Cannabis Use Associated with Increased Risk of Initiation, Persistence, and Relapse to Cigarette Smoking? Longitudinal Data from a Representative Sample of US Adults”, A. H. Weinberger, J. Platt, J. Copeland, R.D. Goodwin, The Journal of Clinical Psychiatry, Vol° 79, no. 2, 2018.

These data highlight the fact **that the legal prohibition of cannabis often tends to limit the types of consumption to the most harmful form** (combustion and tobacco mixture for example in Europe, or the rise of potentially harmful necocannabinoids worldwide).

Without underestimating the possible harmful effects of cannabis, studies on the harmfulness of drugs show a low social cost and dependence on cannabis, whereas alcohol and cigarettes **cause significant more harm to the individual and society**⁷², yet are legally regulated.

⁷² "Drug harms in the UK: A multi-criterion decision analysis", D. Nutt, L. King, L. D. Phillips, The Lancet 376, November 2010.

⁷³ This graph is based on the scientific modelling developed by Prof. Nutt and his team (see: "Drug harms in the UK: A multi-criterion decision analysis", D. Nutt, L. King, L. D. Phillips, The Lancet, Vol° 376, November 2010) and their assessment of the different degrees of harm of non-medical drugs in the UK, according to their multi-criteria decision analysis model. See also: "The classification of psychoactive substances. When science is ignored", Global Drug Policy Commission, 2019 Report, Press Kit, 2019; "Traficants de drogue, Etats, consommateurs: histoire d'une codépendance", RTS.ch, Documentary series, 16 February 2020.

Figure 3: Weighted scores for the harmfulness of drugs on the individual and society

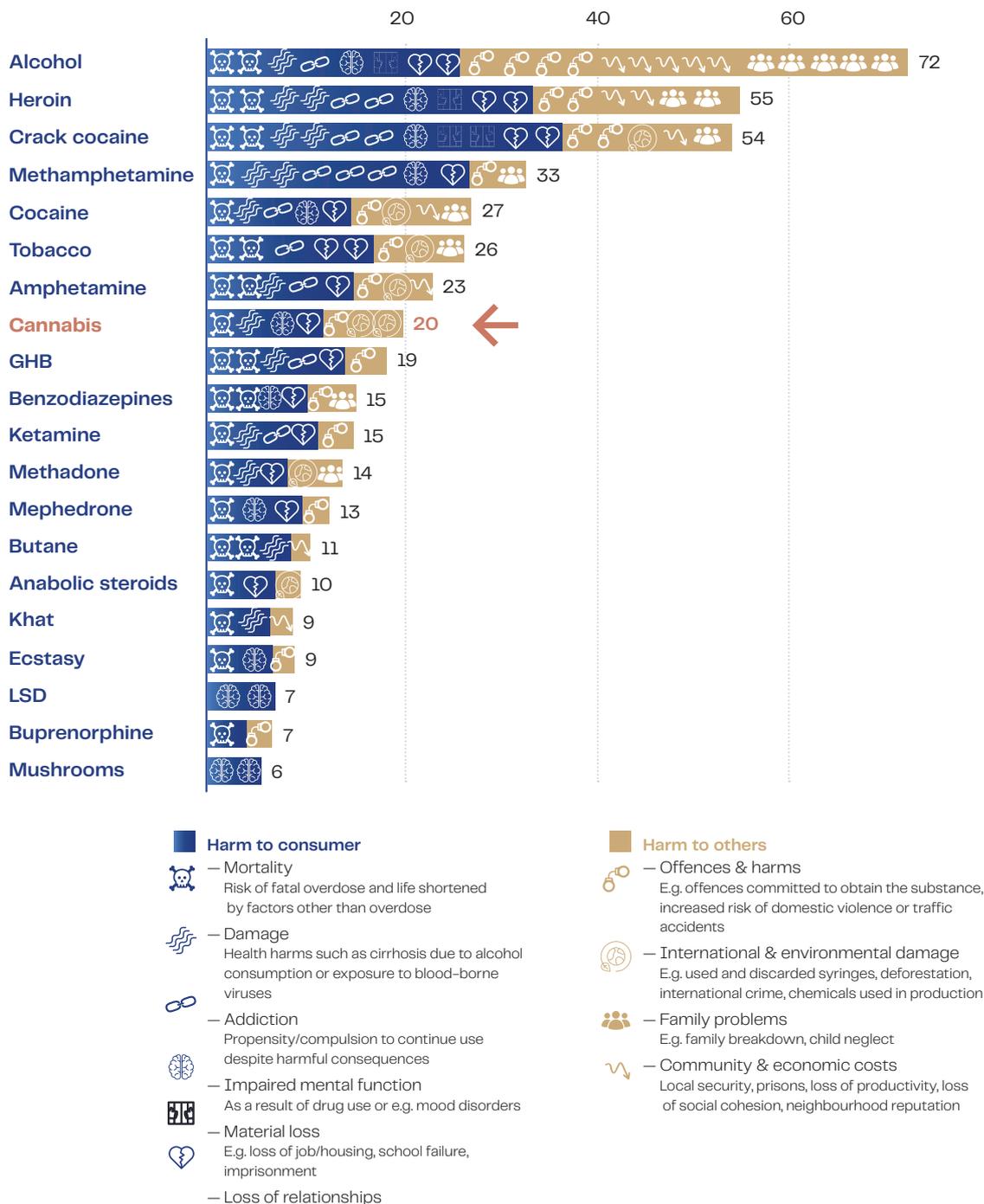
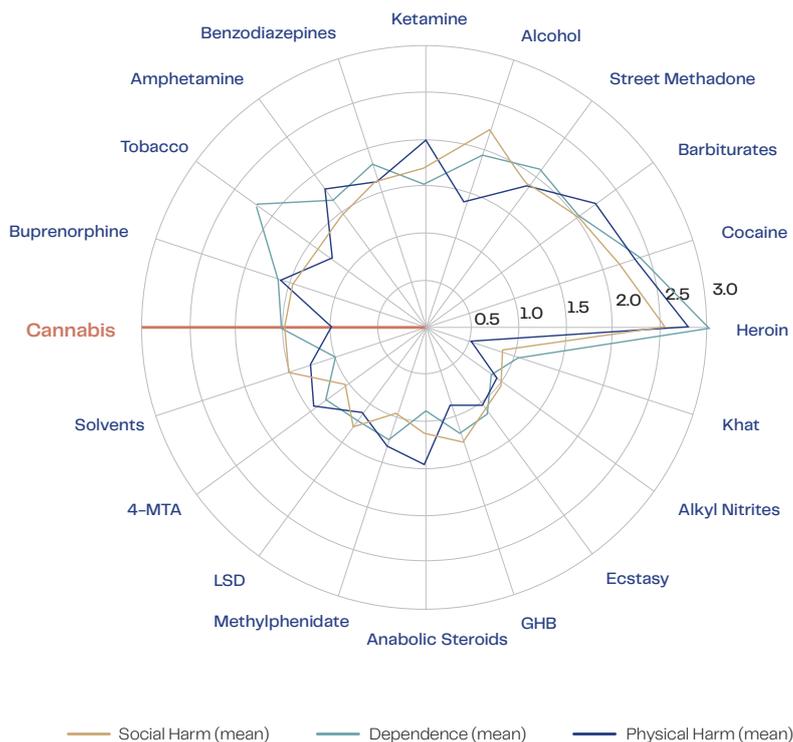


Figure 4: Scale of addiction, social and physical harm of drugs



Source⁷⁴: Lancet, 2007.

e → Harm reduction

Harm (or risk) reduction⁷⁵ is an approach that underpins public health policies to drugs and drug consumption and attempts to minimise their risks, without necessarily focusing solely on abstinence or the overall reduction of drug consumption. Since drugs, such as cannabis, are a potentially dangerous reality in our society, harm reduction makes it possible, through **various strategies⁷⁶**, to make it as “safe as possible”. Principles of harm reduction applying to cannabis include providing guidelines for safer consumption methods, learning about the different CBD:THC ratios and their effects, information on purity and dosage, etc.

Public⁷⁷ and civil society⁷⁸ harm reduction actors now recognise there are inherent risks associated with a range of behaviours and substances, and that there are a number of ways to reduce them. For clarity, harm reduction can be seen in the context of activities other than drug consumption: applying sunscreen at the beach or wearing a helmet when riding a motorbike, for example. **For cannabis, there are different forms of consumption that involve different risks⁷⁹.**

⁷⁵ The World Health Organization (WHO) defines harm reduction as: “it is known to cover a set of activities that are intended to minimize the negative physical and social impact, including the transmission of HIV, incurred by the behaviours related to drug use.” See: “Drug-Related Harm Reduction”, Eastern Mediterranean Regional Office, WHO, 2022.

⁷⁶ Cannabis harm reduction strategies, Drug Information, Family Drug Support Australia, 2022.

⁷⁷ “Harm reduction policies for cannabis”, W. Hall, B. Fischer, Harm reduction: evidence, impacts and challenges, Chapter 8, April 2010.

⁷⁸ “Harm reduction in Europe: a framework for civil society-led monitoring”, R. Rigoni, T. Tammi, D. van der Gouwe, E. Schatz, Harm Reduction Journal, 18, 3, 2021.

⁷⁹ Harm reduction Cannabis, Oxford Student Union, 2022.

⁸⁰ “Harm Reduction Associated with Inhalation and Oral Administration of Cannabis and THC”, F. Grotenhermen, Journal of Cannabis Therapeutics, Vol^o1, Issue 3–4, 2001; Cannabis en medecine, F. Grotenhermen, Editions Indica, Selestat, 2004; “NormL California”, 2022.

Figure 5: Level of risk associated with different consumption patterns

Products consumed	Type of risk	Combustion water pipe	Combustion seal	Combustion pipe	Vaporisation	Ingestion
Cannabis + tobacco	Immediate risks (IR)	4/5	2/5	3/5	Not applicable	Not applicable
	Long Term (LT) risks	8/8	6/8	4/8	Not applicable	Not applicable
	Cumulative	12/13	8/13	7/13	Not applicable	Not applicable
Cannabis alone	IR	8/13	8/13	8/13	8/13	8/13
	LT Risks	6/8	4/8	3/8	0/8	0/8
	Cumulative	10/13	6/13	4/13	2/13	5/13

Source⁶⁰: Data compilation by Augur Associates, 2022.



f → Moving beyond the “soft/hard drug” classification

Public opinion and policy makers generally distinguish between so-called “hard” drugs (cocaine, heroin and some hallucinogens) and “soft” drugs (caffeine, tobacco and even alcohol), categories that are supposed to reflect the relative dangerousness of their consumption. However, some substances – such as cannabis – are the subject of ongoing public debate and conflicting opinions as to their classification in this perception of harmfulness.

In fact, this distinction, which is still very popular, despite the progress of research⁸¹ and a scientific refutation dating back to the 1970s, is not based on any scientific study, as Etienne Quertemont⁸², Dean of the Faculty of Psychology, Logopaedics and Education Sciences at the University of Liege, clearly states. This classification “does not reflect the real dangerousness of these different substances. In reality, it is the use and the context that make a drug more or less dangerous or harmful, and it seems more appropriate to talk about a “soft” or “hard” use of a drug.” Thus, it is all the more possible to have a “hard” consumption of a so-called “soft” drug. Stigmatising so-called “hard” substances above all, although shaped as such in regard to the morbidity and mortality potential, trivialises their consumption and the risks of so-called “soft” substances, whose consumption can in fact not be so harmless.

This social representation of drugs leads to the conclusion that interested parties should ensure they have all relevant information to hand prior to discussing methods of regaining control over the present situation.

⁸¹ “Common liability to addiction and “gateway hypothesis”: Theoretical, empirical and evolutionary perspective”, M. M. Vanyukov, R. E. Tarter, G. P. Kirillova, L. Kirisci, M. D. Reynolds, M. J. Kreek, K. P. Conway, B. S. Maher, W. G. Iacono, L. Bierut, M. C. Neale, D. B. Clark, T. A. Ridenour, *Drug Alcohol Depend.* 123 (Suppl 1): S3–17, June 2012; “Effort-related decision making and cannabis use among college students”, S. Acuff, F. Simon, & J. G. Murphy, *Experimental and Clinical Psychopharmacology*, 2022.

⁸² “Alcohol and other substances: why are their dangerousness underestimated by users?” J. Simon, E. Quertemont, *The Conversation*, 9 May 2021

g → About the “stepping stone theory”

In the 1980s, the administration of US President Ronald Reagan popularised a **theory that had emerged in the 1930s, namely that cannabis consumption was a bridge – or gateway – to the consumption of drugs considered “more dangerous”**. This demonisation of cannabis as a “gateway drug” **led to, among other things, the widespread criminalisation of possession and personal use, as well as the militarisation of “anti-drug” policy in certain areas of the world**. With other regulatory consequences, this theory has also taken hold in the Netherlands, where the decriminalisation that allowed the existence of coffeeshops since the 1970s was based on the desire of the public authorities at the time to get cannabis consumers out of a potential escalation via interactions with illegal vendors, by reducing the potential so-called **gateway effect**⁸³.

Over the years, **various scientific publications have disproved this theory**⁸⁴. Research has shown that cannabis, as the most widely consumed illicit substance in the world, is more likely to be consumed by people who also consume other illegal drugs. Such a correlation cannot, however, be defined as a causal link, and **cannabis consumption is therefore not linked to a higher likelihood of using other drugs**. A regulated market further removes for example the likelihood of an individual being able to access other, potentially more damaging drugs in terms of biopsychosocial harms **to try to self-medicate conditions**⁸⁵ such as mental health issues.

⁸³ “What Can We Learn from the Dutch Cannabis Coffeeshop System?”, R. J. Maccoun, *Addiction*, vol°106, N°11, p. 1899–1910, 2011.

⁸⁴ “Debunking the ‘Gateway’ Myth”, Drug Policy Alliance, 2017.

⁸⁵ “Prevalence and self-reported reasons of cannabis use for medical purposes in USA and Canada”, J. Leung, G. Chan, D. Stjepanović, J. Yiu, C. Chung, W. Hall, D. Hammond, *Psychopharmacology*, Vol°239, p.1509–1519, 2022.

⁸⁶ “The costs and benefits of cannabis control policies”, W. Hall, *Dialogues in Clinical Neuroscience*, 22(3): p.281–287, September 2020.

⁸⁷ “Since the beginning of 2022, seven new US states have legalised cannabis for adult use, the latest being Connecticut and Virginia. As of January 2022, 40 states have legalised medical cannabis and 18 states have legalised cannabis for adult consumption. In 2022, 11 more states will decide on their adult-use market (Arkansas, South Dakota, Delaware, Florida, Hawaii, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Rhode Island) and 5 for medical (North Carolina, Idaho, Mississippi, Nebraska, Wyoming). Since 2014, cannabis sales have generated \$10.4 billion in taxes for the coffers of the 18 states that have regulated their adult-use market. See: “Marijuana Legalization and Regulation”, Drug Policy Alliance, 2022; “Cannabis Tax Revenue in States that Regulate Cannabis for Adult Use”, Marijuana Policy Project (MPP), January 2022.

3. Existing alternative policies to regulate the adult-use of cannabis

As with most drugs, cannabis consumption can be examined in terms of costs and benefits. Public policy attempting to **minimise the former and maximise the latter**⁸⁶. Faced with the failure of prohibition, a **growing number of US jurisdictions**⁸⁷ chose to regulate their adult-use market from 2012 (Washington State, Colorado in 2013). They then followed Uruguay⁸⁸ which, in 2013, was the first country in the world to do so. **Canada**⁸⁹ was the second in 2018. **Mexico**⁹⁰ and **South Africa**⁹¹ could soon follow suit, while **Switzerland**⁹² and the **Netherlands**⁹³ have put national processes in place in 2021 to launch production trials for their domestic market. Some jurisdictions within the British Isles⁹⁴ are also considering the issue. **Germany**⁹⁵ will become the first European country to fully regulate its adult-use cannabis market in the upcoming years.

These recent changes, as well as the forms of decriminalisation implemented **in Portugal**⁹⁶ (2001), **Spain**⁹⁷ (1992), **Australia**⁹⁸ (2004), the coffeeshop experiment in the Netherlands⁹⁹ (1976), and those potentially planned in Europe: **Malta**¹⁰⁰, **Luxembourg**¹⁰¹, **Italy**¹⁰², **Lithuania**¹⁰³, provide information on the impact of such a paradigm shift¹⁰⁴. **Although it is often too early to draw a definitive conclusion, they provide some answers to legitimate concerns about the impact on crime or public health.**

Foreign experiences show that **if different objectives can be achieved, it is necessary to define the priority assigned to each of them in order to determine the concrete modalities of any kind of regulation.** Some examples, within and beyond the continent, which research is progressively examining in a systematic way, attest to numerous lessons regarding these **alternative policies**¹⁰⁵: **all of which can be useful to European countries heading towards future legal regulations**¹⁰⁶.

⁸⁸ "Uruguay's Middle-Ground Approach to Cannabis Legalization", M. Cerda, B. Kilmer, *International of Drug Policy*, Vol°42, p.118-120, March 2017; "Someone has to be the First: Tracing Uruguay's Marijuana Legalisation Through Counterfactuals", J. von Hoffmann, *Journal of Politics in Latin America*, Vol° 12, Issue 2, October 2020; "Colorado vs Uruguay: two opposite modes of cannabis legalization", M. Gandilhon, I. Obradovic, N. Lalam, D. Alimi, D. Weinberger, *Drugs, Health and Society*, Cannabis: Health and Public Policy Volume 16, Number 1, March 2018; "Cannabis legalisation in Uruguay: public health and safety over private profit", Transform Drug Policy Foundation, 20 November 2018; "Lessons from Uruguay's drug reform", E. Salinas, *Open Canada*, 9 September 2014; "Lessons Learned from Uruguay's Cannabis Legalization", P. Barach, *Green Flower*, 19 July 2020; "Marijuana legalisation in Uruguay", *Centre for Public Impact*, 23 November 2018.

⁸⁹ "Capturing the market: Cannabis Regulation in Canada", H. Slade, *Transform Drug Policy Foundation*, June 2020.

⁹⁰ "Comisión del Senado recibe anteproyecto de reforma que legaliza el cannabis", N. San Martin, *Processo*, 15 February 2022.

⁹¹ "President's pledge gets tepid welcome from cannabis council leader in South Africa", *Hemp Today*, 14 February 2022.

⁹² "Cannabis Regulation in Europe: Country Report Switzerland", F. Zobel, *Country Report*, *Transnational Institute*, February 2019.

⁹³ "Netherlands clarifies application process to grow adult-use cannabis", A. Pascual, *MJBiz Daily*, 17 December 2021.

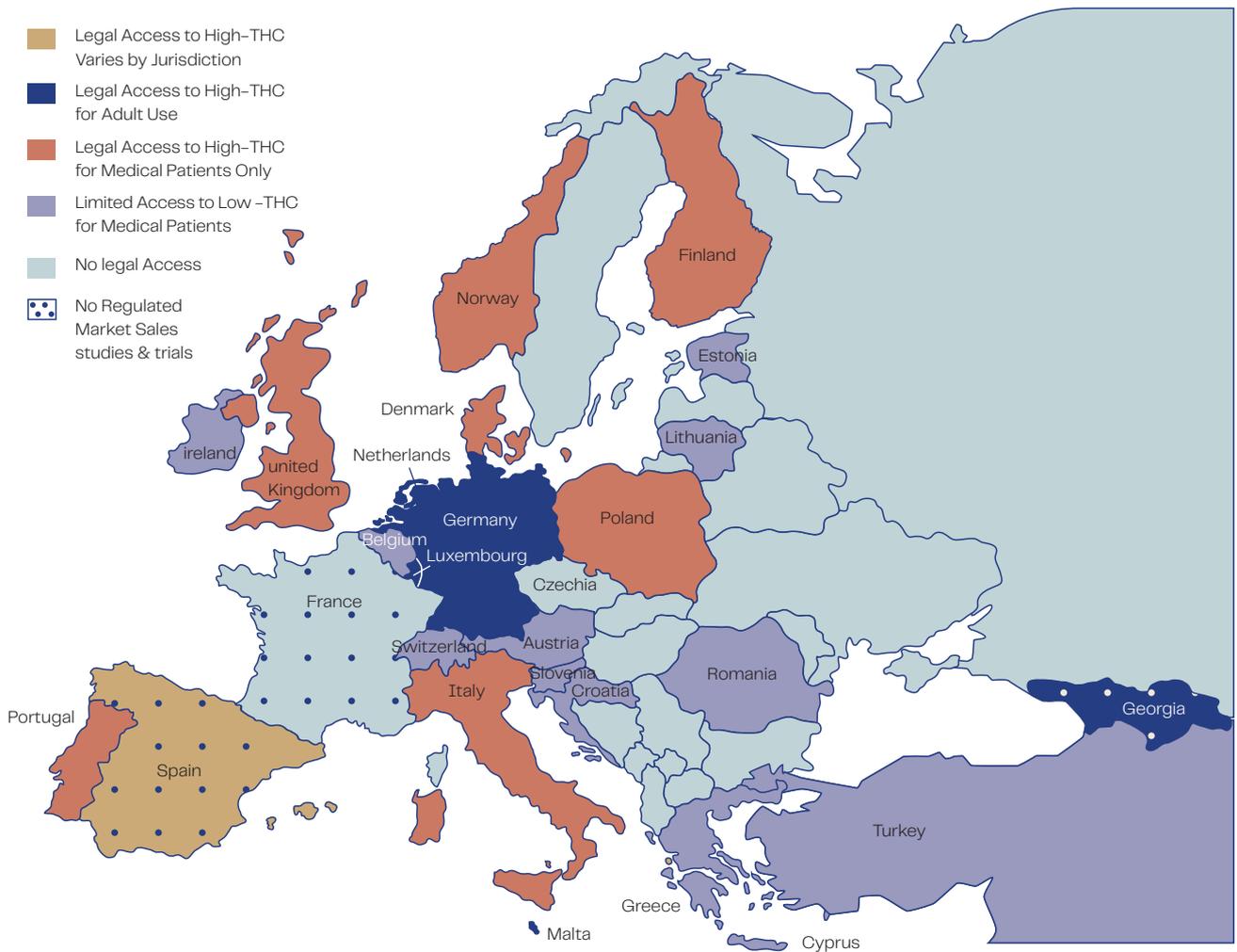
⁹⁴ "Will Guernsey Be The First Among The British Isles And Europe To Legalize Cannabis? It Looks That Way", M. Meehan, *Benzinga*, 29 April 2022; "Legalising cannabis in Guernsey proposal submitted", J. Fernandez, *BBC News*, 13 May 2022; "How Britain's Three Crown Dependencies Are Stealing A Cannabis March On the Mainland", J. Hall, *Business Cann*, 21 June 2021; "Let's legalise cannabis for recreation", G. Nettle, *Isle of Man Today*, 23 June 2021.

⁹⁵ "Top German Government Official Previews Marijuana Legalization Plan Details", K. Jaeger, *Marijuana Moment*, 10 January 2022.

⁹⁶ "Drug decriminalisation in Portugal: setting the record straight." *Transform Drug Policy Foundation*, 13 May 2021.

⁹⁷ "Overview of "home" cultivation policies and the case for community-based cannabis supply", V. Belackova M. Roubalova (Stefunkova), K. de Vende, *International Journal of Drug Policy*, Vol°71, p.36-46, September 2019.

Figure 6: Legal access to cannabis in Europe



Source¹⁰⁷: *New Frontier Data, 2022.*

⁹⁸ “The Impact of Cannabis Decriminalisation in Australia and the United States”, E. Single, P. Christie, R. Ali, *Journal of Public Health Policy*, 1 June 2000.

⁹⁹ “Cannabis Regulation in Europe: Country Report Netherlands”, D. J. Korf, Country Report, Transnational Institute, February, 2019; “Interpreting Dutch Cannabis Policy: Reasoning by Analogy in the Legalization Debate”, R. MacCoun, P. Reuter, *Science*, Vol^o278, October 1997; “Drug Policy: The ‘Dutch Model’”, M. van Ooyen-Houben, E. Kleemans, *Crime and Justice, A Review of Research*, Vol^o44, 2015; “An open front door: the coffee shop phenomenon in the Netherlands”, D. J. Korf, *FdR: Bonger Instituut*, January 2008; “Cannabis policy in the Netherlands: Moving forwards not backwards”, Transform Drug Policy Foundation, 16 November 2018.

¹⁰⁰ “Malta becomes first EU country to legalise cannabis for personal use Access to the comments”, *Euronews & AFP*, 14 December 2021.

¹⁰¹ “Luxembourg becomes first European country to give green light to growing and using cannabis”, C. Duncan, *Independent*, 22 October 2021.

¹⁰² “In blow for cannabis advocates, Italy’s high court blocks referendum”, *Euronews & AFP*, 16 February 2022.

¹⁰³ “Initiative To Partially Decriminalize Drug Use Gaining Ground In Lithuania”, *Human Rights Monitoring Institute, Liberties*, 8 November 2021.

¹⁰⁴ “Lessons from Cannabis Legalisation. USA Plus additional commentary on Uruguay & Canada 2020”, Smart Approach to Marijuana (SAM) NZ Coalition & US, 2020; “Six policy lessons relevant to cannabis legalization”, C. L. Shover, K. Humphreys, *American Journal Drug Alcohol Abuse*, Vol^o45(6), p.698–706, 2019; “Canada’s marijuana legalization provides lessons to the world on selling cannabis”, J. Aversa, J. Jacobson, T. Hernandez, *The Conversation*, 7 September 2021; “Cannabis: How can we take back control?” Y. Geoffard, *Notes du conseil d’analyse économique*, Vol^o52, (4), p.1–12, April 2019.

¹⁰⁵ “Assessing Drug Prohibition and Its Alternatives: A Guide for Agnostics”, R. J. MacCoun, P. Reuter, *Annual Review of Law and Social Science* Vol^o7, p.61–78, December 2011.

¹⁰⁶ “International Perspectives on the Implications of Cannabis Legalization: A Systematic Review & Thematic Analysis”, A. Bahji, C. Stephenson, *Int. J. Environ. Res. Public Health*, 17, no. 3095, 2019.

¹⁰⁷ “Markets Great and Small Leading Europe’s Continental Shift Toward Legal Cannabis”, *New Frontier Data*, 12 January 2022.



a → Spain

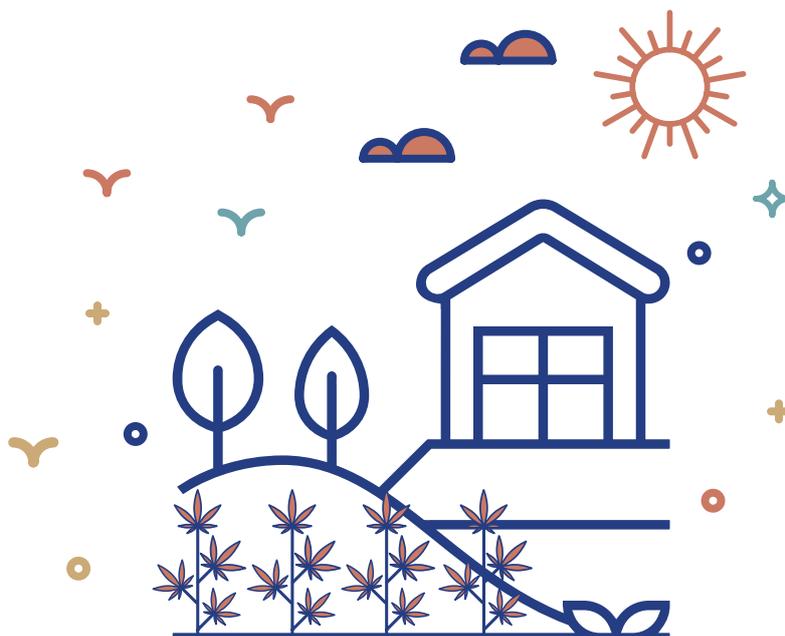
In Spain¹⁰⁸, cannabis was decriminalised for adult consumption, possession and personal cultivation in 1992, with important differentiations in terms of applications and rights according to the country's provinces. The commercial sale of cannabis remains illegal. Cannabis is also permitted, in a very restrictive way, for medical purposes, but today only products that have undergone clinical trials and obtained a market authorisation can be prescribed to patients (such as Sativex or Epidiolex).

Private use of cannabis is extended to Cannabis Social Clubs (CSCs)¹⁰⁹ which allow groups of growers and consumers to pool their resources to produce and share their harvest. There are now about **2 000 CSCs** in the country, half of which are in Catalonia, where cultural specificities, particularly related to autonomy, allow for more flexibility than in the rest of the country.

With no profit motive, and therefore no incentive to increase cannabis consumption or introduce new consumers, the Clubs offer a more prudent **public health-oriented alternative** compared to large-scale retail cannabis markets dominated entirely by commercial enterprises.

¹⁰⁸ "Cannabis Regulation in Europe: Country Report Spain", X. Arana, Country Report, Transnational Institute, March 2019.

¹⁰⁹ "Innovation Born of Necessity Pioneering Drug Policy in Catalonia", O. Parés Franquero, J. C. Bouso Saiz, Global Drug Policy Program, Open Society Foundation, March 2015; "Revisiting the Birthplace of the Cannabis Social Club Model and the Role Played by Cannabis Social Club Federations", L. Jansseune, M. Pardal, T. Decorte, O. Parés Franquero, Journal of Drug Issues, 5 December 2018; "Tomorrow's Cannabis Social Clubs. Social innovation, solidarity economy model, and health safeguards for cannabis regulation in France." K. Riboulet-Zemouli, F. Ghehieuque, FAAAT editions, January 2021.



In December 2018, the newly installed Luxembourg government announced in its governing programme the legalisation of cannabis for adult-use. The Ministries of Health and Justice studied [the reform, which was then delayed](#)¹¹⁰ in part due to the coronavirus pandemic.

[Early plans](#)¹¹¹ called for a system of government-issued licences for controlled production and sale with strict criteria. The criminalisation of illegal supply would be strengthened and tax revenues would be channelled into prevention and education. The sale of cannabis would only be allowed to residents of legal age to limit the impact on neighbouring countries. Possession of cannabis would be decriminalised for minors under 5 grams. The limit for adult-possession on public grounds would be set at 30 grams.

Following significant delays due to the health situation and the negotiations of a government coalition agreement, it was decided to [put aside the question of regulating national production and distribution in the country](#)¹¹². **The public and bilateral reactions of its neighbours**¹¹³ (France, Belgium, Germany) were certainly also a factor, as their respective governments officially wished to limit a feared “contagion” that was nevertheless rarely observed empirically. Luxembourgish adults will soon be allowed to grow up to four cannabis plants at home for personal consumption under new laws that will make **Luxembourg the second country in Europe (after Malta) to legalise self-production and consumption of cannabis**. Trade in seeds will also be allowed without any limit on the amount or level of tetrahydrocannabinol (THC).

In June 2022, the Luxembourg government approved the draft law to change the cannabis legislation in the Grand Duchy. The text must now be adopted by the Chamber of Deputies. It will allow adults to grow up to four cannabis plants at home, “*exclusively from seeds*”, and to consume in the private sphere. Public consumption will remain prohibited and a decriminalisation of 3 grams should be enacted and will be punishable by a fine of 145€. Above 3 grams, possession of cannabis will still be subject to criminal sanctions. As no changes to the driving law will be implemented, the reform will however create subsequent legal issues that will need to be looked upon.

¹¹⁰ “Luxembourg delays cannabis legalisation”, B. Boukriche, Newsweed, 20 January 2021.

¹¹¹ “Luxembourg: details of cannabis legalisation project”, A. Bernard, Newsweed, 25 February 2020.

¹¹² “Luxembourg becomes the second country in Europe to legalise the self-cultivation and consumption of cannabis”, A. Bernard, Newsweed, 22 October 2021.

¹¹³ “La dépénalisation du cannabis au Luxembourg inquiète ses voisins”, J-P. Stroobants, Le Monde, 22 November 2021.

The Luxembourg government's announcement is expected to bring about important changes in the country's approach to cannabis policy, given the failure of prohibition to deter consumption and criminal organisations. **However, this measure is said to only be the first step in a more fundamental re-regulation of cannabis**¹¹⁴, aimed at driving consumers away from the illegal market as the current reform may be creating as many issues than it is intending to resolve.

¹¹⁴ "@SteveTransform", S. Rolles, Twitter, 22 October 2021.

C → The Netherlands

The Netherlands has long been the "cannabis capital of Europe", and since the 1970s has had a tolerant cannabis culture, the most notorious example of which is the system of "coffeeshops". **However, production is still illegal, with the black market supplying the vast majority of these legal shops**¹¹⁵. This is the so-called "back door problem"¹¹⁶: Cannabis leaves legally through the front door and enters illegally through the back door. **Transnational criminal groups smuggling cannabis, especially from Morocco and Turkey, have since responded to the demand and have developed into a vast European distribution network.** The local side-effects: a **brutal conflict between gangs**¹¹⁷ has been going on for years¹¹⁸, a result amplified by the **country's tax provisions that facilitate the laundering of money from drug trafficking**¹¹⁹.

An experiment in legal cannabis cultivation¹²⁰ in selected municipalities has been **painstakingly approved and conducted**¹²¹ by the Dutch government, to **legally supply cannabis to coffeeshops in municipalities volunteering for the experiment.** The government is to select 10 approved growers and "*will ensure a sufficient number of cannabis varieties*" to meet the diversity and intensity of demand. However, the experiment must show whether crime decreases in these cities and measure the effects on public health and the environment. In March 2022, in a letter to parliament, the Dutch Ministers of Public Health and Justice and Security announced that the experiment would be delayed and now planned to start **for the second quarter of 2023**¹²². The original plan was to begin in 2020, **demonstrating the complexity of implementing even a legalisation experiment.**

¹¹⁵ "Behind closed doors at the Mouse Cafe: a subcultural enclave of coffee shop suppliers in Amsterdam", R. A. Castro, Contemporary Drug Problems, 22 September 1995.

¹¹⁶ "Front Door/Back Door: The Paradox of the Netherlands' Cannabis Policy", M. Leydon, 13 August 2014.

¹¹⁷ "Is the Netherlands becoming a narco-state?", A. Holligan, BBC News, 19 December 2019.

¹¹⁸ Street killings with automatic weapons occur regularly. Often innocent bystanders are injured or even killed. In 2020, the defence lawyer of a key witness in a major criminal trial against the "Mocro-Mafia" ("Marengo trial", Wikipedia, 2022), an organised crime network of Moroccan origin, was killed. The latest developments culminated in the murder of renowned investigative journalist Peter R. de Vries in the summer of 2021 ("Peter R de Vries: Dutch crime reporter dies after shooting", BBC News, 15 July 2021), and in assassination threats against Dutch Prime Minister Mark Rutte ("Mark Rutte: Dutch police arrest politician over suspected plot to murder PM", BBC News, 28 September 2021. See also: "Are the Netherlands a Narco State? A criminological analysis", R. Hofmann, 20 October 2021.

¹¹⁹ "La 'Mocro Maffia', l'uccisione di Peter de Vries e le colpe dell' Olanda, paradiso dei narcos", R. Saviano, Corriere Della Sera, 21 August 2021; "Mafia.Roberto Saviano: The Netherlands has become a paradise for narco money", Courrier International, 21 August 2021.

¹²⁰ "Netherlands receives 149 applications for recreational cannabis grow trial", MJBiz Daily, 17 December 2021.

¹²¹ "Update on Dutch cannabis policy: Moving like a tortoise", Maja, Encod, 6 March 2022.

¹²² "Netherlands' regulated cannabis experiment postponed again", NL Times, 30 March 2022.

The Dutch experiment, however, means a continuation of the *status quo* for the country's cannabis policy until the experiment is evaluated, at best in 2024. In the meantime, coffeeshops, heavily impacted by the health crisis and confinements¹²³, are still not allowed to hold inhouse more than 500 grams of cannabis, forcing them to run secret stockpiles, thus increasing the risk of theft and violence. Police continue to regularly target these stashes, as well as production sites, resulting in the temporary or permanent closure of coffeeshops¹²⁴. The sale of edibles or concentrates, delivery services, or testing for contaminants remains prohibited to them, further strengthening the black market¹²⁵.



Portugal ended the criminalisation of personal possession of all drugs over 20 years ago¹²⁶. Although this is undoubtedly the most famous case, a growing number of jurisdictions are now following suit. The end of criminal sanctions for drug possession is part of a broader shift for the country, from a failed punitive enforcement model to a more pragmatic health-based approach. Public resources have since been shifted from law enforcement to expanded treatment and harm reduction services.

Drug possession remains a crime, subject to administrative sanctions such as fines, but without the stigma of a criminal record or the trauma of imprisonment. Offenders are referred to “deterrence boards”, with the vast majority of offenders not being acted upon, or being referred to health services if problematic consumption is detected.

The proportion of prisoners convicted of drug-related offences fell from 40% in 2001 to 15% in 2019, below the EU average. Drug consumption among 15–24 year olds has been declining throughout the decade from 2001, and was at its lowest level in 2012 among the general population. While the latest data indicate that consumption has increased since 2012, particularly among the over-25s, consumption rates in Portugal remain well below the EU average.

¹²³ “What’s happened to Amsterdam’s cannabis coffee shops during Covid” I. Gerretsen, CNN, 19 February 2022.

¹²⁴ “Misbruik politie & justitie ‘growshop-wet’”, CNNBS, 26 March 2015; “Dutch Police Raid HT Cannabis Cup”, Soft Secrets, 24 November 2011. See also: “Moral Entrepreneurship Revisited: Police Officers Monitoring Cannabis Retailers in Rotterdam, the Netherlands”, T. Müller, Contributions from European Symbolic Interactionists: Reflections on Methods (Studies in Symbolic Interaction, Vol°44), Emerald Group Publishing Limited, Bingley, p.139–157, 2015.

¹²⁵ “Update of cannabis policy in the Netherlands: has the Dutch war on weed ended?” VOC Nederland, 16 Oct. 2018.

¹²⁶ “Drug decriminalisation in Portugal: setting the record straight”. Transform Drug Policy Foundation, 13 May 2021.

Portugal is a positive example of what can be achieved when drug policies prioritise health, rather than criminalisation: a lesson in what can be accomplished when science and political will are aligned in response to a health crisis. The momentum for further reform, this time in favour of legalising cannabis, also appears to be rising today. More than 60 politicians, former ministers and influential stakeholders expressed their support for such a measure [in an open letter to the Portuguese Parliament in 2021](#)¹²⁷.

¹²⁷ "Sixty MPs join forces to legalise cannabis... in Portugal", R. Sebestyén, Canex, 13 October 2021.

¹²⁸ "Portugal's Left Bloc Party Has Delivered A New Draft Bill To Parliament Proposing The Legalisation Of Cannabis For Personal Use", L. Ramos, BusinessCann, 8 June 2022.

In June 2022, the Bloco de Esquerda (The Left Bloc), Portugal's left-wing democratic socialist party, delivered a new draft law¹²⁸ to the Assembly of the Republic proposing the legalisation of cannabis for personal use. "*The State must regulate the entire cultivation, production and distribution circuit, being able to determine a maximum THC limit, as well as the consumer price, in order to combat trafficking and the illegal market*", the draft reads, which **calls for caution as internal contradictions exist between intended goals "to combat trafficking and the illegal market" and with some of the means involved such as "to determine a maximum THC limit"**. The previous draft from The Left Bloc was presented about a year ago, along with a second from the Liberal Initiative, and had been presented in commission, but had expired with the fall of the government and the end of the legislature.



While cannabis consumption remains illegal in Switzerland¹²⁹, the sale of cannabis products has been legal since 2011 if the products contain less than 1.0% THC¹³⁰ (typical levels of 0.2–0.3% are generally allowed in European countries). Switzerland also decriminalised cannabis consumption in 2012, with possession of up to 10 grams generally going unpunished, although public consumption can result in a fine of 100 Swiss francs (about 97€).

Efforts to legally regulate the adult-use market for cannabis also date back some 20 years, when many businesses were linked to its market¹³¹. More recently, it took five years for regulators to allow pilot trials of cannabis distribution to existing consumers¹³². After many twists and turns, each Swiss municipality can now host as many pilot trials¹³³ as it wishes, with a limit of 5,000 consumers per trial. Participating adults will have access to a maximum of 10 grams of pure THC per month, i.e. a maximum of 50 grams of flower with a 20% THC threshold.

The aim of these trials is to follow the participants in a scientific way¹³⁴ by monitoring “*the effects on the physical and psychological health of the consumers, their performance, the behaviour related to consumption, the effects on the working capacity (absenteeism), the family and the social environment of the consumers*”.

At the same time, Swiss legislators (40 out of 200 in the National Council) are working on a general legalisation of cannabis for adult-use via a text that has started its way through Swiss institutions¹³⁵. The Committee for Social Security and Health of the Council of States declared¹³⁶ that cannabis should be regulated in Switzerland in order to control the “*cannabis market for a better protection of young people and consumers*”.

¹²⁹ “Cannabis Regulation in Europe: Country Report Switzerland”, F. Zobel, Country Report, Transnational Institute, February 2019.

¹³⁰ See: “Cannabidiol (CBD) containing products Overview and implementation aid”, Swiss Medic, Federal Office of Public Health FOPH, 5 July 2019; “Cannabidiol (CBD): situation analysis”, F. Zobel, L. Notari, E. Schneider, O. Rudmann, Addiction Switzerland, research report No.97, January 2019.

¹³¹ “Hanfladen Growland ist nun definitiv zu”, 20 Minutes, 8 October 2009.

¹³² “Switzerland releases details on recreational marijuana experiment, but full legalization likely years away,” A. Pascual, MJBizDaily, 17 June 2021.

¹³³ “Switzerland To Launch Adult-Use Cannabis Sale Trial Program This Summer”, D. Sabahgi, Forbes, 5 May 2022.

¹³⁴ “A research agenda for the regulation of non-medical cannabis use in Switzerland”, R. Zwicky, P. Brunner, D. Kübler, F. Caroni, Institut für Politikwissenschaft, Forschungsbereich Policy-Analyse, 28 September 2021.

¹³⁵ “Switzerland: Parliamentary committees give green light to cannabis legalisation”, A. Bernard, Newsweek, 20 October 2021.

¹³⁶ “Green light for new cannabis regulation”, Swiss Parliament, Press release, 19 October 2021.

Medical cannabis is currently legal in Denmark under [a four-year pilot project](#)¹³⁷ which ends in 2022. In December 2021, the Danish parliamentarians in the Folketinget voted unanimously, by 102 votes to none, to [make the programme widespread](#)¹³⁸.

A cross-party political initiative for an adult-use cannabis pilot project was presented to the Danish Parliament in March 2022¹³⁹. Presented by five political parties, it aims to support the Danish government in order to start legislative work leading to a bill legalising the adult-use cannabis market in the kingdom.

The [parliamentary document submitted](#)¹⁴⁰ states, inter alia, that *‘The existing prohibition of cannabis has not limited the consumption and sale of cannabis products in Denmark since the introduction of a ban 40 years ago’*. The most recent data¹⁴¹ show that 41% of people under 25 years old have consumed cannabis in Denmark. **Overall consumption among 16–44 year olds has doubled since 1994.** *‘The existing legislation is thus criminalising more and more citizens, and up to half of the population has actively violated it,’* the paper continues.

Outlining their motivation for the pilot project, the Danish politicians pointed to the crime in the Freetown Christiania¹⁴² neighbourhood of Copenhagen to highlight what an adult-use cannabis pilot project could prevent. Relations between the residents of Christiania and the Danish government were restored in the 2010s after years of tension, with more than 500 arrests for consumption and trafficking recorded annually around “Pusher Street”. Gangs are reported to have clashed violently in Christiania and throughout Copenhagen over control of supply lines. **The parliamentary report suggests that the country’s 40-year “war on drugs” has failed to tackle an estimated “billion-dollar industry” that is fuelled by prohibition, placing money and power in the hands of traffickers.**

The bill would:

- Allow for the sale of cannabis in state-controlled outlets in municipalities wishing to join the programme.
- Enable Danish citizens to buy, possess, cultivate and consume cannabis for personal use.
- Legally regulated production would take place in Denmark.

¹³⁷ “Update on the Danish medicinal cannabis pilot programme”, M. D. Gantzhorn, G. M. Kjær, Bech-Bruun, 24 February 2021.

¹³⁸ “CS MEDICA A/S: Danish Parliament voted yes for a permanent scheme for medical cannabis in Denmark”, CS Medical, Cision, 3 December 2021.

¹³⁹ “Copenhagen eyes 5 year pilot recreational cannabis scheme”, K. Dinneen, Leafly, 22 March 2022.

¹⁴⁰ “Forslag til folketingsbeslutning om at legalisere cannabis i en 5-årig prøveperiode”, Beslutningsforslag nr. B 146 Folketinget 2021–22.

¹⁴¹ “Denmark – Cannabis”, Alcohol and Drug Report, Nordic Baltic Region, 2020; “Danish cannabis policy revisited: Multiple framings of cannabis use in policy discourse”, T. F. Sjøgaard, M. Nygaard-Christensen, V. A. Frank, Nordic Studies on Alcohol and Drugs, Vol 38(4), p.377–393, 18 June 2021; “Hver tredje dansker har røget hash”, N. Ingeman, Bias, 8 August 2016.

¹⁴² Christiania is located in the Christianshavn district of Copenhagen and covers about 8 hectares. It was once a military base, but in 1971 it was occupied by people protesting against the lack of affordable housing in the Danish capital. This takeover of the former military barracks quickly turned into a de facto free city, separate from and outside the control of the government.

- Set prices to “*meet the expectations*” of consumers, as well as in terms of quality in order to be competitive with the illicit market.
- Ensure that buyers must be at least be 18 years old and resident of the country.
- Allow for the development of a prevention and treatment strategy that “*takes into account the opportunities and challenges of the experimental set-up*” with ongoing evaluations carried out throughout the project to make any necessary adjustments.
- Require that proceeds from the sale should be used for the prevention and treatment of problematic consumption.

Danish policymakers also mention programmes in [Portugal](#)¹⁴³, the [United States](#)¹⁴⁴, and [Canada](#)¹⁴⁵, claiming that there is no evidence that legalisation leads to an increase in consumption, [especially among younger people](#)¹⁴⁶. They also noted other drug policy reform efforts in Europe, including [Malta](#)¹⁴⁷, the [Netherlands](#)¹⁴⁸, [Norway](#)¹⁴⁹, [Sweden](#)¹⁵⁰, and [Luxembourg](#)¹⁵¹.

¹⁴³ “Drug decriminalisation in Portugal: setting the record straight” Transform Drug Policy Foundation, 13 May 2021.

¹⁴⁴ “Jobs Report 2022 Legal cannabis now supports 428,059 American jobs”, B. Barcott, B. Whitney, M. Savage Levenson, C. Kudialis, Leafly, 2022.

¹⁴⁵ “Pot sector nets \$15B in taxes, 151k jobs since legalization: Deloitte”, D. George=Cosh, BNN Bloomberg, 1 February 2022.

¹⁴⁶ “Marijuana Use Among Youth in Colorado”, Health Kids Colorado Survey 2015, Colorado Department of Public Health & Environment, 2022.

¹⁴⁷ “Europe should follow Malta’s example on cannabis reform, says minister”, O. Crowcroft, Euronews, 8 February 2022.

¹⁴⁸ “NL: Another grower receives license to grow in the cannabis supply chain experiment”, E. Siereveld, MMJ Daily, 11 March 2022.

¹⁴⁹ “Norway seeks to decriminalise recreational drug use”, France 24, 19 February 2021.

¹⁵⁰ “Is change on the way for Sweden’s zero tolerance drug policy?”, L. Roden, Sverigesradio, 28 February 2020; “A path forward for Swedish drug policy?”, Nordic Studies on Alcohol and Drugs, T. Goldberg, Vol°38(2), p.112–124, 9 February 2021; “The Myth Of The Place Where The War On Drugs Worked”, J. Hari, Volteface, 2019.

¹⁵¹ “Recreational Cannabis Project”, Government of Luxembourg, 2021.



The history of cannabis in Morocco goes back several centuries. Its consumption was subject to social norms limiting its market and its impact on society. The advent of the French protectorate (1912–1956) made cannabis a high value-added economic product through the monopoly of its cultivation and marketing, despite the undeniably negative impact on local society. **Indeed, European countries, and particularly France, have not always repressed the consumption and marketing of cannabis.** Before progressively banning its use in all its territories¹⁵², between 1912 and 1954, France notably organised the monopoly trade of cannabis in Morocco, then under protectorate, through the *Régie des Tabacs et du Kif*.

Specialist on the subject and sociologist [Kenza Afsahi](#)¹⁵³ tells us today that *“while it is safe to assume that cannabis cultivation has clearly declined in Morocco, whether to the extent indicated by official data or not, it can be estimated that hashish production has not declined to the extent suggested by the most recent official data, which is clearly suggested by the level of international seizures.”* According to French police estimates, **Morocco** has the capacity today to **supply 90% of the European cannabis resin market**¹⁵⁴. Over the past decade, the kingdom has consistently topped the [UNODC report](#)¹⁵⁵ as the world’s largest producer of cannabis, with an estimated 50,000 hectares of land under cultivation. The Alawite country is estimated to have produced **between 35,000 and 38,000 tonnes** in 2017, the majority of which was processed into resin for export.

Agriculture still accounts for **40% of employment in Morocco**¹⁵⁶ and **informal cannabis production is one of the most important industries in the kingdom**¹⁵⁷. It is estimated that **between 90,000 and 140,000 people**¹⁵⁸, from cultivation to resale, **depend on this sector which** is mainly oriented towards European exports.

¹⁵² “Cannabis in Morocco Before and During the French Protectorate: A Medical History”, M. Mohammed Essaid. Gourani, F. Laboudi, A. Ouanass, *Elixir Medical History*, n°135, 2019; “When Moroccan recreational cannabis was good business for the French state and its Régie des tabacs et du kif”, L. Pauchant, *France Info*, 5 May 2021.

¹⁵³ “Hashish Revival in Morocco”, P.–A. Chouvy, K. Afsahi, *International Journal of Drug Policy*, Elsevier, n°25(3), p.416–423, 2014.

¹⁵⁴ Note from the DCPI’s Division of Studies, Strategic Analysis and International Relations (DEASRI), “Production and routes of cannabis resin”, April 2018. See: “La Guerre de l’ombre: le livre noir du trafic de drogue”, C. Andrieux, Denoël, p.27, 2020.

¹⁵⁵ World Drug Report 2019, Executive Summary, UNODC, June 2019.

¹⁵⁶ Agricultural productivity, integration and structural transformation of the Moroccan economy”, A. Chatri, A. Maarouf, E. Ezzahid, *Engineering, Economics*, 2015.

¹⁵⁷ “Cannabis and hashish production in Morocco: context and issues”, P.–A. Chouvy, *L’Espace Politique*, 2008.

¹⁵⁸ “World Drug Report 2019, Executive Summary, UNODC, June 2019.

The issue of cannabis is a **prominent political issue in the kingdom**¹⁵⁹. Born out of the failure of alternative development projects in the Rif¹⁶⁰, **proposals to legalise the cultivation of the plant for medicinal and industrial purposes have recently been discussed by the Moroccan parliament**¹⁶¹. Proponents of the reform have argued that it is the best way to **decriminalise this illicit industry**¹⁶², as well as keeping it away from criminal groups. The text now **approved**¹⁶³, will allow farmers to join agricultural cooperatives that will supply cannabis to manufacturing and exporting companies. **Nevertheless, the production of cannabis for medical purposes remains much smaller, in terms of need (even for export), than the total production that feeds the illegal sales networks in Europe.**

Moreover, European pharmaceutical quality standards are difficult to transpose to an alternative development model aimed at small producers, while industrial production often lacks the same economic added value compared to flower uses. The new legislation will therefore not cover all cannabis growers, nor can it allow complet market transfer. A large part of the production will remain for “recreational” consumption, without a real alternative development framework¹⁶⁴. This therapeutic regulation therefore represents a **colossal opportunity and a major challenge**¹⁶⁵ and outside observers will closely scrutinise **who benefits from this reform**¹⁶⁶.

A 2021 World Bank report on migration and remittances estimates that in 2020 Morocco received nearly 8.2 billion € in remittances from abroad. This is **12 times more than the official development assistance**¹⁶⁷ that the kingdom receives from international donors. France is the 3rd country from which these funds **come from**¹⁶⁸. *“These transfers represent 60–70% of the deposits of commercial banks in the Eastern Rif region”*, says Moroccan LISST researcher **Ayad Zaroual**¹⁶⁹. Although it is nonetheless impossible to determine the share of these remittances linked to cannabis trafficking revenues in France or in Europe, **these data may be of interest and should be taken into account in the possible effects of future domestic legal regulations that will arise on the European continent.**

¹⁵⁹ “The legalization of cannabis”, K. Mouna, K. Afsahi, *Anthropos*, 30 November 2020.

¹⁶⁰ “Morocco authorises three provinces to cultivate cannabis”, TSA Algeria, 3 March 2022. See also: “Drug Control and Development: A Blind Spot”, J. Buxton, *International Development Policy*, Vol°12, Part°1, Milestones of Drug Policies and Development, 8 September 2020.

¹⁶¹ “The draft law on the legalisation of medical cannabis in Morocco translated and annotated”, A. Bernard, *Newsweed*, 23 March 2021.

¹⁶² “Morocco: Legalization project moves forward with amnesty for farmers”, B. Boukriche, *Newsweed*, 14 May 2021.

¹⁶³ “Morocco: legalisation of medical cannabis officially enacted”, A. Bernard, *Newsweed*, 2 August 2021.

¹⁶⁴ See “Drugs and Development: The Great Disconnect”, J. Buxton, *Global Drug Policy Observatory*, Policy Report 2, January 2015; “Are Barriers to Sustainable Development Endogenous to Drug Control Policies?”, K. Tinasti, J. Buxton, M. Chinery–Hesse, *International Development Policy | International Development Policy Review*, 12, 8 September 2020; “Drug crop production, poverty, and development”, J. Buxton, *Open Society Foundations*, 2015; “Cannabis producers in the Rif – Morocco: study of an economic activity at risk”, K. Afsahi, *PHD Thesis*, 5 May 2009; “The Future of Cannabis in Malta and the Mediterranean Institute for Cannabis”, K. Mamo, *Position paper*, June 2021.

¹⁶⁵ “Legalisation of ‘medical cannabis’ in Morocco: A colossal opportunity”, A. Kadiri, *Interview Kenza. Afsahi*, *Ouest France*, 2021.

¹⁶⁶ “Morocco’s regularization of cannabis production”, *Global Initiative Against Transnational Organised Crime*, 10 May 2022.

¹⁶⁷ Estimated in 2019 at \$757,859,985 (about €678 693 931). See: “Net official development assistance and official aid received (current US \$) – Morocco”, *Development Assistance Committee of the Organisation for Economic Co-operation and Development*, *Geographical Distribution of Financial Flows to Developing Countries*, *Development Co-operation Report*, and *International Development Statistics database*, *The World Bank*, 2022.

¹⁶⁸ France accounts for 10% of remittances to Morocco, behind the United States (14%), and Saudi Arabia (12%). See “Recovery. COVID–19 Crisis. Through a Migration Lens”, D. Ratha, E. J. Kim, S. Plaza, G. Seshan, E. J. Riordan, V. Chandra, *Migration and Development Brief 35*, *KNOMAD–World Bank*, Washington, DC, November 2021.

¹⁶⁹ “The State, the Rif and the Diaspora”, A. Zaroual, *Laboratoire interdisciplinaire solidarités, sociétés, territoires*, *Blog Mediapart*, 12 July 2018.

An international symposium¹⁷⁰ was organised in April 2017 in Chefchaouen to prepare the post-prohibition Morocco by integrating the work and opinions of experts, academics and civil society actors from Morocco, France, Spain and Germany. At the end of the day, conclusions were formulated around 3 main themes: **human rights, institutional aspects and development approaches**. Here is a summary of the recommendations expressed on this basis:

A first set of short-term measures would aim to tackle the living conditions of the inhabitants, notably by:

- unblocking administrative issues,
- solving road and public transport problems,
- ensuring decent and sufficient planning and supply of water and electricity,
- creating protected natural areas and parks,
- developing sustainable development plans and managing biodiversity, etc.

In the medium term, the outcome recommendation focused on the establishment of legal control and regulation of kif (cannabis) production in the historical cultivation areas of Senhaja and Ghomarra, notably through:

- the creation of an agency in charge of development issues, and a central authority in charge of cannabis cultivation;
- the inclusion of endemic varieties of cannabis in the Moroccan national heritage, and the launch of a National Centre for Research and Study of Kif;
- the cancellation of legal proceedings concerning the cultivation of kif in these regions and the generalisation of amnesty measures for farmers;
- the creation of drug addiction centres and psychological support programmes in the urban and peri-urban areas of the region;
- the involvement of the concerned populations, and the encouragement of citizenship to formulate proposals and projects to resolve the regional problems linked to the cultivation and trade in kif.

Moroccan growers participating in a 2018 workshop on sustainable development¹⁷¹ also highlighted a number of points on which a future licit cannabis economy could be built in the country¹⁷².

¹⁷⁰ "Morocco & cannabis: civil society gets organized to prepare the post-prohibition.", FAAAT, 7 June 2017.

¹⁷¹ TNI Drugs & Democracy, @DrugLawReform, Twitter, 13 January 2020.

¹⁷² For example "the potential for integrating alternative cannabis health products into the country's network of hammams, as well as the development of a sustainable cannabis tourism industry based on hiking and mountain biking trails in the Rif region, and the organisation of an annual Amazigh cultural festival attracting foreign artists, musicians and visitors to experience indigenous cannabis culture." See: "A Sustainable Future for Cannabis Farmers' Alternative Development' Opportunities in the Legal Cannabis Market", M. Jelsma, T. Blickman, S. Kay, P. Metaal, N. Martínez, D. Putri, Transnational Institute, p.70, April 2021.

This multifaceted territorial framework should **encourage backward and forward linkages in sectors such as agriculture, health and wellness, medicine, tourism, science and crafts.** It could also help **develop economies of scale** for cannabis production, **reducing dependence on foreign investment** and allowing for greater economic returns.

Current developments in terms of adult-use regulation in European countries traditionally sourcing part of their supplies from Morocco (Germany, the Netherlands, Switzerland, Malta), and potential future developments in Spain and France – both of which have major historical links with the Kingdom –, **must imperatively integrate Morocco's position and place these markets into their policy strategy, particularly with regard to the role of small producers.** Indeed, the changes made in recent years to local production methods, in order to meet the needs of foreign markets, have seen the emergence of strong **environmental**¹⁷³ and social violence, particularly concerning **women in the front line**¹⁷⁴.



Canada federally regulated its adult-use cannabis market in 2018. The primary achievement here is to have moved from a unique black market model to a legal one that aims to compete with the former. Depending on the regulations of each of the country's provinces, the legal market has, **over three years more or less taken over significant shares of the illicit market**¹⁷⁵.

At the end of 2020, Statistics Canada estimated that **50.5% of cannabis-related spending in Canada was now taking place on the legal market.** Access to legal cannabis has been accelerated by the deployment of cannabis shops: Alberta now has over 500, Ontario now has over 700, and Quebec only 70. Services such as home delivery continue to be tested.

The price of the products is also a strong component of the competitiveness of the legal marketplace, which is now on a par with or even below the price of the illegal market. Only the overall quality of legal cannabis still leaves something to be desired, but is improving with the arrival of micro-producers who produce crops in a more artisanal manner.

¹⁷³ "Rif-California: Environmental Violence in the Age of New Cannabis Markets", K. Afsahi, International Development Policy Review, 8 September 2020.

¹⁷⁴ "No cannabis cultivation without women. The case of the Rif in Morocco", K. Afsahi, Deviance and Society 1 (Vol°39), p.73-97, 2015; "Women, work and the cannabis market in Morocco, between alienation and empowerment", K. Afsahi, Sociology, 29 June 2017.

¹⁷⁵ "2 years of cannabis legalisation in Canada: what has worked and what hasn't", A. Bernard, Newsweed, 16 October 2020.

1.

**Half a
century
of failure in
Europe: the
example of
France**

Although the subject of cannabis, and more broadly of public policies on drugs, is complex to grasp, the **failure of prohibition on the European continent** can be analysed, for example, **with regard to the French case**.

As early as 1916¹, the Hexagone banned all cannabis activity in mainland France. Under pressure from the [United States](#)², the country introduced its [current drug prohibition legislation in the 1970s](#)³ as part of the fight against the large-scale importation of heroin via [the French Connection](#)⁴. At the same time, a [news item](#)⁵, the overdose of a young woman in a Bandol casino, fuelled a public [moral panic](#)⁶ which laid the foundations for an exceptional law passed on 31 December 1970. A framework still in place⁷ despite numerous modifications made over the last 50 years.

Today, France⁸ *“has the highest rate of cannabis experimentation on the European continent. In 2016⁹, 41.4% of French people aged 15–64 had used it at least once in their lives. In comparison, the European average is 18.9%.”* This fact is above all a problem regarding the lack of legal supervision, which today gives any minor particularly easy access to cannabis. Given the damage caused today to [the schooling and health of the youngest citizens](#)¹⁰, this alarming figure requires a firm, rapid and innovative response from the public authorities. But above all it needs to be adapted, in order to **regain urgent control over a situation that has been in decline for several decades**.

Far from having had the desired effect, the prohibition of cannabis in France has favoured the advancement of the age of first consumption (primo-access), its accessibility to all ages, as well as a lack of factual information aimed at the public at risk. **Despite massive public investment – the vast majority of which is aimed at repression – the control of cannabis in France is a clear failure:** 145,000 people are arrested each year for illicit drug use, [90% of whom are cannabis consumers](#)¹¹.

The number of people arrested for simple use has [increased 50-fold since 1970](#)¹². This increase reflects a continuous rise in consumption, but above all, a rise in repression against consumers, largely triggered by a **policy based on “numbers”** – i.e. artificially boosting results by increasing the level of enforcement through specific metrics –. Based on the [“theory of dissuasion”](#)¹³, the 2007 law on crime prevention prioritises the need to punish consumers. Unsurprisingly, the number of court rulings for simple consumption has exploded in recent years¹⁴.

¹“La loi du 12 juillet 1916”, J.-J. Yvorel, Les Cahiers Dynamiques, 2012/3, N°56, p°128–133, 2012.

²“The birth of the war on drugs (1960s–1980s): an American obsession?”, A. Marchant, ENS, Cachan, VIH.org, 15 June 2015.

³“The birth of the current prohibitionist regime”, A. Marchant, in L'impossible Prohibition, p°19–43, 2018.

⁴“The United States, France and the French connection: a look at the geopolitical origins of the 1970 law”, M. Gandihon, A. Marchant, The Conversation, December 2020.

⁵“De la morphinée à la junkie : les visages de la droguée”, J.-J. Yvorel, Criminocorpus, “Mauvaises filles”. Déviantes et délinquantes XIX°–XXI° siècles, Communications, 27 March 2018.

⁶“Folk Devils and Moral Panics”, S. Cohen, Routledge, 1972.

⁷ The exceptional law of 31 December 1970 was repealed at the turn of the 21st century by the ordinance of 15 June 2000 creating the new public health code. See Ordinance No. 2000–548, 15 June 2020, NOR: MESX0000036R, art.4

⁸“Cannabis: How can we take back control?”, E. Auriol, P.-Y. Geoffard, Notes du conseil d'analyse économique, Vol°52(4), p°1–12, April 2019.

⁹ See “Usages d'alcool, de tabac et de cannabis chez les adolescents du secondaire en 2018” Tendances, No.132, French Observatory of Drugs and Drug Addiction (OFDT), June 2019.

¹⁰“Usages d'alcool, de tabac et de cannabis chez les adolescents du secondaire en 2018”, Tendances, N°132, Observatoire français des drogues et des toxicomanies (OFDT), June 2019.

¹¹ État 4001 annuel, DCPJ (police + gendarmerie), via “Trente ans de réponse pénale à l'usage de stupéfiants” I. Obradovic, Tendances, N°103, OFDT, 2015.

¹² “Thirty years of penal response to drug use” I. Obradovic, Tendances, N°103, OFDT, 2015.

¹³ “Modernising Drug Law Enforcement Report 2 Focused deterrence, selective targeting, drug trafficking and organised crime: Concepts and practicalities”, V. Felbab-Brown, IDPC, 2012.

¹⁴ They increased 25-fold between 2002 and 2015. They include fines and, more rarely, imprisonment, community service, therapeutic injunctions and awareness training, see “Thirty years of penal response to drug use”, I. Obradovic, Tendances, N°103, OFDT, 2015.

These repressive actions are part of **a logic that is clearly ineffective**¹⁵, and which a growing number of countries around the world are now reversing. In France, the current legal framework (set up in a context where cannabis consumption rates were fairly low) is now integrated into the Public Health Code. The repressive spirit of this law has recently been reinforced by the introduction of a fixed fine of €200 for public consumers of illicit drugs (use and possession), further crystallising **the current problems**¹⁶, in particular by *de facto* targeting the most disadvantaged social groups within the country.

France's legal arsenal remains one of the "toughest" in Europe, yet it is struggling to reduce the highest rate of cannabis consumption on the continent. In 2017¹⁷, 44.8% of adults aged 18–64 said they had consumed cannabis in their lifetime, 3% more than in 2014. Meanwhile, in a public consultation organised in 2021 by the French parliament¹⁸ during the Mission of Information on the issue of cannabis, 80% of the 250,000 respondents voted overwhelmingly in favour of legalising cannabis.

The subsequent thematic parliamentary report on "recreational" cannabis¹⁹, presented by Caroline Janvier, MP, was the result of a wide-ranging public consultation and more than 100 hearings, including with the police, elected representatives and health professionals. At the presentation of the report, the president of the mission, Deputy Robin Réda, recalled that **the public authorities are unable to enforce the existing law on the prohibition of the use and sale of cannabis**. Jean-Baptiste Moreau, co-rapporteur, recalled that drug policy "is a total failure: *This is the reality of the figures, [...] we can always say that there is not enough law enforcement and that we can put in more, but what we have seen is that for 30 years it has not changed anything and has even had the opposite effect. [...] Prohibition was tested on alcohol in the 1930s in the United States, it doesn't work, we have to find other solutions. For us, it's a regulated legalisation with a state that plays its role.*"

In order to get out of this "ideological rut", co-rapporteur Caroline Janvier proposes²⁰ to create a "French model of regulated legalisation" of cannabis. **Her objective: "to dry up the black market, protect our youth, and develop prevention actions. May this report, which is now in the hands of the public, enable us to get rid of a "taboo" that no longer has any reason to exist."**

¹⁵ "Ending the Drug Wars: Report of the LSE Expert Group on the Economics of Drug Policy", London School of Economics, May 2014.

¹⁶ "Contre le trafic de cannabis, la France loupe encore le coche de la légalisation", J. Bouchet-Petersen, Libération, 21 August 2020.

¹⁷ "Synthèse thématique : cannabis", Observatoire français des drogues et des toxicomanies, 2021.

¹⁸ "Interrogés lors d'une consultation citoyenne, les Français se disent partisans d'une légalisation du cannabis récréatif", Le Monde with AFP, 1 March 2021.

¹⁹ "Réglementation et impact des différents usages du cannabis", Mission d'information commune, Rapport cannabis récréatif, Assemblée nationale, June 2021.

²⁰ "Cannabis : le rapport final de la mission d'information de l'Assemblée adoptée", A. Guez, LCP, 28 June 2021.

1. Failure on public health

a → Consumption today

3.9 million. This is the estimated number of cannabis users in France today, including **1.2 million regular users**²¹, and **900,000 daily users**²². Cannabis consumption habits have however changed significantly over the last 30 years.

Resin, which was massively available in the 1980s, has now been largely replaced by “flower”, which is considered a “cleaner” product by consumers looking for a “healthier” alternative, since it is **theoretically unprocessed**²³. **Self-cultivation has also developed widely in recent years.** Estimates suggest that there are between 150,000 and 300,000 cannabiculturists in France today, a number that **has increased during COVID-19 health crisis and successive lockdowns**²⁴.

THC levels have also increased significantly in the country²⁵. While it is difficult to say whether this is really a response to consumer demand, there is evidence that **pressure on the black market has driven up this increase**²⁶. Repression of cultivation sites – in Morocco for illegal “recreational” or “industrial” cultivation in France – have indeed forced the selection on the black market of high-yielding “potent” plants.

²¹ “Synthèse thématique : cannabis”, Observatoire français des drogues et des toxicomanies, 2021.

²² Tendances N° 137, OFDT, p°6, March 2020.

²³ “CANNAVID survey: Changes in cannabis use among daily users during the COVID-19 pandemic”, L. Briand Madrid, C. Donadille, V. Martin, et al, Psychotropes, Vol°26, (2-3), p°141-163, 2021.

²⁴ “Cannabis: en pleine pandémie, les fumeurs tentés par l'autoculture”, AFP, 4 December 2020.

²⁵ According to the OFDT, “the average THC content of cannabis resin has almost tripled in fifteen years, reaching 26.5% in 2018, while that of pot has increased by 40%, reaching more than 11% in 2018”, see: Fichier S.T.U.P.S de l'INPS via “Drogues, Chiffres clés”, OFDT, June 2019; “Est-ce que le cannabis français est de plus en plus fort en THC ?” A. Horn, Libération, 29 April 2021.

²⁶ “Street Lottery: Cannabis Potency and Mental Health”, P. North, Volteface, 18 October 2017.



b → Risky consumption

Risky consumption includes different dimensions of use and audiences, which should be the priority of a public health policy adapted to the issue of cannabis.

i → Youth consumption

The reasons why younger people consume or do not consume cannabis are **multifaceted and therefore complex**²⁷. Research shows a distinct overlap between individual motivations and social factors. For example, cannabis consumption as a coping mechanism in younger people is often facilitated by traumatic events, such as illness or lack of family support²⁸. Individual risk factors may thus **change during adolescence**²⁹, depending on parental socialisation, peer relationships, policies and normative beliefs.

Although cannabis use can lead to decreases in cognitive function in adults, the refutation of amotivational syndrome issues³⁰ is now firmly established. Research also shows that **observable decrements can be reversible**³¹. According to *Addiction Suisse*³²: *“The earlier and more extensive the use of cannabis, the greater the risk of negative consequences*³³, (including) *the risk of impairing the cognitive skills of young users in the long term. Early use may also signal the existence of more significant problems. Particularly in the case of adolescents who use cannabis regularly, their social situation and psychological resources should be carefully examined.*” This can lead to problems of addiction, de-socialisation, memory or even psychological problems in some cases. **The policy of total repression has not succeeded in keeping the most vulnerable populations away from these forms of consumption**³⁴, while prevention remains one of the major weaknesses of prohibitive models³⁵.

²⁷ See: “Sensible Cannabis Education A Toolkit for Educating Youth”, Student for Sensible Drug Policy (SSDP), 2018

²⁸ “Parent-child drug communication pathway from parent’s ad exposure to youth’s marijuana use intention”, T. Huansuriya, J. T. Siegel, W. D. Crano, *J Health Commun*; 19(2): 244–59, 2014; “Longitudinal associations between social anxiety symptoms and cannabis use throughout adolescence: the role of peer involvement”, S.A. Nelemans, W. W. Hale, Q. A. Raaijmakers, S. J. Branje, P. A. Lier, W. H. Meeus, *Eur Child Adolesc Psychiatry*; 25:483–92, 2016.

²⁹ “The dynamics of alcohol and marijuana initiation: patterns and predictors of first use in adolescence”, R. Kosterman, J. D. Hawkins, J. Guo, R. F. Catalano, R. D. Abbott, *Am J Public Health*; 90:360–66, 2000.

³⁰ “Effort-related decision making and cannabis use among college students”, S. Acuff, F. Simon, & J. G. Murphy, *Experimental and Clinical Psychopharmacology*, 2022; “Regular cannabis consumption doesn’t sap motivation in young adults: study”, N. B. Calvillo, Muggle Head, 8 February 2022.

³¹ “Effect of Abstinence on Memory Functions in Cannabis Users”, S. Rathee, R. Shyam, *Journal of Psychosocial Research*, Vol*13(2), p°443–451, 2018.

³² “Le cannabis en question(s)”, *Addiction Suisse*, Lausanne, 2013.

³³ “Early Cannabis Use and Neurocognitive Risk: A Prospective Functional Neuroimaging Study.”, B. Tervo-Clemmens, D. Simmonds, F. Calabro, D. Montez, Julia A Lekht, N. Day, G. Richardson, B. Luna, *Biological psychiatry. Cognitive neuroscience and neuroimaging*, 2018.

³⁴ “Synthèse thématique : cannabis”, *Observatoire français des drogues et des toxicomanies*, 2021.

³⁵ “Controlling the legalized cannabis market in France – The founding example of the ARJEL”, C. Ben Lakhdar, J-M. Costes, *Terra Nova Report*, 4 October 2016.

ii → Problematic consumption

It is still **complex to set a threshold defining when adult cannabis consumption becomes problematic**. Frequency and quantities consumed are not the only relevant indicators, although they are important criteria for assessing problematic cases.

As discussed in the introduction, about 1 in 10 consumers are at risk of dependence, which can be illustrated by a withdrawal syndrome when they stop using, including unpleasant physical and psychological symptoms associated with a risk of relapse. **The term “problematic consumption” is coined from the moment when it causes problems for the consumer in his/her social or professional life.** These criteria cannot be set by the outside world; it is up to the consumer to define whether his or her consumption is problematic and to what extent. **The consumer is required to weigh up the benefits and risks of his or her consumption,** and if the risks outweigh the benefits, then he or she should consider whether his or her consumption is problematic.

In addictology, there exists several screening scales for cannabis. In particular, the CAST (Cannabis abuse screening test) score is used as a reference with psychometric values adapted to the identification of problematic consumption. This score has become the reference test in European surveys of adolescents and has been included in the ESPAD (European School Survey on Alcohol and other Drugs) since 2007³⁶. This questionnaire was also used with adolescents and young adults in a study³⁷ based on data from an OFDT survey³⁸ of high school and university students aged 14 to 22 in the early detection of problematic cannabis consumption.

³⁶ “The Espad Group. ESPAD Report 2015. Results from the European School Survey Project on Alcohol and other Drugs.” Lisbon, EMCDDA, ESPAD, p°99, 2016.

³⁷ “Validation of the CAST, a general population Cannabis Abuse Screening Test.” S. Legleye, L. Karila, F. Beck, M. Reynaud, Journal of Substance Use, Vol°12, p°233-42, 2007.

³⁸ “Drugs in adolescence in 2005” ESCAPAD, OFDT, 2007.

³⁹ “Test Cast”, latest version, May 2013, OFDT.

Figure 7: CAST test

One cross per square	Never	Rarely	Once in a while	Quite often	Very often
Have you used cannabis before noon?					
Have you used cannabis when you were alone?					
Have you had problems with your memory?					
Have friends or family members told you that you should cut down on your cannabis consumption?					
Have you tried to cut down or stop using cannabis and failed?					
Have you had any problems because of your cannabis use (arguments, fights, accidents, poor performance at school)? Which ones: /...../	0	1	2	3	4
	x0	x1	x2	x3	x4

Source³⁹: OFDT, 2022.

To calculate a score, the modalities are coded from 0 to 4. **According to the total obtained**⁴⁰ (which can therefore vary from 0 to 24), consumers with no risk are defined when they have a score of less than 3, consumers with a low risk for a score between 3 to 6 and finally those with a high risk of dependence for a score equal to or greater than 7.

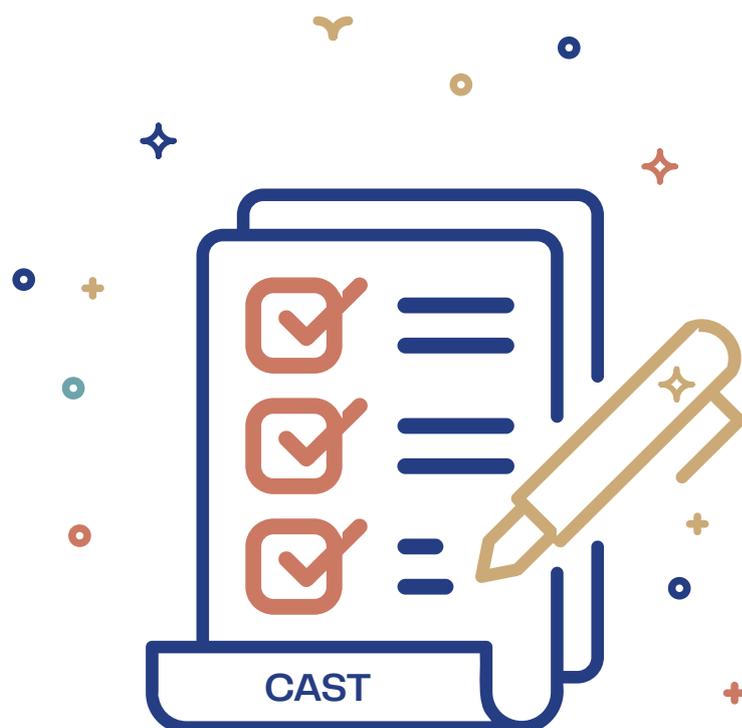
There are other criteria that make it possible to characterise forms of consumption that are immediately harmful with the notions of abuse and harmful use. **Abuse takes into account legal problems and risky behaviour** (conduct, use of tools which are not included in harmful consumption). However, these two concepts are not sufficient by themselves to **characterise dependence**⁴¹.

Although CAST is a relevant tool, it also has its limits: the focus on consumption that are not a priori festive (smoking alone, before midday) seems to be too unspecific because they are not incompatible with controlled consumption, nor are they necessarily associated with **ill-being or difficulties**⁴². **Highlighting a very strong link between the precocity of first-time consumers and problematic use.** Despite its limitations, the CAST remains the reference indicator today.

⁴⁰ "Consumption and overconsumption of cannabis: contributions and limits of epidemiology", F. Beck, S. Legleye, S. Spilka, Psychotropes, semestre 1, Vol°13, p°9-31, 2007.

⁴¹ Ibid. p°9-31.

⁴² "Regards sur la fin de l'adolescence : consommations de substances psychoactives lors de l'enquête Escapad 2000" F. Beck, S. Legleye, P. Peretti-Watel, Ofdt, 2000.



iii → The issue of driving

In Colorado and Washington, cannabis legalisation has not had a significant effect on the number of accidents or road deaths⁴³. Similarly, the share of people reporting driving under the influence of cannabis did not change significantly in Canada one year after legalisation⁴⁴.

If cannabis is legalised for adults, the highway code would have to change as a result, since in European countries the offence is generally constituted by the mere fact of testing positive to THC, independently of any influence on driving. Indeed, current analysis methods, including saliva, blood and urine tests, detect the presence of THC up to several weeks after consumption, in particular through the presence of THC-COOH, which has a much longer life in the body.

⁴³ "Crash fatality rates after recreational marijuana legalization in Washington and Colorado", J. D. Aydelotte, L. H. Brown, K. M. Luftman, et al, Am J Public Health, Vol°107, N°8, p. 1329-1331, 2017.

⁴⁴ "What has changed since cannabis was legalized", M. Rotermann, Statistics Canada, 19 February 2020.

Figure 8: Presence of THC in the body by type of test and level of use

Type of consumption	Acute	Regular	Chronic
Urine Test	up to 8 days	up to 30 days	up to 77 days
Saliva Test	up to 24 hours	up to 72 hours	up to 1 week
Blood test	up to 24 hours	up to 3 days	1 week to 1 month

Source: Addiction, 2009⁴⁵; Drug Abuse, 2016⁴⁶; Drug testing and analysis, 2014⁴⁷.

It remains difficult to say explicitly how long THC can remain in the body, let alone how long it can have an effect. This can vary from person to person, depending on fitness, metabolic rate, diet and even gender or ethnicity. The unique endocannabinoid fingerprint of each consumer is also to be taken into account as some ECS can be more durable or resistant than others. Not to mention a key factor in detecting THC in the body: the type of strain consumed.

The measurement of THC levels in saliva, which is currently used in several European countries, does not seem to be an effective means of determining actual impairment of attention, as indicated by a 2017 study from the University of Marseille⁴⁸. These findings have also been complemented by the State of Michigan, which showed in a recent study⁴⁹ that blood tests are also especially unreliable in verifying driver impairment.

⁴⁵ "Do Delta9-tetrahydrocannabinol concentrations indicate recent use in chronic cannabis users?", E. L. Karschner, E. W. Schilke, R. H. Lowe, W. D. Darwin, H. G. Pope, R. Herning, J. L. Cadet, M. A. Huestis, Vol°104(12), p°2041-8, December 2009.

⁴⁶ "Drugs of Abuse Reference Guide", LabCorp, 2016.

⁴⁷ "Current Knowledge on Cannabinoids in Oral Fluid", D. Lee, M. A. Huestis, Drug testing and analysis, Vol°6(0), p°88-111, January-February 2014.

⁴⁸ "Comparison of Cannabinoid Concentrations in Plasma, Oral Fluid and Urine in Occasional Cannabis Smokers After Smoking Cannabis Cigarette", A. Marsot, C. Audebert, L. Attolini, B. Lacarelle, J. Micallef, O. Blin, Journal of Pharmacy & Pharmaceutical Sciences, 19(3), 411-422, 28 October 2016.

⁴⁹ "Report from the Impaired Driving Safety Commission", State of Michigan, March 2019.

The limit in France is 1ng of THC/mL of saliva, which means that any trace of THC, even from past consumption, [medical](#)⁵⁰ or wellness wise, would make the test positive up to one week after intake for chronic consumption. In Switzerland, the threshold is set at 1.5ng of THC/mL of blood, while most North American states set it at 5ng/mL of blood. In 2015, [Germany took the decision](#)⁵¹ to not automatically withdraw the licence of people tested positive for THC, as [a group of experts had concluded](#)⁵² ten years earlier, that drivers can still have THC in their blood even several days after consumption, without affecting their driving.

These issues will have to be addressed in the short term, hopefully based on current [research](#)⁵³. In [Australia](#)⁵⁴ and in [Canada](#)⁵⁵, regulations have evolved to allow a **THC level in the blood higher than the level used in the past, but without the latter attesting to immediate intoxication** that would call into question the subject's ability to drive. This issue is being studied in particular across the Atlantic: **Canada follows a model based on a limit level**⁵⁶; in the United States, a company has developed [a tool capable of accurately identifying recent consumption by measuring THC levels in breath](#)⁵⁷; in the State of California, **the system is based on the notion of driver "impairment" rather than on a fixed level**⁵⁸.

[Recent research](#)⁵⁹ is also developing new non-invasive techniques for detecting euphoria, which can help distinguish between individuals who are actually impaired by cannabis and those who have consumed it in the past but are currently not under the influence of the psychoactive effects of the plant.

Finally, [a 2022 study](#)⁶⁰ conducted in several US states indicates: **"Current cannabis users in states where cannabis is used for recreational and medical purposes were significantly less likely to report driving within three hours of use in the past 30 days, compared with current users living in states without legal cannabis"**. Overall, the researchers concluded that education campaigns could help prevent people from driving immediately after consuming cannabis, which by definition is more likely to be deployed on a massive scale in jurisdictions that have legalised.

⁵⁰ "Industry warned it will never be viable without drug-driving reform", M. Lane, Cannabiz, 23 May 2022.

⁵¹ "Germany: Drivers on cannabis will no longer automatically lose license", Deutsche Welle, 12 April 2019.

⁵² "Developing Science-Based Per Se Limits for Driving under the Influence of Cannabis (DUI/C). Findings and Recommendations by an Expert Panel", F. Grotenhermen, G. Leson, G. Berghaus, O. H. Drummer, H-P. Krüger, M. Longo, H. Moskowitz, B. Perrine, J. Ramaekers, A. Smiley, R. Tunbridge, Legaliser, September 2005.

⁵³ "The effect of cannabis compared with alcohol on driving", R. A. Sewell, J. Poling, M. Sofuoglu, The American Journal on Addiction, 1 May 2010.

⁵⁴ "Cannabis and driving: a review of current evidence", M. Lenné, T. Triggs, M. Regan, *Accident Research Centre, Monash University*, 2001.

⁵⁵ "Cannabis Use And Driving: Evidence Review", R. Capler, D. Bilsker, K. van Pelt, D. MacPherson, Canadian Drug Policy Coalition (CDPC), Simon Fraser University, 27 March 2017.

⁵⁶ "Canada's impaired driving laws just got a huge and controversial overhaul – here's what you should know", B. Platt, *National Post*, 21 June 2018.

⁵⁷ "New marijuana breathalyser dubbed a 'game changer'", A. Foster, News Australia, 21 October 2019

⁵⁸ "Some states put a THC limit on pot-smoking drivers – Here's why California doesn't", J. Lyons, San Francisco Chronicle, 31 December 2017.

⁵⁹ "Identification of $\Delta 9$ -tetrahydrocannabinol (THC) impairment using functional brain imaging", J. M. Gilman, W. A. Schmitt, K. Potter, B. Kendzior, G. N. Pachas, S. Hickey, M. Makary, M. A. Huestis, A. E. Evins, *Neuropsychopharmacology*, 2022.

⁶⁰ "Cannabis legalization and driving under the influence of cannabis in a national U.S. Sample", L. M. Dutra, M. Farrelly, C. Gourdet, B. Bradfield, *Preventive Medicine Reports*, Vol°27, June 2022.

iv → Under lockdown

Presenting the [results regarding France from the 2020 Global Drug Survey, COVID-19 edition](#)⁶¹, the sociologist Marie-Jauffret Roustide states: *“For cannabis, the trends are less marked, with users mostly either stabilising their consumption or increasing their consumption moderately. The increase in cannabis use is linked both to time availability and boredom, and to therapeutic uses to alleviate anxiety and anguish. Those users who report having reduced their consumption have done so partly because of supply problems, although this reason only comes third, after the lack of opportunities to consume with the usual social networks. It is also interesting to note that a third of cannabis users report that they have experienced more pleasure in using during confinement and that almost half would like to decrease their cannabis use”*.

The [Cannavid study](#)⁶² carried out by Inserm and the non-profits Bus 31/32 and Plus Belle La Nuit (PBLN), also attempted to assess the impact of COVID-19 related lockdowns on cannabis consumption and the health of consumers. **According to the study, depending on consumption, confinement seemed to have had particularly deleterious effects on the health of some of the daily cannabis consumers.** Overall, those who had maintained a stable level of consumption had unchanged health data and were in the best health situation compared to those who had decreased, increased or stopped their consumption. In contrast, those who stopped, either by choice or by compulsion, reported more anxiety and depressive symptoms, increased pain and sleep disturbances. They also significantly increased, compared to others, their consumption of tobacco, alcohol and benzodiazepines.

Finally, according to the OFDT survey [“Cannabis online 2020”](#)⁶³, **while before 2020 only 6% of consumers smoked exclusively alone, the figure unsurprisingly soared to 39% during the first COVID-19 related lockdown.** Similarly in terms of risky behaviour, before March 2020, only a third of consumers smoked three or more “joints⁶⁴” on the days they used. **During the lockdown, 40% started to smoke three or more joints daily.** Finally, on an informative note, the survey indicates that [15% of users now resort to self-cultivation](#)⁶⁵, double the estimates made in 2017.

⁶¹ “The French have consumed products to compensate for the effect of confinement”, M. Jauffret-Roustide, Swaps – 1970, N°96-97, Winter 2020-2021.

⁶² Briand Madrid L, Donadille C, Martin V et al, “CANNAVID survey: Changes in cannabis use among daily users during the COVID-19 pandemic”, Psychotropes, 2020/2-3 (Vol°26), p. 141-163. DOI: 10.3917/psyt.262.0141.

⁶³ “Results of the Cannabis online 2020 survey”, A. Brissot, A. Philippon, S. Spilka, OFDT, Note de résultats d’enquête, 2020-06, Paris, December 2020.

⁶⁴ A joint is a rolled cannabis cigarette typically containing between 0.25 and 1 g net weight of cannabis. Mixing tobacco is sometimes used in the rolling process.

⁶⁵ “Cannabis: en pleine pandémie, les fumeurs tentés par l’autoculture”, AFP, 4 December 2020.

c → Neocannabinoids or synthetic cannabinoid receptor agonists (and other “spices”)

European countries that prohibit cannabis have seen the growing emergence of potentially highly dangerous products on the black market in recent years. These molecules do not exist in their natural state and are sold, mostly legally, under the pretence of causing cannabis-like effects. These new molecules, formerly called “designer drugs”, are now generally classified by the authorities as “new synthetic products” (NPS⁶⁶). Commonly called “spices⁶⁷”, some researchers name them neocannabinoids⁶⁸ to differentiate them from synthetic phytocannabinoids. The mechanism upon which their rise is based is called the “iron law of prohibition⁶⁹” and is detailed in Figure 9.

⁶⁶ “Synthetic Cannabinoids”, PsychoActif, 2021

⁶⁷ “Dealing with spice – Why more enforcement won’t help”, Transform Drug Policy Foundation, 2018.

⁶⁸ “Cannabis’ ontologies I: Conceptual issues with Cannabis and cannabinoids terminology”, K. Riboulet-Zemouli, Cannabis Epistemology, Drug Science Policy and Law, December 2020.

⁶⁹ “The Economics of Prohibition”, M. Thornton, University of Utah Press, 1991. See also: “Iron law of prohibition”, Wikipedia, 2022

⁷⁰ “While moonshine has been made for centuries, its popularity spiked during the U.S. Prohibition when it was sold in speakeasies across the country. Part of the rise in demand was thanks to the potency of moonshine, which can reach 150 proof or stronger. The saying being: “If you can’t get drunk leisurely, you want to get drunk efficiently”. See: “How Moonshine Works”, E. Grabianowski, M. Radzicki McManus, How Stuff Works, 8 February 2022.

⁷¹ “Infographic: The ‘Iron Law of Prohibition’”, S. Beller, Filtermag, 3 October 2018.

Figure 9: The iron law of prohibition



Beer and wine	Spirits	Contraband alcohol (“Moonshine ⁷⁰ ”)
Cannabis	Cannabis with high THC content	Synthetic cannabinoids
Coca leaf/tea	Cocaine	Crack / Paco / Basuco
Opium	Heroin	Fentanyl / Carfentanil
Ephédra	Amphetamine	Ice / Methamphetamine

Source: Filtermag⁷¹, 2018.

Concerning neocannabinoids, these substances are generally sought after because of their faster uptake, lower prices than traditional cannabis, and their “legal” (understand: “not yet illegal”) status, which allows easy access via the Internet or through specialised shops.

Perceived as “natural” and “risk-free” because they are not detectable in blood or urine, these molecules are favoured by certain consumers who carry out regular controls, notably sportsmen, women, soldiers and workers in high-risk jobs.

Neocannabinoids are substances that “mimic” the effects of THC with a higher pharmacological potency than the THC contained in cannabis because they are more selective of cannabinoid receptors (CB1 and CB2). This pharmacological potency explains why their action/ effects appear at particularly low doses and why they are used as sprays on plant mixtures or fake resin, or even on “CBD flowers”, all often masquerading as cannabis. **The agonist effects of these neocannabinoids⁷² can lead to serious or even fatal clinical effects in humans when taken acutely:** cardiovascular (infarction, tachycardia, bradycardia, hypertension), psychiatric (panic attacks, hallucination, delirium, acute psychosis, aggressiveness, agitation, drug dependence), neurological (convulsions, stroke), digestive (nausea, vomiting), fever, rhabdomyolysis, renal insufficiency, hyperglycaemia, hypokalaemia, etc.

During the lockdowns, particularly following the closure of state borders, there was an increase in reports and analyses of **neocannabinoids presented as cannabis⁷³**, with alerts issued by the CEIP and ARS **in the south of France in particular⁷⁴**. One of the products analysed, MDMB-4in-PINACA, was one of the substances first identified in Europe in 2017 and has previously led to **deaths on the continent and in the rest of the world⁷⁵**. This substance, and others in the same family, have been circulating on the continent **prior to containment⁷⁶** and are typically purchased online directly by consumers.

The appearance of stronger, more dangerous, more discreet and more accessible products is a direct result of cannabis prohibition. On the model of the “moonshine” served in speakeasies during the U.S. Prohibition of alcohol, the framework currently in place in most European countries encourages the appearance, allows the structuring and directly accentuates the consumption of risky products. **The ease with which chemical formulas can be altered also makes their repeated interdiction by the public authorities obsolete.** If cannabis is not risk-free, its synthetic alternatives (neocannabinoids) are dramatically more so, with many deaths recorded, despite the fact that it is a product with almost zero prevalence of use.

⁷² “Synthetic cannabinoids in herbal products”, UNODC, 2022.

⁷³ “Circulation of cannabis herb adulterated with synthetic cannabinoids”, OFDT, 5 February 2021.

⁷⁴ “Information-alert on synthetic cannabinoids and risks for users”, CEIP Paca - Corse and ARS SUDS, October 2020.

⁷⁵ Critical Review Report, WHO, 2020.

⁷⁶ ARS Normandie/CEIP de Caen alert following serious adverse effects linked to the consumption of synthetic cannabinoids in the form of e-liquid among adolescents, made from products bought on the internet called PTC or “pète ton crâne”. See: “Le point Sintès”, V. Detrez, OFDT, Issue 6, p°4, May 2020.

2. Failure on the penal chain

The observation about the failure of the criminal justice system, particularly in France, has been hammered home for several decades. As recalled by the [jurist Yann Bisiou](#)⁷⁷, ***“For fifty years, every seven months on average, the (French) legislator has modified the law on drugs to reinforce repression, without success. The repression of drug use in its various forms has become the third cause of conviction, all offences combined, after road traffic offences and theft and concealment, ahead of intentional violence. However, even when the legal machinery is working at full speed, it has no dissuasive effect on drug use, particularly cannabis use.”***

This indisputable observation is supported by the words of the [French journalist specialising in drugs, Christelle Destombes](#)⁷⁸: ***“...penalisation is a sham: a time-consuming policy that generates inequalities between people and territories, it has a limited effect on trafficking, which it struggles to reduce. Worse, it continues to hit the hardest on certain young people in the most precarious neighbourhoods, degrading the very fragile relationship between the police and the population...”***

a → The ineffectiveness of the fixed fine

The French fixed fine takes on the attributes of the law of 31 December 1970: inefficient, unfair and arbitrary. Yann Bisiou, once again, gives us [the details](#)⁷⁹ ***“With 17,853 offences recorded by the police and gendarmerie services in October 2020, the statistics show an increase of 10 to 15% in the number of usage offences recorded compared to the same months in 2017 to 2019***⁸⁰. Now, 15% more penalties is a lot for the users penalised, but notoriously insufficient to eliminate the feeling of impunity that the fixed fine was supposed to combat. According to the OFDT, there are approximately **900,000 daily cannabis users in France**⁸¹, which represents more than 300 million use offences committed each year. In comparison, with a 15% increase in repression, the government can hope to reach 190,000 recorded offences, i.e. a repression rate that would rise from 0.05% to 0.06%.

⁷⁷ “Le spectre de la loi du 31 décembre 1970”, Y. Bisiou, Swaps - 1970, N°96-97, p°15, Winter 2020-2021.

⁷⁸ “Pour une légalisation raisonnée”, C. Destombes, Swaps - 1970, N°96-97, p°19, Winter 2020-2021.

⁷⁹ “Le spectre de la loi du 31 décembre 1970”, Y. Bisiou, Swaps - 1970, N°96-97, p°15, Winter 2020-2021.

⁸⁰ “Monthly departmental figures for crimes and offences recorded by the police and gendarmerie since January 1996”, Ministry of the Interior, “état 4001”, 2021.

⁸¹ “Drugs, key figures 2019”, June 2019, OFDT.

*In other words, the change will be marginal in relation to the scale of consumption. And this theoretical calculation does not take into account the actual recovery of these fines. In the past, the recovery rate for drug fines was 41%; it will probably be **even lower with the fixed fine**⁸². Indeed, this rate is currently **around 34%**⁸³.*

If it seems ineffective in terms of its stated objectives, the procedure also appears arbitrary. **The French jurist continues**⁸⁴: *“Suburbs and rural areas are the territories where the increase in repression is most noticeable. In raw data, Bouches-du-Rhône and Seine-Saint-Denis together account for 35% of the increase in recorded acts, with more than 2,000 additional offences compared to previous years. However, in terms of the percentage increase in repression, it is the rural areas, Nièvre, Cantal and Lot, under the jurisdiction of the national gendarmerie, that concentrate the increase in recorded offences. Overall, offences of use recorded by the gendarmerie increased by 19 to 26% compared to previous years, while those recorded by the police only increased by 5 to 9%.”*

To quote an infamous saying⁸⁵: **“If the penalty for a crime is a fine, then this law only exists for the poorer classes”**. This ‘war’ against demand is not new: it is a structural part of the 1970 law, which was primarily concerned with “combating” the consumer as well as trafficking.

b → Prohibition promotes insecurity

For law enforcement officers on the ground, it is often difficult to strictly enforce the law and control trafficking, particularly because of the cumbersome nature of the procedures. The proportion of people prosecuted in France for illicit drug use varies considerably **from one territory to another**⁸⁶. Nevertheless, the situation is often the same.

A 2016 study⁸⁷ concluded that, in the similar Belgian framework, *“the repressive approach has only led to a geographical shift and the emergence of criminal entrepreneurs, who offer cannabis in an almost professional way. (...)”*

⁸² “Working group on the criminal response to drug use” Mildeca, 2016.

⁸³ “Conseil des ministres du 15 septembre 2021. Amende forfaitaire délictuelle pour usage de stupéfiants.”, Vie publique, French Government, 15 September 2021.

⁸⁴ “Le spectre de la loi du 31 décembre 1970”, Y. Bisiou, Swaps – 1970, N°96–97, Winter 2020–2021.

⁸⁵ “If the penalty for a crime is a fine, then that law only exists for the lower class”, The Big Apple, 25 November 2020. See also: “The Constitutionality of Income-Based Fines”, A. Schierenbeck, The University of Chicago Law Review, 2015; “Fines and Fees Are Inherently Unjust”, O. Nimni, 9 May 2017.

⁸⁶ “Cannabis: Regulating the market to break the deadlock”, P. Kopp, C. Ben Lakhdar, R. Perez, Terra Nova Report, 19 December 2014.

⁸⁷ “Time for a new Belgian policy on cannabis?”, position paper working group Metaforum, Position paper 16, 22 March 2018.

Moreover, no control is possible on quality and potency, with all the consequences this implies for public health.” The study further highlights the paradox of the repressive approach and its consequences: **“The more intense the repression, and the more successful it is in limiting supply and creating scarcity, the higher the price for the consumer, which ultimately leads to greater profitability for (illicit) cannabis producers and distributors.”** These huge margins then attract more people who are willing to take risks or who have nothing to lose.

The effects of intense repression are then seen in the multiplication of illegal actors, who share important financial resources used to professionalise and protect themselves from repression. In France, the evolution of supply channels, originally via Morocco, and now via the Netherlands, Spain or directly from Belgium, makes repressive policy illusory.

The study of ongoing experiments, particularly in the United States, can be illuminating. Comparing states that have legally or non-legally regulated their adult-use cannabis market, such as Washington, which took the plunge in 2012, and saw a significant decrease in rapes (-30%) and robberies (-20%) **in almost a decade**⁸⁸. More generally, it would seem that one of the consequences, this time of the regulation of medical cannabis in several US states, has been a significant reduction in violent crime (-12.5%) **in areas controlled by Mexican cartels**⁸⁹. This is understandable if it is taken into account that a large part of the adult market in these states is supplied by the medical market via dispensaries and patient cards. In states where cannabis has been legalised, **alcohol sales drop**⁹⁰ and **domestic violence plummet as well**⁹¹. This is **corroborated by research**⁹² which demonstrates that regular cannabis consumption can lower stress responses, making people more calmer.

⁸⁸ “Crime and the legalization of recreational marijuana”, D. Dragone, Journal of Economic Behavior & Organization, vol^o159, p.488-501, 2019.

⁸⁹ “Is Legal Pot Crippling Mexican Drug Trafficking Organisations? The Effect of Medical Marijuana Laws on US Crime”, E. Gavrilova et al, The Economic Journal, vol^o129, no. 617, p. 375-407, 2019.

⁹⁰ “Helping Settle the Marijuana and Alcohol Debate: Evidence from Scanner Data”, M. Baggio, A. Chong, S. Kwon, Economics, Social Science Research Network, 2017.

⁹¹ “Physical Harm Reduction in Domestic Violence: Does Marijuana Make Assaults Safer?”, Jacob Kaplan, Li Sian Goh, 9 April 2019.

⁹² “Blunted stress reactivity in chronic cannabis users”, C. Cuttler, A. Spradlin, A. T. Nusbaum, P. Whitney, J. M. Hinson, R. J. McLaughlin, Psychopharmacology, Vol^o234, p^o2299-2309, 2017.



According to the authors of the French think tank GenerationLibre's report "[Pour un marché libre du cannabis en France](#)⁹³", this decrease in crime can be explained in two ways: "*By legalising, on the one hand, the activities of criminal organisations living off trafficking are reduced. Consumers are encouraged to buy on the legal market and are [less exposed to violence](#)⁹⁴. On the other hand, there are more means to fight crime. The police are reallocating the efforts they used to devote to arresting drug dealers to fight other forms of delinquency. (...) In addition, the tax revenues captured in this new market can also be used by local governments to fight crime. Washington State, for example, collected nearly \$1 billion between 2014 and 2017 from legalisation.⁹⁵"*

⁹³ "For a free cannabis market in France", K. Brookes, E. Hesse, GenerationLibre Report, January 2021.

⁹⁴ "Crime and the legalization of recreational marijuana", D. Dragone, Journal of Economic Behavior & Organization, vol°159, p.488-501, 2019.

⁹⁵ "Recreational marijuana legalization in Washington State: benefits and harms", C. Mosher, S. Akins, in T. Decorte, S. Lenton, C. Wilkins (eds), Legalizing Cannabis. Decorte, S. Lenton, C. Wilkins (eds), Legalizing Cannabis. Experiences, lessons and scenarios, Routledge, p.80, 2020.

c → On the misuse of the public security mission

While public security should not have to be a financially beneficial operation, it does need to be effective, and its public policies must be evaluated. In terms of the indicators of success used today or the role played by law enforcement, the fight against illicit drugs, especially cannabis, deviates from public security missions.

i → Inadequate indicators of success

Over the **past half-century, illicit drug policies on the continent have prioritised a small set of indicators to assess their success**⁹⁶, with a narrow focus on **reducing the demand for and supply of illicit drugs.** These indicators include the price of illicit drugs, their purity, perceived availability, the number and volume of seizures, the number of arrests and incarcerations related to these substances, and the prevalence of consumption in the general population (without distinguishing between problematic and non-problematic forms).

⁹⁶ "Towards Metrics that Measure Outcomes that Matter", D. Bewley-Taylor, Global Drug Policy Observatory, Policy Brief, 10 April 2016.

On the basis of these indicators, policies that combine street-level repression and supply prohibition have, on the whole, not proven to be effective⁹⁷.

A scientific consensus⁹⁸ is emerging that prohibition and criminalisation policies significantly increase, not only the risk that consumers will have negative consequences for their health, but also for the rest of society. These approaches have in turn led to an increase in risky behaviour among consumer populations. **In order to evaluate illicit drug policies in a meaningful way, it is therefore necessary to prioritise robust and detailed indicators that measure real and relevant outcomes.**

Such indicators, especially **comparative one⁹⁹**, exist and have been developed to assess the health, security, development and human rights impacts of drug policies¹⁰⁰, including **a gender-specific perspective¹⁰¹**.

One reason why current indicators are resilient is that they provide politically useful certainty in a complex, fluid and potentially problematic policy area.

And this trend persists even though traditional indicators are increasingly at odds with policy changes aimed at reducing the overall harm of illicit drug markets. Given the theoretical premises underpinning the operation of the prohibitionist regime, it is not surprising that so much attention has been paid to measures narrowly focused on arrests and prosecutions (dealers, traffickers and, in some cases, consumers), and seizures (both unprocessed and processed, including opium, coca, cannabis, cocaine, heroin, amphetamine-type stimulants, and the precursor chemicals needed to manufacture them).

Figures on seizures, arrests and hectares eradicated are relatively stable islands of confidence in a sea of statistical inaccuracy. Moreover, they are valuable in terms of media relations and in providing the general public, with tangible evidence that the authorities are achieving some success in their ongoing efforts. Costly efforts, both in terms of resources and, in some cases, lives – in a perpetual quest to “solve” the “drug problem”.

In reality, they are process indicators of operational law enforcement activity. This activity may be completely independent of the actual size and nature of illicit markets and may be more related to budgetary and personnel considerations, or even political imperatives. **They are therefore of limited use in terms of measuring the effectiveness of policies¹⁰².** It should be noted that while the French (and EU) strategy contains an ambitious supply reduction target, there are no accompanying efforts to collect data to assess whether these targets are being met.

⁹⁷ “Report of the International Narcotics Control Board for 2014”, International Narcotics Control Board, Vienna, 2015; “Toward a global view of alcohol, tobacco, cannabis, and cocaine use: Findings from the WHO World Mental Health Surveys”, L. Degenhardt, W. T. Chiu, N. Sampson, et al, Vol°5, 1053–67, 2008.

⁹⁸ “Vienna Declaration: a call for evidence-based drug policies”, E. Wood, D. Werb, M.Kazatchkine, et al, Lancet Vol°376, p°310–312, 2010.

⁹⁹ “Drug Policy Metrics Map Overview”, Centre on Drug Policy Evaluation, 2022; Drug Policy Metrics Map, website, 2022.

¹⁰⁰ See: “Oregon’s measure 110. Principles and metrics for effective evaluations”, M110 Evaluation Working Group, 2020; “Mapping Research on Drug Metrics to Date”. in *Aligning Agendas: Drugs, Sustainable Development, and the Drive for Policy Coherence*, International Peace Institute, p.4–9, 2019; “Measurement matters: Designing New Metrics for a Drug Policy that Works”, Robert Muggah, Katherine Aguirre and Ilona Szabo de Carvalho, Igaparé Publication, Strategic Paper, 12 January 2015.

¹⁰¹ “Improving Drug Policy Metrics and Advancements in Measuring Gender-based Drug Policy Outcomes”, M. Nougier, in *The Impact of Global Drug Policy on Women: Shifting the Needle*, J. Buxton, 19 November 2020.

¹⁰² “Expert Seminar – Where next for Europe on drug policy reform?”, IDPC, TNI, SICAD, Lisbon, Portugal, p°12–13, 20–21, June 2013.

Although these evaluation measures continue to be privileged in multinational policy debates, a growing number of professional, academic and civil society actors recognise that these traditional, and relatively simplistic indicators are not only inadequate, but also direct budgetary resources to the wrong activities. **More than a hundred years of illicit drug prohibitionist policy dominated by law enforcement activities have revealed few sustainable and geographically widespread successes. Far from being scaled down and eliminated, markets have survived by adapting to law enforcement surveillance.** These adapted markets often cause more social harm, and over wider geographical areas, [than illicit markets subject to law enforcement](#)¹⁰³.

ii → Law enforcement caught between a rock and a hard place

The French think tank Terra Nova's report "[Cannabis: for another police and penal strategy](#)"¹⁰⁴ estimates that 600,000 hours are spent on this subject each year by the country's law enforcement agencies: the equivalent of 357 full-time posts. The MILDECA, the French anti-drugs administrative agency, estimates that interventions related to the simple consumption of cannabis represented more than [one million hours of work for the police in France each year](#)¹⁰⁵. Caught between hierarchical pressure demanding "results" and a population with which the link is gradually breaking down, the French police are under enormous pressure.

Without entirely questioning the work produced by the various "anti-drug" agencies in France (drug squad, border police, OFAST, etc.), which is ultimately the result of orders given, **the outcome is not satisfactory in terms of the aims stated and sought by the public authorities.** In the light of alternative experiences, particularly in Portugal, a real policy of decriminalisation could at least provide immediate answers to the misuse of the work of the police, as shown [in Catalonia](#)¹⁰⁶ or [within certain British localities](#)¹⁰⁷.

¹⁰³ "The Alternative World Drug Report, Counting the costs of the war on drugs" Executive Summary, Count the Costs, Transform Drug Policy Foundations, 2012; "The Alternative World Drug Report, Counting the costs of the war on drugs" Executive Summary, Count the Costs, Transform Drug Policy Foundations, 2011.

¹⁰⁴ "Cannabis: for another police and penal strategy", M. Zagrodzki, Terra Nova, 9 October 2020.

¹⁰⁵ On the basis of six hours for a simple drug use procedure (from the moment of arrest to the destruction of the seals), the MILDECA estimates that more than one million hours of work are devoted by the police and gendarmes to procedures against users, see "Restitution des travaux du Groupe de travail sur la réponse pénale à l'usage de stupéfiants", MILDECA, 2016.

¹⁰⁶ "Cannabis Regulation in Europe: Country Report Spain", X. Arana, Country Report, Transnational Institute, March 2019.

¹⁰⁷ "Crime and the Depenalization of Cannabis Possession: Evidence from a Policing Experiment", J. Adda, B. McConnell, I. Rasul, *Journal of Political Economy*, vol.122, no.5, p.1130-1202, 2014.

¹⁰⁸ "Overcoming the malaise of the internal security forces: a republican requirement", Commission of Inquiry on the state of the internal security forces Report No.612 (2017-2018) by Mr François Grosdidier, submitted on 27 June 2018.

¹⁰⁹ "Bilan Social 2019", Ministry of the Interior, 24 September 2021.

¹¹⁰ "Police: Gérard Darmanin hides the evidence", Z. Keunebroek, C. Fioretti, N. El Hammouchi, Blast, 28 April 2022.

A 2018 report by the French Senate commission of enquiry into the state of the internal security forces¹⁰⁸ estimated that the suicide rate among the police was **36% higher than in the general population**. The latest social balance sheet of the Ministry of the Interior¹⁰⁹ dates from 2019 and remains truncated¹¹⁰ (notably data concerning suicides). While the one of the DGPN (Direction Générale de la Police Nationale) is simply not available. It seems notable that the police institution does not invest sufficiently in the well-being of its employees while the deterioration of mental health affects thousands of police officers.

In June 2021, the National Police Health Barometer¹¹¹ conducted by the Mutuelle generale de la police found that 39% of police officers are in a state of mental distress and 24% of those surveyed said that they had had suicidal thoughts or had heard colleagues around them talking about suicide. Since then, these figures do not appear to have improved. The associations mobilised at the beginning of 2022 would now report 41% more suicides¹¹² in the police than in the rest of the working population. Last year, 63 % of officers who took their own lives did so at work. The majority of them used their service weapon.

Because of current “anti-drug” policies, the link between the population and the police is constantly deteriorating. Beyond this, the figure of public power and the rule of law is being undermined. The perpetuation of a policy based on numbers, coupled with a lack of a real community policing policy (for example based on Sir Robert Peel’s Policing Principles¹¹³, i.e. not separating prevention and combating offences, or integrating a police force that is disconnected from the communities and spaces under its prerogative) can only lead to a general negative climate. In France, several media cases in recent years (Hadama Traoré¹¹⁴, Théo Luhaka¹¹⁵, police station in the 12th district of Paris¹¹⁶, etc.) have highlighted the deterioration of relations between members of the police and communities living in the most impoverished areas of the country¹¹⁷.

Police officers have a great deal of discretion¹¹⁸. They can therefore consciously or unconsciously implement differential treatment of social and ethnic minorities. Moreover, not all individuals are equally concerned by the risk of repression of their use and sale of illicit drugs. As a result, police profiling generates¹¹⁹ “the criminalisation, not of behaviour, but of individuals who are members of certain groups in society”. These fundamental issues are also being addressed by a growing number of civil society and law enforcement actors, such as LEAP Europe¹²⁰.

¹¹¹ “MGP Health Barometer of the National Police (1) – A quarter of police officers face suicidal thoughts”, MGP, press release, 7 June 2021.

¹¹² “Les policiers se suicident-ils plus que le reste de la population ?”, F. Leboucq, Libération, 9 June 2021.

¹¹³ “Sir Robert Peel’s Policing Principles”, Law Enforcement Action Partnership, 2022.

¹¹⁴ “Assa Traoré and the Fight for Black Lives in France”, L. Collins, The New Yorker, 18 June 2020; “France’s Ferguson”, H. Grabar, O. Castillo, Slate, 1 February 2017.

¹¹⁵ “Frenchman describes brutal ‘police rape’”, BBC News, 7 February 2017; “French police officers face trial over violence against black youth Theo”, RFI, 27 November 2020.

¹¹⁶ “Former Students Win Racial Profiling Case Against French State”, The New York Times, 9 June 2021.

¹¹⁷ “Policing the Banlieues”, F. Jobard, J. de Maillard, W. Skogan, In *Policing in France*, Advances in Police Theory and Practice Series, Routledge, p.202–218, 2021.

¹¹⁸ “Sociological analyses of police–population relations: towards a recognition of the variety of police practices. Presentation of the case”, T. Delpuech, J. E. Ross, F. Bonnet, *Droit et société*, Vol°3, N°97, p.457–468, 2017.

¹¹⁹ “Precedents and nationality as catalysts for criminal reaction – the example of drug litigation (Brussels)”, C. Guillaïn, C. Scohier, *Société avec drogues*, p.185–202, 2002.

¹²⁰ “Leap Europe, website, 2022.

d → Stigmatised geographical areas

In 2021, **the French state was condemned for gross misconduct**¹²¹ after the “*facial identity checks of three high school students*” carried out in 2017 by police officers in a Parisian train station. In the same year, six national and international NGOs referred for the first time the **issue of “racial profiling**¹²² to the French Council of State. These NGOs describe police checks based on appearance as **systemic discrimination, illegal under French and international human rights law**. As **detailed in a sociological survey by French researcher Sarah Perrin**¹²³: “*This police profiling is based, in the French case, on proactive controls by law enforcement officers present in the field, on the basis of particularly visible criteria by which police officers divide the population, in particular the gender, ethnic origin, age and attitude of the person stopped.*” Some of the police officers interviewed explain the overrepresentation of racialised and disadvantaged people in drug offences (ILS) by a socio-economic and historical analysis: due to France’s colonial history, racialized people with an immigrant background live in poorer socio-economic conditions than the rest of the population. Involvement in drug dealing would therefore be a response to financial needs. This hypothesis is supported by some **social science research**¹²⁴ according to which **the delinquency of young racialised men living in the “cités” is linked to their living conditions and environment**.

The sale of drugs is also said to be a response to “*relative frustration*¹²⁵”. For the sociologist Robert Merton, society prescribes cultural goals (such as social status) and legitimate means to achieve them (such as education and work). However, as Sarah Perrin points out: “*some groups do not have equal access to legitimate institutional means: people with an immigrant background are less likely to have access to a certain level of education, to certain jobs and salaries*¹²⁶. For these groups, there is therefore a mismatch between the prescribed goals and the legitimate means to achieve them. In response, individuals will innovate by opting for illegitimate means (in this case selling drugs) to achieve the prescribed cultural goals.” **Agnew and White**¹²⁷ have empirically supported Merton’s 1938 General Strain Theory by specifically focusing on delinquency drug consumption and strain.

¹²¹ “Former Students Win Racial Profiling Case Against French State”, The New York Times, 9 June 2021.

¹²² “Rights groups take police racial profiling case to top French court”, France 24, 22 July 2021.

¹²³ “Arrests for drug trafficking and use: how the ‘crime of filth’ is made”, Sarah Perrin, The Conversation, 1 May 2022.

¹²⁴ “Dominique Duprez, Michel Kokoreff, Les mondes de la drogue [review]”, P. Pinell, Sciences Sociales et Santé, Vol°19, N°3, p.115–117, 2001.

¹²⁵ “Robert K. Merton, in the name of science”, A. Saint-Martin, 2012.

¹²⁶ “The Persistence of Intergenerational Inequalities linked to Immigration: Labour Market Outcomes for Immigrants and their Descendants in France”, D. Meurs, A. Pailhé, P. Simon, *Population*, Vol°61(5–6), p.645–682, 2006.

¹²⁷ “An empirical test of general strain theory”, R. Agnew, H. R. White, *Criminology*, Vol°30(4), p.475–500, November 1992.

The focus on precarious and/or racialized people is also justified by the police because of the **greater visibility of the illicit activities of these populations: external dealing, which is visible on the street and concentrated in the “cités”, is more easily observable than dealing in flats or in nice neighbourhoods.** By concentrating on “*what burns the eyes*”, the police are in fact going after an easier target. However, field surveys seem to show that **cannabis trafficking** in the so-called “**priority neighbourhoods of the city policy**”¹²⁸ **represents only a marginal part of the income of their inhabitants**¹²⁹, the vast majority of these populations having legal means of revenue.

These surveys mention the **stigmatisation of entire geographical areas**, but this is not a point of view. This non-objective and reductive vision is fed by certain media that systematically stigmatise the so-called “sensitive” neighbourhoods during reports or treatment by news outlets. The French sociologist Michel Kokoreff points out that this sensational vision promoted by the media corresponds to the French government’s hypothetical logic of fighting downstream trafficking in these stigmatised areas and deplores the lesser concentration upstream: “*drugs enter the country by the ton*”. A strategy that is not only doomed to fail but also has **perverse effects**¹³⁰.

This stigmatisation can be linked to the phenomenon of urban segregation and the exclusion of the populations of the “cités”, a logic that is **contrary to social integration**¹³¹ and reflects a “*rupture of equality in social spaces such as work, school, collective facilities and secularism*”. The black market can then be seen as a way of making up for missing social spaces, a vector of socialisation in the face of the stigmatisation and segregation of these geographical areas and their inhabitants.

¹²⁸ “Quartiers de la politique de la ville”, Ministère de la Cohésion des Territoires et des Relations avec les Collectivités Territoriales, 15 March 2022. For a European perspective see: “Increasing exclusion in European cities”, F. Eds, Favas.net, 4 March 2022; “Socio-economic segregation in European cities. A comparative study of Brussels, Copenhagen, Amsterdam, Oslo and Stockholm”, K. Haandrikman, R. Costa, B. Malmberg, A. Farner Rogne, B. Sleutjes, *Journal of Ethnic and Migration Studies*, p.1–23, 4 August 2021.

¹²⁹ Drug money in France. Estimation of illicit drug markets, C. Ben Lakhdar, N. Lalam, D. Weinberger, INHESJ, MILDECA, Prime Minister, 2016.

¹³⁰ “Drugs, trafficking, imaginary war. Des quartiers aux cartels”, M Kokoreff, *Multitudes*, vol°44, N°1, p°119–128, 2011.

¹³¹ “Urban segregation and social integration. Report.” J-P. Fitoussi, E. Laurent, J. Maurice, CAE, 2004.



To illustrate this dynamic, [a study published in 2016](#)¹³² analyses an account book seized in a district of the city of Marseille in France: *“This rare seizure, which records the organisation’s income and expenditure down to the smallest detail, makes it possible to measure the scale of the sums mobilised by the managers, but also the disaster that is the financial situation of the network’s little hands, who are nothing less than the lumpenproletariat of trafficking. If the daily takings can reach more than 30,000 € – which is of course not a net profit, but nevertheless suggests the enrichment of the three co-managers – the salaries and other personnel costs show a completely different lifestyle for the two or three dozen salesmen, watchmen, nannies and other labourers”*.

The article compares the income of the Castellane city of around 30,000 €/day with the 720€ of expenses per day including the salaries of the guards and the charbonneurs, food (65€) and the petrol for the scooters (for about 5€). At the bottom of the scale, the lookouts are paid between 40 and 60€ per day, depending on their seniority, for 13-hour days (much less than the minimum wage¹³³). This research therefore corroborates **the precariousness of the small hands of the traffic and the concentration of profits by the manager**. The article also highlights the profile of this last actor, arrested following the investigation in question: *“The judicial investigation specifies that one of the people, described as “the main actor in this case – in other words, the main manager of the network – led a lifestyle” of the most expensive (trips, holidays, casino games with more than €27,000 in losses over a year, luxury cars, hotel, prostitutes...) as well as investments in “businesses (restaurants, bars, chichas...) in the Marseilles area”; and that another “did not hesitate to rent large motorcycles during weekends, the cost of which sometimes amounted to €1,500 a day.”*

The cannabis black market thus contributes above all to the impoverishment of these areas, to which the middle and privileged classes have been subcontracting their demand for cannabis for decades, notably through environmental degradation (appropriation of public space, vandalism, theft, etc.) and the entrenchment of the youngest inhabitants of these geographical areas in underpaid illegal jobs. **The “little hands” of trafficking**¹³⁴ **earn only a small amount of money from this traffic**, barely above the minimum wage **for the majority of them**¹³⁵ as shown in the 2016 report by INHESJ¹³⁶ for Mildeca¹³⁷ on **“Drug money”**¹³⁸.

¹³² “De l’argent facile”, C. Duport, Mouvements, 2nd semester, N°86, p.71-79, 2016.

¹³³ The SMIC (“Salaire Minimum de Croissance”) is the legal minimum hourly wage that an employee must receive in France. The current gross hourly wage is €10.85. See “Smic (salaire minimum de croissance)”, French public service, 2022.

¹³⁴ Other “cutters”, dealers, lookouts, “charbonneurs”, “chouffeurs”, “nourrices”, etc.

¹³⁵ “Illicit drugs in France: a fast growing market”, M. Gandhilon, Global Security, vol°5, p.29-36, 2016.

¹³⁶ Formerly Institut national des hautes études de la sécurité et de la justice (INHESJ), now Institut des hautes études du ministère de l’Intérieur.

¹³⁷ The Inter-ministerial Mission for the Fight against Drugs and Addictive Behaviour (MILDECA) is a French organisation under the authority of the Prime Minister which “leads and coordinates the actions of the State in the fight against drugs and drug addiction”.

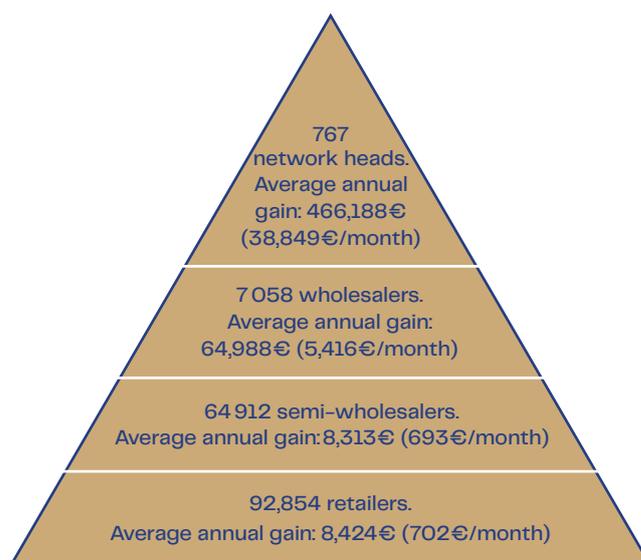
¹³⁸ Drug money in France. Estimation of illicit drug markets, C. Ben Lakhdar, N. Lalam, D. Weinberger, INHESJ, MILDECA, Office of the French Prime Minister, 2016.

Figure 10: Remuneration of an illicit cannabis distribution organisation

Function	Minimum €	Maximum €	Average €	Working time
Lookouts	80	100	90	8h
Vendors	100	200	150	8h
Cutters (processing)	200	600	150	1 month
Feeder (storage)	400	1,000	700	1 month
Sales managers	470	600	535	16h
Right arm	1,100	2,200	1,650	By task

Source: INHESJ, based on analysis of seized account books of traffickers, 2016.

Figure 11: Number of individuals, remuneration and position in the illicit cannabis distribution chain in France in 2010 (cases where supply is carried out by criminal organisations and 30% with “ants”¹³⁹)



The latest studies on the subject (which date back to 2016), however, estimate that **approximately 200,000 people work occasionally or full-time in the cannabis trade in metropolitan France. The vast majority of the profits generated by this industry end up abroad** and the share that remains in the areas where dealing is visibly present remains minimal. Cannabis trafficking does not therefore contribute to the development of the local economy, although it may allow a survival economy for an **ecosystem close to a new lumpenproletariat.**

¹³⁹ “By “ants” we mean individuals who carry out their activity independently and are not caught up in a strict, hierarchical organisation. This is the case of the individual who has opted for self-cultivation of cannabis or the user-dealer who “buys” abroad. See: L’argent de la drogue en France. Estimation of illicit drug markets, C. Ben Lakhdar, N. Lalam, D. Weinberger, INHESJ, MILDECA, Office of the French Prime Minister, 2016.

e → An overwhelmed justice system

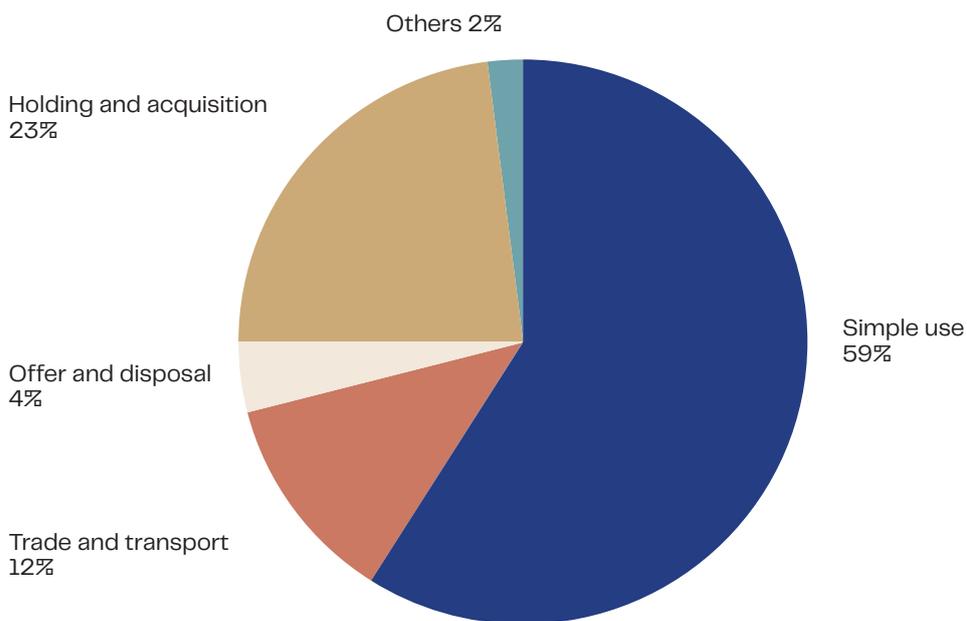
By making the use of illicit drugs in France punishable by one year's imprisonment and a fine of 3,750 euros, the 1970 law aimed above all to curb trafficking on national territory, which was punishable by 5 to 30 years' imprisonment, depending on the extent of the crime. More than 50 years later, **the effects of this strategy to "combat" demand can be seen in the French courts.**

According to [the International Prison Observatory - French Section \(OIP\)](#)¹⁴⁰, twice as many people are sentenced for simple consumption as for transport or possession.

¹⁴⁰ "Drug-related arrests and convictions", OIP, July 2017.

¹⁴¹ "Le traitement judiciaire des infractions liées aux stupéfiants en 2015", L. Viard-Guillot, Infostat Justice France, March 2017.

Figure 12: Reasons for drug-related convictions in France in 2013



Source¹⁴¹: Charts made using results from Infostat Justice France, March 2017.

France also has few judges¹⁴²: 9.1 per 100,000 inhabitants, compared to 19.9 in Austria and 24.5 in Germany. Very few prosecutors: 3 per 100,000 inhabitants, compared with 15.4 in Norway. There are also few support staff (clerks, secretaries and legal assistants, etc.). **At the end of 2021, more than 3,000 magistrates (out of 8,355 in the country) and a hundred or so court clerks published an open letter¹⁴³ expressing their alarm at the loss of meaning in the profession and of a justice system that is out of breath.**

Moreover, from one Ile-de-France (the region containing Paris and its surroundings) department to another, a cannabis holder does **not face the same penalties¹⁴⁴**. Almost every public prosecutor's office has its own scale of penalties. Faced with the continuous increase in the number of cannabis-related cases, the French courts are often unable to prosecute or impose penalties. The range of alternative penal responses¹⁴⁵ – which goes from a simple reminder of the law to an appearance in court, to a therapeutic injunction or a fine –, is not applied in the same way everywhere, particularly between rural, urban and suburban areas, **creating de facto problems of discrimination¹⁴⁶**, highlighted in particular by the **French National Consultative Commission for Human Rights¹⁴⁷**.

¹⁴² "How many magistrates in France?" F. Johannes, Le Monde, 29 November 2010.

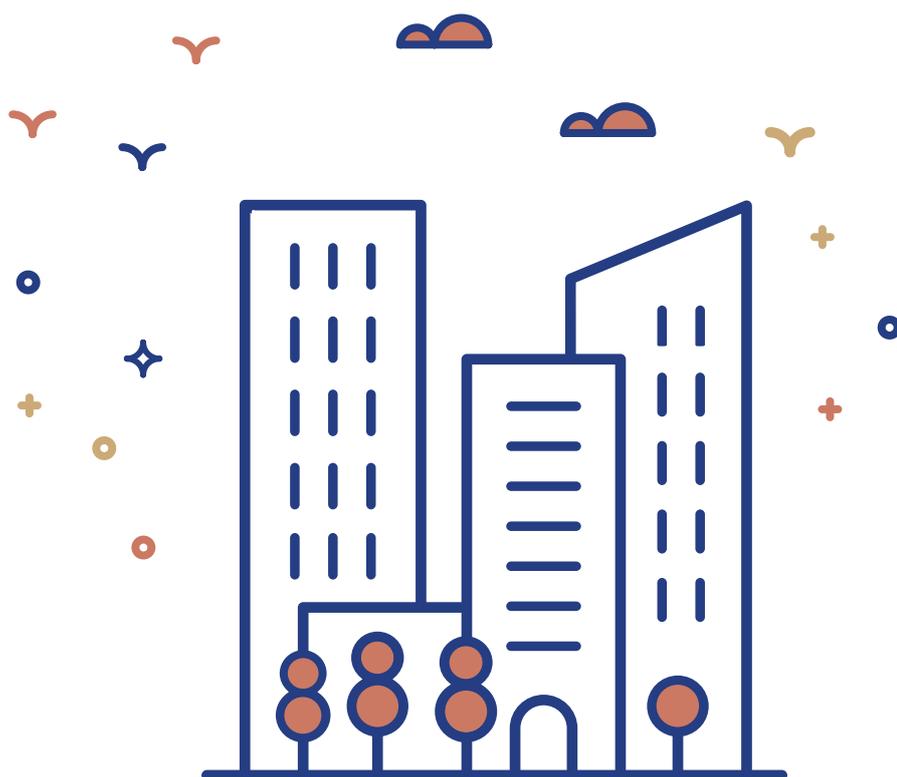
¹⁴³ "L'appel de 3 000 magistrats et d'une centaine de greffiers : Nous ne voulons plus d'une justice qui n'écoute pas et qui chronomètre tout", Collectif, Le Monde, 23 November 2021.

¹⁴⁴ "Détection de cannabis: des sanctions très inégales en Ile-de-France", C. Sterlé, F. Loisy, Le Parisien, 1 October 2019

¹⁴⁵ There are several alternatives to prosecution. Proposed by an officer, the first are not entered in the criminal record (reminder of the law, referral to a health facility). Then come those registered in the criminal record (composition pénale) such as TIG or therapeutic injunction. Finally, there are cases where the offence gives rise to a fine without prosecution (penal transaction). Out of 68,681 alternative measures to prosecution in 2016, there were 44,566 reminders of the law. See: "Application d'une amende forfaitaire au délit d'usage illicite de stupéfiants" (Application of a fixed fine procedure to the offence of illegal drug use), E. Poulliat and R. Reda (rap), Information report of the National Assembly, N°595, 25 January 2018.

¹⁴⁶ Over the period 1990–2010, 93.4% of those arrested for simple use were men, young and from minorities, see: "Les infractions à la législation sur les stupéfiants entre 1990 et 2010", N. Amrous, Grand Angle ONDRP, N°38, March 2016.

¹⁴⁷ "Drug use and human rights", Commission Nationale Consultative des Droits de l'Homme (CNCDH), 8 November 2016.



f → A prison system repeatedly condemned

In the country, the number of illicit drug offences has increased more than 50-fold since December 1970¹⁴⁸. The subsequent 58,000 convictions result in a significant volume of incarceration: 25.7% of convictions for drug offences result in prison sentences¹⁴⁹. As a result, 14.7% of the prison population is convicted of a drug offence¹⁵⁰. And although prison sentences for simple consumption, the most common offence, remain statistically rare (3,390 in 2015), they continue to exist and are not necessarily representative of the number of consumers in prison.

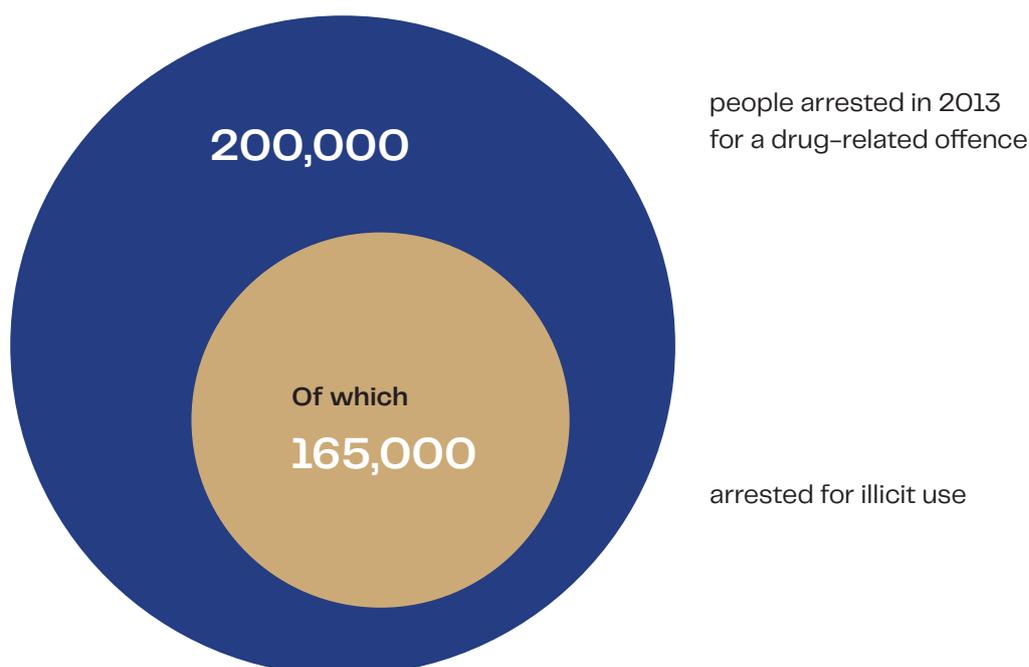
¹⁴⁸ "Thirty years of penal response to drug uses", I. Obradovic, OFDT, October 2015.

¹⁴⁹ Les condamnations, année 2015, Ministère de la Justice, sous-direction de la statistique et des études, December 2016.

¹⁵⁰ Quarterly statistics on the population in secure care, Ministry of Justice, January 2015.

¹⁵¹ "Thirty years of penal response to drug use", I. Obradovic, OFDT, October 2015.

Figure 13: Reasons for drug-related arrests in 2013 in France



Source¹⁵¹: Etat 4001 annual, DCPL (police+gendarmerie) cited in the OFDT study, 2015.

The indignity of the conditions of detention in many French prisons, in particular remand prisons but also some correctional facilities, has been **denounced for many years**¹⁵². Chronic overcrowding, dilapidation, insalubrity, poor hygiene, lack of privacy generating violence and tension, lack of activities, etc. The health and economic crisis linked to COVID-19 **has reinforced this state of affairs**¹⁵³. To date, **35 prisons in the country have been considered by the French justice system**¹⁵⁴ as **exposing detainees to inhuman or degrading treatment**. France has also been **condemned on 19 occasions by the European Court of Human Rights (ECHR)** for detention conditions that violate Article 3 of the European Convention on Human Rights, which prohibits torture and inhuman or degrading treatment. In a recent **landmark ruling on January 30th 2020**¹⁵⁵, the ECHR called on France to “take general measures to *‘definitively reduce’ the overcrowding that plagues French prisons.*”

It is also important to note that the consumption of cannabis in prison remains an open secret. Tolerated in a large number of establishments, **the administration is said to turn a blind eye to avoid demonstrations by prisoners**¹⁵⁶ for whom this product often represents a life-saving resilience option. In concrete terms, prisoners in France smoke “**between 0.5 and 2.8 joints of cannabis per day**”¹⁵⁷.

¹⁵² “Prison conditions in France”, M. Crétenot, B. Liaras, European Prison Observatory, September 2013.

¹⁵³ “Prisons and COVID-19: State of play”, J. Giusti, D. Raimbourg, Jean Jaures Foundation, 24 March 2020.

¹⁵⁴ “Why is France regularly condemned for the state of its prisons?” International Prison Observatory – French Section, 1 September 2020.

¹⁵⁵ “J.M.B. and others v. France judgment”, 30 January 2020.

¹⁵⁶ “Les conditions de détention dans les établissements pénitentiaires en France” (tome 1, rapport), J.-J. Hyst, G.-P. Cabanel (rapp.), Rapport de commission d’enquête N° 449 (1999–2000) fait au nom de la commission d’enquête, déposé le 29 juin 2000.

¹⁵⁷ Drug analysis in wastewater: a tool for estimating consumption, application in a prison environment, T. Néfau, O. Sannier, C. Hubert, S. Karolak Y. Lévi, Public Health – Environment Laboratory, CNRS UMR 8079, UPSUD, Note 2017-01, March 2017.



3. Failure on public finances

Prohibition weighs heavily on the French budget: an estimated 568 million euros per year¹⁵⁸. The notes of the **Conseil d'analyse économique¹⁵⁹**, which is attached to the French Prime Minister's office, tell us that *“these costs essentially cover expenses related to repression, in particular police and judicial actions, which represent 70% and 20% of the total respectively. Expenditure on care, prevention and promotion of research, with 10% of the total, is the weakest link of the budget. If we add to this the loss of income, production and compulsory levies linked to imprisonment, the social cost of cannabis would be 40% higher, i.e. 919 million euros per year¹⁶⁰. In addition to these costs, there is no tax revenue because, since trafficking is clandestine, it escapes taxation.”*

Today, 75% of the state budget dedicated to the policy of “combating” drug consumption and addictive behaviours is devoted to the “fight” against these offences. This is to the detriment of health, prevention, education and harm reduction, all without any convincing success. A **2013 study¹⁶¹** states that *“the budgetary documents of the credits consumed by the different administrations in this field show the following changes between 2008 and 2010: an increase of +74% for credits for “security, public order”, +13% for those for “health and social care” and a decrease of -25% for prevention credits.”* **In the 50 years of its existence, this repressive policy has never been evaluated by the French Parliament,** which has the constitutional prerogative to control the government's action, to evaluate public policies and to guarantee the efficiency of public spending.

¹⁵⁸ “The social cost of drugs in France”, P. Kopp, OFDT, Focus – Consumption and consequences, December 2015.

¹⁵⁹ “Cannabis: How can we take back control?”, E. Auriol, P.-Y. Geoffard, Notes du conseil d'analyse économique, Vol°52, (4), p°1-12, April 2019.

¹⁶⁰ See: “Should cannabis be legalised in France? Un bilan socio-économique”, C. Ben Lakdhar, P. Kopp, Économie et Prévision, N°213, p.1939, 2018. For all policies to combat all illicit drugs the total cost was estimated at 1.5 billion euros in 2010, see: “Drogues et addictions, données essentielles”, Observatoire français des drogues et des toxicomanies, ODFT, 2013.

¹⁶¹ “From the war on drugs to addiction prevention: when will the impossible debate be opened?”, J.-M. Costes, Psychotropes, Vol°19, p.9-26, 26 September 2013.

4. The need to go beyond the “for or against” debate: implementing a decriminalisation policy before legalisation

The question today is therefore no longer whether or not to legalise, but how to do so: what alternative model to implement, how, and via what process and timeframe? What lessons¹⁶² can be learned from the reforms underway around the world today?

Developing and implementing new models of legal regulation for cannabis is essentially **working from scratch**. This offers clear opportunities to **learn from past policy successes and failures**, but also unintended risks or unanticipated negative consequences. For some elements of the reform agenda, such as the development of legal supply models and **quality** controls¹⁶³, **the responsible approach is to phase in change over a period of months or even years**. This change needs to take place in several stages, so that policy and regulatory models can be developed while **carefully monitoring and evaluating outcomes on key indicators**. This approach should, by default, be **based on a precautionary principle**, particularly where the evidence for existing policy is weak, or where specific high risks are identified. For these reasons, and **due to the time needed to formulate and implement such a reform, it is of utmost importance to first put in place a decriminalisation policy**¹⁶⁴ of cannabis in the relevant jurisdictions in order to start addressing as soon as possible the negative consequences of more than a century of prohibition.

¹⁶² “How to Regulate Cannabis Cannabis A Practical Guide”, R. Rolles, H. Slade, Transform Drug Policy Foundation, 3rd edition, April 2022.

¹⁶³ “The Good, the Bad, and the Ugly Weed: How Consumers in Four Different Policy Settings Define the Quality of Illicit Cannabis”, V. Belackova, Contemporary Drug Problems, Vol^o47(1), p.43–62, 20 January 2020.

¹⁶⁴ Decriminalisation refers to the removal of criminal sanctions for the use, possession and/or sale of cannabis. See Glossary.

a → Why decriminalise?

The rationale for decriminalisation is to treat cannabis consumption, and in particular problematic consumption, as a health and social issue; not as a moral or criminal justice one. The aim of this model is primarily to improve the health and social outcomes of drug policy on society. Implementing a decriminalisation policy now has several advantages. The first is its **relative simplicity to implement**, as it is most often an administrative change, usually under the sole control of the legally competent executive.

Secondly, decriminalisation can **replace criminal sanctions with administrative sanctions**. These may include referral to an education or treatment programme. **The fine will be avoided, making the situation de facto legal only for those who can afford it.** This intermediate policy leads to a reduction in pressure on the criminal justice system by greatly reducing the burden on the court system, the time spent by police and legal practitioners on court cases, and the costs of imprisonment¹⁶⁵.

Treating cannabis consumption as a health and social issue can also **reduce the stigma around consumption** and increase the likelihood that a person will seek help **when they need it**¹⁶⁶. A person may also **mitigate negative social consequences** – such as loss of employment or housing – that may result from criminal prosecution or the presence of a criminal record¹⁶⁷. **Approaches that continue to criminalise activities that take place in public space disproportionately affect people living on the streets, increasing vulnerabilities and inequalities**¹⁶⁸.

Beyond the sole question of cannabis, **the decriminalisation of the consumption of all illicit drugs should be concerned**, both from a health point of view and from the point of view of coherent public action. The risk of creating a hierarchy of drug consumption favours stigmatisation (such as the arbitrary distinctions between “hard drugs” and “soft drugs”). Furthermore, decriminalisation of one specific substance (and not others) is not based on scientific evidence and should not be motivated by the **often unfounded perception**¹⁶⁹ of the levels of risk associated with certain substances, but rather by a commitment to health and social responses that respect human rights.

¹⁶⁵ See: “The Impact of Cannabis Decriminalisation in Australia and the United States”, E. Single, P. Christie, R. Ali, *Journal of Public Health Policy*, Vol°21(2), p.157–86, 2000; “The effects of decriminalization of drug use in Portugal: Discussion paper”, C. Hughes, A. Stevens, Oxford, 2007 “The cannabis cautioning scheme three years on: an implementation and outcomes evaluation”, J. Baker, D. Goh, Sydney, 2004.

¹⁶⁶ “The impact of drug policy liberalisation on willingness to seek help for problem drug use: A comparison of 20 countries”, I. Benfer, R. Zahnow, M. Barratt, L. Maier, A. Winstock, J. Ferris, *International Journal of Drug Policy*, Vol°56, p.162–75, 2018.

¹⁶⁷ A criminal conviction can have strong social consequences, such as the breakdown of interpersonal relationships or the closure of future employment, housing and travel opportunities. For example, future employers may reject a job application because of a criminal record. A person with a criminal record may be denied a visa to visit other countries. The stigma of a criminal record can also cause mental anguish: having a criminal record can have a serious impact on a person's life.

¹⁶⁸ “Decriminalisation. Building a future without punishment for people who use drugs”, J. F. Ochoa, J. Bridge, M. Nougier, IDPC, 2022.

¹⁶⁹ “Drug harms in the UK: A multi-criterion decision analysis”, D. Nutt, L. King, L. D. Phillips, *The Lancet* 376, November 2010.

Shifting budgetary investments to treatment and risk reduction services can bring **major safety and public health benefits**, including:

- Reductions in the number of people arrested.
- Reducing the number of people in prison.
- A focus on and therefore better care for problematic consumers.
- Reducing criminal justice costs.
- Redirecting law enforcement resources to prevention.
- The reduction of serious and violent crime.
- Reducing ethnic and economic disparities in drug law enforcement, sentencing and incarceration.
- Reducing the social exclusion of people who consume illicit drugs, creating a more favourable climate for seeking and accessing treatment.
- Access to harm reduction services and HIV/AIDS treatment.
- Improving relations between the police and citizens.
- The protection of patients using cannabis for therapeutic purposes.

This report has previously covered examples of countries with less punitive alternative policies towards the possession of cannabis or other illicit drugs. These have not seen a significant increase in the consumption of these substances or an increase in crime compared to the more punitive countries¹⁷⁰.

b → The case of Germany

In this logic, it is necessary to recognise that **plans to legalise cannabis for adult-use** – once announced – **will take time to implement**. **The upcoming case of Germany**¹⁷¹ is emblematic. The next legislative steps are likely to **take time**¹⁷². Now that the new tripartite federal government has been confirmed, the bill must then be put on paper (**not before the beginning of 2023**¹⁷³ *a priori*), then voted by the German Parliament, then possibly by the Federal Council which remains more politically conservative. Furthermore, according to **a preliminary report**¹⁷⁴, this draft of the new law could include a trial period of several years (up to four years), in order to evaluate its implementation and effects.

¹⁷⁰ “What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?”, R. J. MacCoun, P. Reuter, in *Drug War Heresies: Learning from Other Vices, Times, and Places*, Hughes and Stevens, Cambridge University Press, 2001; “Cannabis Policy: Moving Beyond Stalemate”, R. Room et al, Oxford University Press, 2010; “The Impact of Marijuana Decriminalization: An Update”, E. W. Single, *Journal of public health policy*, 1989; “National-Level Drug Policy and Young People’s Illicit Drug Use: A Multilevel Analysis of the European Union”, M. Vuolo, *Drug and Alcohol Dependence*, Vol^o131, n.1–2, 2013; “The Drug Problem in the Americas: Analytical Report”, Organization of American States, 2013; “The Growth of Incarceration in the United States: Exploring Causes and Consequences”, National Research Council, The National Academies Press, p.154, 2014.

¹⁷¹ “Markets Great and Small Leading Europe’s Continental Shift Toward Legal Cannabis”, *New Frontier Data*, 12 January 2022.

¹⁷² “Germany to legalise recreational cannabis sales, incoming coalition pledges”, M. Lamers, A. Pascuale, *MJBiz Daily*, 17 December 2021.

¹⁷³ “European Round-Up: Germany’s Decriminalisation Delay ‘Incomprehensible’, Maltese Doctor Charged With Drug Trafficking, \$100m UK Cannabis Investment et al...”, P. McCusker, *BusinessCann*, 1 April 2022.

¹⁷⁴ “Top German Government Official Previews Marijuana Legalization Plan Details”, K. Jaeger, *Marijuana Moment*, 10 January 2022; “Cannabis: Ampel-Parteien einigen sich auf Legalisierung”, *Waz*, 22 November 2021.

In May 2022, the German Minister of Health, Prof. Karl Lauterbach, announced that [a draft law should be published by autumn 2022](#)¹⁷⁵.

This remains not only improbable but also undesirable. By strong-arming Ministers to push through legislation rapidly, the German Government could risk enacting frameworks which have not been fully thought through, [causing problems for the market in years to come](#)¹⁷⁶. However, it shows the political will is there, which is more or less a condition of the success of the reform. In June 2022, the federal government's commissioner for drugs and addiction, Burkhard Blienert (SPD) has officially launched the preparatory phase of the reform with [five hearings](#)¹⁷⁷ set to unfold during the month: 1) Health and consumer protection; 2) Protection of minors and prevention; 3) Supply chains, ecological and economic issues; 4) Criminal liability, control measures and licensing; 5) International experiences.

In [an interview with Legal Tribune Online](#)¹⁷⁸, Burkhard Blienert, confirmed that *“such a paradigm shift will not happen overnight.”* While [prosecutions of consumers continue](#)¹⁷⁹, **the commissioner did not comment on possible interim decriminalisation measures, despite pressure from some judges in the country.** He stated notably: *“What we want is a well-made law that also addresses these issues, not a quick fix. We will take this problem into account.”* [Observers of the German context indeed say](#)¹⁸⁰, among other things, that there is a fear that early decriminalisation would jeopardise the whole legalisation project. This strategy, while being very cautious, nevertheless seems difficult to understand, as both policies are supported by a solid government majority in the Bundestag.

These timeframes for formulation, implementation and sustainability mean that it is necessary to think about what needs to happen in the intermittent time frame. With this in mind, the organisation [LEAP Deutschland](#)¹⁸¹, has proposed a [decriminalisation project](#)¹⁸² that could be deployed today. Drafted in partnership with the German judge Richter Müller, it is a turnkey project to replace and reform the current law, which would result in a *de facto* decriminalisation.

¹⁷⁵ “Germany Speeds Up The Process To Legalize Recreational Cannabis”, D. Sabaghi, Forbes, 9 May 2022.

¹⁷⁶ “German Government Should Focus On ‘Detail Not Speed’ As It Pressures Ministers To Accelerate Recreational Cannabis Roll Out”, B. Stevens, BusinessCann, 30 May 2022.

¹⁷⁷ “Kick-off für den Cannabis-Konsultationsprozess, Cannabis – aber sicher!”, Press release, bundesdrogen, 13 June 2022.

¹⁷⁸ “Jeder Erwachsene wird es legal und kontrolliert erhalten”, H. Suliak, Legal Tribune Online, 24 March 2022.

¹⁷⁹ “German Courts Continue To Prosecute Hundreds Of Cannabis Businesses Despite Looming Legalisation”, P. McCusker, BusinessCann, 8 March 2022.

¹⁸⁰ “Legalisierung und Lizenzierung – die nächste Herausforderung in der Cannabis Debatte! “Gastautor, Krautinvest, 23 March 2022.

¹⁸¹ Leap Deutschland, website, 2022.

¹⁸² “Resolution von LEAP Deutschland: Wir fordern die Entkriminalisierung von Cannabis in den ersten 100 Tagen!”, LEAP Deutschland, 30 January, 2022.

Decriminalisation is not an end goal. Or a one-size-fits-all solution to the harms of drug prohibition¹⁸³. Rather, it is a **means to ensure more justice and better protection of human rights**. It is a canvas on which to build responses to these issues in non-stigmatising and health-oriented ways. As an essential step in the right direction, decriminalisation will have an **immediate positive impact on the lives of many people** who experience the harms of criminalisation on a daily basis. However, it is necessary to recognise the **limitations of such models: only control over a secure supply can provide a way out of this situation**. This is the horizon towards which European governments must strive, while integrating a logic of progressive reforms.

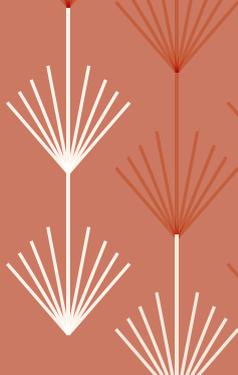
¹⁸³“Proposals for Decriminalization of Illicit Drug Use: Considering a Combination of déjà-vu, Diversion and Devil-with-many-details for Health-oriented Policy Reform”, B. Fischer, N. Boyd, S. Brochu, The Canadian Journal of Psychiatry, Vol°67(1), p.13-15, 1 January 2022.

In this dual perspective of reform change and gradual implementation of a legalisation policy, the case of Malta is particularly instructive to observe.



2

**The
Maltese
"self-
restrained
legalisation**



||

1. Introduction

After welcoming the [medical cannabis industry with open arms](#)¹, the European islands of Malta have recently chosen to move towards an alternative approach to adult-use cannabis, [after years of harshly punishing even the most minor offences](#)². This momentum was notably politically fostered by Joseph Muscat, Prime Minister and leader of the Labour Party (“Partit Laburista”), who before the 2017 elections, promised that he would commit to legalise cannabis for adults if re-elected. Two years later, however, [no concrete plan had yet to be outlined](#)³.

The country finally announced in 2021⁴ its intention to regulate cannabis for personal consumption. Accordingly, the Maltese government [proposed a legalisation of usage for adults](#)⁵ in possession of 7g or less and a procedure before the Commissioner for Justice, rather than the criminal court, for those in possession of more than 7g but less than 28g. The Bill also proposes to allow the cultivation of up to four cannabis plants per household and the abolition of cannabis-related criminal records. **Non-profit organisations will also be able to grow cannabis for distribution to their members**⁶.

The choice being made is not to create a sales system, at least initially, and to [allow only self-cultivation and Non-Profit Organisations \(NOPs\) or Cannabis Social Clubs \(CSCs\)](#)⁷ as they are commonly known. Its **stated objectives are based on the triptych of stopping the criminalisation of consumers, strengthening prevention, and tackling the black market head-on.** In order to better achieve these goals, [the Maltese cannabis legalisation project](#)⁸, made possible in particular by the [work of experts from the Maltese civil society](#)⁹, was opened for [public comment in 2021](#)¹⁰. The cannabis reform project attracted more than 350 contributions from organisations and citizens when the public consultation closed in May 2021.

Perhaps the most fundamental part of the reform lies in its **reaffirmation that a person does not forfeit its human rights** by using a mind-altering substance or engaging in other risky behaviour. As well as **avoiding “corporate capture”¹¹** – i.e. the means by which corporate entities pursue profit and power by exerting undue influence¹² over domestic and international decision-makers and public institutions –, by initially choosing a non-profit model.

¹“How Malta is attracting medical cannabis investment and growth”, M. Zammit, Malta Enterprise, 30 August 2019. See also: “Cannabis for Medicinal and Research Purposes”, Medicine Authority, Maltese government, 2022.

²“Cannabis in Malta—big business or laxing restrictions?”, J. J. Mamo, European Journal of Public Health, Vol°29(3), P.390–391, June 2019.

³“No timeframe provided for recreational cannabis legislation”, J. Micallef, Malta Independent, 13 August 2019.

⁴“Malta becomes first European nation to approve cannabis for personal use”, Reuters, 14 December 2021.

⁵“Europe should follow Malta's example on cannabis reform, says minister”, O. Crowcroft, Euronews, 8 February 2022.

⁶“A Social Equity Approach for Cooperative and Environmentally Sustainable Practices within Maltese Cannabis Associations”, ReLeaf Malta and Moviment Graffiti, 2022.

⁷“Malte : La légalisation du cannabis permettra seulement l'autoculture et les Cannabis Clubs”, A. Bernard, Newsweed, 6 October 2021.

⁸“Towards the strengthening of the legal framework on the responsible use of cannabis”, Government of Malta, White paper, March 2021.

⁹“Wuthering Heights on a nascent Sea of Green”, Releaf Malta, The Journal.mt, 10 October 2021.

¹⁰“[WATCH] Cannabis legalisation will allow regulated associations and home growing of plants”, L. Calleja, Malta Today, 6 October 2021.

¹¹“Corporate capture’ and emerging cannabis markets”, in “How to Regulate Cannabis: A Practical Guide!”, Transform Drug Policy Foundation, 21 July 2021.

¹²“International Network for Economic, Social and Cultural Rights”, Corporate Capture Project, 2022.

By prioritising a human rights and non-commercial approach to cannabis policy, Malta is now closer in alignment with international human rights norms, and better equipped to achieve the United Nations stated goal *“to promote the health and welfare of mankind”*¹³.

Indeed, by placing strong provisions to **safeguard public health, human rights, personal freedoms and autonomy**, the Maltese approach, as underlined by local civil society¹⁴, aim to take considerations for:

- The wrongdoings and structural abuses of the past.
- The need to frame drug policy within broader human rights considerations, including a strong Harm Reduction approach.
- The importance of keeping in full view injustices and discrimination still faced by people who consume cannabis in Malta.

a → Public health

The modern **Maltese National Drugs Policy**¹⁵ dates back to 2008 and aimed to create a more structured cooperation between governmental and non-governmental organisations that are tasked with delivering services to drug consumers. Overall, **the 2008 national strategy**, as laid out in the **“2021 National report on the drug situation and responses in Malta”**¹⁶ **sought to address illicit drug problems, alcohol and prescription medication abuse through six main pillars:** (i) coordination; (ii) legal and judicial framework; (iii) supply reduction; (iv) demand reduction, including harm reduction; (v) monitoring, evaluation, research, information and training; and (vi) international cooperation and funding.

These six main pillars have been implemented through a coordinated team of experts which form part of the National Addictions Advisory Board (implementation) and the National Coordination Unit for Drugs policy (monitoring situation, responses and effectiveness), currently placed under the remit of the Ministry for Social Justice and Solidarity, the Family and Children’s Rights. The seven members of the advisory board are independent experts appointed by the Minister from fields such as law, youth studies, education, clinical psychology, psychiatry, epidemiology and neuroscience. It is also required to report to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) on a yearly basis on the drug situation and drug responses put in place by Malta.

¹³ “International Guidelines on Human Rights and Drug Policy”, UNDP, 2019.

¹⁴ “A Social Equity Approach for Cooperative and Environmentally Sustainable Practices within Maltese Cannabis Associations”, ReLeaf Malta, Moviment Graffiti, 2022.

¹⁵ “National Drugs Policy”, National Drugs Policy, Minister for the Family and Social Solidarity, January 2008.

¹⁶ “2021 National Report on The Drug Situation and Responses in Malta”, Malta National Focal Point on Drugs and Drug Addiction, M. Gellel, R. Muscat, C. Olivari D’Emanuele, 2021.

i → Consumption today

The adult population on the islands (from 16 to 64 years old) was comprised in 2021 of 345,124 people¹⁷. However, current consumption rates in regard to cannabis (4,3% of “once in a lifetime” consumer within the general population¹⁸) are based on a 2013 General Population Survey (GPS). Additionally of being fairly dated, these figures need to be examined critically as they are notably reported by law enforcement and based on data of people arrested or on those who sought emergency care. By these limitations, they are therefore conservative and partial as people with unreported occasional cannabis consumption or personal production of small quantities might be more numerous than initially thought¹⁹. For example, the 2013 Survey indicated that the consumption of illicit substances was more prevalent among younger adults, with the prevalence of lifetime use of cannabis reported at 5.1% among 18- to 24-year-olds²⁰. It was also reported that the consumption of illicit substances was more prominent amongst men than women.

When analysing students between the ages of 15–16, the succeeding European School Survey Project on Alcohol and Other Drugs (ESPAD) from 2015²¹ and 2019²², highlighted that maltese lifetime cannabis consumption, although well below European averages, was on the rise. **This data can indicate²³ “two outcomes: (i) cannabis consumption is on the rise in Malta, or (ii) more people might be inclined to speak openly about their cannabis consumption since decriminalisation was introduced.”** In 2019, lifetime consumption of cannabis among students in Malta were reported at 12% in the newest RESPAD document showing similar figures reported in the previous 2015 ESPAD.

¹⁷ “2021 Key Issues The Drug Situation in Malta”, Malta National Focal Point on Drugs and Drug Addiction, M. Gellel, R. Muscat, C. Olivari D’Emanuele, 2021.

¹⁸ Ibid.

¹⁹ “An inspirational novelty in drug policy – José Ramos-Horta”, J. Ramos-Horta, Times of Malta, 14 May 2021

²⁰ “2021 Key Issues The Drug Situation in Malta”, Malta National Focal Point on Drugs and Drug Addiction, M. Gellel, R. Muscat, C. Olivari D’Emanuele, 2021.

²¹ “ESPAD Report 2015 – Results from the European School Survey Project on Alcohol and Other Drugs”, ESPAD, EMCDDA, September 2016.

²² “ESPAD Report 2019”, ESPAD, EMCDDA, 2020.

²³ “The Green Leaf: Cannabis Education in Malta”, K. Mamo, University of Malta, 2019.



ii → Risks

As described in the Introduction of this report, risks linked to cannabis consumption integrate several dimensions. For Malta, they concern potentially problematic THC levels, orientation and treatment capacities, and the rise of synthetic cannabinoids.

ii.1 → Youth consumption

As this report will show in Chapter 3, **public health policies focused on the presumed danger of THC are often missing the point**²⁴, while the toxicity of this molecule remains to be studied under the auspices of a regulated market. However, it is today quite often asserted that a prohibitive regime will tend to see its level of THC (or “purity” as often mistakenly defined for cannabis) rise exponentially, **giving strength to the “Iron Law of Prohibition”** analysis²⁵ (See Figure 9). In that regard, it is pertinent to analyse the existing data for Malta.

Average THC level for cannabis “sold in the street” in 2020²⁶ was **12% for cannabis resin, and 20% for cannabis “flower”**. In regard to the percentage for the legal adult-use industry or in other European countries under a prohibitive regime, **this seems fairly high and would probably need to be further investigated**. Nonetheless, as reported cannabis resin’s THC level seemed to have increased during the last years as shown in Figure 14.

²⁴ “Note de synthèse – Réguler le taux de THC ? Le piège à éviter.”, K. Riboulet-Zemouli, F. Ghehiouèche, Project: Politiques publiques du Cannabis en France, October 2016.

²⁵ “The Economics of Prohibition”, M. Thornton, University of Utah Press, 1991. See also: “Iron law of prohibition”, Wikipedia, 2022.

²⁶ “2021 Key Issues The Drug Situation in Malta”, Malta National Focal Point on Drugs and Drug Addiction, M. Gellel, R. Muscat, C. Olivari D’Emanuele, 2021.

²⁷ Ibid.

Figure 14: THC Levels 2015–2020

Year	2015	2016	2017	2018	2019	2020
“Flower”	-	7%	8%	21%	20%	20%
Resin	7%	7%	8,5%	15%	12%	12%

Source²⁷: 2021 Key Issues The Drug Situation in Malta, 2021.

Until now, an adult residing in Malta that wishes to consume cannabis is unable to choose the THC: CBD ratio, as well as unable to ensure his or her product is free from mould or other adulterants. This type of information, together with other harm reduction tips (amongst which on tolerance breaks, increased risks of dependence when mixing cannabis with tobacco, risks when consuming alcohol and cannabis etc.), remains imperative to ensure cannabis consumers are able to make informed, reasoned and responsible decisions.

ii.2 → Treatment

Among individuals receiving treatment²⁸ primarily for their cannabis consumption in 2020²⁹, 158 (59%) reported daily use of the substance, whilst 35 (13%) reported using cannabis 4 to 6 times a week. A further 29 (11%) reported using 2 to 3 times weekly and 16 (6%) reported using once a week or less. The remaining 31 (12%) stated they did not consume the drug in the last 30 days. In 2019³⁰, 9% of all treatment entrants were related to cannabis consumption; which rose in 2020 to 14%³¹ (269 individuals).

If cannabis is legalised for adults, the highway code would have to change as a result, since in European countries the offence is generally constituted by the mere fact of testing positive to THC, independently of any influence on driving. Indeed, current analysis methods, including saliva, blood and urine tests, detect the presence of THC up to several weeks after consumption, in particular through the presence of THC-COOH, which has a much longer life in the body.

iii.3 → Neocannabinoids

83 individuals have been seeking medical assistance in the last 5 years for neocannabinoids consumption. Though there is a shortage of information on synthetic cannabinoids³², this shows that **these substances are available locally and cause adverse health effects to people** using them.

In recent years, media reports³³ have highlighted the emergence of so-called “legal highs”, especially synthetic cannabinoids, or NPSs (New Psychoactive Substances), or “neocannabinoids” (as they are referred to in this report), particularly synthetic cannabis, which have caused grave health and mental-health issues.

²⁸ “Providers deliver different types of treatment, which can be classified into five main categories: (i) specialised outpatient services; (ii) low-threshold services; (iii) inpatient treatment programmes; (iv) detoxification treatment; and (v) opioid agonist treatment (OAT), which was formerly known as opiate substitution treatment (OST). NGO-based outpatient services offer long- or short-term support through social work, counselling, group therapy, and psychological interventions, while low-threshold programmes offer day-care services. See more: “2021 Key Issues The Drug Situation in Malta”, Malta National Focal Point on Drugs and Drug Addiction, M. Gellel, R. Muscat, C. Olivari D’Emanuele, 2021.

²⁹ Up until the start of 2021, there were 269 people entering treatment for problematic cannabis consumption (out of a total of 1968 treated for illicit drugs). See: “2021 National Report on The Drug Situation and Responses in Malta”, Malta National Focal Point on Drugs and Drug Addiction, M. Gellel, R. Muscat, C. Olivari D’Emanuele, 2021.

³⁰ “Malta, Country Drug Report 2019”, EMCDDA, June 2019.

³¹ “2021 Key Issues The Drug Situation in Malta”, Malta National Focal Point on Drugs and Drug Addiction, M. Gellel, R. Muscat, C. Olivari D’Emanuele, 2021.

³² “2021 National Report on The Drug Situation and Responses in Malta”, Malta National Focal Point on Drugs and Drug Addiction, M. Gellel, R. Muscat, C. Olivari D’Emanuele, 2021.

³³ “Synthetic cannabinoids: a snapshot”, S. Dimech, Times of Malta, 11 May 2021; “Watch: Dangerous synthetic cannabis is now being made in Malta”, I. Martin, Times of Malta, 27 August 2017; “Legal highs’ have drugs expert worried about effects on users”, T. Diacono, Malta Today, 13 April 2016; “Authorities challenged by synthetic marijuana, or ‘Spice’”, M. Mallia, Malta Independent, 27 August 2016.

Synthetic cannabinoids have longer half-lives and high potency, meaning that smaller doses may produce the same effects as larger quantities of natural cannabis. Studies with individuals using neocannabinoids have reported their **unpredictable effects** and severe differences could be observed at each drug consumption episode.

On the Maltese islands³⁴, neocannabinoids often appear as green herbal material which is comprised of dried plant material and chopped up herbs in a mixture of different colours. The active ingredients are synthetic chemicals (the cannabinoids) which are then sprayed onto the plant material. Just like cannabis, these are most commonly smoked. Neocannabinoids are generally much more harmful than plant-based cannabis as adverse reactions have been reported including deaths, whereas adverse reactions to natural cannabis are usually not lethal.

Another reason these NPSs are dangerous is because the consumer never knows what he or she is taking. Unless tested, consumers cannot know whether the green herbal grass has been sprayed with a synthetic cannabinoid which could be lethal. Reasons for neocannabinoids consumption include:

- Readily accessible.
- Cheaper than 'traditional' illicit drugs.
- Makes it easier to avoid detection as frontline tests do not detect most of the new synthetics.
- People may just take NPSs accidentally thinking they are taking some other substance instead.



iii → Prevention

When observing [the educational component and preventive measures being implemented in Malta](#)³⁵, it is possible to **favourably highlight the recent legislative evolution and progress in regard to cannabis.**

Currently, the [Foundation for Social Welfare Services](#)³⁶ and the [Foundation for Medical Services](#)³⁷ are the lead organisations, who together with the [Anti-Substance Abuse Unit](#)³⁸ within the Education Ministry, carry out interventions in schools. To better implement preventive programs, these foundations work closely with [Sedqa](#)³⁹, the Maltese government's agency addressing substance abuse (who has established a number of prevention interventions), and local NGOs [Caritas](#)⁴⁰ and the [OASI Foundation](#)⁴¹. Both organisations are founded on Christian teachings and are the leading rehabilitation centres in Malta. They also provide preventive programmes targeting not only school children, but also parents and [the wider society](#)⁴².

Several aspects of prevention and educational programs have been critically highlighted by [research from the field](#)⁴³:

- Maltese educational material focuses heavily on the legal and social repercussions of problematic consumption without necessarily **properly defining the difference between general consumption and problematic consumption**, nor providing harm reduction tools to monitor consumption levels and mitigate harm. A more appropriate approach would be one built on harm reduction and information, as the new reform intends.
- **A dual reality is split between an abstinence and criminal approach, as opposed to newly discovered harm reduction principles and tools.** For example, whilst students are encouraged to be open and to speak with their educators about their personal experience and consumption, they paradoxically still face harsh legal and social repercussions when speaking about illicit substance consumption or worse apprehended with illicit drugs on school grounds. Furthermore, **the continued involvement of the drug squad and representatives from the police to speak about cannabis continue to try and invoke "fear" instead of educating the students how to stay safe, to reduce consumption and ultimately to take responsible decisions.**

³⁵ "The Green Leaf: Cannabis Education in Malta", K. Mamo, University of Malta, 2019.

³⁶ Foundation for Social Welfare Services, website, 2022.

³⁷ "Mission Statement", Foundation for Medical Services, Minister of Health, 2022

³⁸ "Objectives", Anti-Substance Abuse, Ministry of Education, 2022.

³⁹ "SEDQA", Foundation for Social Welfare Services, 2022.

⁴⁰ Caritas Malta, website, 2022.

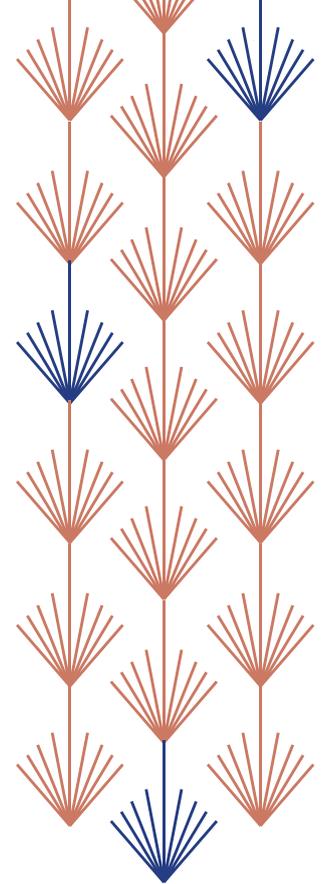
⁴¹ OASI Foundation, website, 2022.

⁴² "2021 National Report on The Drug Situation and Responses in Malta", Malta National Focal Point on Drugs and Drug Addiction, M. Gellel, R. Muscat, C. Olivari D'Emanuele, 2021.

⁴³ "The Green Leaf: Cannabis Education in Malta", K. Mamo, University of Malta, 2019.

- **Harm reduction continues to be explained in very meagre ways and not properly applied to cannabis.** In fact, educational material often does not provide youths and the general public with necessary tools to take informed decisions and mitigate harm (ex. No use of tobacco, different methods of consumption, doses and potency etc).
- Information provided is often fairly outdated, at times providing false and exaggerated claims and somewhat disconnected from local realities. Therefore, **new information will need to reflect the current Maltese society and also be considerate of personal experiences and different social settings where, why and by whom cannabis is consumed.** If the educational material presents unrealistic images of cannabis consumption it fails to match with the real life experiences of the person and risks being discarded by the receiver (especially the younger ones).

Finally, **by moving away from the criminal approach, Malta will finally give cannabis consumers the necessary tools to take informed decisions and know how to mitigate risks** from their cannabis consumption (such as not mixing cannabis with tobacco, better monitoring of THC: CBD levels, ensuring no presence of synthetic cannabinoids, pesticides and heavy metals, etc).



b → Penal chain

The penal chain dimension is often complex when cannabis reform comes into play. In the case of Malta the issues of trafficking and possession remain central to the sustainability of the reform, as well as how justice processes reflect these new changes.

i → Trafficking

Similar to previous years, the National Reports on the Drug Situation in Malta (2019⁴⁴ & 2021⁴⁵) identify **cannabis (resin and “flowers”) as the most seized illicit substance in the country**, the majority of Drug Law Offences (DLOs), as well as the court cases being linked to cannabis related offences, most especially simple possession.

Malta’s geographical position between North Africa and Europe -- the islands being just short of 500 km from Tunisia -- has long made it a transit point for illegal drugs, including cannabis. While resin traditionally originates from Morocco and is smuggled to Malta from Tunisia and Libya, “flowers” are either predominantly produced locally on a small scale basis and for personal consumption or smuggled from Sicily (about 190 km to the north). The rise of “flowers” having been fostered **following the Arab Spring and political instability in Libya**⁴⁶ and the subsequent disturbance of traditional trafficking routes.

In 2020, there was a decrease in overall illicit drug seizures, “**possibly due to the COVID-19 situation**⁴⁷”. Cannabis “flowers” seized amounted to 151 kg, also decreasing compared to the 389 kg seized during the previous year. A further drop in amounts seized was also reported for cannabis resin, from 118 kg in 2019 to a low 0.36 kg in 2020. **Supply offences are often dealt with in the lower courts, which can serve between 6 months to 10 years prison sentences.** Where certain offences take place within a hundred metre perimeter of a school, youth club or centre or other place where young people habitually meet, **the normal punishment is increased**⁴⁸. To date and before the proper implementation of the 2021 cannabis reform, **trafficking continues**⁴⁹.

⁴⁴ “National Report on the Drug Situation in Malta 2019”, Malta National Focal Point on Drugs and Drug Addiction, 2019.

⁴⁵ “2021 National Report on The Drug Situation and Responses in Malta”, Malta National Focal Point on Drugs and Drug Addiction, M. Gellel, R. Muscat, C. Olivari D’Emanuele, 2021.

⁴⁶ “Malta at the Crossroads of Drug Policy Reform – An Interview with Karen Mamo”, P. Sarosi, Drog Riporter, 3 August 2020.

⁴⁷ “2021 Key Issues The Drug Situation in Malta”, Malta National Focal Point on Drugs and Drug Addiction, M. Gellel, R. Muscat, C. Olivari D’Emanuele, 2021.

⁴⁸ “Cannabis Reform in Malta with Andrew Bonello”, Volteface, ECAN, 22 April 2022.

⁴⁹ “Man arrested after four kilos of cannabis found on boat in Delimara”, Malta Independent, 4 May 2022.

The issue of “**trafficking by sharing**⁵⁰” has also been central in regard to **the penalisation of consumers on the islands**⁵¹. Indeed, everyone caught sharing cannabis in Malta is a suspected trafficker, and there is still an important **disproportionality of sentences compared to offences**. As this continued practice has been considered a criminal offence, people have been persecuted and potentially **risking incarceration for personal non-violent consumption, cultivation and sharing of cannabis**⁵². Paradoxically, it has been **highlighted by research**⁵³ that *“The act of sharing cannabis (via smoking or via other means) and of meeting in a group of friends to share a common interest, is a strong harm reduction tool, and one which favours a collective and a community, as opposed an individualistic approach to the use of mind-altering substances. As has been attested by various experts in the field of health and well-being, the act of consuming in a group and of sharing a set of norms, act as protective factors against the development of problematic use or other unwanted behaviour. The “safe space” environment is therefore not limited to the physical parameters of where cannabis is being consumed, but is also directly linked to other third variables, such as the role of the community and friends to promote responsible practices.”* In that regard, the term “social-trafficking” is often more used in Malta (rather than “social-supplying”)⁵⁴.

ii → Possession

The 2021 National Report explains that the majority of criminal offences for narcotic possession were related to cannabis, amounting to 87 cases (166 cases for possession and 283 total DLOs). The report highlights that during the period since the Tribunal Commissioner was established in 2015 (introduced by the 2014 Drug Dependence (Treatment not Imprisonment Act)⁵⁵) until December 2020; thus for persons found with **less than 3.5 grams of cannabis**⁵⁶, the majority of cases processed were for possession of cannabis, amounting to **1897 people**⁵⁷, a slightly lower number from the **1545 cases related to cannabis in 2019**⁵⁸.

However, while contrevenants do not necessarily end up in front of a judge in case of minor DLOs anymore, the police still heavily enforces and criminalises cannabis consumers, especially **those caught cultivating a number of plants**⁵⁹ or with more grams than what is prescribed by the law.

⁵⁰ “Incarcerated for a personal non-violent crime: Cannabis consumption, cultivation and sharing”, ReLeaf Malta, The Insider, 23 February 2021.

⁵¹ “Sharing a cannabis joint is not drug trafficking, court notes”, E. Brincat, Times of Malta, 9 March 2018.

⁵² “Cannabis law still reflects discriminatory practices | Andrew Bonello”, A. Bonello, Malta Today, 17 March 2022.

⁵³ “Qualitative research in Spanish cannabis social clubs: The moment you enter the door, you are minimising the risks”, V. Belackova, et. al, International Journal of Drug Policy, 34, p.49–57, 2016.

⁵⁴ Interview conducted with Noel Nerri, 11/05/22.

⁵⁵ “AN ACT to provide for the treatment of persons in possession of small quantities of prohibited drugs for personal use and for other measures for the rehabilitation of persons suffering from drug dependence.”, C 1165, Republic of Malta, 2014.

⁵⁶ “As it stands personal possession of up to 3.5 grams of cannabis has been de-penalised, though it still remains punishable with a fine of €50 to €100. In 2015 reforms were brought in under the Drug Dependence Act, which meant that a person found in possession of a small amount of cannabis (less than 3.5 grams) would be required to attend court to determine whether they are guilty, and whether they have to pay a fine. Where offenders re-offend as a result of drug dependency they may be referred to the Drug Offender Rehabilitation Board.” See: “Cannabis Reform in Malta with Andrew Bonello”, Volteface, ECAN, 22 April 2022.

⁵⁷ Possession of cannabis “flowers” concerned 1277 cases, followed by cannabis resin, with a total of 620 cases. See more: “2021 National Report on The Drug Situation and Responses in Malta”, Malta National Focal Point on Drugs and Drug Addiction, M. Gellel, R. Muscat, C. Olivari D’Emanuele, 2021.

⁵⁸ “National Report on the Drug Situation in Malta 2019”, Malta National Focal Point on Drugs and Drug Addiction, 2019.

⁵⁹ “Malta wants to keep cannabis users out of jail. For some, it’s too late”, O. Crowcroft, Euronews, 7 February 2022.

Court cases can take up to six years or even more to conclude; [the defendant](#)⁶⁰ having to face expensive court and lawyer fees, whilst suffering from psychological stress and often negative repercussions from relatives, their professional network, and society in general.

For more than forty years, thousands of people have faced the risk of incarceration and of trouble with the police. As highlighted by [local civil society advocate Andrew Bonello](#)⁶¹: ***“These people deserve a voice. These people deserve to know that they are NOT and have NEVER been criminals.”*** Current figures showcase that drug policies based on repression and aimed at eliminating illicit drug consumption and trafficking, have failed to achieve any of their intended objectives: *“in Malta as elsewhere, use, consumption and trafficking are increasing steadily. In addition, over-incarceration, budgetary displacements towards law enforcement rather than health and social services as well as social stigma are just a few of the harms aggravated by repressive drug control.”*⁶²

⁶⁰ “EXCLUSIVE: Daniel Holmes, Father Locked Up For A Decade Over Five Mature Cannabis Plants, To Release Tell-All Book”, J. Cilia, Lovin Malta, 10 September 2018.

⁶¹ “We can fade to green – Andrew Bonello on cannabis reform”, A. Bonello, Times of Malta, 30 December 2021.

⁶² “An inspirational novelty in drug policy – José Ramos-Horta”, J. Ramos-Horta, Times of Malta, 14 May 2021.



iii → Criminal and civil justice

Figure 15: Arraignments for cannabis 2015–2020

Year	2015	2016	2017	2018	2019	2020
Total	411	222	259	356	278	141

Source⁶³: 2021 Key Issues The Drug Situation in Malta, 2021.

While there is an important **lack of research in regard to cannabis illicit trafficking in Malta**, including as to whom is doing the trafficking and why, interviews conducted by the authors of the report⁶⁴, suggest that **illicit cannabis trafficking concerns all types of social classes**.

While it is common to hear the islands young dealers being referred to as “pushers”, it should be noted that, most often, **in the words of the first concerned**⁶⁵ the dealers *“aren’t pushing weed, they don’t need to – their phones are constantly ringing for it, people asking for it at all times of the day.”* While it seems most illicit actors are involved in the trade at the low-level to support their own consumption, the definition of trafficking on the islands still encompasses **a whole range of activities**⁶⁶ that are intertwined with the new reform prerogatives.

If Malta has been fairly conservative in the past in regard to drug policy, the new reform is a complete paradigm change that will be needing continuous political and administrative support in order to replace old habits.

⁶³ “2021 Key Issues The Drug Situation in Malta”, Malta National Focal Point on Drugs and Drug Addiction, M. Gellel, R. Muscat, C. Olivari D’Emanuele, 2021.

⁶⁴ Interviews conducted with Karen Mamo (14/04/22 & 10/05/22); Andrew Bonello (09/05/22); Mariella Dimech (10/05); Richard Muscat (11/05); Noel Xerri (11/05), Núria Calzada (12/05/22).

⁶⁵ “How I Became A Drug Dealer In Malta”, J. Cilia, Lovin Malta, 2 May 2021.

⁶⁶ “A critical analysis of current drug trafficking legislation in Malta”, M. Debono, Faculty of Law, University of Malta, 2013.

2. The Maltese approach

This report highlights how **Malta**⁶⁷ has adopted a “self-restrained legalisation”, focussing its efforts on “harm reduction” rather than drug control.

As summarised by Releaf Malta president Andrew Bonello, “*The non-profit system is a great system to start for smaller jurisdictions, notably for the beginning to avoid the UN and European regulations complications*⁶⁸ as you’re only trying to protect the citizen and not to make money”. Indeed, contrary to Canada where the cannabis legal regulation had been enacted first from the Federal level and political engagement from the Liberal Party, **the bottom-up approach chosen by Malta has been lead by a strong civil society debate giving due space to the role of harm reduction as an important tool to promote public health, and a more dignified approach to people who consume or cultivate cannabis.**

The reform did not happen overnight indeed. Sustained discussions between different stakeholders had been ongoing since 2017 and reached different levels of intensity throughout the years⁶⁹. Drug policy reformers such as Daniel Holmes, Andrew Bonello, Christian Bartolo, David Caruana, Robert Louis Fenech, Ramon Casha, Eric Castillo, Johnathan Cilia, Graziella Calleja, Andrew Agius and countless more have been working for years, if not for decades, to bring to light the disproportionate human tragedy caused by the persecution and incarceration of those who cultivated or consumed cannabis. **The sudden imprisonment of Daniel Holmes**⁷⁰ and the creation of the “Legalise It Malta!” movement, would lead to **the cannabis marche spearheaded by civil society in 2011**⁷¹ which was considered the spark that would bring a decade later the legislative framework for the legal reform on cannabis and the establishment of a Cannabis Authority to oversee the operation of not-for-profit cannabis associations.

⁶⁷ “Europe should follow Malta’s example on cannabis reform, says minister Access to the comments”, O. Crowcroft, Euronews, 9 february 2022.

⁶⁸ “Obligations and flexibilities under European & international law: a path towards domestic cannabis adult-use regulation”, B. A. Jeanroy, A. Bernard, K. Riboulet-Zemouli, April 2022.

⁶⁹ “From Prohibition To Trailblazing: A Brief History Of Modern Cannabis Activism In Malta”, J. Cilia, Lovin Malta, 27 November 2021.

⁷⁰ “Daniel Holmes’ Bestselling Memoir Now Available As An E-Book”, J. Cilia, Lovin Malta, 1 March 2021.

⁷¹ “Hundreds march in Valletta in call for decriminalisation of cannabis”, M. Dalli, Malta Today, 17 December 2011.

The enacted reform represents an **initial attempt at introducing restorative justice**⁷²: *“by placing human dignity and rights before punitive and criminalised systems keen to sustain a culture of persecution and a futile and costly war on people who use cannabis”*. The main principles, all of which promote a less criminalised society notably integrate:

- The possibility to grow cannabis and reduce dependence on the illicit market.
- The introduction of a non-commercialised system whereby members can together grow and source their cannabis from a safe space.
- The reaffirmation of harm reduction education.
- The expungement of past criminal records in relation to cannabis.
- The will to protect future youths, notably from a tainted criminal record and lengthy court cases, if found in possession of cannabis.

Mariella Dimech, Head of the Authority for the Responsible Use of Cannabis (ARUC⁷³), has **declared**⁷⁴ that she wishes *“to create an environment where these organisations can grow and society can feel safe”*. This declaration resonates with ministry **Owen Bonnici’s declaration**⁷⁵ when he was heading the Ministry for Research and Innovation, tasked with the reform legislative process: *“We want to reduce the suffering, humiliation and deprivation of rights that many cannabis users have experienced when they have been arrested and prosecuted for possession of small quantities”*.

In order to drive a fitted implementation, the reform and the ARUC need more solid data related to cannabis consumption (while respecting privacy⁷⁶) as most prior research has been focused entirely on the negative impact of consumption (addiction). This *“missing piece⁷⁷”* as called by the ARUC’s president is meant *“To ensure that all decisions taken are evidence-based, a baseline study on the general population is being conducted prior to licences being issued.⁷⁸”* This ongoing research will help customise the process to rightly reach the intended goals of the reform. As laid out by **international drug policy expert Steve Rolles**⁷⁹ from the **Transform Drug Policy Foundation**⁸⁰: *“You don’t need to use, approve of or even like cannabis to understand the costs of prohibition and the benefits of reform. [...] This is not a choice between a Malta “with” or “without cannabis”. It is a choice between a cannabis market controlled by criminal profiteers or one regulated by responsible government agencies.”*

⁷² “We can fade to green – Andrew Bonello on cannabis reform”, A. Bonello, Times of Malta, 30 December 2021.

⁷³ ARUC, LinkedIn profile, 2022.

⁷⁴ “Interview: Cannabis Associations Will Be Up And Running In 2022 – Mariella Dimech, Malta’s New Cannabis Chief”, J. Cilia, Lovin Malta, 23 January 2022.

⁷⁵ “Europe should follow Malta’s example on cannabis reform, says minister”, O. Crowcroft, Euronews, 8 February 2022.

⁷⁶ “Member names will not be noted in club registries, though other details such as age and frequency of use will be logged in the database to ensure that individuals do not apply at two clubs at once, which isn’t allowed.” See: ARUC booklet, ARUC Forum 2022, 1 April 2022.

⁷⁷ Interview conducted with Mariella Dimech, 10/05/22.

⁷⁸ ARUC booklet, ARUC Forum 2022, 1 April 2022.

⁷⁹ “Cannabis prohibition has failed. Malta is on the right path – Steve Rolles”, S. Rolles, Times of Malta, 12 December 2021.

⁸⁰ “How to Regulate Cannabis, 3rd ed”, Transform Drug Policy Foundation, 25 April 2022.

To reach these goals, **the establishment of non-profit organisations (NPOs), that rests on the core principles of adopting a social equity approach towards people who use and cultivate cannabis in the new model regulating the communal use of cannabis**, is also necessary. As highlighted by [leading local cannabis reform organisation Releaf Malta](#)⁸¹: *“Social equity, cooperation and environmental sustainability are key to complement legislative efforts placing the well-being of human beings at the helm of any policy or regulatory framework.”*

⁸¹ “A Social Equity Approach for Cooperative and Environmentally Sustainable Practices within Maltese Cannabis Associations”, ReLeaf Malta, Moviment Graffiti, 2022.

a → The new legislation

The *Act to establish the Authority on the Responsible Use of Cannabis*, [adopted by the Parliament of Malta](#)⁸² on December 14th 2021, enacts a series of legal changes and establishes regulations allowing the development of a not-for-profit non-medical cannabis industry⁸³ following a NPO model. The law states on its first page: *“it shall be the function of the Authority to regulate the use of cannabis for purposes other than medical or scientific purposes and to carry out work [...] to implement harm reduction from the use of cannabis.”*

⁸² “Releaf Malta”, Twitter, 14 December 2021.

⁸³ In connection with this: the economic type, legal personality, and business or industrial models of what “industry” refers to are not detailed in the Single Convention. Therefore, the fact that something be a priori “commonly used in industry” does not prevent municipal law from filling the gaps *a posteriori* by further regulating the details under, and extent to which this use should be “common” (or not) according to domestic criteria. Generally, natural resources, which are indeed commonly used in industry, are subject to different economically – socially – and culturally – sensitive models. In addition, other layers of regulations than those embedded in drug control treaties, or those embedded in other treaties (e.g., conservation, environmental protection, access and benefit-sharing, or other regulatory dispositions internal to a specific industrial field in domestic legislation) can impact the industrial policies of a country. The fact that a drug could be commonly used in industry under Article 2(9) and exempt from the controls of the 1961 Convention would not preclude governments from adopting further rules regulating this specific industry domestically (including up to a potential ban, which may be framed, no in terms of drug control and health but, for instance, in the case of certain fragile ecosystems, to protect endangered plant species, etc.). That a specific use be exempt from one Conventions does not mean governments are resourceless from regulating it according to the domestic criteria they see fit, including, like in Malta for example, via an integrated, non-profit industrial model.

As highlighted by a [civil society report](#)⁸⁴: **“By ensuring a safe, affordable, and welcoming social space, Associations would be in practice transposing the unregulated social aspect of shared cannabis consumption, already spread across the islands, within the perimeters (physical or virtual) of a members-only-club.”** Complemented with the possibility to grow cannabis and form an association to collectively pool in resources and knowledge (without the need to resort to the criminal market), these landmarks remain important public health developments.

⁸⁴ “A Social Equity Approach for Cooperative and Environmentally Sustainable Practices within Maltese Cannabis Associations”, ReLeaf Malta and Moviment Graffiti, 2022.

i → Social justice

Currently in Malta, hundreds of people have been incarcerated and thousands more have had to deal with a tainted police record for the possession, cultivation and sharing of cannabis. As described by UNODC⁸⁵, the “Track A diplomacy” NGO, The Global Commission on Drug Policy⁸⁶ and a local researcher⁸⁷: *“The trauma of being handcuffed, detained, and threatened with long prison sentences, not to mention lost job opportunities and broken family ties, have long been documented as elements contributing to grave psychological and social consequences, and increased human rights violations for people who use drugs, in this case cannabis”*.

Submissions called for by the ARUC⁸⁸ during the first phase of the reform implementation highlighted the **need to structurally address the topic of social justice, that is to say: the injustice present and past caused by the prohibition of cannabis**. Among them are:

- the release of people convicted for non-violent cannabis convictions and convictions related to possession falling within the same parameters of this proposal;
- the creation of social equity programs designed to help alleviate the consequences of being imprisoned;
- allowing people found guilty of minor offences related to cannabis to run non-profit associations.

The fact that these, alongside the expungement of criminal records that were included in the law⁸⁹, represent a **strong message recognising the mistakes of the past**, further providing *“those most negatively affected by the draconian laws with the tools to develop their full potential and be active participants in society.”*⁹⁰ These provisions are paramount as there is an **absolute need to fix what is broken before a new system can work or be implemented properly**.

⁸⁵ “UN system coordination Task Team on the Implementation of the UN System Common Position on drug-related matters What we have learned over the last ten years: A summary of knowledge acquired and produced by the UN system on drug-related matters”, UNODC, March 2019.

⁸⁶ See: “Enforcement of drug laws: refocusing on organised crime elites”, Global Commission on Drug Policy, May 2020; “Time to end prohibition”, Global Commission on Drug Policy, December 2021.

⁸⁷ “The Green Leaf: Cannabis Education in Malta”, K. Mamo, University of Malta, 2019.

⁸⁸ “Response to the Public Consultation Towards the Strengthening of the Legal Framework on the Responsible Use of Cannabis”, Ministry for Equality, Research and Innovation, August 2021.

⁸⁹ “a person convicted in the past of a criminal offense that is now being decriminalised will be able to remove the sentence from his or her conduct certificate by means of a written request.” See: ARUC booklet, ARUC Forum 2022, 1 April 2022.

⁹⁰ “Cannabis Reform in Malta with Andrew Bonello”, Volteface, ECAN, 22 April 2022.



ii → Possession

In the new law, the legal possession of cannabis under certain conditions is [regulated as such](#)⁹¹:

- Possession of cannabis up to 7g for personal consumption by an adult of 18 or older is not an offence anymore, and cannot not give rise to any confiscation, arrest, proceedings, or fines.
- Possession of cannabis in the amount between 7 and 28g gives rise to confiscation, administrative proceedings before the Commissioner of Justice, and a penalty of between 50 to a 100€.
- Consumption of cannabis in public (except for medical purposes), gives rise to proceedings before the Commissioner for Justice and a penalty of 235€. Consumption of cannabis before minors raises the penalty to between 300 to 500€.
- Possession of any amount of cannabis under 28g by a person under the age of 18 leads that person to appear before the Commissioner of Justice in order to recommend a treatment plan.
- All this shall apply where the police “*do not have a reasonable suspicion of drug trafficking*”.

⁹¹ ARUC booklet, ARUC Forum 2022, 1 April 2022.

⁹² Ibid.

iii → Cultivation

In regard to cultivation, the [ARUC](#)⁹² has laid down these specifics, taking into account comments and feedback from the participatory process:

- Cultivation of a maximum of 4 cannabis plants in one’s residence will be allowed, regardless of the number of residents, as long as the plants are not visible from other places.
- In addition to plants, a maximum of 50 grams of dried cannabis may also be allowed in the same residence.
- Selling, advertising to sell home grown cannabis and growing for others is illegal.
- Personal growers cannot sell their extra cannabis to NPO’s under current rules.
- Associations can decide which strains they want to grow.

iv → In compliance with international obligations

“On an international level we need to show that the ambitious step we have taken to regulate the use of cannabis is, in fact attainable and leading to safe use.” As laid out by the ARUC⁹³, the issue of international regulations related to cannabis remains crucial for any avangardist country. Indeed Malta is **“setting an example for our European colleagues by making sure that the policies and procedures (they) will be putting in place respect the law and give results.”**⁹⁴

The new maltese piece of legislation indeed relates to the introductory clause of Article 2(9) of the 1961 Single Convention by mentioning that treaty’s terminology: *“purposes other than medical or scientific.”* In addition, it links it with the implementation of *“harm reduction from the use of cannabis”* thereby echoing the provisions of Article 2(9) subparagraph (a).⁹⁵

In the case that the Maltese “Authority on the Responsible Use of Cannabis” instituted by that law, is to collect data on the amount of non-medical cannabis used annually and send it the dedicated Form to the INCB, hence complying with Article 2(9) subparagraph (b) of the Single Convention – By providing such data, **Malta would be the first country to have an internationally – compliant legal non-medical Cannabis legislation since the Single Convention entered into force**⁹⁶. Though not conclusive as to the general meaning of the 1961 Convention, such a step has *“considerable probative value”*⁹⁷ because it contains a *“recognition by a party of its own obligations under an instrument”*. It may also participate in *“revitalizing the validity of a norm for its addressees”* and **alleviating rule tensions and the risks of norm decay or non-compliance cascade**, in line with requirements for peaceful change called by under international legal order.⁹⁸

⁹³ ARUC booklet, ARUC Forum 2022, 1 April 2022.

⁹⁴ Ibid.

⁹⁵ In addition, the non-profit model arguably minimises part of the risks associated with the development of a profit-oriented industry generating income with the sale of cannabis products. The Cannabis social club model is closer to the farmer’s market than to the supermarket, with inherent barriers to scalability. See for example: “The Good, the Bad, and the Ugly Weed”: How Consumers in Four Different Policy Settings Define the Quality of Illicit Cannabis”, V. Belackova, in Contemporary Drug Problems, Vol°47(1), p.43–62, 2020; “Qualitative research in Spanish cannabis social clubs: “The moment you enter the door, you are minimising the risks””, V. Belackova, A. Tomkova, T. Zabransky, International Journal on Drug Policy, Vol°34, p.49–57, 2016; “Use and Habits of the Protagonists of the Story: Cannabis Social Clubs in Barcelona”, O. Parés-Franquero, X. Jubert-Cortiella, S. Olivares-Gálvez, A. Díaz-Castellano, D. F. Jiménez-Garrido, J. C. Bouso, Journal of Drug Issues, Vol°49(4), p.607–624, 2019.

⁹⁶ “Obligations and flexibilities under European & international law: a path towards domestic cannabis adult-use regulation”, B. A. Jeanroy, A. Bernard, K. Ziboulet-Remouli, Augur Associates white paper, April 2022.

⁹⁷ “International status of South-West Africa, Advisory Opinion”, ICJ, p.135–136, in: ICJ Reports: 128–219, 1950.

⁹⁸ “Things We Lost in the Fire: How Different Types of Contestation Affect the Robustness of International Norms”, N. Deitelhoff, L. Zimmermann, International Studies Review, Vol°22(1), p.58, 2013.

Ultimately, an articulation of domestic reforms regulating non-medical cannabis use with the interpretation followed by Malta provides an interesting approach that could be if not reproduced, at least inspirational to, for a similar applicatory contestation of EU drug-related rules. In short: seeking compliance and claiming alignment with the goal and object of the piece of regulation, yet interpreting specific disposition in a way that the instrument does not conflict with other laws (such as human rights), constitutional dispositions, or legitimate domestic policy aspirations.

⁹⁹ To note, this report considers, in accordance with the High compliance research, that Malta only needs to communicate their annual tonnage of non-medical cannabis use to the INCB to ultimately be completely fulfilling its international obligations. As of 2022, the NPOs are still not in operation. From there, a year more will have to be counted in order to access the relevant INCB yearly report. Only then will we have definitive confirmation of Malta's interpretative choice and if it is accepted by the INCB. Hence why today, Malta is only partially affiliated with the Applicatory contestation approach described here.

¹⁰⁰ "Obligations and flexibilities under European & international law: a path towards domestic cannabis adult-use regulation", B. A. Jeanroy, A. Bernard, K. Ziboulet-Remouli, Augur Associates white paper, April 2022.

Figure 16: *Lex lata* approaches

How the approach is being referred to	Approach to the drug control conventions	Approach to international human rights law	Example of country following the approach
Denial of non-compliance	Denial of non-compliance	None	U.S.
Principled non-compliance	Recognition of non-compliance	Echoed in domestic legislation	Canada
Hierarchy of norms	Obligations are of lesser importance than conflicting human rights ones	Obligations are of superior importance than conflicting drug control ones	Uruguay
Applicatory contestation	Claim of compliance with the legal exemption for "other than medical and scientific uses"	Obligations may be superior importance, but are not conflicting with the exemption	Malta (partially until communication to the INCB ⁹⁹)

Source¹⁰⁰: "Obligations and flexibilities under European & international law: a path towards domestic cannabis adult-use regulation", 2022.



It is promising that treaty interpretations such as the one followed by Malta can encompass licit legalisation schemes within the scope of the Conventions' "flexibilities", particularly the fairly broad legal exemptions precisely allowing these activities under Articles 2(9), 20(1)b, and 28(2). In this approach, overcoming the need for treaty reforms, inter se treaty modifications, or indeed more radical *de lege ferenda* approaches, it could however be possible to **reach an inter se agreement de lege lata between EU countries regulating their domestic adult-use market**: Member States would claim and recognize between themselves their compliance with the international legal regime for the non-medical cannabis industry, and rule out the application of all the measures for "illicit production" or illegal uses as defined in the 1961 Convention. **This could provide a way for countries to undertake sovereign reforms without forcing others to do so**, and without the need to amend, withdraw, or otherwise alter the drug control conventions¹⁰¹ or the European regulatory framework (thus avoiding the burdensome processes, resources, and legal stances required by most scenarios of *lex ferenda* or of an assumed breach of compliance).

v → Oppositions to the reform

A 2021 petition¹⁰² to the Maltese parliament from 52 religious-based organisations and schools put forward several objections to the government reform proposal. The objections presented below have, unsurprisingly, been **debunked by experts from the field**¹⁰³ and rejected by parliament.

1 → **increase the minimum consumption age for cannabis from 18 to 25**

While it is recognized by most research that cannabis the older the subject, the safer cannabis consumption generally is, increasing the age limit would hold very limited benefits. Beyond the legal implications of treating differently scientifically proven more dangerous legal drugs such as tobacco and alcohol, **an increase in the age limit would ultimately only increase illicit market sales**. Indeed, the higher the age limit, the more people will be driven to the illicit market. Ultimately, this falls upon the choices of one society to consider as an adult, someone over 18 years old, with the responsibilities that comes with it.

¹⁰¹ It might be noted that even in the eventuality of a State moving forwards with an inter se treaty amendment, it might be more appropriate to frame it under the dispositions of exemption for Other than medical and scientific purposes than under the Medical and scientific purposes provisions. See: "High compliance: a *lex lata* legalization for the non-medical cannabis industry – a method to regulate adult uses of cannabis in accordance with the Single Convention on narcotic drugs, 1961", K. Riboulet-Zemouli, FAAAT editions, 15 March 2022.

¹⁰² "NGOs, lobbyists, academics and former president petition MPs on cannabis bill", Times of Malta, 7 December 2021.

¹⁰³ "A cannabis petition to arrest education, by educators – Bonello & Steinmetz", A. Bonello, F. Steinmetz, Times of Malta, 10 December 2021.

2 → increase the distance between cannabis clubs and schools, youth centres and post-secondary institutions from 250 metres to 1 kilometre

¹⁰⁴ Interview conducted with Núria Calzada, 12/05/22.

The first objective of any cannabis reform should be to push back against the black market. To make such a process work, it is fundamental that adults can get effective access to cannabis. Considering the specificities of Malta (islands by definition have a limited available space) and the number of schools, youth centres etc. present on the Maltese territory (especially in cities such as Valetta), even a 250 metres-circle around each of these structures would dramatically reduce the possibilities for setting up desired establishments. In Barcelona, where such rules are enforced, the de facto impossibility to create new establishments has created a new black market, with valuation rising and attracting criminal actors' involvement and financial investment¹⁰⁴.

Rules which ban cannabis growing/ consumption/ sales from places where people actually are, are counter-productive as very few consumers, if any, will be willing to go buy their product far away from their home or within industrial estates. **A successful alternative to the illicit market must therefore be more attractive than what is already offered throughout the islands on the black market.** Discrete signage for purchase locations, a ban on advertisement and other marketing strategies can sufficiently shield the youth from being potentially exposed.

3 → double the fines for smoking cannabis in front of children and in public

Fines have to be proportional to the harm inflicted and towards other undesired activities. While it is understandable that people should not consume cannabis in front of children or in public (just like for tobacco), punishment should not deviate significantly from fines associated with the consumption of other licit drugs.

4 → *Ban the legal right to grow cannabis in residences adjacent to schools*

A growing operation is secure if it causes no harm to children or neighbours. Growing cannabis should be treated like any other manufacturing of products with similar low toxicity. The active ingredient THC has the same acute toxicity class as caffeine according to the European Chemical Agency¹⁰⁵. If coffee roasting is deemed acceptable in a residence adjacent to a school, then growing cannabis should also be. In both cases, proper security should be implemented and odour nuisance must be avoided by adequate measures.

5 → *Cap the amount of THC allowed in cannabis*

As previously mentioned, **the problematic focus on THC¹⁰⁶ often hides the true issue which revolves around transparency.** Less experienced consumers might want to consume products with lower THC levels. People with a higher desire for THC may want a more potent one. Allowing concentrated products is, for example, a form of harm reduction, as it leads to smoking less material and inhaling less harmful combustion by products (cf. polyaromatic hydrocarbons, aldehydes etc.). Ultimately, **a THC limit should be considered as a gift to the illicit market**, which contradicts the ultimate goals of the reform which is to create an alternative to illegal cannabis sales.

6 → *remove the reference to educational campaigns mentioned in the Bill to maintain the present situation whereby Government campaigns on drug use focus exclusively on prevention measures explaining the risks of cannabis use*

Communication in regard to drug policy should be concerned with honest assessments. Abstinence-based campaigns, such as “Just Say No” have repeatedly failed dramatically and even increased risks and consumption prevalence¹⁰⁷. In times where every young person can extract information from the internet regarding most topics, honesty becomes key to guarantee the success of a communication campaign. If communication only focuses on harms, and particularly if these are massively exaggerated, the government but also parents, schools and other individuals risk losing their credibility and important influence on young people.

¹⁰⁵ “Cannabis sativa, ext.”, Substance Infocard, European Chemicals Agency, 2022. See also: “Acute human exposure assessment to tetrahydrocannabinol (D9-THC)”, Davide Arcella, Claudia Cascio and Karen Mackay, Scientific Report of EFSA, European Food Safety Authority, 25 November 2019.

¹⁰⁶ “Note de synthèse – Réguler le taux de THC ? Le piège à éviter.”, K. Riboulet-Zemouli, F. Ghehiouèche, Project: Politiques publiques du Cannabis en France, October 2016.

Alongside these ideological remarks, the Maltese Chamber of Commerce also voiced [specific points of concern to the reform](#)¹⁰⁸:

1 → “health and safety at the workplace”; “right of employers to apply a zero-tolerance approach to the use of cannabis at the workplace”; Testing for drugs “should be mandatory in the case of workplace or road incidents where an individual has suffered an injury.”

As for any other legal drugs, rules are enforced by companies and the workplaces to ensure non-consumption during work hours. Specific rules applying to cannabis are therefore unnecessary. Additionally, only through pertinent information and education can an individual know when and where not to consume. With this in mind, random or mandatory drug testing has proven counterproductive in a multitude of environments¹⁰⁹.

2 → Implement “necessary safeguards to curtail the potential negative social and economic impact that this legislation may bring”

The social component of this criticism is somehow difficult to understand. Once studied appropriately, the intended goals of the reform, as well as the situation created by the current prohibitionist regime, one can hardly argue that the social impact of the reform is not of high importance to the authorities. Consequently, potential social consequences of said reform should actually be positive in comparison to the *status quo*.

There is a visible economic element to this criticism. As discussed in the last part of this chapter, the potential distortion of the medical cannabis market by the creation of an adult-use regulation is not to be underestimated. However, as it will be shown, **economic interests are not reason enough not to act on a health and security situation that has been left to rot for decades**. On the contrary, it can only be viewed as an economic impediment for the medical cannabis sector (and its regulation) to better answer the needs of patients while ensuring efficient accessibility to qualitative and affordable medical-grade cannabis products. This issue additionally resonates with the goal of the reform to avoid [“corporate capture](#)^{110”}.

¹⁰⁸ “Business Lobby Wants ‘Well-Regulated Market’ For Cannabis As It Raises Concerns About Proposed Reform”, Y. Pace, Lovin Malta, 13 October 2021.

¹⁰⁹ “Should Workplace Drug Testing Be Allowed?”, E. Hartney, C. Lustik, Very Well Mind, 19 November 2020; “Drug Testing in the Workplace: A Bad Idea and a Bad Investment”, K. Willis, ACLU Virginia, 1 September 1999; “Workplace Drug Testing: Weighing the Pros and Cons”, L. Nagele-Piazza, SHRM, 21 January 2020; “Impact of Drug-Testing Programs on Productivity”, J. Normand, R. O. Lempert, C. P. O’Brien CP, National Research Council (US), Institute of Medicine (US), Committee on Drug Use in the Workplace, National Academies Press, 1994; “Negative Repercussions of Mandatory Drug Screenings”, B. Miller, HR Daily Advisor, 11 November 2020; “A discussion of the ethical implications of random drug testing in the workplace”, T. Christie, Healthcare Management Forum, Vol°28(4), p.172-174, 28 May 2015.

¹¹⁰ “Mitigating the risks of corporate capture in emerging legal cannabis markets”, Transform Drug Policy Foundation, 22 March 2022.

3 → “Mental and physiological health should remain the priority in the government’s proposed recreational cannabis reform”

As the reform is based on public health structuration and harm reduction, one could argue this is very much the case. Especially in comparison to current mental and physiological health harms existing under a prohibitive regime. Proper monitoring, as well as anonymous quantitative studies will help ensure this goal is still paramount to public health authorities.

4 → “Should this bill pass into law un-amended it will allow the legalisation of cannabis products without having catered for the legal and safe supply of cannabis products through a well-regulated market;”, “Quality and safety of the legalised product”; “minimum acceptable standards should be included in the original bill”

Whilst at first glance this criticism can seem like common sense, it raises several issues. This debate is currently happening notably in Germany where some actors within the growing medical cannabis industry are pushing for the future adult-use market supply-chain to be compliant with pharmaceutical regulations, which is being presented as a “safer” solution for consumers. As this report will discuss in its last Chapter, it not only makes little **sense to consider that non-medical products should be regulated as a medication** (or to be distributed in pharmacy), it also **barely hides corporate interest protection under the disguise of public health**¹¹¹. Prior to adult-use reform regulation, voices showing their care to bring safer products in the hands of consumers never seemed to appear from the same actors who today deem them necessary. **If implemented, quasi-pharmaceutical quality control could only reinforce the black market as the offer will unequivocally bring higher pricing and lower “cannabis quality”** (which is different from pharmaceutical quality). Specific quality assurance and testing can easily be put in place without entering a pharmaceutical quality system (notably through Blockchain technologies, see Chapter 3).

¹¹¹ “Big Pharma won’t be happy about marijuana cutting into its profits”, L. Z. Granderson, Los Angeles Times, 20 April 2022.

5 → *“Before legalising the possession of small amounts of cannabis, the government should conduct studies on the short and long-term impacts.” “guided by a well-researched and evidence-based plan to procure cannabis seeds with safe THC levels and cannabis products free of harmful substances”; “What potency of cannabis should be acceptable in cannabis for recreational use”*

Delaying reform because of supposed lack of scientific research is doubly paradoxical. First, there is ample research that have been and are currently conducted worldwide on these issues. Secondly: if no reform is enacted, even through an experimental phase, how is research supposed to be conducted?

The topic of THC caps has been covered in length in different parts of the reports and ultimately is not based on scientific ground, nor designed as to achieve the stated objectives of the reform.



b → The role of the Authority for the Responsible Use of Cannabis (ARUC)

The Authority for the Responsible Use of Cannabis¹¹² (ARUC) has recently published a booklet¹¹³, summarising the contributions and actions developed during the participatory Forum organised by the Authority on April 1st, 2022¹¹⁴. The aim behind this initiative was to initiate the building of a participatory process aimed at making emerge a sense of community based on the belief that notwithstanding different opinions and backgrounds, consumers and the State “*share a common interest: i.e., the safety, integrity and health of persons who use cannabis.*” As specified by the ARUC Chair Mariella Dimech¹¹⁵, **“heavy emphasis will be placed on clubs to follow the law, abide by their ethics and not try to cheat the system.”**

In its initial phase of establishing “*an effective and efficient system that ensures the responsible use of cannabis*”, the Maltese regulatory authority in charge of laying out the rules on the country’s cannabis approach clearly lays out **its objectives¹¹⁶ “to move away from the punitive enforcement approach to improved health and social interventions” and “to minimise the harms of using cannabis by preventing social marginalisation, health problems, criminalisation, and human rights violations”.** These “*will be achieved in tandem with ongoing evidence-based data collection, research, and monitoring.*”

The Authority has several responsibilities and roles, including:

- Licensing the NPOs’ activities (Cultivation, Storage, Dispensing, and Transport)¹¹⁷.
- Providing education and research¹¹⁸.
- And ensuring the creation of an inclusive process for the implementation of the reform.

As mentioned by the summary of the **participatory process on the reform¹¹⁹ “The Authority was perceived as a centre for research and future progress in the cannabis sector, in close collaboration with civil society.” In order for the ARUC to be able to achieve its goals and missions, the authority has been given a sound mandate, an inclusive management, and a sufficient budget. This will need to be sustained and reinforced if needed.**

¹¹² “Authority on the responsible use of cannabis Act”, CAP. 628, 18 December, 2021.

¹¹³ ARUC booklet, ARUC Forum 2022, 1 April 2022.

¹¹⁴ “ARUC Forum for Non-Profit Cannabis Organisations”, Facebook event, 1 April 2022.

¹¹⁵ Interview conducted with Mariella Dimech, 10/05/22.

¹¹⁶ ARUC booklet, ARUC Forum 2022, 1 April 2022.

¹¹⁷ “The regulatory function will be focusing on ensuring that the necessary criteria are established to be able to have a license to own a non-profit organisation” See: ARUC booklet, ARUC Forum 2022, 1 April 2022.

¹¹⁸ “The Authority is welcoming the opportunity to work closely with all related entities as well as license holders to ensure that the social, environmental, psychological, criminal problems and stigmatisation surrounding substance use may be reduced effectively.” See: ARUC booklet, ARUC Forum 2022, 1 April 2022.

¹¹⁹ “Response to the Public Consultation Towards the Strengthening of the Legal Framework on the Responsible Use of Cannabis”, Ministry for Equality, Research and Innovation, August 2021.

i → To teach and inform

Research, Training and Education form the cornerstones of one of the core missions of the ARUC.

i.1 → Research

As described by the [ARUC booklet](#)¹²⁰, **the authority has been given a mandate to allow for the assessment of the associated public health risks through data gathering and scientific research**, with a priority given on the importance of anonymity and safeguarding privacy, and of data protection for all consumers and NPO members¹²¹. “The information collected *“will have two functions: the regulatory role, and the psychosocial research role.”*

The regulatory function will be tasked with centralising data following up on the specific regulations in regard to growing operation, storage, distribution, and transportation. The psychosocial research will be conducted by the ARUC in collaboration with external researchers to ensure the legitimacy and external validity of trend assessment pertaining to the evolving approaches and understanding of cannabis consumption.

i.2 → Training

All staff employed within a NPO will be required to attend specific training, which will be offered by [the Authority](#)¹²² and which will give the right to a certificate of attendance *“which will be included in the application for the licence as a necessary requirement.”* The exercise will be centred on **making sure that the professional knowledge for the cultivation, storing, and distribution of cannabis is integrated by staff, as well as basic skills in dealing with members and their needs, including harm reduction training.**

¹²⁰ ARUC booklet, ARUC Forum 2022, 1 April 2022.

¹²¹ *“however the names, identity number and details of any individual member will not be shared with ARUC. This information shall only be known to the organisation they are a member of.”* See: ARUC booklet, ARUC Forum 2022, 1 April 2022.

¹²² ARUC booklet, ARUC Forum 2022, 1 April 2022.

The Authority also underlines that *“it is imperative that not only are staff are trained to provide the safest quality of cannabis, but (...) also to be able to recognise ‘red flags’”*, meaning a consumer that may show signs of needed support. As important as this priority is, it should not impede people with disabilities or illness from obtaining cannabis products that may alleviate their pain and answer their needs (when the latter are not being correctly met on the legal medical cannabis market). In that regard, **strengthening collaboration between the medical professional field to enlarge the number of prescribers that are trained to do so could represent a further requirement for the sustainability of the adult-use reform.**

¹²³ “National Policy to decriminalise the adult personal cultivation consumption and sharing of cannabis and create (not-for-profit) cannabis social clubs (CSCs)”, K. Mamo, Mock Proposal, March 2021.

As such the AUC proposed a second form of training that would *“be offered to external entities who may need assistance due to changes owing to the new amendments to the cannabis law. This training will be focused on supporting not only employees but also employers, and other professional organisations.”* Aside from the previously mentioned medical field, **the larger public health actors as well as law enforcement professionals should be concerned primarily with such training.**

Providing up to date and realistic information and prevention tools directed to the consumer is therefore a structural component of its mission. Through a multi-disciplinary approach and a strong national and international civil society component, the ARUC should strive to ensure all stakeholders involved in the running of a NPO *“are provided with continuous evidence-based training and certification on cannabis harm reduction and knowledge.”*¹²³



i.3 → Education

Maltese education¹²⁴ is grounded in the belief that the acquisition of: *“appropriate knowledge, key skills, competences and attitudes [is best achieved] through a value-oriented formation including equity, social justice, diversity and inclusivity”*. Nonetheless educational information about cannabis is to date often viewed, according to local research¹²⁵, as *“sporadic and somewhat sketchy.”* When compared with the observations raised by international researchers¹²⁶, it seems clear that **the educational material presented to Maltese youths in regard to cannabis is currently “unsound and fails to properly adopt a comprehensive harm reduction approach”**.

Before any potential change, recognizing current shortcomings, the Maltese Government has proposed the establishment of a strong educational campaign to inform young people on the potential dangers of cannabis consumption and to promote alternative healthy activities such as physical training and sports. However, past educational messages and more recent moves from rehabilitation services¹²⁷ still highlight the durability of educational campaigns based on a strict abstinence approach that resonates with the 1980’s U.S. “Just Say No” campaign.

As specified by researcher Karen Mamo¹²⁸, current *“online searches about educational material on cannabis produce somewhat lacking results and when information is available it is clear that the material presented is out-dated, barely relatable to the local scene and focusing only on the clinical and negative effects of cannabis. Although the concept of harm reduction is gaining momentum within mainstream media and political quarters, the abstinence dogma of a drug free world continues to resonate louder in recent national publications and discourse propagated by key stakeholders from the political class and drug rehabilitation services.”*

¹²³ “Missions and Responsibilities of our Ministry”, Maltese Ministry of Education, Government of Malta, 2020.

¹²⁵ “To better understand what type of information is being used in schools, reference to Sedqa’s online portal is imperative and gives a better picture of the contents and visual images used in preventive programs.” See: “The Green Leaf: Cannabis Education in Malta”, K. Mamo, University of Malta, 2019, and “SEDQA”, Foundation for Social Welfare Services, Government of Malta, 2022.

¹²⁶ See in particular: “Applying a social determinants of health perspective to early adolescent cannabis use – An overview”, E. Hyshka, *Drugs: Education Prevention and Policy*, Vol°20(2), March 2013; “Cannabis legalization in the provinces and territories: Missing opportunities to effectively educate youth?”, T. M. Watson, *Canadian Journal of Public Health*, 2019; “From didactic to dialogue: Assessing the use of an innovative classroom resource to support decision-making about cannabis use”, B. M. Moffat, R. J. Haines-Saah, J. L. Johnson, *Drugs: Education, Prevention and Policy*, Vol°24(1), p.85–95, 2017.

¹²⁷ “NGOs slammed for lobbying to remove education references from cannabis law”, *Times of Malta*, 8 December 2021.

¹²⁸ “The Green Leaf: Cannabis Education in Malta”, K. Mamo, University of Malta, 2019.

The new law is a refreshing and necessary take on the issue as it integrates a broad understanding of issues related to cannabis. It also includes changes that are conscious of the important nexus between law enforcement approaches and society’s perceptions about cannabis and cannabis consumers. As listed by the ARUC¹²⁹, the “*comprehensive educational strategy will be based on scientific facts and the principle of harm reduction*” and will include:

- a concrete action plan including all relevant stakeholders;
- a nation-wide campaign on cannabis, with emphasis on harm-reduction;
- an evidence-based campaign aimed towards prevention;
- an age appropriate, modern, national curriculum on drugs which is cognizant of the multi-dimensional tools available to deliver proper information;
- the development of peer-education youth programmes;
- interactive audiovisual campaigns;
- continuously updating awareness programs.

These tools will assert efforts on:

- encouraging less harmful ways of consumption;
- education on cannabis risks and recognition, including how to address a health emergency (e.g. How to handle a person experiencing paranoia or fainting etc);
- education on money management issues and problems related to addiction;
- campaigns on the difference between medical and non-medical cannabis;
- education on the distinction between cannabis and synthetic cannabinoids/neocannabinoids;
- education on the law and its implications;
- education on driving under the influence;
- support training for front liners.

ii → How to open a Non-Profit Organisation (NPO)

“Only non-profit licensed organisations are legally allowed to dispense cannabis to adults, under the local Cannabis Act.¹³⁰”. In alignment with this legal requirement, the Authority for the Responsible Use of Cannabis released their initial criteria in April 2022 during the first “Public Consultation Towards the Strengthening of the Legal Framework on the Responsible Use of Cannabis¹³¹”.

Clubs can be of different sizes, with some catering for a small group of people, while others could potentially cater for a couple of hundred of members. While the organisation should have the possibility to adapt operations according to agreed terms between members and the needs of that community, *the non-profit element remains however central¹³²: “Any funds made by the non-profit associations are to be used to pursue the organisation’s objectives and keep it running. No profits can be distributed to the group’s members, directors, employees or officers. Employees will be entitled to wages that do not fall under profit for accounting purposes.”* To operate and to ensure that the “licensing criteria are aimed at producing safe and quality – tested cannabis”, these organisations require approval from ARUC, which can issue four different licences:

- To cultivate
- To store
- To dispense
- To transport from point to point
(cultivation to storage and to dispensing locality).

Licensing criteria will include “*the provision of data about consumption, compliance to financial regulations and employment of staff trained in working with cannabis as well as training in harm and risk reduction*”.

¹³⁰ ARUC booklet, ARUC Forum 2022, 1 April 2022.

¹³¹ “Response to the Public Consultation Towards the Strengthening of the Legal Framework on the Responsible Use of Cannabis”, Ministry for Equality, Research and Innovation, August 2021.

¹³² ARUC booklet, ARUC Forum 2022, 1 April 2022.

All applications will need to provide a clear plan of action which includes plans for cultivation, storage, deliveries and dispensation, as well as:

- Clean police conduct.
- A Business plan.
- Training certificate for all employees for: *a) Cultivation; b) Storage; c) Dispensation; d) Delivery from point a to point b to c.*
- No prior or current connection to criminal organisations.
- Necessary insurance.
- Never to have had a cannabis licence revoked or suspended.
- Residency in Malta.
- Commitment to supply all necessary data to the centralised data collection system.
- Have not been promoting publicly (notably on social media) or commercialising the consumption of cannabis.

Once running, NPOs can expect on-site evaluations by authorities approximately every three months, but the frequency of the inspections could change as the industry evolves. The authority will also insist on all NPOs having the same childproof packaging.

Figure 17: Licensing requirements

	Cultivation	Storage	Dispensation	Transport
Structure	Area adequate for growing	Premises adequate for storing	Premises adequate to dispense	Model of transport
Security	Security plan	Security plan	Security plan	Mode for transporting cannabis
Main task	Plan for type of cannabis to grow	Plan on how to uphold hygiene	Contract of membership	Mode for securing and packaging
Requirements	Maximum capacity to grow	Plan on number of staff	Plan on amount of cannabis to be dispensed	Drivers trained
Equipment & rules	Equipment needed and expenses	Equipment for storing and packaging exemption	Rules for members	n/a
Software	n/a	n/a	IT system	n/a

Source¹³³: ARUC, 2022.

c → Participatory process & monitoring

As clearly stated by the ARUC¹³⁴: *“With our holistic and strategic approach, we aim at providing a safer way for persons using cannabis and create a culture of openness, respect and understanding. This can only be achieved by building a sense of responsibility through community support.”* **Clubs shall subsequently be considered as part of a larger community of other organisations who “strive to work together, with the aim of creating a safer environment for persons using cannabis.”** As such, a proper participatory process and monitoring of the implementation of the reform are key to its success.

¹³⁴ ARUC booklet, ARUC Forum 2022, 1 April 2022.

¹³⁵ “Response to the Public Consultation Towards the Strengthening of the Legal Framework on the Responsible Use of Cannabis”, Ministry for Equality, Research and Innovation, August 2021.

i → Participation

As previously mentioned, the cannabis reform project attracted over 350 contributions from organisations and citizens when the [public consultation](#)¹³⁵ closed on May 11th, 2021. **Although a lot has been said, one thing is certain: social dialogue about cannabis will not be over anytime soon.** This is indeed potentially **the first time Maltese society is in a position to have an open and frank dialogue with the cannabis community.** The removal of criminal sanctions and the legalisation of the cultivation and consumption of cannabis represent unique opportunities to facilitate dialogue between different stakeholders.

As mentioned in the summary of the contributions: *“Many civil society organisations expressed their support for the proposals, however, lamented the lack of detail on the proposals, their practical enforcement, and regulation. Degrees of support ranged from complete approval and calls for further reform (legalisation), to cautious calls for further studies. There is clear consensus that the criminalisation of individuals who consume cannabis is no longer an accepted practice.”* Various issues were raised with regard to the reform, namely:

- The regulation of the market.
- Guaranteeing good, clean products to consumers.
- Competitive pricing and taxation.
- Local cultivation.
- Fair and equitable sharing of benefits.

- Licensing, fees, and requirements related to the participation in said market.
- Advertising.
- Production and sale.
- Quality controls.
- The impact of legalisation on employment.

Although the law has been heralded as historic by many involved in the process from civil society, the process will need to ensure continuously that it integrates feedback from NPO members and the rest of the Maltese society. Flexibility, transparency and continued dialogue with law enforcement agents, NGOs working in the rehabilitation field, and civil society representing the voice of people who consume cannabis will be crucial to safeguard the health, human rights and personal freedoms of all members of society.

ii → Monitoring

People operating the Non-Profit Organisations will need to cooperate closely with the ARUC. As proposed by [local research](#)¹³⁶, a two-way collaborative process approach can be implemented:

- Through the members' registration system and data aggregated throughout the year, NPOs can act as an important feedback loop to the health and environmental sustainability research basis of the ARUC. *"In-depth understanding of local cannabis norms, patterns and methods of consumption, cultivation practices and perception of benefits and potential risks linked with cannabis consumption would provide valuable information to local researchers."*
- In turn, this can provide a more realistic picture of *"local cannabis consumer trends and offer policy makers a more comprehensive basis to develop long-term policy frameworks."*

In terms of oversight, the Maltese regulatory authority has a Board of 10 members¹³⁷, quasi-exclusively coming from health practitioners and prescribers background. Although understandable and even recommended in regard to the objectives of the Authority, **it may however lack proper consumer and grower representation and/or personalities that have previous experiences in regard to the non-profit cannabis model.** These could be integrated further down the line in order to give a broader scope of perception to the regulatory authority.

¹³⁶ "National Policy to decriminalise the adult personal cultivation consumption and sharing of cannabis and create (not-for-profit) cannabis social clubs (CSCs)", K. Mamo, Mock Proposal, March 2021.

¹³⁷ Ms. Mariella Dimech, Executive Chairperson (MSc. Psy., B.Psy (Hons), Registered Psychotherapist (Gestalt)); Ms. Nadine Brincat, Registered Psychotherapist ((Gestalt) MBA (Leicester)); Dr. Marius Caruana, MD MMCFD; Dr. Gabriel Farrugia, LL.D; Dr. Paul Daniel Micallef (BA, D.Clin.Psych., C.Psychol, AFBPsyS, PG Dipl. Executive Coaching & Mentoring SB); Dr. Janice Formosa Pace, Deputy Chairperson (PhD, MSc, Dip. Probation Services, B. Psych); Ms. Sina Bugeja, MSc ((Wales) FRSPH, MIM, AgilePM. CertPRM (Melit)); Dr. Charles Cassar, Registered Psychotherapist (Gestalt, Logotherapy, and Existential Analysis); Mr. Charles Scerri Social Work (B.A.(Hons)); Dr. Joey Reno Vella (LLB (Hons), M.Adv (Melit)). See: ARUC booklet, ARUC Forum 2022, 1 April 2022.

3. Setting up an optimum NPO model for Malta

Reforming drug policies is a daunting task. **While passing a reform can often take decades of activism and advocacy, it remains important to consider the vote of a new legal framework only as a first step.** The “real work” starts now for Malta and **in order to see an optimum model be activated, all parties involved must remain focused on the task ahead.** Public authorities and elected officials especially need to be heavily involved in making sure the process keeps on being implemented correctly.

The aim here is in part for NPOs to become “safe spaces”¹³⁸ where members can share a mutual bond and interest about cannabis in order to exchange best practices and seek advice related to cultivation and consumption (if they experience unwanted effects or health problems for example). With these dimensions in mind, *“the objective should be to transpose within the perimeters of a members-only club, the unregulated social aspect of shared cannabis consumption, already spread across the islands.”*

It has been highlighted in this report that, in order to do so, **the maltese supply chain for legal cannabis would need to be “competitive”¹³⁹ in order to progressively gain ground from the black market**, not only in regard to what is available at home but abroad as well; cannabis trafficking easily adapting and transferring novelties from regional neighbours. In order to achieve the stated goal, this market tendency would have to be balanced by fitted, inclusive, and evolutive regulation. Several dimensions can indeed be progressively further tackled and implemented as notably highlighted by [the summary of the first participatory process round of the reform](#)¹⁴⁰:

- Implement strong interministerial coordination to ensure that policy implementation and legislative change are aligned, while remaining comprehensive and holistic.
- Continuous engagement with all concerned stakeholders, including elected officials, law enforcement, education and citizens voices in general.

¹³⁸ “Cannabis associations should be ‘safe spaces’, NGOs propose”, G. Magri, Times of Malta, 28 March 2022.

¹³⁹ By stating the need for being “competitive” from the black market, the report highlights, for the reform to be successful, the possibility for Clubs for example to be allowed to offer to adult members the same range of products, with a superior quality and a lower price, within the same availability space. Competition shall not be understood here as a “race” between Clubs and/or growers to attract more members or to differentiate from each other through commercial means.

¹⁴⁰ “Response to the Public Consultation Towards the Strengthening of the Legal Framework on the Responsible Use of Cannabis”, Ministry for Equality, Research and Innovation, August 2021.

- Inclusion of the voice, rights and expertise of cannabis growers and local / international civil society experts in order to identify potential barriers, discuss different solutions, and explore new areas for social development.

In order to keep alive the political momentum, and achieve the intended paradigm shift in cannabis legal treatment, its consumers, and *regulation itself*, flexibility will prove decisive in efforts. Not only to destabilise the monopoly of the illicit market and encourage more people to switch to a legal framework, but also **for the protection of the local cannabis community, especially the growers**¹⁴¹ against “*corporate captures by emerging cannabis businesses and, or other structural forces such as bureaucracy and overregulation*”.

a → Public health & security

Public Health and public security impacts are seemingly intertwined while being at the forefront of any desired outcomes fostered by alternative cannabis policy. In Malta, policy implementation revolves accordingly around “*how to promote a health and safety environment for people who consume cannabis*.”¹⁴² In order to fully accomplish that goal, several entries could be further, supported and tested, as notably referred by the **submissions’ summary**¹⁴³ of the initial participatory process of the reform:

- To foster and support the access to testing analysis allowing for the distinction between minor cannabinoids, as well as of terpene profiles.
- Distinction between Industrial Hemp and Cannabis, based on the low THC levels of the former, (under 0,2% THC) given that industrial cultivation of hemp is still deemed illegal in Malta.
- The clear authorisation of CBD products under different forms (raw flowers included) which would fall outside of the NPOs parameters.
- Ensuring that minors are treated with dignity and respect, and shifted towards educational or vocational training schemes, particularly if there is a reasonable suspicion that the minor was used for purposes of trafficking.

¹⁴¹ “Cannabis associations should be ‘safe spaces’, NGOs propose”, G. Magri, Times of Malta, 28 March 2022.

¹⁴² “A Social Equity Approach for Cooperative and Environmentally Sustainable Practices within Maltese Cannabis Associations”, ReLeaf Malta and Moviment Graffiti, 2022.

¹⁴³ “Response to the Public Consultation Towards the Strengthening of the Legal Framework on the Responsible Use of Cannabis”, Ministry for Equality, Research and Innovation, August 2021.

As previously seen before, efforts also need to be directed towards law enforcement in order to achieve proper public security for consumers, home growers and people involved in Clubs activities. **Several component could be envisioned**¹⁴⁴:

- Clearly defining in particular the term reasonable suspicion at law through guidelines issued by the Home Affairs. Notably, the drafting of standard operating procedures in this respect, as well as outlining the tools available to establish said reasonable suspicion.
- A simple measure (**among others**¹⁴⁵) which could be adopted by the police when carrying out a roadblock or street patrolling, would be to equip them with a small electronic weighing scale, so that individuals are not taken to the police station for their cannabis to be weighed if there is suspicion that they are over the authorised limit (0 – 7g and 7 – 28g). Such a measure would result in less time being wasted by the police, and the individual's rights being better respected.
- Another complementary measure would be, if an amount of cannabis ought to be confiscated, that a receipt with the amount written down to be given to contrevenants.
- More broadly, the issue of stop and search (both for vehicles and persons) is to be restructured to fit with the new law.

¹⁴⁴ "Response to the Public Consultation Towards the Strengthening of the Legal Framework on the Responsible Use of Cannabis", Ministry for Equality, Research and Innovation, August 2021.

¹⁴⁵ "Policy & Reform", Police Chief Magazine, September 2015.



b → Fitted education & communication

Because education and proper communication are major dimensions of the reform, an evolving system should put emphasis on these dimensions as highlighted by participants to the [ARUC Forum in April 2021](#)¹⁴⁶ as well as by [local research](#)¹⁴⁷:

- In order to ensure a “*safe space attitude and environment*”, the ARUC sets up proper monitoring and training for workers within the associations, as well as for relevant public stakeholders.
- To consider preventive substance consumption programs within a broader context by taking into account socio-economic determinants, contextual factors such as laws and norms and interpersonal traits.
- **Information towards youth needs to be balanced, therefore including both benefits and risks of the cannabis plant within prevention and education material and activities**, including harm reduction tips on how to stay safe and monitor potential cannabis consumption. A few examples include: safer consumption methods, not to drink alcohol and consume cannabis, not to drive under the influence, to refrain from using synthetic cannabis etc.
- **To include students as equal partners in the discussion**, especially when addressing young teens who might already be in contact with people who consume cannabis. Equally, it is imperative to include cannabis consumers in the debate and to consult with organisations having direct contact with the community. This will ensure educational material reflects realities on the ground and is appealing to the general public.
- **To develop a national educational framework on cannabis**, thus properly addressing different age groups (not limited to youth or school children). Educational campaigns need to be continuous while adopting multiple mediums to reach a wide and diverse audience of different ages and from different socio-economic backgrounds.

¹⁴⁶ “Response to the Public Consultation Towards the Strengthening of the Legal Framework on the Responsible Use of Cannabis”, Ministry for Equality, Research and Innovation, August 2021.

¹⁴⁷ “The Green Leaf: Cannabis Education in Malta”, K. Mamo, University of Malta, 2019.

→ **Ensure educators are trained within harm reduction principles**, receive continuous training and do not solely rely on their personal experience as rehabilitation practitioners working with problematic substance consumers or arresting them as law enforcement agents. These methods have proved to fail to effectively and positively influence levels and methods of consumption and risk, distorting the prospects of providing youths with an evidence-based and grounded perspective on the cannabis plant and its consumers.

¹⁴⁸ "International Standards on Drug Use Prevention", Second updated edition, UNODC, 2018.

i → Prevention is one dimension, not the whole picture

The [2020 UNODC International Standards on Drug Use Prevention](#)¹⁴⁸ emphasises that the *"primary objective of the prevention of the use of psychoactive substance (is) to help people—especially, but not only, young people—to avoid or delay the initiation of the use of psychoactive substances, or, if they have already initiated use, to avert the development of substance use disorders (harmful substance use or dependence)."* **In that regard, prevention of cannabis problematic and primo-consumptions is not conducted in a vacuum but is best applied within a health-centred framework.** Taking into consideration the social and legal aspect of the question, the UNODC document provides a pertinent table of interventions for different age groups. When looking especially at prevention services for school aged children, including adolescents, the document concludes that **universal and selective interventions coupled with personal social skills and parenting skills are best positioned to instil in children and young adults' strong psychosocial skills.**

The [2020 EMCDDA handbook for policy makers in science based prevention of substance consumption](#)¹⁴⁹ similarly suggests that selective and indicated prevention actions, including also harm reduction, are imperative when trying to minimise harm and understand the potential transition to problematic consumption. Because **addressing substances in isolation fails to equip the target, especially youth, with comprehensive social, emotional, physical and vocational tools**, the EMCDDA underline that effective preventive programs require:

- Interactive methods with highly structured lessons and group work.
- Delivery by a trained facilitator and implemented via multi-components programmes on 10 to 15 weekly sessions.
- Development of decision-making, communication and problem solving skills, including also self efficacy, assertiveness and resistance skills against drug consumption and abuse.
- Promote critical thinking attitudes and norms whilst providing support for study and academic achievement.

ii → Harm reduction in practice

As described by the [ARUC booklet](#)¹⁵⁰, *“there are very few people, especially older adults, who are willing to divulge or discuss their choice of taking cannabis. This is not only due to cannabis being illegal until recently, but also because of the stigmatisation surrounding cannabis use. **Harm and risk reduction must be effective not only for persons who enter treatment but for the larger number of persons who will never need treatment for addiction. Instead of cannabis use carrying a generalised social stigma, ARUC aims to change the stigma surrounding cannabis only for ‘irresponsible use’.** Irresponsible use includes the illegal and unregulated sale and exchange of cannabis.”*

¹⁴⁹ “European Prevention Curriculum (EUPC); a handbook for decision-makers, opinion-makers and policy-makers in science-based prevention of substance use”, EMCDDA, September 2019.

¹⁵⁰ ARUC booklet, ARUC Forum 2022, 1 April 2022.

A focus on [harm reduction services](#)¹⁵¹ respecting the privacy of cannabis consumers is therefore imperative to ensure the wrong doings and abuses of the past no longer hinder the well-being and livelihoods of nonviolent law-abiding citizens. The definitions provided above highlight three important concepts that accompany harm reduction principles as laid-out by [local research on cannabis education](#)¹⁵²:

- 1 → A holistic process that includes multiple interventions and different psycho-social and educational tools that empower the person to make informed decisions.
- 2 → Harm Reduction and abstinence are not two opposing principles but work together to promote the well-being of the individual.
- 3 → Building a working relationship with people who consume cannabis and include their voice in policy and decision-making processes.

In parallel, **research has often shown¹⁵³ that a policy-oriented emphasis on making substance consumption less acceptable and substances less available, as well as a focus on cannabis general prevalence as the dominant indicator of program success, has probably outlived its usefulness.** Therefore, conduct to imperatively avoid include:

- Using non-interactive style lectures and didactic morally laden methods.
- Sensationalistic information about substances, thus inducing fear.
- Sole focus on building self-esteem and emotional education.
- Using former problematic drug consumers as testimonials.
- Using police officers to deliver the program .
- Random drug testing.

Taking into account these parameters, the ARUC is creating a Harm and Risk Reduction policy based on the principles of public health through the offer of a pragmatic, yet compassionate set of strategies designed to reduce the harmful consequences of cannabis consumption for both the members and the community they are a part of.

¹⁵¹ "Harm reduction and cannabis social clubs: exploring their true potential", A. Obradors-Pineda, J.-C. Bouso, Ò. Parés-Franquero, J.-O. Romani, International Journal of Drug Policy, 2021.

¹⁵² "The Green Leaf: Cannabis Education in Malta", K. Mamo, University of Malta, 2019.

¹⁵³ "Evidence-Based Interventions for Preventing Substance Use Disorders in Adolescents", K. W. Griffin, G. J. Botvin, Child Adolescent Psychiatry Clinical N Am, Vol°19(3) p.505–526, July 2010; "Correlates of patterns of cannabis use, abuse and dependence: evidence from two national surveys in Ireland", S. R. Millar, D. Mongan, C. O'Dwyer, J. Long, B. P. Smyth, I. J. Perry, B. Galvin, European Journal of Public Health, Vol°31(2), p.441–447, April 2021; "Problems with the Identification of 'Problematic' Cannabis Use: Examining the Issues of Frequency, Quantity, and Drug Use Environment", M. Asbridge, C. Duff, D. C. Marsh, P. G. Erickson, European Addiction Research, Vol°20, N°5, September 2014.

Figure 18: Licensing requirements

	Illegal / unlicensed (Blackmarket)	Legal /licenced Outlet (NPO for Malta)
THC Level	THC level unknown	THC level known
Quality	Quality of cannabis unknown	Safe, tested, and best quality cannabis
Economic model	Goal is profit only	Non-profit–balanced price
Staff	Motivation is only to make money	Trained to offer knowledge, support, and build a sense of community

Source¹⁵⁴: ARUC, 2022.

When the NPOs will be finally set up, the goal is for a consumer to be able to obtain cannabis from a legal outlet, knowing that the quality of the cannabis has been tested and is safe. In that regard, it is in the interest and assigned duty of NPOs to discuss consumption levels with the members, to record cannabis cultivated and distributed and organise in collaboration with other NPO and the ARUC, bi-annual harm reduction and educational campaigns on prevention and treatment. NPOs indeed have a necessity to establish a direct link with consumers and monitor signs of problematic substance consumption.

¹⁵⁴ “A quiet revolution: drug decriminalisation policies in practice across the globe”, A. Rosmarin, N. Eastwood, Release, p.38, 2012.



C → Accessibility & possession

Safe accessibility and realistic possession threshold must be integrated within the operational parameters of the reform. Today, the rules are as followed:

¹⁵⁵ ARUC booklet, ARUC Forum 2022, 1 April 2022.

- Possession of cannabis up to 7 grams for personal use by an adult of 18 or older is not an offence anymore, and cannot give rise to any confiscation, arrest, proceedings, or fines.
- Possession of cannabis in the amount between 7 and 28 grams gives rise to confiscation, administrative proceedings before the Commissioner of Justice, and a penalty of between 50 to 100€.
- Consumption of cannabis in public (except for medical purposes), gives rise to proceedings before the Commissioner for Justice and a penalty of 235€. Consumption of cannabis before minors raises the penalty to between 300 to 500€.
- Possession of any amount of cannabis under 28 grams by a person under the age of 18 leads to that person appearing before the Commissioner of Justice in order to recommend a treatment plan.
- All this shall apply where the police “do not have a reasonable suspicion of drug trafficking” as specified by the [ARUC](#)¹⁵⁵.



As people are still incarcerated for going slightly over the limited threshold or in capacity to **socially supply acquaintances**¹⁵⁶, current weakness of the reform therefore lies in:

¹⁵⁶ "Man denied bail after allegedly selling cannabis in Paceville", E. Brincat, Times of Malta, 6 may 2022.

¹⁵⁷ "Drug Decriminalisation Across the World", Talking Drugs, 2022.

→ **The discrepancy in between what is usually allowed in countries having moved forward towards cannabis reform**¹⁵⁷, which usually lies between 25 to 50g

without any legal repercussions. As mentioned by the specialised **British NGO Release**, *"If a government chooses to adopt a threshold system, the amounts defined in law or prosecutorial guidance must be meaningful, that is to say, adapted to reflect market realities, to ensure that the principle of decriminalisation of personal possession is properly achieved. (...)*

although threshold quantities can be useful, these should only be considered as indicative, prosecutors and judges should retain the discretion to decide on a case-by-case basis according to all available evidence."

Proportionate administrative sanctions should always be considered for those breaching the new policy provisions. **Prosecution and magistrates therefore ought to consider the totality of circumstances as well as embrace principles of lenity.**

→ **Amounts are presupposed specified as dry "herb"/ "flower"**, therefore there is a lack of visibility in regard to fresh cannabis (after harvesting/before drying), resin, oil, concentrates or even edibles.

→ The fine system as seen in Chapter 1 in France and can be summarised by the saying: **"If the penalty for a crime is a fine, then this law only exists for the poorer classes"**.

i → Safe access to replace the black market

In an [interview on December 7th 2021](#)¹⁵⁸, Minister Owen Bonnici, then in charge of Equality and Innovation in the Maltese government mentioned that, notably in response to criticism received, lawmakers debated whether to set a THC limit for cannabis products, but ultimately decided against it because *“you’re going to create a open shares for the black market”* He added: *“What we need to do is educate people and inform them day by day.”* This anecdotal evidence summarises well the intent and philosophy of the country’s reform in **understanding that cannabis alternative policy exists within specific economic parameters that need to be understood in order to overcome reactionary approaches and over-regulatory reflexes trailed from decades of prohibition.**

In that regard:

- **The Authority should ensure pricing levels are set within the association and in agreement with growers and members**, thus further promoting a holistic harm reduction approach. As laid out by [international cannabis researcher Tom Decorte](#)¹⁵⁹ *“Studies have shown that pricing, together with the availability, are key factors influencing consumer choices oscillating from the illicit to the licit world.”* Pricing should be considered here as an important determinant acting both as a pull or push factor for consumers.
- Highlighted in [the ReLeaf Malta and Moviment Graffiti policy report](#)¹⁶⁰
 - **“Flexibility of how Associations operate** (e.g. opening times, when/where/how cannabis is distributed/stored) **should ensure an inclusive approach**, thus giving every organisation the possibility to adapt operations according to agreed terms between members, and the needs of that particular community. **Flexibility will prove to be decisive in the collective efforts to destabilise the monopoly of the illicit market** and encourage more people to trust the cannabis reform, and switch to a legal framework.”
 - Allow for the *“availability of different strains, further denting into the monopoly of the illicit market, together with peer-led reviews on taste, composition and expected effects produced by different strains, provide members with a complete guide to cannabis consumption.”*

¹⁵⁸ Owen Bonnici, Twitter account, 7 December 2021.

¹⁵⁹ “Regulating Cannabis Social Clubs: A comparative analysis of legal and self-regulatory practices in Spain, Belgium and Uruguay.”, T. Decorte, et. al, International Journal of Drug Policy, Vol^o43, p.44-56, 2016.

¹⁶⁰ “A Social Equity Approach for Cooperative and Environmentally Sustainable Practices within Maltese Cannabis Associations”, ReLeaf Malta, Moviment Graffiti, 2022.

→ Further civil society remarks included:

- [The Maltese Chamber of Commerce](#)¹⁶¹ which highlighted that potential tension could rise in between the maximum amount of personal possession allowed and the expected yield of four home-grown cannabis plants.
- Andrew Bonello, President of Releaf [noted in an interview](#)¹⁶²:
 - Include the ***“possibility of sharing at no cost cannabis between adults, thus further giving consumers the tools to stir away from the illicit market and further strengthen dialogue between cannabis consuming peers.”*** This practice is commonly allowed in countries adopting cannabis reform, furthering the non-profit dimension.
 - **Increase the personal threshold of cannabis carried on the person** from 7 grams to 15 grams, **and kept at home** from 50 grams to 300 grams, thus being better reflective of the 4 plants allowance, and giving the person the possibility to preserve certain strains from one month to the next without being considered a trafficker.
 - **Facilitating the creation of a “safe space”**, which could allow consumption on site or other venues accessible only to adult-members, would further help the reform fulfil its core principles founded on harm reduction. This community approach acting as a *“safety net could represent a hub for educational exchange, and a place where to promote a healthier approach to cannabis consumption”*.

→ This report already underlined the engagement from the Authority to respect the privacy of the actors involved in NPOs. **Anonymity should be coupled with Accessibility, and therefore considerations for potential bureaucratic hurdles stifling quick and transparent registration for members, including deregistration when wishing to change membership, should be considered in equal measure with anonymity.**

¹⁶¹“Business Lobby Wants ‘Well-Regulated Market’ For Cannabis As It Raises Concerns About Proposed Reform”, Y. Pace, Lovin Malta, 13 October 2021.

¹⁶²“Cannabis law still reflects discriminatory practices | Andrew Bonello”, A. Bonello, Malta Today, 17 March 2022.

→ **Contributions to the reform process**¹⁶³ notably included:

- **Strengthening the resources of the Commissioner of Justice** so that, while no penalties are given, individuals can be evaluated and offered support.
- **Clearly distinguishing between private and public possession**¹⁶⁴ in giving clarity on what amounts are *permissible in public, and what is permissible at one's home*.
- **The proposal to limit consumption to one's habitation only is perceived as 'anomalous' in regard to practical and legal merits which justify such a limit on consumption within a private space.**
- **The limitation for the creation of a NPO to be limited to nationals and 10+ consecutive years residents can seem to be slightly overzealous** and could be lowered to 3–5 years without posing a threat to see people moving in just to open an association.
- **The limitation of 500 g / NPO, regardless of the number of members, will cause issues.** A fitted rules would proportionally link storing restrictions to the number of members, as well as clarify differentiation for different types of cannabis products.
- **Associations should be provided flexibility in the way they are run:** to decide on their opening times and when, where and how cannabis is distributed and stored.

¹⁶³ "Response to the Public Consultation Towards the Strengthening of the Legal Framework on the Responsible Use of Cannabis", Ministry for Equality, Research and Innovation, August 2021.

¹⁶⁴ "Treating the 'Personal' as Private: Contextualising the Normative Framework of Cannabis Clubs in Spain within a 'Global Model of Constitutional Rights'", A. Marks, *International & Comparative Law Quarterly*, 68(1), 21 Sep 2018.

¹⁶⁵ See: "Cannabis Social Equity Principles – 14 principles to ensure a just, fair and equitable cannabis market in the UK", Release, 2021; and "Principles for the responsible legal regulation of cannabis", IDPC, Advocacy Note, September 2020.

ii → Social equity

The question of social justice remains primordial in any drug policy reform as the enforcement of prohibitive law has not impacted everyone the same way but has been felt unquestionably more by the most vulnerable parts of society¹⁶⁵. In that regard, **the operability of the reform can only be sustained and its goal achieved if the harms caused presently and in the past have been addressed.**

In regard to licence applications:

- **A case by case conduct must be performed in regard to police conduct** (especially if record expungement is not automatically enforced), as well as alleged or proven connection to "criminal organisations".

→ **Expungement of criminal records for all non-violent cannabis convictions has to be done retroactively and automatically.** The weight to regain dignity should not be borne by those having lost it. An immediate assessment and freezing of ongoing proceedings is also advised.

→ **The need for insurance would need to be supported,** whether through financial aid or by working with policy agencies to have them propose fitted and affordable services.

Additionally, guidelines will need to be issued for local police agents and law enforcement agencies by the Ministry for Home Affairs to consider non-violent cannabis related matters as a non-priority and refrain from unwarranted stop and search practices.

iii → Predicted distortion of the medical cannabis market

In 2018, a reform¹⁶⁶ took place in Malta to allow for the enlargement of the list of conditions allowing for the prescription of medicinal cannabis to certain patients (chronic pain, spasticity in multiple sclerosis and oncology). The system shifted from a very restrictive model where only a handful of doctors could prescribe cannabis treatments, to a system where all doctors could theoretically [prescribe medical cannabis](#)¹⁶⁷.

Trade limitations caused by the coronavirus pandemic, coupled with Malta's production and distribution laws, have restricted the country's supply of both legal and illegal cannabis. If, shortly after the legalisation of medical cannabis in 2018, Malta had already experienced a shortage, while the black market was still fully stocked, and patients had been able to temporarily compensate. During COVID, [medical users found themselves at risk, without the possibility to get their treatment](#)¹⁶⁸.

¹⁶⁶ "Production of cannabis for medicinal and research purposes act", CAP. 578, 17 April 2018.

¹⁶⁷ "The Life Sciences Law Review: Malta", A. Zammit, The Law Reviews, 23 February 2022.

¹⁶⁸ "Maltese MEP Alex Agius Saliba raised the issue of the limited availability of medical cannabis. "The Maltese legislation... leads to a major drawback when one of these products is not available on the local market," he said. "This leads to patients who are dependent on this type of medicine to rely on the illegal market or are forced to use products derived from medical opioids." See: "Malta is officially out of weed", The Growth Op, E. Spears, 31 August 2020.

Experts consider¹⁶⁹ there are currently **over 500 medicinal cannabis patients in the country**. The Maltese Medicines Authority issued **Malta's first ever licence for the local production of medical cannabis products in December 2020**¹⁷⁰. **Some structural barriers remain, however**, which risk causing medical cannabis market distortion when the Clubs will be set up.

For example:

- Patients who have previously been determined as being dependent on drugs are immediately disqualified from obtaining a permit. The paradoxical approach of this rule is evident: punishing patients for having consumed cannabis to treat themselves before legal access was permitted is highly problematic.
- **The price of medical cannabis remains high** (around €16.50/gr until May 2022 when bottom prices **were dropped to approximately €10/gr**¹⁷¹) and usually round up to around 960€ per month without social security or health insurance repayment.
- Until May 2022, there were only 4 types of strains available for prescription, with a maximum THC level of 22%¹⁷². More recently, a U.S. medical cannabis company announced the arrival of new strains¹⁷³, including CBD dominants.
- **Cannabis was only available in herbal form** and until recent announcements by the same company, no oil formulations were available to patients.
- **Lack of competition, has caused cannabis diversity and quality to remain comparatively low**¹⁷⁴ (pharmaceutical quality not being equal to cannabis quality as this report will explore in Chapter 3).
- **Still too few doctors have been trained or are willing to prescribe medical cannabis products.**

Because of the arrival of the NPOs, the maltese cannabis industry, as well as regulators will have to rapidly step up their offer and allow for affordable access if they intend to create a sustainable and long lasting domestic market able to answer the critical needs of patients on the islands.

¹⁶⁹ "Cannabis Reform in Malta with Andrew Bonello", Volteface, ECAN, 22 April 2022.

¹⁷⁰ "Malta issues first ever license for local production of medical cannabis products", The Malta Business Weekly, 21 December 2020.

¹⁷¹ "Malta-Produced Medical Cannabis Strain Drops Price To €10 Per Gram", S. Vella, 20 May 2022.

¹⁷² In 2022, Malta has 4 types of strains, Bedrocan (22/1 THC:CBD), Pedanios (22/1 THC:CBD), Pedanios (20/1 THC:CBD) and Bediol (6.3/8 THC:CBD).

¹⁷³ "Malta-Produced Medical Cannabis Strain Drops Price To €10 Per Gram", S. Vella, Lovin Malta, 20 May, 2022.

¹⁷⁴ "Big Pharma won't be happy about marijuana cutting into its profits", L. Z. Granderson, Los Angeles Times, 20 April 2022.

iv → Resolving the “CBD” wellness paradox

The definition of “cannabis” as laid out by the new legislation and the ARUC¹⁷⁵ specifically refers to the “flowering” and leaf of “*any plant of the genus cannabis and includes any resin of the same plant and any preparation derived from the same plant, but does not include its seeds, or any cannabinoid products not containing more than 0.2% THC.*” The new legal provisions therefore establish that cannabinoids under 0.2% THC (CBD dominant strains, the latter having no mind-altering effects and therefore no potential for abuse) fall outside the scope of national legislation pertaining to the control of narcotic and psychotropic drugs. These products can be currently purchased on specialised “CBD shops” on the islands¹⁷⁶.

CBD products, including oils and flowers, have been widely available within the European single market¹⁷⁷, notably since December 2020, where the EU Commission’s spokesman for public health and food safety Stefan de Keersmaecker¹⁷⁸ declared that the Commission has taken into account the recent decision of the European Court of Justice on CBD, and on that basis, has reviewed its preliminary assessment and concluded that **CBD should not be considered a drug within the meaning of the United Nation Conventions. This declaration supports the WHO scientific review¹⁷⁹ that found CBD not to have psychoactive properties, no potential for abuse, no potential to produce dependence and no significant ill-effects.** Additionally, it is worth noting that CBD could represent a potential for harm reduction as a substitute for and to help alleviate withdrawal symptoms of addictive substances¹⁸⁰.

¹⁷⁵ ARUC booklet, ARUC Forum 2022, 1 April 2022.

¹⁷⁶ “Malta at the Crossroads of Drug Policy Reform – An Interview with Karen Mamo”, P. Sarosi, Drog Reporter, 3 August 2020.

¹⁷⁷ In November 2020, the Court of Justice of the European Union determined that the marketing of legally produced CBD is permitted under EU law. See: “Court of Justice of the European Union PRESS RELEASE”, No 141/20 Luxembourg, Judgement in Case C-663/18 B S and C A v Ministère public et Conseil national de l’ordre des pharmaciens”, Kanavape Case, 19 November 2020.

¹⁷⁸ “European Commission Scraps Moves To Brand CBD A Narcotic – And Caps A Winning Day For Cannabis Industry”, P. McCusker, BusinessCann, 3 December 2020.

¹⁷⁹ “WHO Expert Committee on Drug Dependence: Fortieth Report”, WHO Technical Report Series No.1013, Geneva: World Health Organisation, 2018; “Use of Cannabis for Harm Reduction Among People at High Risk for Overdose in Vancouver, Canada (2016–2018)”, J.Mok, M.-J. Milloy, C. Grant, S. Lake, K. DeBeck, K. Hayashi, M. Eugenia Socías, *Am J Public Health*. Vol°111(5), p.969–972, May 2021.

¹⁸⁰ See for example: “Innovative Non-Opioids for Chronic Pain: Ketamine and Cannabidiol”, R. Thomas, MD Kosten, *Psychiatric Times*, MJH Life Science, 8 October 2019; “Cannabidiol: a novel treatment for cannabis dependence?”, H. V. Curran, UK Research and Innovation, October 2017; “Cannabidiol Oil for Decreasing Addictive Use of Marijuana: A Case Report”, S. Shannon, J. Opila-Lehman, *Integrative Medicine: A Clinician’s Journal*, December 2015; “Cannabidiol reduces cigarette consumption in tobacco smokers: preliminary findings.”, C. J. Morgan, R. K. Das, A. Joye, H. V. Curran, S. K. Kamboj, *Addictive Behavior*, September 2013; “Cannabidiol reverses attentional bias to cigarette cues in a human experimental model of tobacco withdrawal”, C. Hindocha, T. P. Freeman, M. Grabski, J. B. Stroud, H. Crudgington, A. C. Davies, R. K. Das, W. Lawn, C. J. Morgan, H. V. Curran, *Addiction*, 1 May 2018.



Ultimately, the products derived from “wellness CBD hemp” cannot be considered as medicines for four main reasons:

- they are derived from genetically modified varieties that are inscribed to the European catalogue of seeds authorised for commercial purposes;
- they are produced under conditions that do not allow a standardisation of the product nor a level of pharmaceutical quality;
- they have not followed the classical market authorization circuit of a pharmaceutical drug;
- its CBD concentrations often have little therapeutic or curative effect. However, these products do contain active ingredients of interest for the comfort and wellbeing of their consumers.

Cannabinoids have in the past been consumed in large quantities on a regular basis and have been an integral part of the human diet of the European populations. Therefore, it could be argued that in its natural concentration, CBD in meals should not be considered as a Novel food¹⁸¹ as now declared by the European administration. Marketing authorisations for such a product represent significant constraints both time- (minimum 18 to 24 months) and finance-wise (minimum 300,000 € per product). **In addition to the fact that Novel Food – when applied to cannabinoid natural-levels –, could be considered as a form of corporate capture¹⁸², it remains fundamental to re-state that the measures of the NF European catalogue remain non-binding to European States.**

Clarification around CBD would ensure the safe access to these products by Maltese consumers and avoid legal grey areas as pointed out by a recent [parliamentary petition](#)¹⁸³. This will in turn guarantee CBD “flowers”, products and derivatives are completely separated from provisions regulating THC rich products, thus ensuring Maltese legislation is in line with the EU and UN frameworks. **A policy to cover the various sectors of CBD products could be called for, including the permissible level of THC.**

¹⁸¹ See: “EHA Presentation on Hemp Extracts”, European Industrial Hemp Association, PAFF Committee Working Group, 12 March 2019; “Status of Hemp Extracts in Europe”, European Industrial Hemp Association, May 2019.

¹⁸² “Chaos In Cannabis: The CBDberg”, C. Tasker, Global Cannabinoid Solutions, LinkedIn, 28 May 2022.

¹⁸³ “Legal Notice to clarify legal status of Cannabidiol (CBD) established through ACT No. LXVI of 202”, Petition No.1, Fourteenth Legislature (2022 –), 2022.

d → Cultivation parameters

Cultivation, whether in regard to home growing or NPO regulations, remains a central component of the reform. As mentioned by the first waves of the [reform feedback from local stakeholders](#)¹⁸⁴, the biggest change from the new law has been the newfound tranquillity of mind from home growers who, if they remain within the bounds of the regulations, cannot be accused of trafficking anymore.

While the preliminary rules set up by the ARUC show a strong willingness to integrate feedback, several key components need to remain central to the discussion (adapted rules and best practices), while key issues like testing capacities and accessibility, as well as the topic of water consumption need to be further addressed.

i → Adapted rules & best practices

Pertinent feedback in regard to cultivation rules and best practices includes:

→ Homegrowing:

- **The limiting threshold of 50 g of dried “flower”/ “herb” per household risks bringing people back before the court system**, especially for people who intend to transform their produce into oil, concentrates or edibles. A limit of 300gr could be allowed without risking diversion.
- **The 4 plants limitation could integrate further specifications as to differentiate the level of growth for legal purposes**. Allowing for that numerical limits to be concerned solely with female flowering plants could help to allow different stages of growth while remaining within the set parameters.

¹⁸⁴ “Response to the Public Consultation Towards the Strengthening of the Legal Framework on the Responsible Use of Cannabis”, Ministry for Equality, Research and Innovation, August 2021.

- **The restrictions on visibility in one's own residence will represent an enormous challenge in a country such as Malta whose population density remains high** (about 1,400 people / km²). The risk here is for many living in smaller spaces to be de facto excluded from the possibility of growing cannabis in their private space. Especially considering the necessity to favour organic and sustainable home growing operations, which will represent a challenge if growers cannot use their limited spaces optimally and **could open the door to arbitrariness and unfairness**. It is therefore necessary to ensure that extensions of one's home, such as a terrace, garden or balcony, will not fall outside of the limits of the authorised growing spaces.

→ NPO's cultivation:

- **As noted by local civil society¹⁸⁵, local cannabis growers and the maltese farming community should be provided with the necessary tools to ensure their expertise is recognised and preserved within the cannabis and larger agricultural community¹⁸⁶**. The latter could be invited to join the discussion about cannabis, in order to explore opportunities whilst sharing expertise, and most importantly, learn about cultivating the cannabis plant, including industrial hemp, from those that have been doing it for decades.

→ Shared issues:

- **Specification could be introduced in terms of threshold capacities to differentiate different cannabis products** from dry "flower" "herb" to quantities allowed for "fresh" cannabis, resin, oil, and concentrate.
- **Outdoor cultivation must remain an available option as to favour sustainable cultivation practices and allow for the production of high quality grade, organic and outdoor cannabis**. Outdoor growing locations would have to be adequately secured as to minimise break-ins and environmental impact.

¹⁸⁵ "A Social Equity Approach for Cooperative and Environmentally Sustainable Practices within Maltese Cannabis Associations", ReLeaf Malta and Moviment Graffiti, 2022.

¹⁸⁶ 14% of agricultural holdings decreased between 2010-2020 in the country. See: "Agricultural Census shows decline in labour force, land and animals", S. Abbas Shalan, Malta Independent, 1 February 2022.

- The establishment of **an educational campaign on sustainable and organic growing techniques should be considered nationally**. As mentioned within the [Releaf Malta policy report](#)¹⁸⁷: *“Sustainable cultivation and organic practices ensure small and large scale cannabis growers are equipped with the necessary knowledge, and tools to adopt cultivation practices which respect the environment, adhere to the UN Sustainable Development Goals 2030, and are considerate of the unique ecological characteristics of the Maltese Islands and fragile natural resources. **An organic approach within the cannabis community, placing the well-being of nature and customers at the core of cultivation practices, could also act as a catalyst and a multiplier effect across other cultivating communities, such as that of olives and grapevines.**”*
- While associations can decide which strains they want to grow, the importation of cannabis seeds, as well as the sale on the islands, should be allowed for personal cultivation.

¹⁸⁷ “A Social Equity Approach for Cooperative and Environmentally Sustainable Practices within Maltese Cannabis Associations”, ReLeaf Malta, Moviment Graffiti, 2022.

¹⁸⁸ “Why Weed Companies Are Embracing Blockchain”, C. Chafin, Rolling Stones, 10 December 2018.

ii → Accessibility to product analysis is key

In order for public and consumer safety to remain a crucial point of attention of the reform, **reasonable requirements on the quality and safety of the legalised product can be implemented through analysis requirements**. In order to assure quality and safe products are provided to adult consumers, as-well-as avoiding added burden on non-profit organisations, **the intended framework should provide NPOs with subsidised access to testing centres**.

Testing analysis capacities should not only take into account **microbiological and contaminants analysis** (adulterants, pesticides, and heavy metals), but also **major / minor cannabinoids and terpenes profiles** as to foster a positive education around the plant genetic profile (and hence allow for tailored labelling approach to cannabis consumption according to everyone’s need). These profiles could also be added to an online centralised database, available to NPO members and homegrowers, to start building a participatory national seed bank.

A seed-to-sale tracking system could also be developed using [blockchain technology](#)¹⁸⁸ as described in Chapter 3 of the report.

iii → The water issue

One of the biggest concerns for cannabis growers today is water usage – especially if one intends to grow plants indoors. In that regard, research has established a **1:1 ratio of one gallon per day per pound of flos**¹⁸⁹. However water consumption can be reduced using several techniques such as gravity fed watering systems or bottom watering containers, careful monitoring, using soil with better moisture retention, and rainwater collection systems. Another common side effect of any cultivation is wastewater production, which can be harmful for the environment and health.

The Maltese islands – Malta, Gozo and Comino – are small and densely populated, lacking natural lakes or rivers. The semi-arid Mediterranean climate means rainfall is low and unpredictable, and aquifers remain the main source of freshwater (**65% used in the Maltese Islands**¹⁹⁰), although this is insufficient to meet the population's needs sustainably. Higher temperatures, and the combination of lower overall rainfall but more intense downpours, as well as significant losses through evapotranspiration, are likely to exacerbate Malta's existing water challenges. Nonetheless, Malta has enacted a plan to become "**net zero impact**"¹⁹¹ by giving back to aquifers as much water as it extracts from them.

The investment, since the eighties, in the desalination infrastructure to complement groundwater production sources has so far ensured reliability of supply¹⁹². However, an accentuated soil water deficit can only be combated by a more conspicuous irrigation demand, thereby putting further pressure on the potable groundwater supplies and thus **forcing a shift towards a higher dependence on water production by desalination**¹⁹³, which could be exacerbated by sea level rise. Apart from salinisation of the mean sea level aquifers resulting from over-extraction, the qualitative status of the water resources is also under threat primarily through **nitrate pollution as a result of livestock farming**¹⁹⁴. 30% of the islands groundwater bodies are **at risk as a result of groundwater abstractions**¹⁹⁵.

¹⁹⁰ "How Much Water Does It Take to Grow Cannabis?", Sohum, 21 January 2020.

¹⁸⁵ "National Climate Change Adaptation Strategy. Consultation Report November 2010", Climate Change Committee for Adaptation, Government of Malta, 2010.

¹⁹¹ "Malta water resources review", Food and Agriculture Organization of the United Nations, Rome, 2006.

¹⁹² The process of desalination "*is increasingly efficient: it now takes 3 kWh of energy to desalinate one cubic metre of sea water, down from 7 kWh around a decade ago. This is due to improvements in reverse-osmosis membrane technologies, plant design and energy recovery technologies. Supplying water now accounts for 6 percent of the country's electricity consumption, down from 12 percent.*" See: "This is how Malta is building resilience through effective water management", A. Wright, Global Center on Adaptation, 23 November 2020.

¹⁹³ "The First National Communication of Malta to the United Nations Framework Convention on Climate Change", Republic of Malta, Ministry for Rural Affairs and the Environment and the University of Malta, p.101, 2004.

¹⁹⁴ "National Climate Change Adaptation Strategy. Consultation Report November 2010", Climate Change Committee for Adaptation, Government of Malta, 2010.

¹⁹⁵ "Water scarcity and droughts. Second interim report", European Commission, DG Environment, 2007.

Solutions exist¹⁹⁶ for Malta to reach a sustainable level of water use. Overall municipal demand for water has been reduced by 40% since 1992, **mainly¹⁹⁷** thanks to better management of leaks – despite an increasing population and improving standards of living, which generally imply higher per-capita demand for water. Malta’s water management framework involves today increasing the supply of non-conventional water resources – that is, alternatives to groundwater – as well as improving management of leaks and reducing demand for water through public education. Legislation **requires¹⁹⁸** new urban developments to include highly polished treated wastewater – covered by the **New Water¹⁹⁹** programme in Malta and reservoirs for rainwater harvesting, while funding is available for farmers to install small on-field reservoir systems (supported by the EU’s Agricultural Fund for Regional Development). Water tariffs are structured to make water affordable for necessities while discouraging excessive use. Up to a threshold of 90 L / person / day (33 m³ / year), water costs 1.39€ / m³; beyond this, the price **increases²⁰⁰** sharply to 5.14€ / m³.

As mentioned, **water usage has become a focal point in the cannabis industry²⁰¹.** However, **guidance on best management practices for water use exists²⁰².** Several key points can be integrated into sustainable growing operation programs:

- The first step in reducing water waste when growing cannabis is **knowing how much water is actually being used**, which can often be easier said than done. One of the most effective ways of tracking water usage is through a water monitoring fixture. There are now smart devices that **track how much water flows through pipes²⁰³.**
- Instead of dumping several gallons on each plant every three days, cultivators who grow in soil should **microdose the plants**. The idea is to water each plant more frequently, but in greatly reduced amounts. The best way to ensure water loss is kept to a minimum is therefore to **use an automated system. Financial subsidies could be considered for the NPOs in that regard.**
- Cultivators who operate indoors should also employ a catch-and-store method that utilises dehumidifiers²⁰⁴. While expensive, dehumidifiers can create a zero-loss system for water. Financial subsidies should also be considered there.

¹⁹⁶ “Malta’s Water Scarcity Challenges: Past, Present, and Future Mitigation Strategies for Sustainable Water Supplies Lindsey Hartfiel”, M. Soupir, R. S. Kanwar, Sustainability, Vol^o12, N^o9835, 24 November 2020.

¹⁹⁷ “Interview – Malta: water scarcity is a fact of life”, M. Sapiano, European Environment Agency, 30 August 2018.

¹⁹⁸ “Integrated Water Resources Management in the Maltese Islands”, M. Sapiano, Italian Journal of Groundwater, AS34, Vol^o47(25), p.32, 28 September 2020.

¹⁹⁹ “New Water to become more accessible”, Malta Independent, 3 April 2018.

²⁰⁰ “Integrated Water Resources Management in the Maltese Islands”, M. Sapiano, Italian Journal of Groundwater, AS34, Vol^o47(25), p.32, 28 September 2020.

²⁰¹ “Cultivation & Conservation: Easy Ways for Marijuana Grows to Cut Water Usage”, F. Dreir, MJBizDaily, 2 June 2014.

²⁰² “Guidance on Best Management Practices for Water Use”, Massachusetts Cannabis Control Commission, 2018.

²⁰³ “The Best Smart Water Leak Detectors for 2022”, J. R. Delaney, PC Mag, 1 March 2022.

²⁰⁴ Dehumidifiers can contain organic contaminants that could be harmful for plants. While purifying this water is not a requirement, some cultivators believe in treating this water before it is used on plants.

- Indoor growing operations should lay strips of carpet face-down below crops to combat evaporation and keep the ground insulated. Growers can also lower their light temperatures and increase the distance from lights to the plants to slow evaporation.
- Water absorption happens high up in the root systems. So growers can afford to be somewhat stingy with their watering techniques when water supplies run low.
- **Growers should use all available roof space to catch and collect rainwater, or use tarpaulins on their beds to trap water²⁰⁵.**
- **Use organic, all-natural fertilisers instead of chemical ones.**

In regard to hydroponics growing techniques, cultivators, some cultivators swear by the water-saving abilities of such systems, which recirculates water to crops²⁰⁶. Some claim that these systems can use 10 times less water than traditional field crop cultivation. **Most expert growers believe on the contrary that most hydroponics setups actually lose more water due to runoff and water loss in the re-filtering process, as much of the water ends up going down the drain: “The drip watering mindset, coupled with living soil grow, is still the best²⁰⁷”**,

In outdoor growing operation, **the use of traditional oayas (ou ollas)²⁰⁸ could represent an enormous advantage as to limit wastewater and growing water consumption.** While the current public market price of oayas on the european market is currently high as reasonably scarce, a small oya cooperative could be set up in order to provide the network of NPOs in **DIY model fabrication²⁰⁹** allowing to adopt an earthen and affordable permaculture water saving irrigation tool.

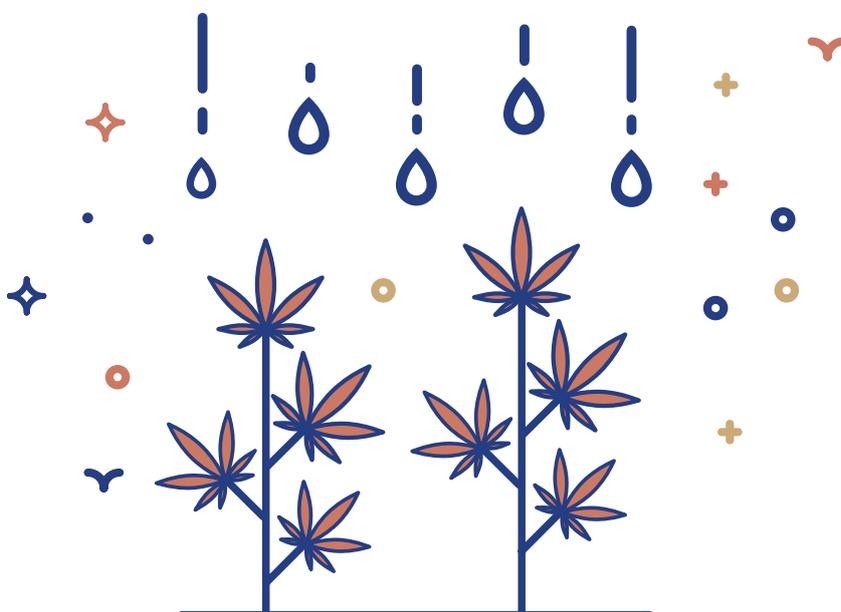
²⁰⁵ The American Rainwater Catchment Systems Association has a vast array of literature designed to perfect catch-and-save systems on its website.

²⁰⁶ Not all of the irrigated water is used by the plants, and the excess can be captured and filtered in a fine-sand tank and then recycled into the system.

²⁰⁷ “Cultivation & Conservation: Easy Ways for Marijuana Growers to Cut Water Usage”, F. Dreir, MJBizDaily, 2 June 2014.

²⁰⁸ “How to use Olla irrigation”, Water Use it Wisely, 6 July 2021.

²⁰⁹ “How to an Olla for dirt cheap! DIY earthen permaculture water saving irrigation”, Sarah Jane Hammontree, Youtube, 17 january 2018.



e → Building a multi-dimensional positive community

The NPO model is perfectly adapted to fit specific local and contextualised needs. By creating a multidimensional environment, which favours privacy safeguards as well as ongoing feedback, while allowing for physical and virtual spaces, the reform could pave the way for the country to take the European leadership on the matter, but also within the regional mediterranean space.

²¹⁰ “National Policy to decriminalise the adult personal cultivation consumption and sharing of cannabis and create (not-for-profit) cannabis social clubs (CSCs);”, K. Mamo, Mock Proposal, March 2021.

i → Privacy

Anonymity and safeguarding privacy are two essential ingredients which will determine the success of persuading consumers to switch from the illicit to the legal world. Data protection is of paramount importance and the Authority, in cooperation with the NPOs, needs to ensure a strong system to maintain the highest level of confidentiality as not to have private details divulged beyond the ‘safe inner space’ of NPOs and their collaborative platform.

A tag system could be introduced integrating a warning mechanism for people breaching the one member per NPO rule. As explained by [local researcher Karen Mamo](#)²¹⁰, “every CSC can be assigned an identification number and each member a unique code (data pertaining to ID cards and other personal details will be retained by CSC and cannot be divulged if not by court order). Once this data is inputted in the central database, if a person tries to join another club, the CSC will receive a warning that the person is already a member of another club and asks the person to first leave the previous CSC.” This dimension will ensure the NPO maintains a close and intimate relationship with its members and does not lose sight of the overarching aim, promoting public health and harm reduction.

ii → Ongoing feedback commission

As to fluidify the process and increase the participatory aspects of the reform, the proposed Cannabis Authority could **integrate an ongoing Feedback Commission**, which could be tasked, not only to be updated in real time with operational issues and unforeseen market evolutions, but also **to record and receive the individual life parcours of people having suffered injustice and abuse due to cannabis consumption in order to map out a way forward for remedy.**

This Commission could provide a human rights-based platform to research, write, and educate the general public about the rights of people who consume cannabis, as there are a number of cases still facing serious charges such as illicit drug trafficking, while being actually guilty of sharing small cannabis quantities with acquaintances.

iii → Virtual space

Creating a virtual NPO platform alongside physical space could help ensure membership is exclusive to one NPO only and that NPO organisations maintain close contact with each other and with the ARUC. *“This might be particularly important to promote accessibility and a social equity approach²¹¹ for small-scale associations catering for a very limited number of members (for example 50) and not opting to offer cannabis on a daily basis.”* By providing a virtual space, such associations would also contribute to reducing construction and transport emissions.

iv → National Participatory Forum

As highlighted by civil society²¹², “Local cannabis growers, obliged to operate in hiding for the past 50 years, have been in reality providing a service to the community. Those with a true interest and passion for cannabis, have been investing heavily on personal training and equipment to ensure their product is of excellent quality. These people are not criminals, they are experts in botany and horticulture. They should be protected against corporate captures by emerging cannabis businesses, and, or other structural forces such as bureaucracy and overregulation.”

²¹¹“Cannabis associations should be ‘safe spaces’, NGOs propose”, G. Magri, Times of Malta, 28 March 2022.

²¹²“A Social Equity Approach for Cooperative and Environmentally Sustainable Practices within Maltese Cannabis Associations”, ReLeaf Malta, Moviment Graffiti, 2022.

This dimension resonates with a [submission to the participatory process of the reform](#)²¹³ which highlighted the need for the creation of a National Cannabis Forum, where civil society organisations, cooperatives, and experts could come together to promote safe, sustainable, personal cultivation practices.

▼ → Considering the Mediterranean space

Recent research²¹⁴ have proposed the establishment of a Mediterranean Cannabis Institute (MIC) in Malta, in partnership with the [Union for the Mediterranean](#)²¹⁵ and the [Pompidou Group of the Council of Europe](#)²¹⁶, which could serve as *“a catalyst for regional socio-economic and environmental transformation, the strengthening of South-South collaboration and the enhancement of Euro-Mediterranean dialogue.”*

The Institute could be charged with creating a research and dialogue platform for Mediterranean states with a traditional history of cannabis cultivation in order to promote “a more prosperous, peaceful and inclusive Euro-Mediterranean region.” This will reinforce Malta's diplomatic vision and its long-standing efforts to promote regional cooperation and dialogue. Ultimately, this initiative could foster a fairer and more balanced future for the newly emerging non-medical cannabis market and its traditional players, mainly small farmers from the Global South.

As stated by José Ramos-Horta²¹⁷, former president of Timor-Leste, Nobel Peace Prize Laureate, member of Global Commission on Drug Policy: *“Malta is embarking, among the very first passengers, in a train of cannabis law reform that will experience many changes in the near future. (...) I have little doubt Malta’s cautious, pragmatic and implementable cannabis control reform will inspire many around Europe and the Mediterranean.”*

Malta is clearing a path for other EU member states to follow on responsible cannabis reform. The latter needed to be contextually moulded for their own countries and citizens' needs. **The next chapter will examine how European countries can create a sustainable and qualitative market, taking into account public health and social justice issues.**

²¹³ “National Policy to decriminalise the adult personal cultivation consumption and sharing of cannabis and create (not-for-profit) cannabis social clubs (CSCs)”, K. Mamo, Mock Proposal, March 2021.

²¹⁴ “The Future of Cannabis in Malta and the Mediterranean Institute for Cannabis”, K. Mamo, Position paper, June 2021.

²¹⁵ The Union for the Mediterranean (UfM), created in 2008, is an intergovernmental institution that brings together EU members and 15 southern Mediterranean states. The UfM aims to strengthen regional cooperation by focusing on human development, stability and integration.

²¹⁶ The Pompidou Group of the Council of Europe was established in 1971 and acts as an intergovernmental governmental body bringing together 41 member states, including technical cooperation with Mediterranean states. The Pompidou Group has been instrumental in promoting a more balanced approach to combating the use of and trafficking in illicit substances.

²¹⁷ “An inspirational novelty in drug policy – José Ramos-Horta”, J. Ramos-Horta, Times of Malta, 14 May 2021

3.

A

**sustainable
and
responsible
European
model**

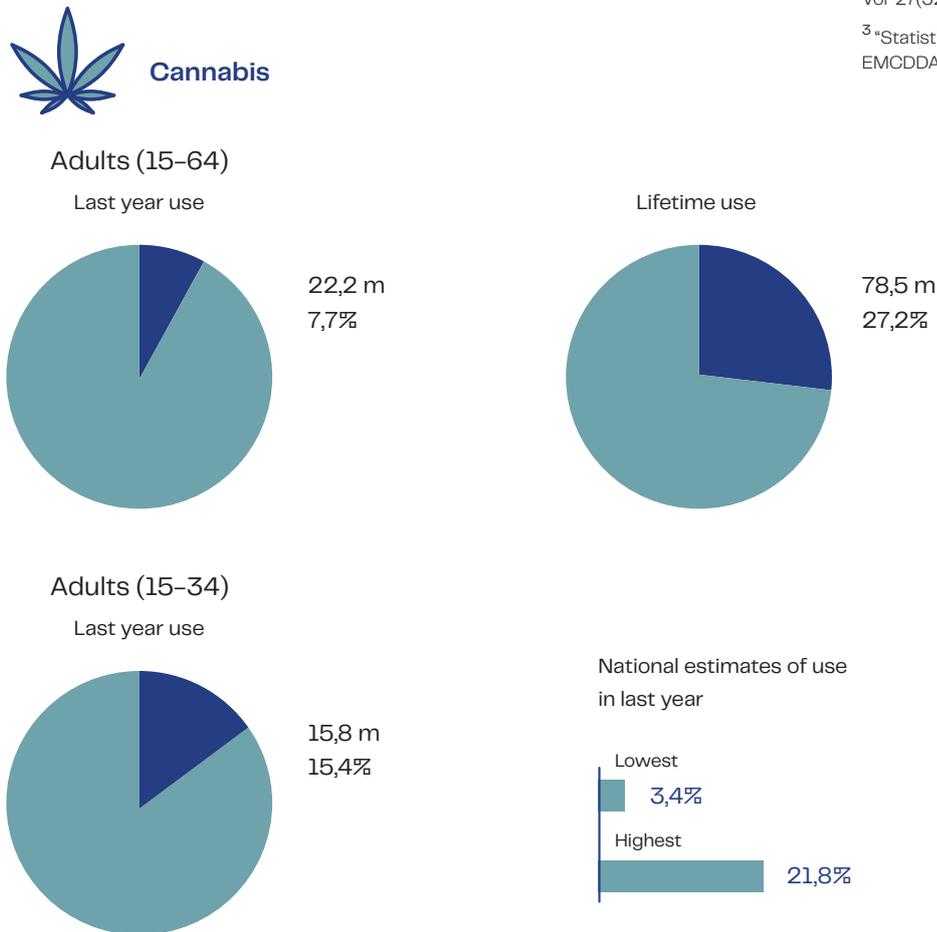
The domestication¹ and consumption of *Cannabis sativa* is thought to have begun in Europe in the Copper or Bronze Age². Its use by the continent's inhabitants is now considerably widespread. Cannabis remains the most widely used illicit drug in Europe, with an estimated 22.1 million consumers in 2020³.

¹"Large-scale whole-genome resequencing unravels the domestication history of *Cannabis sativa*," R. G. Ren, X. Zhang, Y. Li, K. Ridout, M. L. Serrano-Serrano, Y. Yang, A. Liu, G. Ravikanth, A. Nawaz, A. Samad Mumtaz, N. Salamin, L. Fumagalli, *Science Advances*, Vol^o7(29), 16 July 2021. See also: "Was cannabis first grown in eastern China?," J. McPartland, O'Shaughnessy's Online, 19 July 2021.

²"From 5500 to 900 BC": See: "Cannabis is indigenous to Europe and cultivation began during the Copper or Bronze age: a probabilistic synthesis of fossil pollen studies", J. McPartland, G. W. Guy, W. Hegman, *Vegetation History and Archaeobotany*, Vol^o27(32), July 2018.

³"Statistical Bulletin 2021 – prevalence of drug use, EMCDDA, 2022.

Figure19: Estimates of cannabis use in the EU



Source⁴: EMCDDA, 2021.

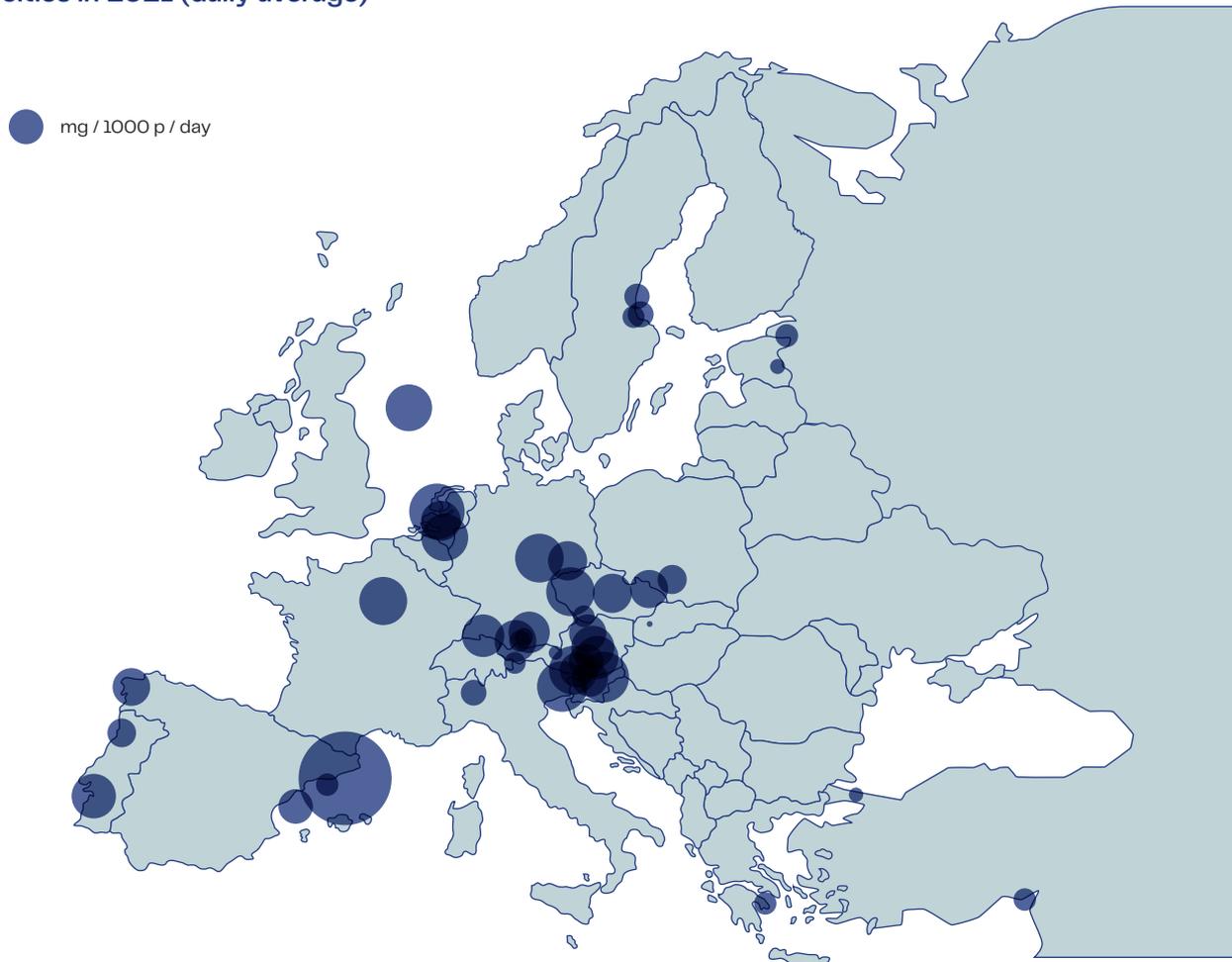
This is evidenced notably by the results of the largest European wastewater analysis project to date, published in the 2011 EMCDDA study "[Wastewater Analysis and Medicines – A European Multi-City Study](#)"⁵. These analyses, carried out in 80 European cities in 25 countries, allowed the researchers to explore the cannabis consumption behaviour of their inhabitants. The highest loads of the plant's metabolite (THC-COOH)⁶ were found in western and southern European cities, including Croatia, the Czech Republic, the Netherlands, Slovenia, Portugal and Spain. Cannabis use also seems to have been less affected by the COVID-19 crisis-related lockdowns than other illicit drugs. In 2021, almost half of the cities (13 out of 31) that analysed these metabolites observed an increase in cannabis consumption.

⁴"At a glance – estimates of drug use in the European Union (updated June 2021)", EMCDDA, 2022.

⁵From Barcelona to Limassol and from Oslo to Porto, the study analysed daily samples of wastewater in the catchment areas of sewage treatment plants for one week between March and May 2021. The wastewater of some 45 million people was analysed for traces of several illicit stimulant drugs as well as cannabis.

⁶In wastewater, cannabis consumption is estimated by measuring its main metabolite, THC-COOH. Although it is excreted in small percentages and further research is still needed, THC-COOH is the only suitable biomarker found so far. See: "Wastewater analysis and drugs – a European multi-city study", EMCDDA, March 2022.

Figure20: Relative geographical distribution of cannabis metabolite as detected in 80 European cities in 2021 (daily average)



Source⁷: EMCDDA, 2022.

Until now the European continent has been somewhat cautious about the issue of cannabis legalisation for adult-use. This is about to change as the **continent's largest economy is joining the club of reforming countries. Germany⁸** legalised medical cannabis **in spring 2017⁹**. Since then, cannabis has been available in pharmacies under prescription and the country has become the most accessible medical market on the continent for patients, although **there is still significant room for improvement regarding current patient accessibility¹⁰**. Non-medical use is still prohibited but decriminalised to a greater or lesser extent in practice depending on the Länder and some municipalities. With the arrival of a SPD/Green/Liberal coalition government **in 2021, the legalisation of the adult market¹¹ for cannabis was federally enshrined in the governance pact**. In 2022, **the conclusion of a study¹²** conducted by two German economics professors from the Heinrich Heine University in Düsseldorf indicated that *“Germany could become the world's largest cannabis market within the next two years”*, while creating a total of 27 000 direct jobs as a consequence of legalisation.

⁷ “Wastewater analysis and drugs – a European multi-city study”, EMCDDA, March 2022.

⁸ “Cannabis Regulation in Europe: Country Report Germany”, H. Stöver, I. I. Michels, B. Werse, T. Pfeiffer-Gerschel, Transnational Institute, March 2019.

⁹ “Medical cannabis policy and practice in Germany”, F. Grotenhermen, Health Europa, 29 June 2020.

¹⁰ “Duitse medicinale cannabis patiënten en experts willen aanzienlijke verbeteringen”, Cannabis Industrie, 10 March 2022.

¹¹ “Big Pharma won't be happy about marijuana cutting into its profits”, L. Z. Granderson, Los Angeles Times, 20 April 2022.

¹² “Warum und wie die Liberalisierung des Cannabismarktes in Deutschland erfolgen sollte”, J. Haucap, L. Knoke, Wirtschaftsdienst, Vol°102(1), p.32-39, 2022.

The German Commissioner for Drugs, Burkhard Blienert, [stated in 2022](#)¹³, that the ‘Tricolour Coalition’ will be at the forefront of a new global movement that will bring about a *“real paradigm shift in drug and addiction policy”*. It is estimated that the German state could [save 4.7 billion euros in revenue and costs each year](#)¹⁴ by legalising cannabis. Burkhard Blienert confirms that **drafting new laws in Germany will not be an easy task**¹⁵ but pledges that **these new regulations**¹⁶ will be in place within four years: *“Before the end of this election term, there should be a law that will make it legal for adults to buy cannabis in Germany in a controlled and safe way. This is what the coalition agreement says, and we will stick to it.”*

As the latest update of the Transform Drug Policy Foundation’s report [“How to Regulate Cannabis’ guide”](#)¹⁷ highlights, striking the right balance between a range of factors and interests remains the key challenge in developing and implementing the regulation of cannabis for adult-use. This complex undertaking lies notably in **the operational implementation, arising from the strategic choices related to the desired objectives of this public policy, that the heart of the success of such a paradigm shift lies.**

This report chooses here, in line with research and [the European context](#)¹⁸, in particular with regard to [the impact of transnational organised crime on the continent](#)¹⁹, to focus on **several specific objectives**. These should serve as the basis for a realistic, sustainable and evolving regulatory model, which will finally enable the European continent to regain control over a situation that the vast majority of public authorities have allowed to fester for far too long. These objectives will be monitored by an independent regulatory authority, whose funding will be ensured by substantial savings linked to the redeployment of government services and, in the medium term, by the tax revenues from the new market. **In the operationalization of the reform, these objectives may conflict, hence the importance of prioritising them.**

¹³ “Drogenbeauftragter über geplante Cannabisfreigabe: “Ein Ritt auf der Rasierklinge”, T. Szent-Ivanyi, RND, 20 January 2022.

¹⁴ “Fiskalische Auswirkungen einer cannabislegalisierung in deutschland: ein update”, J. Haucap, L. Knoke, DICE, 16 November 2021.

¹⁵ “The Cannabis Dilemma – Is the legalisation of cannabis in Europe possible?”, R. Hofmann, 26 November 2021.

¹⁶ “Top German Government Official Previews Marijuana Legalization Plan Details”, K. Jaeger, Marijuana Moment, 10 January 2022.

¹⁷ “How to Regulate Cannabis Cannabis A Practical Guide”, R. Rolles, H. Slade, Transform Drug Policy Foundation, 3rd edition, April 2022.

¹⁸ “Cannabis legislation in Europe – An overview”, EMCDDA, 2021.

¹⁹ “Mafia expert Roberto Saviano: European Leaders won’t admit to Mafia Access to the comments”, Euronews, 4 April 2017.

In terms of preeminence, these objectives are:

- 1 → **Drying up the black market** – By allowing the legal production and distribution of cannabis through a flexible licensing system and appropriate regulation that ensures compliance with health standards, legal regulation must be part of a **truly proactive approach to the gradual elimination of the illegal cannabis market**. The regulation of self-production and non-commercial social clubs supports this requirement, as does a structured, financed and dedicated approach to the integration of black market players i.e. “legacy”. This **comprehensive model will** thus allow for real competition, adapted to the current needs of **European consumers**²⁰, while avoiding corporate capture via a fully-opened commercial model. The experience of countries that have only opted for state monopolies, whether on production or distribution, has demonstrated that this is not the most effective way to eliminate illicit trafficking. **Without a competitive market, without predatory pricing**²¹, **without mechanisms to prevent the emergence of private oligopolies**²², **without appropriate taxation and without global access: no objectives of the legalisation can be achieved**. Crime will not decrease, public health will deteriorate, and European states will continue to mobilise massive resources *ad vitam eternam* with no convincing results.
- 2 → **Genuinely protecting European youth and shifting focus on problematic consumption** – Implement a proactive public health policy aimed at the most vulnerable groups, especially youth and problematic consumers. In the model presented here, the **sale of cannabis is prohibited to minors**, in contrast to current policies where black market dealers do not ask for identification before purchase. In Canada, for example, legalisation has gone hand in hand with **increased penalties for selling cannabis to minors**²³. In order to protect young people, advertising will be subject to appropriate regulations, which could, for example, be inspired by **the French Evin law of 1992**²⁴, which still proves today to be **more relevant than ever**²⁵. Finally, **prevention campaigns worthy of the name, appropriate education on consumption, and a range of harm reduction health services** will serve to raise awareness and support the public at risk in order to reduce the most harmful practices. rebuilding law enforcement / population relationships.

²⁰ “Latest wastewater data reveal drug-taking habits in 75 European cities in a record 25 countries – increases in detections of most drugs studied”, EMCDDA, 17 March 2022.

²¹ That is, a price low enough to dry up demand from the black market.

²² “Bigger is Not Better: Preventing Monopolies in the National Cannabis Market”, S. Title, Ohio State Legal Studies Research Paper No. 678 Drug Enforcement and Policy Center, 2022.

²³ “En finir avec les dealers : à quel prix ?”, E. Auriol, A. Mesnard, T. Perrault, Conseil d'Analyse Économique, Focus, N°033–2019, June 2019.

²⁴ “The French Evin law: content, effectiveness and limitations”, K. Gallopel-Morvan, A. Rigaux, F. Lecas, J. F. Diouf, Global Alcohol Policy Conference, October 2015.

²⁵ “France: Alcohol Advertising Ban Wins Case in High-Court”, Movendi International, Alcohol Industry, Corporate Consumption Complex, Democracy, Human Rights, Policy, Prevention, June 2020.

3 → Give back meaning to the professions of justice and police: The first feedback from alternative experiences abroad undermines the preconceived notion that “firm” policy and legalisation are antagonistic. **Legally regulating the cannabis market can, and should, be accompanied by a repressive policy against the illegal sector,** if one wishes to eliminate organised crime while rebuilding law enforcement / population relationships. The idea here is to allow for the redeployment of police and judicial forces that have been largely employed in the fight against consumers to the repression of organised crime and money laundering. This redeployment would also make it possible to **rebuild the broken links between the police forces and the population.**

4 → Developing a sustainable European industry – Regulating the adult-use cannabis market does not mean promoting its consumption. Nor should this new policy lead to making it more difficult for adults to access it (thus rendering objective 1 obsolete). **The issue of regulation is not to be for or against cannabis, “but to adopt a model that allows everyone to make their own choices in conscience, to protect the most vulnerable, and to pacify society²⁶”.** By developing its know-how and taking advantage of the continent’s global influence, Europe can become a benchmark in the **establishment of good practices and sustainable standards,** drawing in particular on its terroir, controlled designation systems, expertise in hemp, ESG criterias, or the sophistication of manufactured products. **In the face of the certain future decrease in global production costs, Europe will only stand out from the crowd by favouring healthy and high quality products²⁷.**

The system of cannabis prohibition in the vast majority of the continent’s countries is not only a health and social failure, but paradoxically also a security one. By not diverting consumers from use, it turns them into criminals; and by not being able to prevent trafficking, it leaves whole swathes of European national territory at the mercy of organised crime.

²⁶ “For a free cannabis market in France”, K. Brookes, E. Hesse, GenerationLibre Report, January 2021.

²⁷ “The Good, the Bad, and the Ugly Weed: How Consumers in Four Different Policy Settings Define the Quality of Illicit Cannabis”, V. Belackova, Contemporary Drug Problems, Vol^o47(1), p.43–62, 20 January 2020.

However, the general public's perception of this issue is gradually and irrevocably changing. A 2022 survey commissioned by the cannabis industry, involving 9,000 people and conducted in Germany, France, the United Kingdom, Spain, Italy, the Netherlands, Portugal and Switzerland, showed that **55% of the population in these countries favoured legal regulation of the sale of cannabis for adult use**²⁸. **Indeed, regulation appears to be one of the keys to a post-COVID-19 economic recovery, just as the end of alcohol prohibition helped the US emerge from the Great Depression**²⁹.

Although they are still necessarily restrictive, the **initial feedback from** territories that have legally regulated their adult market nevertheless shows the **possibility of finally reducing crime and risky consumption in a potentially effective way, while protecting the most vulnerable**. All of this can be achieved without the explosion in general consumption that some fear will occur. Several particularly robust studies already exist on the regulatory models to be favoured, such as those of the *Transform Drug Policy Foundation*, like the [Practical Guide to Cannabis Regulation](#)³⁰ or their [evaluation one year after legalisation in Canada](#)³¹. As well as the FAAAT's comprehensive [Cannabis Sustainable Development Toolkit](#).³²

²⁸ "Recreational Europe", First Wednesday, 2022.

²⁹ "Cannabis Legalization Is Key To Economic Recovery, Much Like Ending Alcohol Prohibition Helped Us Out Of The Great Depression", K. Krane, Forbes, 26 May 2020.

³⁰ "How to Regulate Cannabis Cannabis A Practical Guide", R. Rolles, H. Slade, Transform Drug Policy Foundation, 3rd edition, April 2022.

³¹ "Capturing the market: Cannabis Regulation in Canada", H. Slade, Transform Drug Policy Foundation, June 2020.

³² "Sustainable Cannabis Policy Toolkit(2021)", K. Riboulet-Zemouli, FAAAT editions, May 2021.



1. “Drying up” the black market

From France³³, to Sweden³⁴ and Poland³⁵, a century of cannabis prohibition in Europe³⁶ has made the continent the most massive cannabis market in the world. Not only in terms of the number of consumers, but also in the financial weight of its illicit market. In order to satisfy the estimated massive demand of the European cannabis space³⁷, a transnational black market has developed, which strengthens organised crime financially day by day. This black market integrates disasters regarding health (cutting and synthesising products), security (anti-criminal resources emptying an ocean with a spoon and the financing organised crime), but also ecological (chemical pollution and deforestation) and social (population taken hostage and lives shattered by trafficking and the “fight” against it). According to Europol³⁸, illicit cannabis-related expenditure in the EU amounts to 9 billion euros per year.

According to Nobel Prize-winning economist Gary Becker³⁹, the main cost of the repressive approach to illicit drugs is the creation of organised crime taking charge of trafficking, allowing its persistence and spread to other practices. Taking the example of alcohol prohibition in the United States, the economist demonstrates that criminal activity gradually diminishes in the event of legal regulation. As users turn to the legal market⁴⁰ (if the new framework is properly constructed), trafficking would automatically become much less attractive in terms of remuneration.

Properly regulating the legal market therefore strongly influences the ability of consumers to turn to the illicit space. There are several dimensions to the success of this crowding-out strategy:

- **cost**: the price must initially be below that observed on the black market;
- **the offer**: no limit on the type of product, nor on the concentration of active ingredients;
- **accessibility**: no overly restrictive limits on the maximum purchase quantity, no prohibition on delivery or controlled online sales.

The continent's delay provides lessons from experiences abroad. One year after legalisation in Canada, the Société Québécoise du Cannabis (SQDC), which is in charge of the distribution monopoly⁴¹, acknowledged that it had only managed to capture 20%⁴² to 40%⁴³ of the total market.

³³ “A training in violence: the connecting line between France's ‘war on drugs’ and jihadism”, J. Hari, Open Democracy, 19 August 2016; “La loi du 12 juillet 1916”, J.-J. Yvorel, Les Cahiers Dynamiques, 2012/3, n°56, p.128–133, 2012.

³⁴ “The Myth Of The Place Where The War On Drugs Worked”, J. Hari, Volteface, 2019.

³⁵ “Poland's Hard-Line Policy on Drugs Has Failed. What Next?”, World Politics Review, 27 February 2018.

³⁶ “European Drug Policies”, The ways of Reform, R. Colson, H. Bergeron, Routledge, February 2017.

³⁷ “Public health monitoring of cannabis use in Europe: prevalence of use, cannabis potency, and treatment rates”, J. Manthey, T. P. Freeman, C. Kilian, H. Lopéz-Pelayo, J. Rehm, The Lancet Regional Health, Europe, 23 September 2021; “Increased European cannabis demand amidst COVID-19 pandemic”, G. Aguirre DeCarcer, Health Europa, 17 June 2022; “Cannabis use in the last year in Europe – young adults (15–34)”, EMCDDA, 2021.

³⁸ “Each year about 22 million users of cannabis spend an estimate EUR 9 billion on the drug, thus making the illicit market for it the largest of its kind in the EU.” Europol, 2022.

³⁹ “The Market for Illegal Goods: The Case of Drugs”, G. S. Becker, K. M. Murphy, M. Grossman, Journal of Political Economy, 2006.

⁴⁰ “Have we lost the War on Drugs”, G. Becker, K. Murphy, The Wall Street Journal, 4 January 2013.

⁴¹ “Bigger is Not Better: Preventing Monopolies in the National Cannabis Market”, S. Title, Ohio State Legal Studies Research Paper No.678 Drug Enforcement and Policy Center, 2022.

⁴² “Marché noir : la SQDC dit faire des avancées malgré la pandémie de COVID-19”, La Presse Canadienne, Radio-Canada, 11 June 2020.

⁴³ “Le cannabis canadien, de l'euphorie à la déception”, H. Jouan, Le Monde, 30 December 2019.

The criminal space thus remains in charge of the majority in Quebec's demand, while at the same time [62% of Canadian consumers in the rest of the country now report using the legal circuit](#)⁴⁴.

In Quebec, as in [the Uruguayan case](#)⁴⁵ (after more than four and a half years, the legal cannabis market in Uruguay serves only between [39% and 56% of the country's cannabis consumers](#)⁴⁶), legalisation has not been optimally effective in drying up the black market. The reason: **too many constraints for legal market players, too little access for consumers and too high a price for products**. These two experiences, observed in the short term and in quite different contexts, allow us to analyse the **harmful consequences of a regulation that has not been able to get rid of reflexes stemming from more than a century of prohibition**. By over-regulating, the public authorities in Uruguay and Quebec have perpetuated an unsuitable system leading to [major stock-outs](#)⁴⁷, as well as [queues in front of legal sales outlets](#)⁴⁸, when it is not simply a question of a supply of [poor quality products](#)⁴⁹, or [complicated legal access](#)⁵⁰.

In contrast, in the US state of Colorado, market regulation has allowed the price to be fixed, with the price of the "flower" having been [divided by three in three years](#)⁵¹, with the number of sales outlets multiplying to meet [demand](#)⁵². A regulatory authority ensures compliance with health standards and a seed-to-sale system has been successfully implemented. Five years after legalisation, the legal market in Colorado is estimated to account for nearly [three quarters of the state's overall cannabis market](#)⁵³. Colorado has been *"more successful in reducing the size of its black market than California, in part because of [lower prices and easier access to the product for consumers](#)"*⁵⁴.

To complement these market dimensions, it remains **essential to authorise self-cultivation**, which represents only a fraction of consumers but which will continue regardless of what happens⁵⁵. **This fundamental right**⁵⁶, **integrated globally in most of the legalisation projects currently being deployed throughout the world, must be supervised but is fundamentally based on individual liberties**. In addition to being an important part of the history of the modern cannabis reform movement ("legacy"), it also finds concrete examples in European countries in the regulation of private, non-commercial production of beer⁵⁷ or tobacco⁵⁸.

⁴⁴ "Non-medical cannabis in North America: an overview of regulatory approaches", S. Lancione et al, Public Health, no.178, p.7-14, 2020.

⁴⁵ "Uruguay: the first country to legalize cannabis", R. Queirolo, in T. Decorte, S. Lenton, C. Wilkins (eds.), Legalizing Cannabis. Experiences, lessons and scenarios, Routledge, p. 124, 2020.

⁴⁶ "After four years of legal sales, Uruguay serving about half of entire cannabis market", D. Brown, StratoCann, 28 May 2022.

⁴⁷ "Uruguay: the first country to legalize cannabis", R. Queirolo, in T. Decorte, S. Lenton, C. Wilkins (eds.), Legalizing Cannabis. Experiences, lessons and scenarios, Routledge, p.126, 2020.

⁴⁸ "Legalization of cannabis will curb the black market, but cannot stop it in the short term", S. Brochu, L. D'Arcy, Policy Options, 12 September 2018.

⁴⁹ "Nordik Leaf: looking at Canada's cannabis quality problem", J. Mackenzi, Health Europa, 15 January 2020.

⁵⁰ "Availability, retail price and potency of legal and illegal cannabis in Canada after recreational cannabis legalisation", S. Mahamad, E. Wadsworth, V. Rynard, S. Goodman, D. Hammond, Drug and Alcohol, Vol^o39, p.337-346, May 2020.

⁵¹ T. Subritzky, S. Lenton, S. Pettigrew, "Practical lessons learned from the first years of the regulated recreational cannabis market in Colorado", in T. Decorte, S. Lenton, C. Wilkins (eds.), Legalizing Cannabis. Experiences, lessons and scenarios, Routledge, p.41, 2020.

⁵² "The legalization of cannabis in the United States. Models of regulation and first assessment", I. Obradovic, Note N^o2021-1, (1st publication in March 2017 - update of note 2020-4), Paris, January 2021.

⁵³ Ibid.

⁵⁴ "Cannabis Legalization: Dealing with the Black Market", W. J. Meadows, DEPC Student Paper Series, The Ohio State University, No.13, p.4, October 2019.

⁵⁵ "Illegal cannabis cultivation in Europe: new developments", D. Weinberger, M. Gandilhon, J. Shah, N. Lalam, EchoGéo, n^o48, 2019; "For Many Cannabis Consumers, Home Is Where the Grow Is", New Frontier Data, 26 July 2021; "Home-grown cannabis: how COVID-19 has fuelled a boom around the world", G. Potter, The Conversation, 10 March 2021.

⁵⁶ "Farmability and pharmability: Transforming the drug market to a health- and human rights-centred approach from self-cultivation to safe supply of controlled substances", F. Pitter Steinmetz, M. Kohek, Drug Science, Policy and Law, Vol^o8, 3 May 2022.

⁵⁷ "Homebrewing - Legality", Wikipedia, 2022; "Homebrewing legality: Countries Compared", NationMaster, 2022; "Beer: A Short And Bitter History Of Regulation - Analysis", D. Bassi, MISES Institute, 24 August 2021.

⁵⁸ "The History & Present Position of Tobacco Growing in England" R. Duncan, Journal of the Royal Society of Arts Vol^o100, No.4869 p.316-328, 21 March 1952; "S.I. No. 3/1933 - The Tobacco Growing Regulations, 1933". Office of the Attorney General, Ireland, 2022; "Article 575 K", Section I: Tobacco (Articles 565 to 575 M), Replier Chapter IV: Tobacco (Articles 565 to 575 M), Title III: Indirect taxes and miscellaneous taxes (Articles 302 D to 633), Part I: State taxes (Articles 1 A to 1378 nonies), Book I: Assessment and liquidation of the tax (Articles 1 A to 1656 quater), Code général des impôts, France, 2022.

Finally, **the social clubs**⁵⁹ should also be authorised, in order to **create ethical complementary non-commercial short circuit ecosystems**, making it possible to establish a fine-tuned policy of harm reduction for the consumer-producers, as well as to **balance a system based solely on a profit-making logic**.

Subjecting this product to a dual logic, that of the market and that of the associative model, combining a free choice of products and prices, makes it possible to obtain a sufficiently competitive level of accessibility and a satisfactory quality of service to hope to significantly reduce the black market. This supply of quality products will also make it possible to implement an ambitious policy of prevention and education regarding cannabis consumption, focusing in particular on the most vulnerable groups and problematic cases.

a → Legalising cannabis will not make criminal organisations disappear

The impact of cannabis legalisation on criminal networks cannot be known in advance. Nevertheless, studies carried out in the North American territories⁶⁰ teach us that if **the impacts on the black market are real**⁶¹, they are far from completely drying up the traffic, especially if the regulations are not properly implemented. In particular, it is fundamental to integrate that **this transfer can only take place gradually, as opposed to today's situation where the cannabis market is still exclusively in the hands of criminal organisations.** If the cannabis market is not properly regulated (e.g. if market entry taxes are too high for example), trafficking will continue alongside the legal market, as can be observed regularly in legal drug markets **such as tobacco**⁶².

Moreover, it is **indeed the prohibition of cannabis (and more broadly, that of illicit drugs), which has lasted for more than a century, that has given rise to transnational criminal groups whose activities and means today go beyond the simple topic of cannabis**⁶³. It is therefore necessary to take into account that the legal regulation of this market will not make these criminal groups disappear, as they have had decades to structure themselves through the financial manna provided by illicit drug trafficking, particularly cannabis.

⁵⁹ "Innovation Born of Necessity Pioneering Drug Policy in Catalonia", O. Parés Franquero, J. C. Bouso Saiz, Global Drug Policy Program, Open Society Foundation, March 2015.

⁶⁰ "Executive summary of the Cannalex study results", INHESJ-OFDT, Paris, 2016. See also: "Presentation made for the 12th Annual Conference of the ISSDP: A comparative analysis of cannabis regulatory options in Colorado, Washington State and Uruguay – Findings from the CANNALEX study (2015–2017) & evidence for future drug policy", Vancouver, 19–20 April 2018; "Defeating Crime? An Economic Analysis of Cannabis Legalization Policies", E. Auriol, A. Mesnard, T. Perrault, CEPR Discussion Papers 13814, C.E.P.R. Discussion Papers, 2019; "Legalization of Marijuana and Its Effects on Licit and Illicit Markets in the United States", A. Dixon, Perspectives on Black Markets, Vol°2, M. Morrone (Eds), Chap°5, Indiana University, 2022; "Measuring the Criminal Justice System Impacts of Marijuana Legalization and Decriminalization Using State Data", E. J. Farley, S. Orchowsky, Office of Justice Programs, U.S. Department of Justice, July 2019; "The Effect of State Marijuana Legalizations: 2021 Update", Angela Dills, Sietse Goffard, Jeffrey Miron, & Erin Partin, CATO Institute, 2 February 2021; "Legal cannabis market shares during Canada's first year of recreational legalisation", M. J. Armstrong, ...

... *International Journal of Drug Policy*, Vol°88, February 2021; "Availability of legalized cannabis reduces demand for illegal cannabis among Canadian cannabis users: evidence from a behavioural economic substitution paradigm", M. Amlung, J. MacKillop, *Canadian Journal of Public Health*, Vol°110, p.216–221, 6 December 2018

⁶¹ "Congressional Researchers Admit Legalizing Marijuana Hurts Mexican Drug Cartel Profits", K. Jaeger, *Marijuana Moment*, 3 August 2020.

⁶² Tobacco trafficking demonstrates that smuggling does not systematically cease with the legal regulation of the sale of dangerous products. The parallel market in manufactured cigarettes was recently evaluated by a French parliamentary information report at between 9 and 12% of total consumption and around 30% for rolling tobacco. However, the comparison is limited with alcohol, whose black market is now marginal in the country. See: "Rapport d'information de la commission des Finances de l'Assemblée nationale sur l'évolution de la consommation de tabac et du rendement de la fiscalité applicable aux produits du tabac pendant le confinement et aux enseignements pouvant en être tirés", French National Assembly, 9 September 2021.

Rationally, it could be argued that **only a vast reform of the global financial system**⁶⁴ would enable the fight against money laundering, the real “sinews of war”. Nevertheless, this reform would necessarily touch on the issue of tax evasion and tax havens⁶⁵, thus affecting interests that are much broader than the sole issue of illicit drug trafficking.

Among the consequences of legal regulation of cannabis in Europe, law enforcement officials **regularly point out that traffickers are likely to turn to other illicit activities to compensate for their losses**. If following that hypothesis, criminals would then potentially turn to the trade of other illicit drugs or to violent actions such as racketeering or robbery in order to keep the income that would “sustain entire neighbourhoods”. However, as stated by the French journalist Claire Andrieux⁶⁶, “the discussion is unprecedented. It also suffers from a lack of historical perspective, given that these so-called disadvantaged neighbourhoods have not always been irrigated by trafficking money.”

A 2018 comparative study⁶⁷ shares the same conclusion after observing the reforms implemented in Oregon, Washington and Colorado. Although illicit actors respond to the legal changes ‘by increasing the level of systemic violence’, **less than 7–11% of them switch to the distribution of other substances as a result of the reform**. However, the study does not take into account the variations that may be observed as a result of the implementation of social justice policies for these groups. More generally, the study points out that **a legal change should not be considered in isolation from other drugs or from the workforce available in a specific area**.

⁶³ “Ground Zero for the War on Drugs”, N. A. Guajardo, *American Intelligence Journal*, Vol°33(2), in *Intelligence in Peace and War*, p.24–30, 2016; “Fixing Transnational Drug Policy Drug Prohibition in the Eyes of Comparative Law”, R. Colson, *Journal of Law and Society*, Wiley–Blackwell, Vol°46(S1), 2019; “Regulation The Responsible Control of Drugs”, Global Commission on Drug Policy, 2011; “Mexican Drug Trafficking Organizations and Marijuana: The Potential Effects of U.S. Legalization”, C. Murray, A. Jackson, A. C. Miralrio, N. Eiden, School of International Affairs/Inter-American Drug Abuse Control Commission: Capstone Report, 26 April 2011

⁶⁴ “Measuring illegal economic activities and illicit financial flows: challenges and possible solutions”, I. Zeiler, F. Sallusti, A. Kamprad, E. Bisogno, *Economics*, 2019; “Estimating illicit financial flows resulting from drug trafficking and other transnational organized crimes”, UNODC, Research Report (final draft), 31 August 2011; “Repeal Drug Prohibition and End the Financing of International Crime”, A. Berney, in *From Global Organized Crime and International Security*, E. C. Viano, Ed, p.173–183, Ashgate Publishing, 1999; “How Drug Prohibition Finances and Otherwise Enables Terrorism”, E. Oscapeila, Submission to the Senate of Canada Special Committee on Illegal Drugs, Ottawa, 29 October 2001.

⁶⁵ “Drug traffickers taught the rich how to hide money in tax havens”, R. Saviano, *The Guardian*, 18 November 2017; “Drug money saved banks in global crisis, claims UN advisor”, R. Syal, *The Guardian*, 13 December 2009; “Did Drug Cartels Save the Global Financial System?”, J. Jenkins, *The Motley Fool*, 15 October 2018; “London is now the global money-laundering centre for the drug trade, says crime expert”, J. Hanning, D. Connnett, *The Independent*, 4 July 2015; “The Netherlands is the rotting heart of Europe”, *St Marteens News*, 2 August 2021.

⁶⁶ “Quelques impensés de l’impact de la légalisation sur le trafic”, C. Andrieux, *Politiques des drogues # 2*, CNAM, p°54, February 2022. See also: “La Guerre de l’ombre: le livre noir du trafic de drogue”, C. Andrieux, Denoël, 2020.

⁶⁷ “Displacement in the criminal labor market: Evidence from drug legalizations”, H. Xiong, *Northwestern University*, October 2018.



b → Establishing a competitive legal market

Assuming legal regulation of the adult market in 18 US states by 2030, 47% of the country's total demand would be met legally⁶⁸, compared to 27% in 2021, indicating a likely continued disruption of illicit markets. In this regard, in the *Focus for the French Conseil d'Analyse Économique*⁶⁹, economist Emmanuelle Auriol and her team indicate that to allow for this transfer, ***“the pre-tax sales price must be high enough to ensure the profitability of the entire production and distribution chain, and to guarantee sufficient legal supply. Secondly, the price inclusive of tax must be low enough to be more advantageous than the illicit market, a sine qua non condition for the eradication of trafficking.”***

According to a survey⁷⁰ conducted between 2019 and 2020, the biggest factor determining the decline of the black market remains the price on the legal market. Surveying 12,000 consumers in Canada and the US, the study found that **price outweighed ease of access as the second most important reason people continue to opt for black market products.** *“In total, about one-third of Canadian respondents and 27% of U.S. respondents cited price, while about one-fifth of Canadian respondents and slightly fewer U.S. respondents cited inconvenience.”*

In order to promote the legal market among consumers, several dimensions are therefore necessary: **offering a clear, transparent, traceable, diversified, sufficiently large supply, accessible financially and favouring quality**⁷¹. At the same time, recourse to the illicit market must be condemned morally and criminally (which only makes sense if there is a legal alternative). It is also necessary to find a final price that allows the producer to be sufficiently profitable and to ensure the coherent and national development of a sector. At the same time, the price must be low enough to turn consumers away from the black market. **This is a real balancing act, requiring flexible and evolving regulation.**

⁶⁸ “2022 U.S. Cannabis Report: Industry Projections & Trends”, New Frontier Data, March 2022.

⁶⁹ “En finir avec les dealers: à quel prix?”, E. Auriol, A. Mesnard, T. Perrault, Conseil d'Analyse Économique, Focus, N°033-2019, June 2019.

⁷⁰ “Reasons for Purchasing Cannabis From Illegal Sources in Legal Markets: Findings Among Cannabis Consumers in Canada and U.S. States, 2019–2020s”, S. Goodman, E. Wadsworth, D. Hammond, Journal of Studies on Alcohol and Drugs, Vol°83(3), p.392–401, 23 May 2022.

⁷¹ “The Good, the Bad, and the Ugly Weed: How Consumers in Four Different Policy Settings Define the Quality of Illicit Cannabis”, V. Belackova, Contemporary Drug Problems, Vol°47(1), p.43–62, 20 January 2020.

i → Appropriate taxation for public health and social justice

By observing the [tax provisions of regulatory policies implemented abroad](#)⁷², it is possible to choose between different options offered according to the objectives pursued. In particular, the **excluding duality regularly observed between the objectives of significant tax revenue or the drying up of the black market**. The observation of experiments carried out in various American States or Canadian Provinces in particular allows us to see more clearly what drives [a successful or unsuccessful tax policy](#)⁷³, in the context of the transition from an illegal market to a legal configuration: taxes on distributors, wholesalers, analysis laboratories, or even producers, which can be established according to weight, concentrations of active ingredients, production price, etc.

California's cannabis industry is [strongly struggling to deal with the black market](#)⁷⁴. In addition to a lack of retail outlets, only 23% of cities allow cannabis businesses to operate within their boundaries. **Legal cannabis in California is also heavily taxed, making it uncompetitive with the illicit market**. The price of cannabis products sold in legal dispensaries can be two to three times [higher than almost identical items](#)⁷⁵ sold by unlicensed operators, who are [not subject to cultivation or excise taxes](#)⁷⁶ that increases costs for legal retailers and producers. Another example is the City of San Diego, which in 2022 approved [a reduction in certain municipal taxes](#)⁷⁷ on cannabis to encourage the opening of the market to more players.

⁷² "Cannabis Tax Revenue in States that Regulate Cannabis for Adult Use", Marijuana Policy Project (MPP), January 2022.

⁷³ "The ITAP study of January 2019 provides a very detailed analysis of the different options available, and their advantages and disadvantages in light of the experience in states that have legalized cannabis, see "Taxing Cannabis", C. Davis, M. Hill and R. Phillips, ITAP (Institute on Taxation and Economic Policy) Report, 23 January 2019.

⁷⁴ "California now has the biggest legal marijuana market in the world. Its black market is even bigger", P. McGreevy, Los Angeles Times, 15 August 2019.

⁷⁵ "Effects of Regulation Intensity on Marijuana Black Market After Legalization", S. Song, Portland State University, Paper 5043, 7 October 2019

⁷⁶ "California targets cannabis businesses over unpaid taxes", C. Casacchia, MJBizDaily, 3 June 2022.

⁷⁷ "San Diego lowers some cannabis taxes to encourage more local production", D. Garrick, The San Diego Union-Tribune, 15 February 2022.

Among the taxes at the Californian state level, the **crop tax** receives particular attention. This tax is determined by weight, which means that the tax burden does not decrease as the value of the crop decreases due to competition from unlicensed growers. The tax is also adjusted for inflation. In February 2022, California Senate Majority Leader Mike McGuire **announced a tax reform bill**⁷⁸: *“Crop taxes are crushing small farmers throughout the North Coast and California. This legislation will provide much-needed tax relief to struggling small cannabis farmers before the market collapses. (...) We cannot continue to tax family farmers based on the weight of the product – because when prices fall, the taxes remain disproportionate. It is simply not sustainable.”* His proposal, **SB 1074**⁷⁹, calls for eliminating the cultivation tax and simultaneously increasing the excise tax on cannabis, which is currently 15% at retail. Such reform, if the global tax remains the same, is however equally bound to fail to answer current issues plaguing the Californian market.

To tackle this **structural problem of taxation**⁸⁰, several proposals have been put on the table, such as **taxing products according to their THC content**⁸¹. At the end of February 2022, three other bills tackling cannabis taxes were presented, each taking a different tax approach:

→ **SB 1281**⁸² would *“end the imposition of the cultivation tax”*, but would also *“reduce the excise tax to 5%” from 15% retail.* The bill also provides that this tax would not include a surcharge, which is usually set by the *California Department of Tax and Fee Administration* every six months. Finally, the bill would require dispensaries to no longer *“collect the excise tax from the cannabis retailer”* and *“remit the excise tax to the department”*, with the remittance being the responsibility of the retailer. These measures would take effect at the beginning of 2023.

→ **AB 2506**⁸³ *“suspends the imposition of the culture tax from July 1, 2023 to July 1, 2028, and removes the requirement that the department adjust the culture tax rate for inflation for calendar year 2023 and during the suspension.”* Second, like McGuire’s bill, it would *“increase the excise tax by an additional percentage that the Department of Finance estimates will generate the amount of revenue that would have been collected under the culture tax,”* but would do so *“from July 1, 2023, to July 1, 2028.”*

⁷⁸ Mike McGuire, Twitter account, 18 February 2022.

⁷⁹ “Senate Bill No. 1074”, California Legislature – 2021–2022 Regular Session, 15 February 2022.

⁸⁰ “How High? Adjusting California’s Cannabis Taxes”, Legislative Analyst’s Office, California Legislature, 17 December 2019.

⁸¹ “California agency recommends major overhaul to state’s cannabis taxes”, B. Staggs, The OCR, 18 December 2019.

⁸² “Senate Bill No.1281, California Legislature – 2021–2022 Regular Session”, 18 February 2022.

⁸³ “Assembly Bill No.2506”, California Legislature – 2021–2022 Regular Session, 17 February 2022.

→ [AB 2792](#)⁸⁴ contains the largest number of changes. It would remove the inclusion of the surcharge amount in the excise tax, but only from July 1, 2022 to July 1, 2025. It would also suspend, during that period, the excise tax for *“purchasers of cannabis or cannabis products sold in this state by licensees entitled to a fee waiver or deferral pursuant to the program established by the Department of Cannabis Control under the California Cannabis Equity Act”*. It also suspends the cultivation tax during this period and *“removes the requirement for the department to adjust the cultivation tax rate for inflation during the suspension”*.

The health of the legal cannabis industry in California will depend on finding a consensus on the fiscal front. In March 2022, the state [issued new rules](#)⁸⁵ aimed at easing regulations, which industry professionals say are far too bureaucratic. An important innovation, which has long been called for, is that retailers will be able to [sell “designation of origin” cannabis](#)⁸⁶, if they apply for it. These designations will reward the quality of a *terroir*, [as can be done with wine](#)⁸⁷ or cheese in France, for example.

According to [the fiscal year 2023 spending plan](#)⁸⁸ released in January 2022, **New York State** expects to generate more than \$1.25 billion (€1.19 billion) in tax revenue over the next six years. **These revenues will be reinvested to promote social equity**, with 40% going to support public education, 20% to problematic consumption treatment and prevention programmes, and the remaining 40% to the Community Grants Reinvestment Fund. **This fund is part of the operationalisation of one of the founding principles of the State reform: repairing the past and present damage of prohibition.** It is devoted to vocational training services, reintegration programmes and continuing education programmes.

The issue of taxation is therefore particularly complex. A study published in April 2022 by the [Marijuana Policy Project](#)⁸⁹ found that the 11 states where adult-use cannabis is permitted generated more than \$3.7 billion (€3.49 billion) in total revenue in 2021. This figure corresponds to a 34% increase in non-medical cannabis revenues in these states compared to 2020.

⁸⁴ “Assembly Bill No. 2792”, California Legislature – 2021-2022 Regular Session, 18 February 2022.

⁸⁵ “California’s cannabis department proposes comprehensive regulatory changes”, Department of Cannabis Control, Announcement, State of California, 4 March 2022.

⁸⁶ “Designations of origin for Californian cannabis from 2021”, A. Bernard, *Newsweed*, 20 October 2020.

⁸⁷ “European Adult-Use Cannabis Markets Should Follow A Wine – Not Pharmaceutical – Pathway”, B. A. Jeanroy, *BusinessCann*, 18 January 2022.

⁸⁸ “The Deduction of Cannabis Business Expenses Following New York’s 2023 Budget”, L. Vlahos, Rivkin Radler LLP, *JDSupra*, 13 April 2022.

⁸⁹ “Cannabis Tax Revenue in States that Regulate Cannabis for Adult Use”, Marijuana Policy Project, April 2022.

This budgetary and fiscal frenzy calls for **caution with regard to taxes intended to compensate for the social cost of cannabis (also known as “pigouvian taxes”), which remain counterproductive in the presence of a strong competitive illicit market**⁹⁰. Beyond the inherent problem of a state filing its treasury via the consumption by citizens of a potentially addictive product, **the objective of a legalisation project is not to reduce general consumption**. Setting final prices too high for the consumer through the introduction of additional taxes will prove counterproductive. This deterrence will inevitably result in the continued existence of the illicit market, which would continue to offer low prices and a service more suited to user demand, rendering the reform ineffective. **The priority in Europe should still be to dry up the black market.**

There are also limits to tax policies on drugs. If the pressure is too strong, it will turn away low-income consumers. The ACE⁹¹ in France reminds us that **“very high prices create an economic prohibition with consequences similar to legal prohibition, as illustrated by the case of tobacco in France**⁹² where cigarette trafficking is flourishing. To avoid the emergence of a black market and the resurgence of organised crime, there is therefore a maximum price level that must not be exceeded.”

In 2021 in Europe, the median price of a gram of “flower” at “street level” was estimated by the EMCDDA⁹³ (the European Monitoring Centre for Drugs and Drug Addiction) to be around €8, and for resin at €7. **A form of mixed taxation according to price and weight, could therefore potentially limit the problems linked to too great a drop in prices.** If the primary objective of legalisation is to dry up the cannabis black market particularly in order to deprive access to young people, then **the price inclusive of tax should, at least in the first few years, be lower than that of the illicit market**⁹⁴.

In addition to VAT (which in Europe is generally between 15–20%⁹⁵) a sales tax, similar to that in Colorado, could be envisaged at 10–15% of the sales price. Taking the median estimates of the total turnover of the cannabis market in Europe⁹⁶ (involving more than 30 million annual consumers) and notably **estimated in 2017 by the EMCDDA at €11.5 billion**⁹⁷; and estimating that between 50–75% of purchases will be on the legal market, **tax revenues for the continent could amount to between €862.5 million and €1.3 billion per year**

⁹⁰ “A cannabis pricing mistake from California to Canada: government can’t tax cannabis optimally”, J. Childs, J. Stevens, *Applied Economics Letters*, Vol^o1, N^o5, 2020.

⁹¹ “Cannabis: how to regain control”, E. Auriol, P.-Y. Geoffard, Note du Conseil d’Analyse économique, n^o 52, June 2019.

⁹² France would be the largest consumer of contraband cigarettes in Europe according to “Project Sun – Executive Summary”, KMPG, p.5, 2018.

⁹³ “Cannabis price and potency in the European Union (updated June 2021)”, EMCDDA, June 2021.

⁹⁴ “High Time: The Legalization and Regulation of Cannabis in Canada”, A. Potter D. Weinstock (ed), McGill–Queen’s University Press, 2019.

⁹⁵ “European Union value added tax”, Wikipedia, 2022.

⁹⁶ “Public health monitoring of cannabis use in Europe: prevalence of use, cannabis potency, and treatment rates”, J. Manthey, T. P. Freeman, C. Kilian, H. López-Pelayo, J. Rehm, *The Lancet Regional Health, Europe*, 23 September 2021; “Prevalence of cannabis use in the last year in Europe as of 2019, by country”, Statista, 2021; “New Data Reveals Cannabis Consumption Rates Across Europe”, C. O’Brien, G. Brown, Prohibition Partners, 12 February 2020; “Key Insights from The European Cannabis Report: 6th Edition”, Prohibition Partners, 9 April 2021.

⁹⁷ “Cannabis sales in EU raise \$13 billion for crime gangs”, F. Guarascio, Euronews, 9 December 2019.

(in France, the market is estimated to be worth €3.2 billion in 2020⁹⁸ and could bring in between €240 and €360 million annually). These potential tax revenues will have to be specifically targeted, as we will see below.

ii → Product and price diversity

Free pricing of cannabis certainly does not mean no rules. The French think tank [GenerationLibre](#)⁹⁹ reminds us: *“control of the location of sales outlets in order to (...) limit proximity to certain public or religious buildings, specific packaging, limitation of advertising (which is prohibited or strictly regulated depending on the state, particularly with regard to teenagers), etc.”*

This proactive supply policy must be accompanied by wide access to a whole range of derivative products, which currently exist on the black market. In addition to the more traditional products such as “flowers” or resin, distribution must be authorised for drinks and edibles, topical and cosmetic products, oils, concentrates, and cartridges, to name only the main ones.

Similarly, although it may be seductive for the regulator to want to limit the concentrations of active ingredients in derivatives (especially THC), this desire to do the right thing under the guise of health practice is **not based on any conclusive scientific assessment of the danger of such concentrations**¹⁰⁰. Once again, these are usually **reflexes linked to prohibition**, which at best can only **benefit the illicit market**. This guiding principle should not evolve. Consumption habits will, by definition, remain in place among consumers who seek to obtain such products.

In the same logic of competitiveness against the black market, **the products must be visible and can be handled** within dedicated distribution shops (allowing for smell evaluation in particular). Finally, this diversity must be **legally accessible to adults, whether or not they are residents of the country, so as not to create a privileged niche for the black market aimed at tourists.**

⁹⁸ “Illegal cannabis sales in 2020 in France”, Newsweed, 2020.

⁹⁹ “For a free cannabis market in France”, K. Brookes, E. Hesse, GenerationLibre Report, January 2021.

¹⁰⁰ “Worlds Largest THC Toxicological Study Shows ‘Very Positive’ Signs So Far”, B. Stevens, BusinessCann, 13 April 2022.

c → Facilitating “legacy” integration

One of the fears that is often attached to the legalisation of cannabis in European countries is that of the impact that this reform could have on peripheral urban geographical areas – too commonly called “banlieues” in France – but which can be found almost everywhere in Europe, from the United Kingdom to Poland and Sweden and so on. **These are peripheral and impoverished areas where dealing has been able to develop, too often because of the withdrawal of the state and the lack of alternative economic opportunities.** According to this argument, legalisation would imply a significant loss of income for the trafficking areas in Europe and could therefore only aggravate situations that are already considered socially tense enough. **Another variant incorporates the fear that dealers will turn to other trafficking once cannabis legalisation is in place.**

However, research carried out on the subject most often undermines these arguments¹⁰¹, showing in particular that these geographical areas suffer more than they benefit from traffic. However, these problems are far from being sufficient to explain public inaction in terms of regulatory change. **That said, it is essential to consider these areas and the people who live there specifically, particularly from a social justice perspective¹⁰².**

It is estimated that around 200,000 people in France¹⁰³ are directly dependent on the sale of cannabis today. This estimate remains unknown for the European continent¹⁰⁴. This state of affairs nevertheless implies the **need to devise an appropriate legal and economic framework to reintegrate as many of these people as possible into the rule of law¹⁰⁵.**

¹⁰¹ “Drug trafficking and addiction among low-income urban youths: An ecological perspective”, J. Okundaye, Journal of Children and Poverty, Vol°5(1), 4 January, 2008; “The link between drug trafficking and poverty”, I. Gonzalez Montilla, Borgen Project, 29 November 2019; “Cannabis: for another police and penal strategy”, M. Zagrodzki, Terra Nova, 9 October 2020.

¹⁰² “Implementing social justice in the transition from illicit to legal cannabis”, L. B. Adinoff, A. Reiman, American Journal Drug Alcohol Abuse, Vol°45(6), p.673-688, 2019; “State cannabis reform is putting social justice front and centerL”, S. Morris, J. Hudak, C. Stenglein, Brookings, 16 April 2021; “Social justice and peacebuilding within drug policy reformL”, Z. Snapp, S. Rolles, CND Blog, IDPC, 4 March 2020; “Les dealers s’inquiète de perdre leur business avec la légalisation du cannabisL”, CNEWS with AFP, 2 December 2019.

¹⁰³ “Drug money in France. Estimation of illicit drug marketsL”, C. Ben Lakhdar, N. Lalam, D. Weinberger, INHESJ, MILDECA, Prime Minister, 2016.

¹⁰⁴ “Estimating the size of the EU cannabis market”, J. P. Caulkins, B. Kilmer, in Further insights into aspects of the EU illicit drugs market: summaries and key findings, Chap. 4, P.27, 2013; “Cannabis production and markets in Europe”, EMCDDA Insights, EMCDDA, 2012; “2019 EU DRUG MARKETS REPORT FROM THE EMCDDA AND EUROPOL”, Europol, 1 December 2019.

¹⁰⁵ “Cannabis Regulation and Development: Fair(er) Trade Options for Emerging Legal Markets”, D. Bewley-Taylor, M. Jelsma, S. Kay, International Development Policy, Vol°12, 2020; “Can a cannabis dealer transition from the legacy market into the legal space?”, J. Gibson, New Jersey Advance Media, 28 April 2021; “Cannabis: How can we take back control?”, Y. Geoffard, Notes du conseil d’analyse économique, Vol°52, (4), p.1-12, April 2019.

This issue of social justice is perhaps structurally the most important challenge of any cannabis legalisation project in Europe. In this regard, the UK charity Release has published a [report](#)¹⁰⁶ highlighting [14 social equity guiding principles](#)¹⁰⁷ to be incorporated into a future legally regulated cannabis market. Complementarily, the transnational NGO *International Drug Policy Consortium* (IDPC) has published its [Principles for Responsible Legal Regulation of Cannabis](#)¹⁰⁸, as well as its [10-Point Action Plan for Gender-Sensitive Drug Policies for Women](#)¹⁰⁹.

For example, such schemes have begun to be implemented in the State of California. People previously incarcerated for non-violent offences related to the possession, use or sale of cannabis have had their criminal records expunged¹¹⁰, and some have had their sentences reduced (though not automatically, which greatly diminishes the impact of such a policy). More broadly, **it has lowered the barriers to entry into the legal market**¹¹¹ for these individuals, whether for **licensing, bank loans or regulatory approval**. Such measures could not only be **effective for drying up the black market**, but also for **tapping into the pool of knowledge, interest and skills of its former players**.

In the latter context, **“suburban/rural” skills exchanges could also be set up, as could training programmes aimed at developing and maximising the skills of these cannabis professionals**¹¹². These policies could be complemented by the establishment of **free trade zones** in areas where dealing is currently taking place, as well as by the establishment of **vocational and university training in the legal industry, and easy access to banking services**.

In order to make these measures operational, **a proactive communication and support policy towards these groups must be put in place to encourage their reintegration**¹¹³: *“This prioritisation does not aim to limit access to licences for others but to help individuals for whom integration into the legal economy may be more difficult.”*

¹⁰⁶ “Regulating Right, Repairing Wrongs: Exploring Equity and Social Justice Initiatives within UK Cannabis Reform”, Release, 2021.

¹⁰⁷ “Cannabis Social Equity Principles – 14 principles to ensure a just, fair and equitable cannabis market in the UK”, Release, 2021.

¹⁰⁸ “Principles for the responsible legal regulation of cannabis”, IDPC, Advocacy Note, September 2020.

¹⁰⁹ “10-point plan: Gender-sensitive drug policies for women”, IDPC, Penal Reform International, 4 August 2021.

¹¹⁰ “Expungement: Addressing the legacy of Criminalisation”, Transform Drug Policy Foundation, 4th June 2021; “He was arrested for marijuana 17 years ago. Now it’s legal. So why is he still guilty of a crime?”, J. Washington, Vox, 10 December 2020; “Cannabis in Canada: Pardoning people for possession isn’t enough”, BBC News, 20 October 2018; “Erasing Evidence of Historic Injustice: The Cannabis Criminal Records Expungement Paradox”, J. E. Steiner, Western New England University School of Law, 2021.

¹¹¹ “Prosecutors move to clear 54,000 marijuana convictions in California”, A. Tchekmedyian, Los Angeles Times, 1 April 2019.

¹¹² “Creating a qualified cannabis workforce: How higher education can support cannabis career pathways”, B. Black, Doctoral Dissertation in Educational Sciences, Kansas State University, 2020.

¹¹³ “For a free cannabis market in France”, K. Brookes, E. Hesse, GenerationLibre Report, January 2021.

2. Public health objectives: protect our youth and reduce problematic consumption

Contrary to the fears expressed by some opponents of the legalisation debate and as this report has underlined in the Introduction, **legal regulation reforms have not led to a significant increase in general consumption in jurisdictions that have chosen to recognise and acknowledge the failure of cannabis prohibition.** In particular, use among 12–25 year olds **does not appear to have been affected by the various legalisation reforms**¹¹⁴. Figures provided by the US federal government show that **consumption patterns across all age groups have changed little since the reforms were introduced** (see Figure 21). This is all the more surprising given the underestimation of such surveys in the past, as respondents are by definition less likely to report using an illicit substance¹¹⁵. Possibly the mode of survey ie anonymous self completion vs face to face could be taken into account.

It can be seen in Figure 22 that **overall cannabis use in the USA began to increase in 2004, almost a decade before the first state in the country took the plunge** (Washington in 2012, Colorado in 2013). Thus, legalisation does not appear to have accelerated or slowed overall consumption; the latter evolving similarly in states that have or have not implemented legal regulation of their adult-use market (with the exception of Oregon, see Figure 21). The only group having seen an increase are adults aged 65 and above, from 0.4% in 2006 and 2007 to 2.9% in 2015 and 2016. **A relative increase of 75%**¹¹⁶. And according to **a second study**¹¹⁷, from 2.4% in 2015, to 4.2% in 2018. **The intersection of several factors**¹¹⁸ appears to be responsible, including the reduced stigma associated with cannabis consumption and the increased interest in consuming cannabis by older patients for **therapeutic purposes**¹¹⁹.

¹¹⁴ “Marijuana legalization and historical trends in marijuana use among US residents aged 12–25: results from the 1979–2016 National Survey on drug use and health”, B. Yu, X. Chen, X. Chen & H. Yan, BMC Public Health, 20, no.156, 2020.

¹¹⁵ “Self-Correction of Unreported Marijuana Use by Participants Taking a Street Intercept Survey”, J. J. Palamar, A. Le, American Journal Drug Alcohol Abuse, Vol^o46(6), p.708–717, 1 November 2020; “Underreporting of past-year cannabis use on a national survey by people who smoke blunts”, A. Le, B. H. Han, J. J. Palamar, Substance Abuse, Vol^o43(1), p.349–355, 2022; “Self-reported drug use: how prevalent is under-reporting?”, K. McGregor, T. Makkai, Trends and Issues in Crime and Criminal Justice / Australian Institute of Criminology, 1 June 2003; “Sources of Error in Substance Use Prevalence Surveys”, T. P. Johnson, International Scholarly Research Notices, Vol^o2014, 20 April 2014.

¹¹⁶ “Trends in Cannabis Use Among Older Adults in the United States, 2015–2018”, Benjamin H. Han, MD, MPH1,2,3; Joseph J. Palamar, JAMA Internal Medicine, Vol^o180(4), p.609–611, 24 Feb 2020.

¹¹⁷ “Recent Trends in Cannabis Use in Older Americans”, Colleen J. Maxwell, PhD, Bill M. Jesdale, PhD, Kate L. Lapane, Annals of Internal Medicine, Volume 174, Issue 1 Page:133–135, January 2021.

¹¹⁸ “Older adults and medical marijuana: Reduced stigma and increased use”, P. Grinspoon, Harvard Health Publishing, Harvard Medical School, April 6 2020.

¹¹⁹ “Cannabis: An Emerging Treatment for Common Symptoms in Older Adults”, K. H. Yang, C. N. Kaufmann, R. Nafsu, E. T. Lifset, K. Nguyen, M. Sexton, B. H. Han, A. Kim, A. A. Moore, Journal of the American Geriatrics Society, Vol^o69(1), p.91–97, January 2021.

¹²⁰ Authors’ calculations: “Pour un marché libre du cannabis en France”, K. Brookes, E. Hesse, GenerationLibre Report, January 2021, via “NSDUH State Prevalence Estimates”, 2013–2014 / 2014–2015 / 2015–2016 / 2016–2017 / 2017–2018, Substance Abuse and Mental Health Services Administration, NSDUH State Reports; “2002–2014 Marijuana Trends”, NSDUH State Reports, Substance Abuse and Mental Health Services Administration.

¹²¹ “Assessing the public health impacts of legalizing recreational cannabis use in the USA”, W. Hall, M. Weier, Clin Pharmacol Ther, Vol^o97, No.6, p.609, 2015.

Figure 21: Trends in monthly cannabis consumption in selected states (U.S.) since legalisation

	Period	Evolution of monthly cannabis consumption in the state since their legalisation	Federal evolution over the same period
Alaska (2015)	2014–2017	+15,2%	+17,9%
California (2016)	2015–2017	+13,9%	+14,3%
Colorado (2014)	2013–2017	+16,1%	+23,5%
Oregon (2015)	2014–2017	+47,9%	+17,9%
Washington (2013)	2013–2017	+28,1%	+23,5%

Source¹²⁰: GenerationLibre, 2021.

The majority of meta-analyses available today focus on the implementation of medical regulation, limiting the possibility of deciding whether [there is an effect of adult market legalisation on consumption](#)¹²¹. In Washington State, [consumption is reported to have increased by 2.5%](#)¹²². However, this increase was not observed in Colorado, which is often regarded as an [example of so-called 'liberal' legalisation](#)¹²³. **Perhaps more importantly, studies do not find a significant increase in cannabis consumption among adolescents in jurisdictions in the USA that have legalised**¹²⁴, concluding in particular that there is [no statistically significant relationship between legalisation and consumption among youth](#)¹²⁵, or even a significant decline in consumption in the states in question (see Figure 16). The same observation was made in [Canada](#)¹²⁶ (for example in [Quebec](#)¹²⁷).

¹²² "Crime and the legalization of recreational marijuana", D. Dragone, Journal of Economic Behavior & Organization, vol°159, p.488–501, 2019.

¹²³ T. Subritzky, S. Lenton, S. Pettigrew, "Practical lessons learned from the first years of the regulated recreational cannabis market in Colorado", in T. Decorte, S. Lenton, C. Wilkins (eds.), Legalizing Cannabis. Experiences, lessons and scenarios, Routledge, p.41, 2020.

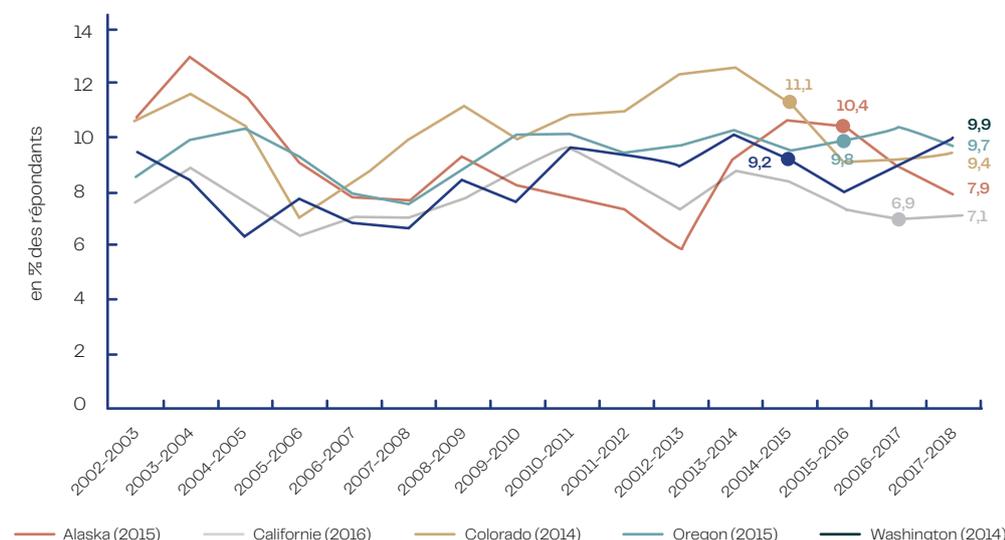
¹²⁴ "Medical marijuana laws and adolescent marijuana use in the United States: A systematic review and meta-analysis", A. Sarvet et al, Addiction, vol°113, no.8, p.1003–1016, 2018; "Is policy 'liberalization' associated with higher odds of adolescent cannabis use?", A. Stevens, A re-analysis of data from 38 countries, Int J Drug Policy, no.66, p.94–99, 2019.

¹²⁵ "What has changed since cannabis was legalized", M. Rotermann, Statistics Canada, 19 February 2020.

¹²⁶ Ibid.

¹²⁷ "Légalisation, un an après", M. Gachet, Quartier Libre, 13 November 2019.

Figure 22: Changes in cannabis consumption in the past month (12–17 year olds)



Sources¹²⁸: GenerationLibre, 2021.

A 2022 study¹²⁹ found that *“The legalization of recreational cannabis in Uruguay was not associated with overall increases in either past-year/past-month cannabis use or with multi-year changes in any risky and frequent cannabis use among young people.”* As the report by the French think tank *GenerationLibre*¹³⁰ reminds us, *“more and more studies point to the substitution effect of cannabis with more dangerous drugs or alcohol”*¹³¹. *Legalization in Washington State, for example, is said to have reduced the use of other drugs by 0.5% and alcohol by 2%”*¹³². However, it is imperative to recall here that **even if legalisation were to lead to an increase in overall adult cannabis consumption (which, as we have seen, has yet to be demonstrated), the effect on public health would not necessarily be negative: the important thing being to consider the share of problematic consumption, as well as the share of prevalence of first time use.**

Recent research¹³³ demonstrates a drop in prescription-drug use in U.S. territories states that have legalised adult-use cannabis with “significant reductions” in prescriptions filled for drugs meant to treat “depression (11.1%), anxiety (12.2%), sleep (10.8%), psychosis (10.7%), as well as pain and seizures”. In addition to potential cost-savings for social security, adult-use cannabis legalisation may present an additional harm-reduction benefit with people reducing reliance on pharmaceutical drugs with potentially problematic effects.

However, cannabis is not a harmless substance and can have a stronger impact on developing brains¹³⁴. For this reason, similar to alcohol and tobacco, the sale of cannabis (except for prescribed medical use) should be prohibited to under-18s. Legalisation could be based on existing systems of strict identity checks, with regular control of establishments, as is the case in Catalonia for Cannabis Social Clubs or in the states that have legalised in the USA to **ensure that minors do not have access to the product. Any failure to comply should be strongly sanctioned** and ultimately lead to the withdrawal of a distribution licence and criminal prosecution.

¹²⁸ Authors' calculations “For a free cannabis market in France”, K. Brookes, E. Hesse, GenerationLibre Report, January 2021, via “NSDUH State Prevalence Estimates”, 2013–2014 / 2014–2015 / 2015–2016 / 2016–2017 / 2017–2018, Substance Abuse and Mental Health Services Administration, NSDUH State Reports; “2002–2014 Marijuana Trends”, NSDUH State Reports, Substance Abuse and Mental Health Services Administration.

¹²⁹ “Does recreational cannabis legalization change cannabis use patterns? Evidence from secondary school students in Uruguay”, A. Rivera-Aguirre, A. Castillo-Carniglia, H. S. Laqueur, K. E. Rudolph, S. S. Martins, J. Ramirez, R. Queirolo, M. Cerdá, *Addiction*, 2 May 2022.

¹³⁰ “For a free cannabis market in France”, K. Brookes, E. Hesse, GenerationLibre Report, January 2021.

¹³¹ “Recreational marijuana legalization in Washington State: benefits and harms”, C. Mosher, S. Akins, in T. Decorte, S. Lenton, C. Wilkins (eds), *Legalizing Cannabis*. Decorte, S. Lenton, C. Wilkins (eds), *Legalizing Cannabis. Experiences, lessons and scenarios*, Routledge, p.69, 2020.

¹³² “Crime and the legalization of recreational marijuana”, D. Dragone, *Journal of Economic Behavior & Organization*, vol°159, p.488–501, 2019.

¹³³ “Recreational cannabis legalizations associated with reductions in prescription drug utilization among Medicaid enrollees”, Shyam Raman, Ashley Bradford, *Health Economics*, 15 April 2022.

¹³⁴ “Effects of Cannabis on the Adolescent Brain”, J. Jacobus, S. F. Tapert, *Current pharmaceutical design*, Vol°20(13), p.2186–2193, 2014.

Regulating the communication and advertising of the legal cannabis industry is also fundamental to ensure that it does not target youth under 18's. To avoid a **complete ban on advertising**, which **would favour the biggest players** to the detriment of the smallest – and therefore have a negative impact on quality, transparency and innovation – it would be preferable to regulate the industry's communication, for example by using the [model for regulating advertising for alcohol and tobacco that exists in France](#)¹³⁵. Although the level of toxicity of these drugs is greater than that of cannabis, it is essential **not to allow companies producing potentially addictive consumer goods to communicate excessively**. For example, by prohibiting all types of discount sales, as well as television, radio and cinema advertising, where there is a high risk of reaching young people, but by authorising it in the print and online media (excluding youth specialised media), as well as for specialised events.



3. Making law enforcement meaningful again

As mentioned earlier, one of the fears of cannabis legalisation is that of the displacement of trafficking actors towards other substances and criminal markets.

However, their options remain limited as the ACE¹³⁶ reminds us in their report on the French situation:

“... cocaine, the second largest source of profit on the French drug market, has a very low prevalence compared to cannabis, and the same is true for heroin or synthetic drugs. (...) There are a few hundred thousand users of these drugs, compared with several million for cannabis. It is difficult to see how such small markets could replace the cannabis trade. Finally, the postponement of the police forces¹³⁷, who could concentrate on the fight against the heads of the criminal networks, would contribute to restoring the credibility and effectiveness of their action and their links with the population currently living in trafficking zones.”

With regard to the problems of violent crime, studies now show a decline in the latter following the implementation of decriminalisation and legalisation policies¹³⁸. Although it is difficult to isolate the reasons for this decline, several explanatory factors can be taken into account: the weakening of criminal networks which are deprived of a considerable financial windfall; and the freeing up of time and resources for the police following the abandonment of prosecutions against consumers, allowing them to intensify their repression of other crimes¹³⁹.

¹³⁶ “Cannabis: How can we take back control?”, E. Auriol, P.-Y. Geoffard, Notes du conseil d’analyse économique, Vol°52(4), p.1-12, April 2019.

¹³⁷ “The police against the citizens?” C. Mouhanna, Champ Social Éditions, 2011.

¹³⁸ “Effects of recreational marijuana legalization on clearance rates for violent crimes: Evidence from Oregon”, G. Wu, Y. li, W. Land, International Journal of Drug Policy, Col°100, February 2022; “A Blunt Look at the Impacts Marijuana Has on Violent Crime”, A. Rice, University of Washington Bothell, 2019; “Impact Of Marijuana Legalization On Crime Reduction Is Being Underestimated, New Study Finds”, K. Jaeger, Marijuana Moment, 15 October 2021; “Colorado’s Marijuana Legalization Law Decreases Crime In Neighboring States, Study Finds”, B. Adlin, Marijuana Moment, 8 July 2020.

¹³⁹ The decriminalisation of cannabis in one area of London in 2001 reallocated police efforts to other crimes and thus reduced crime with lasting effects over time, see e.g. “Crime and the Depenalization of Cannabis Possession: Evidence from a Policing Experiment”, J. Adda, B. McConnell, I. Rasul, Journal of Political Economy, Vol°122, n°5, p.1130-1202, 2014.

A 2019 study published in the *Police Quarterly Journal*¹⁴⁰ found that in the states of Colorado and Washington, police were able to make more arrests for a variety of crimes after legalization, including violent crime, property crime, burglary, and vehicle theft. *“In the absence of other convincing explanations, the current evidence suggests that legalization produced a demonstrable and persistent benefit in clearance rates that we believe is associated with the prediction of marijuana legalization advocates that **legalization would positively influence police performance,**”* the study concluded. A report by 2020¹⁴¹ from the Department of Criminal Justice and Criminology at Washington State University notes that cannabis legalisation in the US *“has not had a consistently positive or negative overall effect on public safety issues and has resulted in a diverse set of outcomes.”* These differences in impact can be attributed to the heterogeneity of contexts and regulations in the country.

Faced with the misdirection of the missions of the actors of the penal chain under a prohibition regime, especially members of the police forces, **the legalisation of cannabis could indeed allow for the redeployment of the funding and members of these administrations towards useful public service missions.** In the first place, it would be preferable to redirect the police forces towards the offences of **non-compliance with the ban on the sale of** psychotropic drugs (alcohol, tobacco, cannabis) **to minors**, as well as towards **the fight against organised crime**. It is important to remember that without substantial efforts to fight the black market, legalisation will result in the coexistence of legal and illegal sales of cannabis¹⁴².

Recent findings¹⁴³ suggest that law enforcement authorities in the state of Washington felt insufficiently prepared for cannabis legalisation, and are now concerned about greater exposure of youth to cannabis as a result of legalisation, and broadly believe that cannabis-related impaired driving has increased markedly and poses a major public safety problem for them. In that regard, in January 2022, the Canadian Centre on Substance Use and Addiction (CCSA) and Public Safety Canada (PS) hosted a virtual policy research symposium to share knowledge about the effects of cannabis legalisation in Canada on law enforcement and public safety.

¹⁴⁰ “Marijuana Legalization and Crime Clearance Rates: Testing Proponent Assertions in Colorado and Washington State”, D. A. Makin, D. W. Willits, G. Wu, K. O. Du Bois, Ruibin Lu, M. K. Stohr, W. Koslicki, D. Stanton, C. Hemmens, J. Snyder, N. P. Lovrich, *Police Quarterly*, Vol°22(1), 2019.

¹⁴¹ “Notably: concerns about youth access to marijuana and the increase in drug-impaired driving, the belief that there is an increase in the cross-border transfer of legal marijuana to states that have not legalised it, reports that training and funding for cannabis-related law enforcement has been deficient given the complex and expanded role that police have been given, and the complex persistence of the black market. On the ‘positive’ side, legalisation appears to have coincided with an increase in crime clearance rates in several areas of offending and no overall effect on serious crime rates. Importantly, marijuana legalization reduced the number of people brought into the criminal justice system for non-violent marijuana possession offenses.” See: “Effects of Marijuana Legalization on Law Enforcement and Crime: Final Report”, M. K. Stohr, D. W. Willits, D. A. Makin, C. Hemmens, N. P. Lovrich, D. L. Stanton Sr., M. Meize, Department of Criminal Justice and Criminology Washington State University, 30 June 2020.

¹⁴² “Cannabis Black Market Thrives Despite Legalization”, J. Detrano, *Alcohol studies*, Rutgers, 2022; “Effects of Regulation Intensity on Marijuana Black Market After Legalization”, S. Song, Portland State University, Paper 5043, 7 October 2019; “Legal cannabis vs. black market: Can it compete?” M. J. Armstrong, *The Conversation*, 16 October 2018.

¹⁴³ “Law Enforcement Perceptions of Cannabis Legalization Effects on Policing: Challenges of Major Policy Change Implementation at the Street Level”, D. L. Stanton, D. Makin, M. Stohr, N. P. Lovrich, D. Willits, C. Hemmens, M. Meize, O. Bowers, J. Snyder, *Contemporary Drug Problems*, Vol°49(1), 22 October 2021.

The outcome document¹⁴⁴ highlighted the reduction in the number of young people being arrested for cannabis related offences and the increasing market share of the legal cannabis market. For impaired driving, the research showed that acute use of cannabis resulted in a modest increase in risk of a crash following the legalisation of cannabis. Research also highlighted the complexity of measuring the effects of legalisation on organised crime due to the lack of systematic evidence. The need for appropriate procedures, training and resources was cited. Future research conducted in collaboration with law enforcement would include cost-effective approaches to cannabis enforcement, evaluating the effectiveness of different police practices and where cannabis fits with other substance use priorities.

There are also positive developments in the **growing number of members of law enforcement agencies**, and more broadly of the **entire criminal justice system** (magistrates, prosecutors, military, members of the prison administration and intelligence services, etc.) who are **committed to providing an alternative voice to repressive policies**. In that regard, *LEAP Europe*¹⁴⁵ is an international movement of non-profit local groups, bringing together actors advocating for drug policies based on scientific facts and the evaluation of public policies. Actors in the “fight against drugs”, experts in police/population relations, the judicial system, criminal procedures, and the local and global impact of illicit drug trafficking. Their voice is impactful as they are looked upon by the general public as being legitimate actors to talk about these issues (while creating cognitive dissonance on a public that is often not used to hearing such discourse), and in parallel giving confidence to elected officials to say aloud what they may think behind the curtains (without the risk of being called “laxist”).

The Law Enforcement Action Partnership (LEAP) began in the United States¹⁴⁶ in 2002, where the movement has played a key role in the reform and implementation of alternative models of drug policy and penal reform in the country. The organisation has since spread across the Atlantic, having established chapters in the UK¹⁴⁷, Germany¹⁴⁸, Scandinavia¹⁴⁹, France¹⁵⁰, Spain¹⁵¹, Holland¹⁵². **The organisation aims to improve the safety and public health of Europe’s populations by restoring a relationship of trust between the judiciary – particularly the police – and the general population.** This criminal justice reform project includes changes to current drug legislation.

¹⁴⁴ “Public Safety and Cannabis: Taking Stock of Knowledge Since Legalization A Virtual Cannabis Policy Research Symposium Report”, Canadian Centre on Substance Use and Addiction, April 2022.

¹⁴⁵ LEAP Europe, website, 2022.

¹⁴⁶ LEAP USA, website, 2022.

¹⁴⁷ LEAP UK, website, 2022.

¹⁴⁸ LEAP Deutschland, website, 2022.

¹⁴⁹ LEAP Scandinavia, website, 2022.

¹⁵⁰ LEAP France, LinkedIn 2022.

¹⁵¹ “Voces policiales en las políticas de drogas. Hablemos con honestidad.” LEAP Espana, LinkedIn event, 8 April 2022. See also: “Policías contra el narco, desencantados: La prohibición de las drogas sólo beneficia a las organizaciones criminales”, S. F. Reviejo, Publico, 6 April 2022; “POLICÍA a favor del CAMBIO en las POLÍTICAS de DROGAS”, Cáñamo TV, Youtube, 13 April 2022.

¹⁵² LEAP Netherlands, LinkedIn group, 2022.

4. Developing a sustainable European industry

Although this is not the primary objective of such a reform, one of its consequences will be the **creation of an economic and industrial sector whose direct and indirect spin-offs could be highly beneficial to European countries and their populations**. As the international trade in cannabis for adult-use is still **relatively complex to set up**¹⁵³, **national markets will remain protected from international competition and will be able to give local entrepreneurs the opportunity to develop**. In particular by taking advantage of the many assets of the economic, scientific, cultural and industrial fabric of their country around the creation of legal jobs and new agricultural, industrial and commercial activities. As the subject is **closely linked to public health issues**, this is also one of the areas where **EU member states can not only more easily contravene the rules of the European single market, but also** earmark these tax revenues.

Despite the layoffs and losses that have plagued most of the country's major cannabis businesses, the legal cannabis industry in Canada has had a strong economic impact since the end of prohibition. In 2022, the consulting firm Deloitte stated in its **annual report**¹⁵⁴ that the cannabis sector had generated more than C\$15 billion (approximately €10.55 billion) in direct and indirect tax revenues for Canadian and provincial governments, while creating more than 151,000 jobs **since legalisation in October 2018**¹⁵⁵. In the US, over **107,000 new jobs would have been created by 2021**¹⁵⁶. A 33% increase in jobs in a single year, and the fifth consecutive year of annual hiring growth above 27%.

¹⁵³ "Obligations and flexibilities under European & international law: a path towards domestic cannabis adult-use regulation", B-A. Jeanroy, A. Bernard, Augur Associates white paper, p.12, April 2022.

¹⁵⁴ "An industry makes its mark The economic and social impact of Canada's cannabis sector", R. Malkani, 2021, Cannabis Report, 2022.

¹⁵⁵ "Pot sector nets \$15B in taxes, 151k jobs since legalization: Deloitte", D. George-Cosh, BNN Bloomberg, 1 February 2022.

¹⁵⁶ "Jobs Report 2022 Legal cannabis now supports 428,059 American jobs", B. Barcott, B. Whitney, M. Savage Levenson, C. Kudialis, Leafly, 2022.

The Newsweed survey “[Illegal cannabis sales in 2020, in France](#)¹⁵⁷” reveals that France would have nearly 5 million annual cannabis consumers, including **1.4 million regular consumers** (with an average consumption of 10 times per month). The French are estimated to consume between 360 and 500 tonnes of cannabis per year. On the basis of 30 tonnes consumed each month, French spending on cannabis in 2020 is estimated at €3,240 million (66% weed at €10/g, 32% resin at €5/g, and 2% other products at €40/g (concentrates, etc.).

The latest OFDT (French pendant of the EMCDDA) data counted 4.6 million annual cannabis consumers (at least once in the last 12 months), including 1.4 million regulars (at least 10 times a month) and 700,000 dailys (at least once a day). Following these data, here is an estimate proposing 3 potential ranges for the French case (see Figure 17 below).

¹⁵⁷ “Illegal cannabis sales in 2020 in France”, Newsweed, 2020.

¹⁵⁸ “Synthèse thématique : cannabis”, Observatoire français des drogues et des toxicomanies, 2021.

¹⁵⁹ “Illegal cannabis sales in 2020 in France”, Newsweed, 2020.

¹⁶⁰ “Une filière du cannabis en France”, P.-Y. Geoffard, J. Beuve, E. Fize, Conseil d'Analyse Économique, N°034-2019, June 2019.

Figure 23: Estimates of cannabis use in France in 2020

	Number of consumers	Low range (kg/year)	Average range (kg/year)	Fork high (kg/year)
Annual consumer	3,200,00	960	2,880	4,800
Weekly consumer	700,000	10,920	32,760	54,600
Daily consumer	700,000	76,650	229,950	383,250
Total Tonnes / year		88,53	265,59	442,65

Source¹⁵⁸: OFDT, 2021.

In the low range (0.3g per day/week/year), 88 tons of cannabis are consumed per year. In the middle range (X3), 264 tons. In the high range (X5), 442 tons. Since the low range is particularly conservative, **the actual figures are probably more between 265 and 442 tons, with an average of 354 tons or almost 30 tons of cannabis per month**¹⁵⁹. Realistic projections have also recently been made by [the economists of the French ACE](#)¹⁶⁰ to assess the impact of such a reform in terms of economic activity, jobs and tax revenues **for France**.

Other researches¹⁶¹ have found broadly similar figures taking into account the organic increase over time in the number of consumers, with estimates based on 2005 consumption figures of 276.6 tonnes per year¹⁶². **However, all these projections are *de facto* limited; the subject remaining by definition complex to assess under a prohibitive regime. Indeed, whatever the figures used, the opacity of the black market makes it difficult to paint a clear picture.** The different forms of cannabis (dried herbs, resin, concentrates, etc.) also complicate matters and are generally not taken into account in terms of market segmentation.

In the state of Colorado, where official legal sales figures are known, there is a **significant discrepancy between actual sales and previous estimates from consumption surveys**. For example, the CAE¹⁶³ reports that *“for 2017, 301.7 tons were sold, while estimated consumption was 209 tons. This discrepancy can be explained in part by the stocks held by users, but it can also reveal significant under-reporting by users. This is despite the fact that Colorado, with a population of 5 million, reports 220,000 daily users, and the total consumption estimate also includes non-residents.”*

The production price of cannabis “flower” is generally estimated at less than €1/g¹⁶⁴. Incorporating a reasonable assumption of a tax-free sale at €5/g would therefore allow for **sustainable development of the entire industry**¹⁶⁵. **By integrating VAT and modulating an excise duty between 10% and 20% according to the production cost of the product types, the price including tax would remain below the black market prices.** The fiscal gains, however, remain difficult to estimate, to say the least, but in view of recent estimates and projections for France, for example¹⁶⁶, **it would seem that these revenues could, in the mid-term, be used to implement ambitious and efficient public health and social justice policies.**

The question of direct and indirect employment is equally complex and important. For France, it is estimated that **between 27,000 to 80,000 jobs**¹⁶⁷ could be created, representing between €360 and 740 million of expected social contributions. These **estimates** are, however, **conservative and do not take into account all the sub-industries** that could also be involved (security, accounting, specialised law, consultancy...).

¹⁶¹ “Une filière du cannabis en France”, P.-Y. Geoffard, J. Beuve, E. Fize, Conseil d'Analyse Économique, N°034-2019, June 2019; “Pour un marché libre du cannabis en France”, K. Brookes, E. Hesse, GenerationLibre Report, January 2021.

¹⁶² “Should cannabis be legalized in France? Un bilan socio-économique”, C. Ben Lakdhar, P. Kopp, Économie et Prévision, n°213, p.1939, 2018.

¹⁶³ “Une filière du cannabis en France”, P.-Y. Geoffard, J. Beuve, E. Fize, Conseil d'Analyse Économique, N°034-2019, June 2019.

¹⁶⁴ Caulkins estimates that cannabis production costs range from \$0.15 to \$0.88 per gram. These figures appear to be supported by a dozen observations from US growers, according to which the strict cost of production is in the range of \$0.6 to \$1.00 per gram for greenhouse and controlled-light production, and \$0.28 to \$0.64 per gram for open-field production. See “Estimated Cost of Production for Legalized Cannabis”, J. P. Caulkins, Working Paper Drug Policy Research Center (RAND), No. WR-764-RC, July 2010.

¹⁶⁵ In the USA the wholesale price ranges from \$ 1.33 per gram in Oregon to \$ 4.00 in Nevada. See “Legalization of cannabis in the United States. Towards a regulation of the market?”, I. Obradovic, Note de l'Observatoire français des drogues et des toxicomanies (OFDT), 2019-01, June 2019.

¹⁶⁶ “Une filière du cannabis en France”, P.-Y. Geoffard, J. Beuve, E. Fize, Conseil d'Analyse Économique, N°034-2019, June 2019; “Pour un marché libre du cannabis en France”, K. Brookes, E. Hesse, GenerationLibre Report, January 2021.

¹⁶⁷ “Une filière du cannabis en France”, P.-Y. Geoffard, J. Beuve, E. Fize, Conseil d'Analyse Économique, N°034-2019, June 2019.

The European continent, beyond the reputation of the attached “brand” of certain countries, has numerous industries, experts and renowned industrial capacities that could allow the deployment of the European cannabis industry on the ultra-quality market.

In the long term, this would allow the continent’s countries to be sufficiently armed to face the emerging external markets that will inevitably complete the ranks of the countries that have chosen to reform. Based on future international developments, imposed by the probable change of course of the federal state in the United States in the more or less near future, the European countries must now **build a vibrant ecosystem around this market before the rules of free competition are finally imposed.**

An excessive model of free trade is undesirable because the main motivation for most profit-making enterprises – similar to the illegal market – is to increase consumption in order to maximise profits. This corporate capture¹⁶⁸ can undermine the significant public health and social justice benefits of legal regulation. In this spirit, the whole process of regulation around the private sector should be based on Environmental, Social and Governance (ESG) guidelines, linked to the United Nations 2030 Sustainable Development Goals. The latter framework would allow cannabis legalisation to have a positive impact on the planet.

¹⁶⁸ “Corporate capture’ and emerging cannabis markets”, in ‘How to Regulate Cannabis: A Practical Guide’, Transform Drug Policy Foundation, 21 July 2021.



a → Sustainable development and fair trade

Long dealt with within an inadequate health / safety dichotomy, the use of the plant must now be anchored in a long-term **development policy aligned with the UN's 2030 Sustainable Development Agenda and its 17 Goals**¹⁶⁹. Adopted by consensus by all member countries of the General Assembly at the 70th anniversary of the UN in 2015, this framework is a global plan for people and the planet, in order to foster prosperity, peace and partnership via a *“landmark agreement on a comprehensive set of universally agreed goals and targets that are ambitious, people-centred and transformative.”*

Development issues have been at the heart of international drug policy since the first attempts to establish a global control regime, more than a century ago. Today, **by assembling innovative ideas within anachronistic and flawed paradigms, the lack of success of alternative development programmes, notably promoted by the UNODC, can be understood mostly as a result of “political bricolage”**¹⁷⁰.

The cultivation, production and wholesale trafficking of “recreational” cannabis have long been concentrated in the most economically peripheral areas of the world¹⁷¹. The negative human rights consequences of law enforcement are particularly exacerbated within these same social and national groups. **In order to truly address the “cannabis problem”, it is therefore necessary to tackle the broader socio-economic issues**, i.e.: lack of resources, social, economic and gender inequalities, discrimination, implementation of policies that run counter to fundamental rights and equal treatment.

¹⁶⁹ “SDG Goals”, United Nations, Department of Economic and Social Affairs, Sustainable Development, 2022.

¹⁷⁰ “Drug Control and Development: A Blind Spot”, J. Buxton, International Development Policy, Vol^o12, Part^o1, Milestones of Drug Policies and Development, 8 September 2020.

¹⁷¹ Current “alternative development” policies in historical geographical areas of production have now shown their limitation within a regulatory framework of prohibition. See: “Drugs and Development: The Great Disconnect”, J. Buxton, Global Drug Policy Observatory, Policy Report 2, January 2015; “Are Barriers to Sustainable Development Endogenous to Drug Control Policies?”, K. Tinasti, J. Buxton M. Chinery-Hesse, International Development Policy Review 12, 8 September 2020; “Drug crop production, poverty, and development”, J. Buxton, Open Society Foundations, 2015.

To date, the market dynamics of the global cannabis industry remain unstable and dependent on legal developments allowing for international trade. However, in the **absence of any small farmer protection measures today for countries wishing to legally regulate their domestic non-medical markets, what often started as a survival economy risks being jeopardised if unrestricted access is given to transnational companies.**

One of the reasons foreign cannabis companies are entering traditional cannabis producing countries is to lower production costs. As countries compete to attract investors, **there is a risk that low production costs (and more generally lower regulatory standards in terms of social and environmental sustainability) will trigger a “race to the bottom”¹⁷².** This risk is compounded if countries do not develop a domestic base or market but rely on a purely export-oriented model that lends itself more easily to an exploitative dynamic.

i → “Inclusive trade” in the global cannabis value chain

International donor funding for alternative development programmes¹⁷³ in the context of “drug control” has declined even more sharply over the years than [global development assistance in general](#)¹⁷⁴, highlighting the **need to explore the possibility of connecting small farmers to the global legal cannabis value chain.** For those growing for the illicit market, cannabis has been primarily a cash crop to supplement family income, often grown alongside food crops. [Rational choice theory](#)¹⁷⁵ could indicate that illicit drug producers will carry on choosing the crop that brings them the most revenue.

¹⁷² “A Sustainable Future for Cannabis Farmers ‘Alternative Development’ Opportunities in the Legal Cannabis Market”, M. Jelsma, T. Blickman, S. Kay, P. Metaal, N. Martinez, D. Putri, Transnational Institute, April 2021.

¹⁷³ “Drugs and Development: The Great Disconnect”, J. Buxton, Global Drug Policy Observatory, Policy Report 2, January 2015; “Are Barriers to Sustainable Development Endogenous to Drug Control Policies?”, K. Tinasti, J. Buxton M. Chinery-Hesse, International Development Policy Review 12, 8 September 2020; “Drug crop production, poverty, and development”, J. Buxton, Open Society Foundations, 2015.

¹⁷⁴ “Rise or fall? DevelopmentAid’s projections on the evolution of foreign aid | Post Webinar Release”, I. Ilasco, Development Aid, 13 December 2021; “Development aid drops in 2018, especially to neediest countries”, OECD, 10 April 2019. See also: “Net official development assistance and official aid received (current US\$)”, Development Assistance Committee of the Organisation for Economic Co-operation and Development, Geographical Distribution of Financial Flows to Developing Countries, Development Co-operation Report, and International Development Statistics database, The World Bank 2022.

¹⁷⁵ “The Rational Choice Theory and Mexican Drug Activity”, David J. Masucci, International Journal of Applied Sociology 2013, 3(5): 89–101, 2013.

Entry into the legal cannabis market could potentially add value for small-scale agricultural actors, if the framework is set up to allow them to become involved in processing, including the production of whole plant extracts, rather than being restricted to selling raw material. Adding value to agricultural production in rural areas (e.g. through processing industries) has great potential to boost rural employment and incomes, to reduce poverty, but also to improve nutrition. According to [the Food and Agriculture Organisation of the United Nations \(FAO\)](#)¹⁷⁶, public policies, incentives and regulatory frameworks that encourage small and medium-sized agro-industries have proven to be a particularly effective means of lifting rural populations out of poverty in a growing number of countries.

The concept of **“inclusive enterprise”**¹⁷⁷ *has emerged to “improve the compatibility between agribusiness expansion and rural livelihoods”*; **“it tends to imply that vulnerable small-scale actors benefit from their integration into the value chains of agro-commercial enterprises. By integrating smallholders, financial returns are expected to benefit the smallest actors but also private investors.”** The UN Development Programme (UNDP) has also adopted [a committed discourse](#)¹⁷⁸ on inclusive business and the crucial role of the private sector in creating opportunities in the Southern Hemisphere.

The notion of “fair” or “just” trade arose out of concerns in the 1960s and 1970s about global levels of economic inequality and poverty, particularly in formerly colonised countries. Fairtrade thus seeks to redress these global inequalities by offering local agricultural producers better opportunities to access markets and consumers, mainly in the northern hemisphere¹⁷⁹. A growing number of researchers and practitioners are now looking at **what Fair Trade principles might look like in the context of cannabis**¹⁸⁰. It remains an open question to what extent such a model can serve the socio-economic needs and interests of small-scale traditional cannabis farmers. [Significant barriers remain](#)¹⁸¹, including the fact that while Fairtrade markets for products such as flowers, cocoa, bananas and coffee have provided small-scale producers with certification to participate in global markets, these products generally require climatic conditions that make their production in temperate climates impossible. **Cannabis, on the other hand – depending on the strain –, can be grown anywhere.**

¹⁷⁶ Sustainable Agribusiness and Food Value Chains, FAO, 2022.

¹⁷⁷ “Inclusive business’ in agriculture: Evidence from the evolution of agricultural value chains”, L. A. German, A. M. Bonanno L. C. Foster, L. and Cotula, *World Development*, Vol°134, p.2, 2020.

¹⁷⁸ “In particular, by arguing that inclusive businesses integrate low-income people into value chains in a variety of capacities, whether as consumers, producers, employees or entrepreneurs. In this way, they bring the benefits of growth directly to low-income communities. Inclusive businesses create a solid foundation for long-term profit and growth by bringing previously excluded people into the marketplace”. See: “Realizing Africa’s wealth: Building inclusive businesses for shared prosperity”, UNDP African Facility for Inclusive Markets, New York: United Nations Development Programme (UNDP), p.8, 2003.

¹⁷⁹ This approach has crystallised in the Fairtrade model. The main difference with usual trade practices is that the price paid by the consumer guarantees a minimum price to producers and a social premium to be invested in community development. It is largely based on a cooperative or social enterprise model. The World Fair Trade Organisation (WFTO) is the official body that monitors compliance with a set of principles defined in the Fair Trade Charter and carries out third party audits, certification and labelling. The Fairtrade model has contributed to important advances: it has raised consumer awareness and important economic, social and environmental issues about trade. It currently governs the practices of 1.66 million producers and workers around the world in areas such as agriculture, food, crafts and fashion. In this report, the reference to Fairtrade is used to imply the integration of social justice and sustainable development principles into the development of cannabis policies and markets rather than compliance with the standards set by the WFTO.

¹⁸⁰ See for example the work of the *Fair(er) Trade Cannabis Working Group*, a Caribbean-based network of cannabis farmers, academics and activists. See: “Position paper – The emerging cannabis industry in the caribbean and a place for small-scale traditional farmers”, Position paper of the Fairtrade Cannabis Working Group for inclusive business models & well designed laws and fair(er) trade option for small-scale traditional cannabis farmers, September 2020. See also: “Sustainable Cannabis Policy Toolkit(2021)”, K. Riboulet-Zemouli, FAAAT editions, May 2021; “The Future of Cannabis in Malta and the Mediterranean Institute for Cannabis”, K. Mamo, Position paper, June 2021; “A Sustainable Future for Cannabis Farmers ‘Alternative Development’ Opportunities in the Legal Cannabis Market”, M. Jelsma, T. Blickman, S. Kay, P. Metaal, N. Martínez, D. Putri, Transnational Institute, April 2021.

¹⁸¹ “Fair(er) Trade Options for the Cannabis Market”, M. Jelsma, S. Kay, D. Bewley-Taylor, Policy Report 1, Transnational Institute, March 2019.

Illicit (and emerging legal cannabis) markets have undergone a process of import substitution in major European and North American consumer markets, with a rapid expansion of greenhouse and indoor cultivation. This poses additional challenges for traditional cannabis growers around the world and the development of comparable Fairtrade scenarios to protect them. For companies in the market, it will therefore be necessary to place greater emphasis on “*ethical consumerism*”, and on branding based on [the qualitative benefits of indigenous cannabis varieties and traditional cultivation techniques](#)¹⁸², using for example the certification of “*geographical indications*”¹⁸³ or “*denominations of origin*”¹⁸⁴, as well as on recognising the costs associated with [the large carbon footprint of indoor / greenhouse production](#)¹⁸⁵.

ii → The Sustainable Development Goals (SDGs)

All existing cannabis regulatory policies – including the legal regulations implemented in Canada or Uruguay – have been developed within a continuing prohibitionist paradigm. This is logical, as policies cannot evolve properly without structural changes. This leads to what civil society movements related to cannabis policy reform often refer to as “[prohibition 2.0](#)”¹⁸⁶. For example, **legalisations that perpetuate the exclusion, stigmatisation, criminalisation and harm of affected populations, or policies that continue to hinder the prospects of a dignified exit from illegality.** In particular, by placing **excessive barriers** to accessing legal means of carrying out legal cannabis activities.

The alignment of the axes of new legalisations with the Sustainable Development Goals (SDGs) is therefore a *sine qua non* condition for their effectiveness. This logic would also ensure better coherence within the UN system, by harmonising public policies around cannabis with the UN’s broader imperatives to protect human rights, promote peace and security, and advance economic development.

¹⁸² “Why the concept of terroir matters for drug cannabis production”, P.-A. Chouvy, *GeoJournal*, January 2022.

¹⁸³ “Cannabis, Social Clubs, Biodiversity, Nagoya Protocol, Appellations of Origin: Contribution to the National Assembly”, K. Riboulet-Zemouli, March 2021.

¹⁸⁴ “Linking People, Places and Products, A guide for promoting quality linked to geographical origin and sustainable geographical indications”, Food and Agriculture Organization (FAO), Second edition, 2009–2010.

¹⁸⁵ “The greenhouse gas emissions of indoor cannabis production in the United States”, H. M. Summers, E. Sproul, J. C. Quinn, *Nature Sustainability*, Vol°4, p°644–650, 2021.

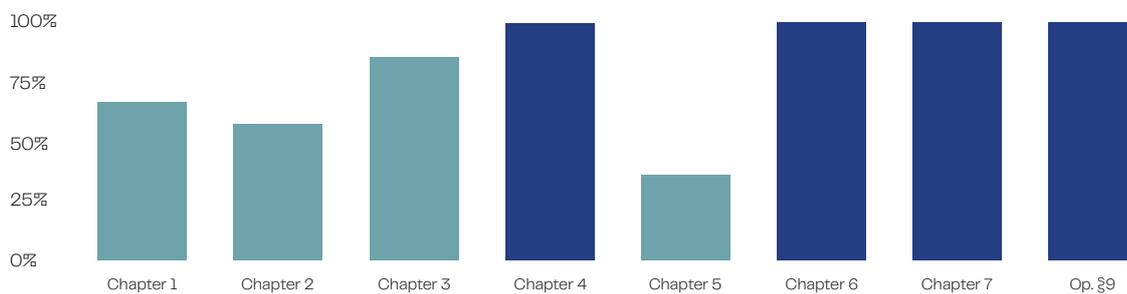
¹⁸⁶ “Canadian Weed Legalization Could Usher in ‘Prohibition 2.0’, Warn Critics”, P. Hess, *Inverse*, 17 October 2018.

Due to its characteristics, cultivation, widespread use, and diversity of applications, [the latest research on the subject](#)¹⁸⁷ shows that **the plant *Cannabis sativa L.* and the public policies regulating consumption are directly linked to at least 64 of the 169 targets in 15 of the 17 SDGs of the 2030 Agenda.** Sustainability and cannabis policies also **echo 75 of the 104 operational recommendations** of another policy document adopted by international consensus in 2016, [the UNGASS 2016 outcome document](#)¹⁸⁸, which states that “*efforts to achieve the Sustainable Development Goals and to effectively address the world drug problem are complementary and mutually reinforcing*”. The UNGASS 2016 outcomes are organised into seven thematic chapters (see Figure 24) focusing on prevention and treatment, availability for medical purposes, reducing illicit supply, human rights, emerging trends, international cooperation and development.

¹⁸⁷ “Sustainable Cannabis Policy Toolkit (2021)”, K. Riboulet-Zemouli, FAAAT editions, May 2021.

¹⁸⁸ “Outcome document of the 2016 United Nations General Assembly Special Session on the world drug problem”, Special Session of the UNGASS on the world drug problem, 2016.

Figure 24: Relationship between cannabis/hemp, the UN Sustainable Development Goals for 2030, and the UNGASS 2016 operational recommendations



Source¹⁸⁹ : FAAAT Editions, 2021.

Non-psychoactive uses of the Cannabis plant – known as “hemp”, or “industrial hemp” – have accompanied mankind for many centuries, in particular :

- In terms of nutrients from the seed (objectives 1 and 2).
- Through the many products derived from its fibre, including efficient building materials that can be sourced and produced locally (objectives 9 and 11).
- More recently, the plant has continued to be explored for its soil cleaning properties, but also for its contribution to clean water and oceans (Objective 13).
- The large biomass produced by cannabis stalks has proven to be both a promising source of energy (Objective 7) and a valuable source of income.
- A renewable source of recyclable plant-based plastic (target 15), etc.

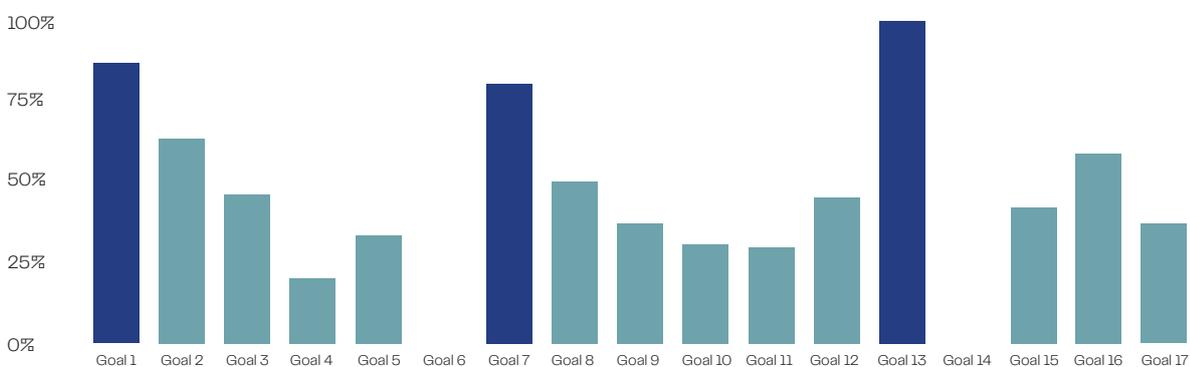
¹⁸⁹ of each UNGASS chapter with which sustainable cannabis/hemp policies interact (relevant/not relevant operational recommendations). See “Sustainable Cannabis Policy Toolkit (2021)”, K. Riboulet-Zemouli, FAAAT editions, May 2021.

Beyond these “industrial” uses, it remains essential to reform the current policies of repression, prohibition and marginalisation of other uses of the plant (wellness, therapeutic, or non-medical) in order to be able to achieve objectives 3, 4, 5, 8, 10, 13, 16 and 17. These new regulations offer an unprecedented opportunity to build, from the ground up, “an industrial system that is restorative or regenerative by intent and design” – the United Nations Industrial Development Organisation’s [definition of the circular economy](#)¹⁹⁰.

¹⁹⁰ “Industry 2030, Making It – Industry for Development”, No. 27, United Nations Industrial Development Organization, p.33, 2020.

¹⁹¹ of each Sustainable Development Goal directly impacted by cannabis and hemp and their policies (relevant targets/irrelevant targets). See: “Sustainable Cannabis Policy Toolkit (2021)”, K. Riboulet-Zemouli, FAAAT editions, May 2021.

Figure 25: Impact of cannabis and hemp policies on the 2030 Agenda of the Sustainable Development Goals



Source¹⁹¹: FAAAT Editions, 2021.

The reformist trend in cannabis policy around the world is a momentum that is likely to continue. **A single policy of legalisation seems neither desirable nor possible, both for geographical reasons and because of the diversity of uses and products of the plant. This makes it difficult for consensus models of cannabis policy to emerge (that can be exported and generalised) – and makes any attempt at a universal model a chimaera.**

To steer cannabis markets in a more sustainable and equitable direction, **states need to exercise regulatory and discretionary power to set the rules of the game, to attract responsible investors, and to find appropriate buyers and outlets.** There is a need for a strategic agreement between informed public policy makers, responsible investors and organised cultivation communities to develop national and/or regional visions on how cannabis can be part of a larger successful development model story. **A market for cannabis centred on empowerment, indigenous knowledge, protection of natural heritage and fair trade principles would have much to offer for the sustainable development of a global cannabis industry.**

In an over-connected global village where the behaviour of our societies – from pandemics to climate change – is disrupting nature to the highest degree, the decade 2020–2030 calls for a renewed vision of nature and a renewal of our connection with it. Cannabis as a plant in its entirety, and policies related to its multiple uses, can be a lever for these goals. As summarised in the comprehensive [Sustainable Cannabis Policy Toolkit](#)¹⁹²:
“All in all, with partnership and mutual understanding, cannabis and its policies are an essential ally in tackling the problems of our time and building policies on all continents that are commensurate with the collective intelligence of our century.”



b → Environmental, Social and Governance (ESG) criteria

Like any emerging industry, **legal cannabis markets have experienced substantial growth rates and unprecedented investment over the past decade.** However, investor pressure and the rush to gain first-mover advantage have led to frenzied over-investment, with **little to no regard for the long-term viability of the companies.** In addition, many business leaders have been eager to capitalise on the perception of a rapidly opening market despite its unlikelihood in the near future. Often eager to capitalise on public interest for personal and corporate gain, **such irrationality has inevitably led to unethical and socially damaging practices.**

Fifteen years ago, environmental, social, and governance (ESG)¹⁹³ factors emerged as guidelines for assessing the sustainability of an investment¹⁹⁴. They are now at the heart of long-term investment trends¹⁹⁵ and are the new standard for prudent asset management, as reported in the **Harvard Business Review**¹⁹⁶. The gradual adoption of ESG factors is often seen as a response to the unprecedented levels of fraud at **Enron**¹⁹⁷, the Houston-based energy trader whose epic collapse shook both the business world and popular culture. However, these corporate guidelines and practices are not as new as they seem, with roots in the **mid-19th century**¹⁹⁸. In more recent times, before they were labelled ESG, companies such as **Patagonia**¹⁹⁹ and later **Toms Shoes**²⁰⁰, generated a long-term return on investment by “behaving well”.

Based on the Paris Agreement, the **European Union has committed itself to becoming the world's first climate-neutral continental entity by 2050.** In recent years, this commitment has moved from promises to actual regulatory action.

¹⁹³ Presentation deck, Augur ESG 2022.

¹⁹⁴ See: “Economic Sustainability, Innovation, and the ESG Factors: An Empirical Investigation”, L. Di Simone, B. Petracci, M. Piva, *Sustainability* Vol^o14(4), p.2270, 2022; “Sustainability and Financial Accounting: a Critical Review on the ESG Dynamics”, P. Tettamanzi, G. Venturini, M. Murgolo, *Environmental Science and Pollution Research*, Vol^o29, p.16758–16761, 2022.

¹⁹⁵ See: “Does your non-financial reporting tell your value creation story?”, M. Nelson, EY, 29 November 2018; “The ESG premium: New perspectives on value and performance”, McKinsey Sustainability, Survey, 12 February 2020; “Investors Back ESG in the Crisis”, H. Bioy, *Morning Star*, 12 May 2020; “Does the ESG Index Affect Stock Return? Evidence from the Eurostoxx50”, M. LaTorre, F. Mango, A. Cafaro, S. Leo, *Sustainability*, Vol^o12, p.6387, 2020.

¹⁹⁶ “Boards Are Obstructing ESG – at Their Own Peril”, T. Whelan, *Harvard Business Review*, 18 January 2021.

¹⁹⁷ “The Fall of Enron”, P. M. Healy, K. G. Palepu, *Journal of Economic Perspectives*, Vol^o17, n^o2, p.3–26, Spring 2003.

¹⁹⁸ “Evolution of ESG”, T. Puri, *Medium*, 2 January 2020.

¹⁹⁹ “Patagonia Set The Standard So ESG Is Now Mainstream”, T. Miller, *LinkedIn*, 16 July 2021.

²⁰⁰ “TOMS’ Social Responsibility Practices are Worth Emulating”, *Momentum Telecom*, 9 April 2013.

Two areas of development in particular are **likely to have wide-ranging implications for companies operating on the continent**²⁰¹: **The newly implemented obligations for ESG disclosures, and the likely requirement for human rights, environmental and governance due diligence.** These measures involve both new disclosure requirements and substantial obligations to address ESG issues related to companies' activities. Importantly, in addition to compliance issues, companies will need to consider the **legal risks associated with public sharing of human rights and environmental risks in their business operations and supply chain.**

European regulators have been busy putting together a **jigsaw of interrelated regulations to facilitate this transformation**²⁰²:

- the **Green Deal for Europe** investment plan²⁰³;
- the European **Taxonomy Regulation**²⁰⁴;
- the European Green Bond Standard (**EU GBS**²⁰⁵);
- the Sustainable Finance Disclosure Regulation (**SFDR**²⁰⁶).

Regarding the last point: the SFDR aims to ensure that asset managers, financial advisors and other financial market actors take into account sustainability and ESG factors in their investment decision-making, and in the information provided about those investments. The SFDR notably, essentially requires these market participants and advisors to identify and disclose information on how they take into account "*sustainability risks*" in their investment advice or decisions [SFDR Article 3]. The mandatory obligations under the SFDR also carry the risk of regulatory action, including fines.

The second area of prospective regulation concerns mandatory "due diligence" measures for human rights, environmental and governance issues. This, in broad terms, essentially covers the ESG framework. The idea of due diligence legislation is linked to the UN **Guiding Principles on Business and Human Rights**²⁰⁷, in which "*human rights due diligence*" is used to refer to a **process of assessing the actual and potential human rights impacts of a company's activities; integrating and acting on the results; and following up on responses and reporting on how these impacts are being addressed** [Principle 17]. Although many of the details of a due diligence law in Europe are still pending, **the latest proposal from the European Parliament**²⁰⁸ provides the latest indication of the potential stringency of such rules. **The trend in Europe is clearly towards a relatively rigid due diligence law, in contrast to previous human rights laws in the supply chain.**

²⁰¹ "The EU's Increasing ESG Regulation and its Implications for Business", J. Hugues-Jennet, R. Polaschek, Quinn Emanuel Trial Lawyers, JD Supra, 7 April 2021.

²⁰² "The European Union's Sustainable Finance Regulation Jigsaw Is Almost Complete", O. Berdak, L. Deya, Forrester, 11 October 2021.

²⁰³ "The European Green Deal Investment Plan and Just Transition Mechanism explained", European Commission, 14 January 2020.

²⁰⁴ See: "Sustainable finance taxonomy - Regulation (EU) 2020/852", European Commission, 2022; "Document C (2021) 2800", EUR-Lex, 2022.

²⁰⁵ "European green bond standard", European Commission, 2022.

²⁰⁶ See: "The three European supervisory authorities publish final report and draft RTS on disclosures under SFDR", European Securities and Market Authorities, 4 February 2021; "Document 32019R2088", EUR-Lex, 2022; "Document 32019R2088", EUR-Lex, 2022.

²⁰⁷ "Guiding principles on Business and Human Rights. Implementing the United Nations 'Protect, Respect and Remedy' Framework", United Nations Human Rights, Office of the High Commissioner, 2011.

²⁰⁸ "European Parliament resolution of 10 March 2021 with recommendations to the Commission on corporate due diligence and corporate accountability (2020/2129(INL))", European Parliament, 10 March 2021.

In addition to the wide range of companies likely to be directly impacted by these EU regulations, changes in the behaviour of [major investors](#)²⁰⁹ also suggest that **ESG risk should be at the forefront of business decisions and long-term planning**. These new standards are likely to lead to greater scrutiny of companies' decision-making, with implications for legal and reputational risk. **The best way for companies to address these concerns – as well as to guard against forthcoming due diligence legislation – is to take steps to address ESG concerns.**

This is especially relevant for businesses in the cannabis sectors, where expanding markets are inevitably accompanied by intensifying regulations. **It is not news that the cannabis trade is not always environmentally friendly**. More generally, the cannabis industry faces four main environmental challenges: **energy consumption, pesticide use, land use and water use**. Cultivation – especially indoor cultivation – is very energy intensive (especially due to lighting, ventilation and temperature/humidity control). Businesses that fail to adapt – in terms of cultivation practices, pesticide use or other violations – now [face recalls](#)²¹⁰, [increasing legal fees and penalties](#)²¹¹.

As such, [guidance](#)²¹², for example on **environmental variables, can help reduce the overall footprint** by setting tangible targets such as increasing the share of renewable energy, limiting polluting emissions and designing recycling systems. **As consumers increasingly seek out environmentally friendly companies, implementing sustainable practices in order to become fully regenerative will become a strong competitive advantage**²¹³.

The sector is also plagued by **issues related to its social impact**. By examining working conditions, customer relations, supplier relations and human resource management, a cannabis business can easily **generate or strengthen a tangible social bond**²¹⁴. This **social licence to operate is absolutely necessary to gain the support of society and impacted neighbourhood communities**.

Finally, inadequate governance is never stronger than in a nascent industry. **The need for transparent, independent, diverse and consensus-based governance should be of paramount importance given the level of public and regulatory oversight of the industry**. However, the cannabis industry is characterised by several innovative and valued governance features²¹⁵ and should be able to make its mark.

²⁰⁹“Our approach to engagement with companies on their human rights impacts Investment Stewardship”, BlackRock, 2022.

²¹⁰“Another cannabis flower recall in Germany stemming from contamination”, A. Pascual, MJBiz Daily, 19 November 2020.

²¹¹“Lawsuit against Organigram expands to allege tainted pot made users ill”, K. Letterick, CBC News, 6 December 2017.

²¹² Augur ESG, Augur Associates, 2022.

²¹³ See: “Commentary: Indoor farming needs to go green. Cannabis can help it get there”, M. Graham, Energy News, 14 August 2020; “Balancing the Environmental Costs of Cannabis”, I. Ghosh, Visual Capitalist, 20 December 2018; “Interconnected Carbon Nanosheets Derived from Hemp for Ultrafast Supercapacitors with High Energy”, H. Wang, Z. Xu, A. Kohandehghan, Z. Li, K. Cui, X. Tan, T. J. Stephenson, C. K. King'ondeu, C. M. B. Holt, B. C. Olsen, J. Kwon Tak, D. Harfield, A. O. Anyia D. Mitlin, ACS Nano, Vol^o7(6), p.5131–5141, 7 May 2013; “Enhanced tolerance of industrial hemp (Cannabis sativa L.) plants on abandoned mine land soil leads to overexpression of cannabinoids”, R. Husain, H. Weedon, D. Bogush, M. Deguchi, M. Soliman, S. Potlakayala, R. Katam, S. Goldman, S. Rudrabhatla, PLoS One. 2019; 14(8), 29 August, 2019; “Rocky Flats Hemp Phytoremediation Project”, Rocky Flats Downwinders, 2019; “Life cycle greenhouse gas emissions of hemp-lime wall constructions in the UK”, A. Miller, Resources Conservation and Recycling, Vol^o69, p.1–9, December 2012.

²¹⁴ See: “Socially Conscious Cannabis Companies Are Seeding This Tough COVID–19 Era With Good Deeds”, J. Oleck, Forbes, 10 April 2020; “Twenty ways to improve access to medical cannabis”, P. Durham, Medical Republic, 7 April 2020; “How marijuana legalization would benefit the criminal justice system”, C. Jorgensen, Bois Estate, 13 January 2020; “Hemp – the new cash crop for the 21st century”, M. Rees, The Extract, 17 December 2020; “The intersection of Women and Cannabis”, Weedmaps Technology, WM Tech Blog, 16 March 2022.

²¹⁵ “Conscious Cannabis 101”, S. Silverberg, Socap Digital, 26 June 2019; “Going Green: Growing Cannabis Corporate Governance From the Ground Up”, Govenda, 2022; “Millennial entrepreneurs lead the way with hemp, CBD industries”, G. Daily, 420 intel, 26 August 2019; “Women in Cannabis”, Vangst, 2019 Report, 2019.

On a positive note, **the cannabis industry is thus naturally positioned for ESG adherence**²¹⁶. Streamlined integration is enabled by the unique sustainability advantage of these industries, as well as the **lack of adherence to dogmatic and exclusionary models of corporate and social governance**. In addition, there is a deep permeability with innovation²¹⁷ due to the marginal status of the industry and its dependence on services and technologies that are not always as readily available to these actors.

Cannabis companies that embrace the ESG mindset will undoubtedly gain a **competitive advantage**. As these criteria become the new norm, deliberately positioning a company within this trend will not only **increase shareholder value**, but will also **brand and enhance its position with potential investors interested in long-term value creation**.

c → Banking facilities and insurance

Although the “right to an account”²¹⁸ exists in the European Union for individuals and professionals, the majority of companies working legally in the cannabis sector on the continent have realised that **banking establishments are reluctant to host businesses whose main activity revolves around this plant**. Whether it is a question of opening an account, providing an Eftpos terminal for a point of sale, or online payment methods for an e-commerce site, **a real obstacle course is required of cannabis entrepreneurs**. While some institutions in Europe are beginning to allow cannabis businesses to operate with them, the vast majority are still particularly reluctant.

²¹⁶ “World’s Top Weed Companies Push for an Eco-Friendly, Socially Conscious Industry”, Merry Jane, Z. Harris, 25 Jun 2019.

²¹⁷ See: “A physical and genetic map of Cannabis sativa identifies extensive rearrangements at the THC/CBD acid synthase loci”, K. U. Lavery, J. M. Stout, M. J. Sullivan, H. Shah, N. Gill, L. Holbrook, G. Deikus, R. Sebra, T. R. Hughes, J. E. Page, H. van Bakel, Genome Research, Vol°29(1), p°146–156, January 2019; “A Low-energy High Managing Energy Use for Commercial Indoor Cannabis Cultivation”, D. L. Jonlin, D. Lewellen, Energy Engineering Vol°114(4), 2017; “The Past, Present and Future of Cannabis sativa Tissue Culture”, Plants, Vol°10(1), p.185, 29 December 2020; “Breeding, production, processing and use of specialty cannabis”, M. A. Lewis, M. D. Backes, M. W. Giese, Google Patents, US9642317B2, 2014; “Does the Cannabis Industry Really Use Crypto?”, A. Lielacher, Crypto News, 20 July 2019; “Could hemp solve bitcoin’s energy consumption problem?”, S. Price, Cannabis Wealth, 3 February 2022; “Can the German Cannabis Supply Chain Benefit from Blockchain Technology?”, B. Holste, Facetten der Digitalisierung, p.133–155, 16 April 2020; “Global Cannabis To Launch Artificial Intelligence Chatbot For The Medical Cannabis Industry”, Access Wire, Global Cannabis Applications Corp, 15 March 2018.

²¹⁸ “Bank accounts in the EU Right to a basic bank account”, Europa.eu, 2022

This is mainly related to the internal policies of financial institutions for entering into relations with certain activities carried out by natural and legal persons that may present “particular risks”. These are listed in internal documentation. **Activities related to the marketing of cannabis, whether in the “CBD wellness” or therapeutic sectors, and therefore all the more so for so-called “recreational” consumption, are indeed largely and explicitly excluded from most banking groups.** This is often due to a lack of legal clarity but also to an image risk that banks often do not wish to take by being associated with activities (often misleadingly) considered illegal. For this reason in particular, it will be necessary in the future to set up similar processes existing for other markets, allowing to **secure the financial aspect of the exchanges, and to fight against money laundering.**

As with other financial services, the insurance sector still offers little choice of policies able to offer services adapted to European cannabis players. Insurance companies currently have great difficulty entering this market segment for several reasons: **stigmatisation of cannabis, lack of knowledge of recent legal and economic developments, lack of experts to properly assess the risks of the market and thus reduce them, and finally an intrinsic difficulty in setting rates and establishing a support policy.**



5. An independent regulatory authority to ensure that control is regained

The specificity of cannabis, as well as the complexity of regulating its different uses, requires the establishment of an independent regulatory authority. Based on [the obligations of international conventions](#)²¹⁹, it is **advisable to set up a specific framework and an administrative culture in line with the specificities of this plant and the market that will be attached to it**. This option is necessary in order to avoid any attempt to regulate this market within inappropriate regulatory frameworks. The regulations surrounding the use, production and distribution of medical cannabis regularly highlight such cases²²⁰.

Unlike [tobacco](#)²²¹ and alcohol, **the regulation of cannabis markets represents an untapped regulatory potential**. Each country can start from scratch and introduce legal and regulatory frameworks that work in the best interest of the public and the local context, **without too much influence from entrenched economic actors**. As new reforms are introduced, it is important to **learn from the mistakes of the alcohol and tobacco**²²² regulatory set-ups. The current high levels of consumption of these legal drugs are indeed notably, the result of centuries of commercialised promotion, often in legal but largely unregulated markets.

[This independent authority](#)²²³ (a **crucial point in order to avoid the windfall effect of tax revenues from legalisation**) will be responsible for **managing business licences, supervising technical, advertising and health standards, and regularly evaluating the budgetary allocation of tax revenues** from regulation. *“This solution would have the advantage of limiting the public authorities’ appetite for tax revenues linked to cannabis and their capture by [the lobbies of the sector](#)²²⁴ that is sure to form.”* Representing considerable economic and industrial stakes, the financial manna of the market will have to be strongly supervised to avoid potential abuses, public or private wise. **By controlling the majority of the tax revenues from regulation, the independent authority will be able to promote prevention and education policies, as well as to support the transformation of the illicit economy into a legal zone.**

²¹⁹ “Obligations and flexibilities under European & international law: a path towards domestic cannabis adult-use regulation”, B.-A. Jeanroy, A. Bernard, K. Riboulet-Zemouli, Augur Associates white paper, p.30, April 2022.

²²⁰ “Facilitators and barriers to the regulation of medical cannabis: a scoping review of the peer-reviewed literature”, M. A. Ruheel, Z. Gomes, S. Usman, P. Homayouni & J. Y. N, Harm Reduction Journal, Vol^o18, (106), 2021; “An Evaluation of Regulatory Regimes of Medical Cannabis: What Lessons Can Be Learned for the UK?”, A. K. Schlag, Med Cannabis Cannabinoids, 3, p.76–83, 2020; “Medicinal cannabis policies and practices around the world”, S. Aguilar, V. Gutiérrez, L. Sánchez, M. Nougier, IDPC, MUCD, Briefing paper, 2018.

²²¹ “Cannabis control: the model of the WHO tobacco control treaty”, E. L. Engelsman, International Journal of Drug Policy, n^o14, p.217–219, 2003.

²²² “Cannabis regulation: Lessons from the illicit tobacco trade”, B. Gomis, IDPC, September 2021.

²²³ “Cannabis: How can we take back control?”, E. Auriol, P.-Y. Geoffard, Notes du conseil d’analyse économique, Vol^o52(4), p.1–12, April 2019.

²²⁴ “Controlling the legalized cannabis market in France – The founding example of the ARJEL”, C. Ben Lakhdar, J.-M. Costes, Terra Nova Report, 4 October 2016.

a → Earmarking of tax revenues

According to a study by the [French think-tank Terra Nova](#)²²⁵, 86.4% of public expenditure on cannabis would disappear in France with the disengagement of the police and the judiciary, while the State would, in the mid-term, collect several hundred million euros in taxes each year (in the event of legalisation, and not just decriminalisation). Consequently, although it is understood that **these taxes will have to be minimal at first to allow for the gradual changeover of the black market**, it will be necessary to **direct these tax revenues towards three key sectors: regulation, youth and social justice.**

It is possible to consider that for the EU as a whole, the savings in public expenditure on cannabis would be between 50% for the less repressive states and up to 85% for the more repressive ones (such as France). Thus, on average, it can be considered **possible to make an average of 65–70% savings on public spending on cannabis in the EU today if legalisation was on the table continental wide.**

In a public health context, the earmarking of tax revenues from the regulation of cannabis should be strongly considered, otherwise the positive impact of such a reform will be diminished. [In the United States](#), [all the states](#)²²⁶ that have implemented such a policy have set up a system for earmarking the tax revenues from this market, which are mainly allocated to social justice, the education sector and to prevention, [particularly directed at the youngest members of the public](#)²²⁷.

Between the savings in the costs of prohibition aimed at consumers and the new tax revenues, the legal regulation of cannabis generates [an important budgetary dividend](#)²²⁸. **While a variable and minority share of the new tax revenues should be reserved for law enforcement**²²⁹ to control the prohibition of sales to minors, –as well as to fight the remnants of the illicit market and the organised crime that runs it–, the majority of the tax revenues should be returned fairly:

- regulation of the market;
- prevention and education in the use of drugs, especially for young people;
- and finally to social justice policies, a sine qua non condition for the success of such a paradigm shift.

²²⁵ “Cannabis: Regulating the market to break the deadlock”, P. Kopp, C. Ben Lakhdar, R. Perez, Terra Nova Report, 19 December 2014.

²²⁶ For example, the states of Colorado and Washington collect between \$200 and \$300 million per year in taxes from the cannabis industry. See “Cannabis: How can we take back control?”, E. Auriol, P.-Y. Geoffard, Notes du conseil d’analyse économique, Vol°52(4), p.1-12, April 2019.

²²⁷ “The Public Health Framework of Legalized Marijuana in Colorado”, T. Gosh et al, AJPH, Perspectives from the Social Sciences, vol°106, No.1, p.21-27, January 2016.

²²⁸ “A Road Map to Recreational Marijuana Taxation”, U. Boesen, Tax Foundation, 9 June 2020.

²²⁹ “Cop Budgets Benefit from Cannabis Legalization, Sparking Backlash in ‘Defund the Police’ Era”, C. Roberts, Vice News, 16 December 2020.

b → Youth and problematic consumptions

The results of a [pan-European study by 2022](#)²³⁰ on cannabis consumption among 15–34 year olds between 1994–2017 seem to show that changes in legislation generally have only a marginal impact on the rates of prevalence among younger people. Nevertheless, unlike prohibitionist regimes which currently have only a limited influence on general consumption, **legal regulation of cannabis could put in place efficient public health measures targeting the most vulnerable groups and the most dangerous form of consumption.**

For this reason, minors and adults with problematic consumption should be the priority targets of the new reform's prevention measures, which will be financed in part by the revenue from the sale of cannabis, as for example the [State of Oregon](#)²³¹ does today. This reform will make it possible, in particular, to carry out prevention very early on in schools, and then to continue during secondary school, *“for example (...) by calling on the expertise of associations in the field, whose results could be regularly evaluated.”*²³²

i → Prevention

The [Icelandic model for reducing youth consumption](#)²³³ has proven to be robust. From 2009 to 2017, there was a decrease in the levels of alcohol consumption (42% to 5%), cannabis (17% to 7%), and tobacco smoking (23% to 3%). The rest of Europe could learn from this, especially by moving away from the obsolete prevention campaigns and measures that are still often used. **It is by talking objectively about the risks and benefits of consumption that prevention will regain credibility among young people whose perception of risk**²³⁴ **is unfortunately at its lowest level recorded regarding cannabis consumption.**

²³⁰ “Changes in cannabis policy and prevalence of recreational cannabis use among adolescents and young adults in Europe—An interrupted time-series analysis”, A. C. Gabri, M. R. Galanti, N. Orsini, C. Magnusson, *Pos One*, 12 January 2022.

²³¹ “The legalization of cannabis in the United States. Models of regulation and first assessment”, I. Obradovic, Note N°2021–1, (1st publication in March 2017 – update of note 2020–4), Paris, January 2021.

²³² “Cannabis: How can we take back control?”, E. Auriol, P.-Y. Geoffard, Notes du conseil d'analyse économique, Vol°52(4), p.1–12, April 2019.

²³³ “Iceland knows how to stop teen substance abuse but the rest of the world isn't listening”, E. Young, *Mosaic*, 17 January 2017.

²³⁴ “Drugs: perceptions of products, public policies and users”, S. Spilka, O. Le Nézet, E. Janssen, A. Brissot, A. Philippon, S. Chyderiotis, *Tendances*, OFDT, April 2019.

As we have seen, **the prevalence of consumption in the event of reform did not increase significantly in the North American states**, despite the fears repeatedly expressed by those in favour of the status quo. The heterogeneity of the results nevertheless reflects the diversity of the frameworks put in place as well as the contextual demands²³⁵. In particular the effects which are rather concentrated on the intensive part of demand but not on the extensive part, such as for **first-time consumption by young people, which would tend to decrease**²³⁶. These observations were confirmed by a **US federal study**²³⁷ on the first two years of legalisation of the adult markets in the states of Washington and Colorado (2014–2015). The study shows that **the prevalence of underage consumption has decreased by 12%, mainly due to the weakening of the black market which makes it more difficult for younger consumers to obtain supplies.**

ii → Education for use

The regulatory authority has an **essential role to play in making the population, especially the youngest, aware of the inherent risks and how best to reduce them.** This harm reduction policy requires **real education on how to consume drugs.** In addition to the media and schools, these awareness-raising activities should be integrated into physical and online distribution points, as well as on the product packaging itself.

The Canadian association Students for Sensible Drug Policy (SSDP) published in 2018 an ambitious report “**Sensible Education about Cannabis**”²³⁸ to accompany the legalization process in their country. Based on the collective output of numerous working groups involving young people, a consensus emerged among participants that there is a **lack of research-based and evidence-based educational tools in schools, in their families, in their communities and online.** These young audiences pointed to “**the need for education that prioritises the development of young people’s ‘cannabis literacy’**”²³⁹, *including evidence-based risk assessments and harm reduction principles.*”

²³⁵ The monitoring carried out in Canada at the time of legalisation, however, indicates a sharp increase in the number of users, but only among men aged 45 to 65.

²³⁶ Several studies have found no negative effects of decriminalisation on use among high school students and seem to confirm the small or non-existent effects on cannabis use among students. See: “Alcohol, Marijuana, and American Youth: The Unintended Consequences of Government Regulation”, J. DiNardo, T. Lemieux, *Journal of Health Economics*, vol°20, no.6, p.99–1010, 2001; “Changes in Undergraduates Marijuana, Heavy Alcohol and Cigarette Use Following Legalization of Recreational Marijuana Use in Oregon” D.C.R. Kerr, H. Bae, S. Phibbs, A.C. Kern, *Addiction*, Vol°112, no.11, p.1992–2001, 2017.

²³⁷ National Survey on Drug Use and Health (1971–2014): Summary of Methodological Studies, CBHSQ Methodology Report.

²³⁸ “Sensible Cannabis Education A Toolkit for Educating Youth”, Student for Sensible Drug Policy (SSDP), 2018.

²³⁹ “Cannabis literacy” refers to the knowledge and skills required to make informed choices about cannabis use. Young audiences described the need for conversations and education to begin earlier, and to contain appropriate content. They also emphasised the importance of creating content that contains the views of young people, including young users. See “Sensible Cannabis Education A Toolkit for Educating Youth”, Student for Sensible Drug Policy (SSDP), 2018.

In general, **the main aim of consumer education is to provide accurate information through objective resources, while developing critical judgement and appreciation skills to make the best choices for one's development.** This health-related knowledge is intended to **reduce the age of first consumption, as well as the inherent risks of consumption and overuse**²⁴⁰. The SSDP report puts forward 10 guiding principles, of which 3 can be highlighted:

- Science-based inclusive education.
- Dialogue between peers, but also with parents.
- Attention to the overlapping issues of racism, social justice and stigma.

Prior to local legalization, the state of New York in the United States launched **a three-month advertising campaign**²⁴¹, based on scientific evidence, to educate and prepare the general public for reform. Part of the effort is to **get rid of misconceptions, as there remains significant stigma surrounding the topic.** Ultimately, the campaign is outlining the risks and benefits, as well as educational tips such as safe storage at home.

²⁴⁰ "Focusing on abuse, not use, in drug education", T. Nicholson, D. F. Duncan, J. White, F. Stickle, *Addiction*, 18(6): 431-9, 2013.

²⁴¹ "New York to launch first cannabis education campaign", K. Rincon, *CBS News New York*, 4 April 2022.



c → Licensing of production and distribution

In California, large cannabis groups have weakened the anti-monopoly provisions in place by successfully lobbying for licence stacking, [thereby legally circumventing limits on the size of possible crops](#)²⁴².

²⁴²“Environmental Consequences of Prohibition: Lessons from California”, T. Silvaggio, Presentation made at the International Cannabis Policy Conference organised by FAAAT, 7–9 December 2018 in Vienna, 2018.

The regulatory authority will therefore be responsible for the issuing of production and distribution licences. Although it is specified that it was preferable not to **put a numerus clausus on these licences** (which does not mean that these activities cannot be limited, for example in terms of the size of the authorised area), it will be necessary to provide **more specific support in the regulatory and financial procedures for the small hands of the illicit traffic and the inhabitants of the neighbourhoods where open dealing is rife today, in order for them to be able to take an active part in the legal market.** This non-restriction of the number of sales outlets or producers will make it possible to attack the black market head-on. For all the players, **these administrative procedures must be financially accessible and be able to be carried out within a reasonable timeframe.**

i → Production

Leafly’s [“Cannabis Harvest Report”](#)²⁴³, examined in 2021 the *“farm licences and production in the 11 states where legal adult-use shops are open and operating”*, and have found that in these US states, cannabis supports 13 042 licensed farms, having harvested 2 278 metric tonnes of cannabis in 2020 that earned \$6 175 million for US farmers (about €5,781 million).

²⁴³“Leafly Cannabis Harvest Report 2021 Meet America’s 5th most valuable crop”, David Downs and Bruce Barcott, with Beau Whitney, and contributors Amelia Williams and Zack Ruskin, Leafly, November 2021.

This “ranks cannabis as the fifth most valuable crop in the United States”, behind corn (€57.11 billion), soybeans (€43.1 billion), hay (€16.2 billion) and wheat (€8.71 billion), but ahead of cotton (€4.4 billion), rice (€2.9 billion) and peanuts (€1.22 billion). **The report indicates that in five of these states – Alaska, Colorado, Massachusetts, Nevada and Oregon – cannabis is the most valuable agricultural product of all crops.**

Because it represents such a significant financial windfall while being backed by a potentially addictive product, the European Social and Solidarity Economy (SSE) sector²⁴⁴ seems today to be the best placed to both respond competitively to the enormous need of the millions of consumers [estimated in Europe](#)²⁴⁵, while allowing a structure capable of **avoiding the pitfalls of mercantilism which are detrimental to public health. If European farmers are to be free to experiment with different production methods, **adherence to the rules of organic or living soil production should be fiscally encouraged.****

Following the sanitary and phytosanitary standards of other agricultural products, cannabis production could be controlled by setting up **a system of tracing from seed to consumer.** A system of **subsidies for analyses will have to be designed in order to allow everyone access to product control at the various links in the production chain.** In the medium term, the regulatory authority could also **set up its own analysis units** in order to ensure optimal price reduction and quality control throughout the production and processing chain. Indeed, legalisation *“must learn from these mistakes and **not strangle producers with costly and abusive regulations that would form a strong barrier to entry for small producers**²⁴⁶.”*

In the U.S., attempting to get the required information about licensing and application fees of any particular state can sometimes be overwhelming. While some jurisdictions make it easy to access information about their fees, others turn out to be painstakingly difficult to find through several website pages. A [recent article](#)²⁴⁷ highlights the licensing and application fees for cannabis cultivation businesses within cannabis legalised states (medical and non-medical).

Jurisdictions that have opted for [a public monopoly of production](#)²⁴⁸ (e.g. Uruguay and Quebec) have immediately had to face **major structural problems**, notably stock-outs. It will therefore be necessary to **avoid any quota on the volume of production or the number of licences (*numerus clausus*) in order to effectively dry up the black market** from day one. The process of obtaining this licence must be easy and accessible financially and in time.

²⁴⁴ See: “Transformative Policies for the Social and Solidarity Economy: The New Generation of Public Policies Fostering the Social Economy in Order to Achieve Sustainable Development Goals. The European and Spanish Cases”, R. Chaves-Avila, J. R. Gallego-Bono, Sustainability, Vol^o12(10), p.4059, 2020; “Solidarity Economy in Europe: an emerging movement with a common vision”, J. Nardi, Solidarius Italia / RIPESS Europe coordinating committee, 2018; “Social and Solidarity Economy and the Future of Work”, C. Borzaga, G. Salvatori, R. Bodini, Journal of Entrepreneurship and Innovation in Emerging Economies, Vol^o5, Issue 1, 28 January 2019; “Social economy in the EU”, European Commission, Internal Market, Industry, Entrepreneurship and SMEs, Social economy in the EU, 2022; “Sustainable and Solidarity Economy SUSY”, Solidarity Economy, 2016; “Global Action: Promoting Social and Solidarity Economy Ecosystems”, OECD, 2022.

²⁴⁵ “Prevalence of cannabis use in the last year in Europe as of 2019, by country”, Statista, 2021.

²⁴⁶ “For a free cannabis market in France”, K. Brookes, E. Hesse, GenerationLibre Report, January 2021.

²⁴⁷ “How Much Does It Cost to Get a License and Grow Legal Weed? The State-By-State Guide to Cannabis Cultivation Licensing Fees”, C. Chiara, Cannabis.net, 13 May 2022.

²⁴⁸ “Bigger is Not Better: Preventing Monopolies in the National Cannabis Market”, S. Title, Ohio State Legal Studies Research Paper No.678 Drug Enforcement and Policy Center, 2022.

It is also important to note that in terms of so-called “recreational” consumption, medical cannabis companies are not the most legitimate actors to influence future regulations on the conditions of production and transformation for the adult-use market. Indeed, the difference between these two markets lies not only in their distinct production and distribution processes, but in their very *raison d’être*.

The former exists to meet the therapeutic needs of patients; the latter to overcome the illicit market. While the former needs to some extent to be regulated by pharmaceutical rules, packaging the latter in the same way shows a **profound misunderstanding of the adult-use market and what its consumers are looking for (and will be willing to pay for²⁴⁹)**. Most of the current medical cannabis companies are not able to produce cannabis that can **compete in quality²⁵⁰** with what is available on the street, even if it could be considered “cleaner”.

By definition, pharmaceutical quality production tends towards stabilisation and reproducibility, and a limited supply of varieties. This is exactly the opposite of what an adult-use market needs. **Under the guise of quality and safety concerns, the influence of medical stakeholders is often used as a front to hide the defence of financial and commercial interests.** Above all, it is a **hindrance to the right to cultivate** – thus preventing the success of a legal regulatory reform from the outset. It is a **basic principle of public drug policy: if you don’t regulate properly to meet demand, the illicit markets will do it for you.**

ii → Distribution

Similar to the legal production of adult-use cannabis, **distribution should be open to all, without arbitrary limitations on the number of outlets or their geographical location.**

The operating licence should also be inexpensive and easily accessible for smaller players, which is essential in the **context of the transition from an informal to a legal sector**. In addition to the prevention measures implemented, licences may be conditional on the **training of commercial staff in contact with the public**, on basic knowledge of the subject, and on harm reduction.

²⁴⁹ “Characteristics that influence purchase choice for cannabis products: a systematic review”, J. Donnan, O. Shogan, L. Bishop, M. Swab, M. Najafizada, *Journal of Cannabis Research*, Vol°4(9), 2022.

²⁵⁰ “The Good, the Bad, and the Ugly Weed: How Consumers in Four Different Policy Settings Define the Quality of Illicit Cannabis”, V. Belackova, *Contemporary Drug Problems*, Vol°47(1), p.43–62, 20 January 2020.

One of the problems observed, for example, in the city of Barcelona regarding the licensing of social clubs, concerns [the zoning of these activities](#)²⁵¹. These translate by different regulations as the rule of “non-disturbance of the public” (not to be seen, not to be heard, not to be smelled), the obligation to be located on the ground floor, from 100 m of schools and health centres, etc. Under the guise of security concerns, these obligations have resulted in the impossibility for new actors to operate, while creating a market for the resale of clubs/licences where prices reach dizzying heights. **This has facilitated the gradual takeover of these clubs by organised crime, gradually distracting them from their non-commercial nature.**

On the other side of the Atlantic, one of the advances of the Canadian model has been to [strengthen the mandatory minimum penalties for sales to minors](#)²⁵², a provision that is consistent with the objective of youth protection. Thus, an employee of a cannabis retail shop who fails to identify a minor and sells cannabis to him or her is liable to a heavy fine and several years’ imprisonment. **This prohibition also applies to the promotion of cannabis to young people, the creation of attractive packaging or marketing to young people, or the sale of cannabis in a “self-service” format (where people help themselves) or in vending machines.** These provisions may be adapted by European countries wishing to set up a project to regulate their adult market.

The California Department of Cannabis Control has recently published [an interactive tool](#)²⁵³ to notably help consumers find legal dispensaries in order to build up the transparency and viability of the California cannabis industry. This tool could also help counties and cities that have refused to allow cannabis businesses to realise that **by prohibiting sales in their jurisdictions, they have only created more economic and social disparities, while allowing illegal actors to thrive.**

²⁵¹ «Ley 13/2017, de 6 de julio, de las asociaciones de consumidores de cannabis.» Comunidad Autónoma de Cataluña “DOGC” núm. 7411, de 13 de julio de 2017 “BOE” núm. 187, de 7 de agosto de 2017 Referencia: BOE-A-2017-9367, Boletín Oficial del Estado, 6 July 2017.

²⁵² “6.2 Mandatory Minimum Penalties for Particular Drug Offences under the Controlled Drugs and Substances Act”, Public Prosecution Service of Canada, Guideline of the Director Issued under Section 3(3)(c) of the Director of Public Prosecutions Act, 3 March 2020.

²⁵³ “Where cannabis businesses are allowed”, Department of Cannabis Control, Government of California, 2022.

iii → Security issues

With the legal regulation of adult consumption and the resulting increased compliance considerations, **significant security issues**²⁵⁴ **are emerging**, highlighted by the processes underway in the Americas (**armed robberies, break-ins, etc**²⁵⁵). These reforms show that it is **extremely important to protect staff and products at every stage of the process** (vulnerabilities exist at each stage of production, distribution and retailing), and that **a range of solutions for managing payments, including cash**, is needed.

In addition to digital security systems, physical security services may also be required, most often for retail establishments, as well as for the transportation of goods. Ultimately, **cannabis security requires secure storage of the product**. The general idea is that stock (outside of samples) should almost always be kept under lock and key, regardless of where it is located on a company's premises.

Cannabis businesses must also **incorporate trained personnel and comprehensive security procedures for all stages of the supply chain**, including laboratories, master wards, greenhouses, distribution centres and retail outlets. The integration of tested protocols and rigorous training ensures that all entry and exit points are secure and that the movement of people and goods is managed to the highest standards. In addition, with continuous tracking tools, cannabis businesses may be able to track shipments from door to door so that rapid response plans can be deployed in the event of an emergency such as an attempted robbery.

²⁵⁴“The Complete Guide to Cannabis Security”, M. Pawlowski, Medlinic, 9 July 2019.

²⁵⁵“The Acceleration Of Cannabis Legalization Is Creating Jobs For Veterans As Armed Security Guards”, A. Smith, Forbes, 1 July 2021.



d → Monitoring and evaluation mission

The regulator’s control over production should not mean rationing production. Rather, it is a matter of monitoring that the volumes released are those actually grown. In addition, it will be necessary to strengthen statistical monitoring of the market, thus making it possible to obtain detailed and more regular knowledge of its evolution and that of consumption, and to envisage the evolution of the market and its regulation.

Figure 26: Monitoring of the Authority

Consumption	Production	Distribution
<ul style="list-style-type: none"> → Forbidden for under 18s → Consumption prohibited in public places → Consumption allowed in dedicated indoor / outdoor spaces → Self-cultivation allowed: 6 plants per person, double per household. 	<ul style="list-style-type: none"> → Operated by the private sector via a flexible licensing system, without numerus clausus, and which will be made easier to obtain for “legacy” → Controlled by the regulatory authority which will ensure compliance with health regulations → Seed-to-consumer tracing system → Production allowed in the private setting of a social club and for non-commercial purposes → Direct sale to consumer allowed for micro-producers 	<ul style="list-style-type: none"> → Operated by the private sector under a flexible licence, favouring SSE structures and respecting health and environmental standards → No numerus clausus, with easy access to “legacy” → Systematic age verification of clients (open to all legal adults) → Online sales with authorised and regulated delivery → No limitation on product type or cannabinoid concentration → Regulated advertising, including a neutral and discreet frontage, accompanied by an identifying logo, on the model of tobacco shops

i → Production

In the U.S., cannabis cultivators have witnessed major developments in a few short years. The rapid evolution of academic research, government regulation, and production scale have provided generational opportunities, while complicating the path to profitability for many producers. The cost-effective cultivation of protected crops often requires long-term investments in infrastructure, research, and personnel. **For cannabis producers there**²⁵⁶, this investment usually entails millions of dollars in outlay and several years for large-scale project development.

In countries such as France, Malta and Spain, where resin has long dominated the market, small-scale growers and consumers are gradually moving away from low-quality, standardised cannabis by-products, opting instead **for niche organic ones**²⁵⁷. This trend is not limited to cannabis cultivation and is driven by a strong desire to control production conditions by **favouring short supply chains**. In the case of cannabis, this development can be attributed to a number of factors, including improvements in cultivation techniques, new varieties more suitable for different types of cultivation, and the wealth of information and expertise available online. As a result, many cannabis consumers are no longer dependent on **traditional supply channels**²⁵⁸.

i.1 → The right to self-production

Following the example of the set of regulatory models in place around the world, it remains fundamental to legalise the self-production of cannabis for personal consumption. **Self-production is defined**²⁵⁹ as *“cultivation for personal use, in the private sphere: an activity which, as a matter of fundamental rights, cannot be prohibited or even subject to legislative action, as long as the activity is limited to the private sphere – like the self-production of other medicinal plants (chilli, camomile, etc.) or even tobacco, which are not subject to specific quality regulations.”*

²⁵⁶ “8 Factors Shaping the Future of Cannabis Production”, S. Marwell, Green House Grower, 9 December 2021.

²⁵⁷ “Changes in the cannabis market in France. products, supplies, new practices”, M. Gandilhon, S. Spika, C. Masson, Ofdt, Thema OFDT, July 2019.

²⁵⁸ “Beyond ghosts, gangs and good sorts: Commercial cannabis cultivation and illicit enterprise in England’s disadvantaged inner cities”, C. Ancrum, J. Treadwell, Crime, Media, Culture: An International Journal, Vol°13(1), p.69–84, 1 April 2017.

²⁵⁹ “Tomorrow, Cannabis Social Clubs. Social innovation, solidarity economy model, and health safeguards for the regulation of cannabis in France” K. Riboulet-Zemouli, F. Ghehiouche, FAAAT editions, January 2021.

Beyond this **primordial question of public freedom**²⁶⁰, authorising this practice will make it possible to **bring the European citizens practising it back into the law**, at the risk of seeing this precarious situation continue. This situation has notably been exacerbated by **the COVID-19 health crisis**²⁶¹. It is therefore possible to draw inspiration from foreign regulations that have been able to regulate this practice, such as the State of Colorado (up to 6 plants per person and 12 plants per household), or Uruguay (up to 480 grams of cannabis per person per year). As well as **implementing safe health considerations**²⁶² for this practice, both for the consumer and for society.

i.2 → Heritage & diversity: bringing the cannabis *terroir* to life

Due to prohibition (which causes a quest for ever higher and more effective levels of intoxication), the global cannabis gene pool lacks variety, as primary strains (“**landraces**”²⁶³) have mostly been selected exclusively for THC dominance. In a post-prohibition world, strains should have a greater variety in their cannabinoid and terpene profiles; CBD, CBG and CBN being just as important as THC. This is not to say that high-THC strains would not remain popular, but they would no longer be the only option. This diversity would also change the collective unconscious representation of cannabis consumption. It would no longer be synonymous with inebriation alone. Of the more than one hundred cannabinoids, only a handful are indeed psychotropic, while most have more subtle effects. This development would make it possible to customise consumption in the way that best suits the desired health and lifestyle objectives of consumers.

Similarly, **when drinking, alcohol consumers do not look for grapes produced under EU-GACP**²⁶⁴ **certification and distilled into wine in EU-GMP facilities**²⁶⁵. Consumers will be interested in grape variety, land, Designations of Origin and other quality indicators; perhaps an organic label, or the year of production. For an equally sophisticated cannabis market (although cannabis has **a lower safety profile than alcohol**²⁶⁶) **consumers will pay attention to genetic information and lineage of cultivars, quantified presence of cannabinoids and terpenes, how and where it is grown, but increasingly also whether it is grown locally, sustainably and organically, and thus progressively to *terroir***²⁶⁷.

²⁶⁰“Farmability and pharmability: Transforming the drug market to a health–and human rights–centred approach from self–cultivation to safe supply of controlled substances”, F. Pitter Steinmetz, M. Kohek, Drug Science, Policy and Law, Vol°8, 3 May 2022.

²⁶¹“Home–grown cannabis: how COVID–19 has fuelled a boom around the world”, G. potter, The Conversation, 10 March 2021.

²⁶²“Growing at home: health and safety concerns for personal cannabis cultivation”, A. Eykelbosh, L. Steiner, National Collaborating Centre for Environmental Health, March 2018.

²⁶³“What are cannabis landrace strains?” E. Earlenbaugh, The Cannigma, 2 December 2021.

²⁶⁴ EU Good Agricultural and Harvesting Practices (for the pharmaceutical market).

²⁶⁵ European Union Good Manufacturing Practice (for the pharmaceutical market).

²⁶⁶“What is the most dangerous drug?” The Economist, 25 June 2019.

²⁶⁷“Terroir”, ScienceDirect, Agricultural and biological sciences, 2022; “What is terroir? A beginner’s guide”, A. Capurso, Win and other Stories, 2022.

The genetic diversity of the cannabis plant is one of its most important assets. For this reason, it is necessary, as soon as legalisation is introduced, to **protect the heritage of European countries and the genetic diversity of the plant from continental and overseas territories.** French researcher [Pierre Arnaud Chouvy](#)²⁶⁸, explains that the cannabis *terroirs* existing today *“have been determined and delimited less by biological or environmental factors than by prohibition, the ‘war on drugs’ and deficits in political and territorial control. Cultural inclinations (Afghanistan, India, etc.) and prejudices (Western world) have also played an important role*²⁶⁹. For example, **cannabis-growing areas have long been, and still are for the most part, illegal areas, and as such have not enjoyed the same reputation as other areas, because cannabis and its growers have often been discredited (racism, violence, disregard for subcultures, etc.) and because the growing areas are often considered unsafe. It is therefore understandable why cannabis terroirs, being illegal, have not yet been recognised as terroirs.”**

The effects of a cannabis product are determined by the chemovar of the plant²⁷⁰, which is influenced by its genetic profile (especially its cannabinoid and terpene diversity and levels). As we have seen, for a long time cannabis was divided into two sub-varieties: [indica and sativa, but the relevance of these two sub-varieties has been lost](#)²⁷¹ as a result of human genetic cross-breeding. It is therefore necessary today for the industry and consumers to **focus on identifying the genetic profiles of cannabis products in order to allow for informed personal experience and research towards specific needs.**

Researcher Kenzi Riboulet-Zemouli alerted the [French National Assembly’s Mission of Information](#)²⁷² to **“the risks of biopiracy and misappropriation of traditional knowledge”, which exist wherever cannabis has been endemic** for decades or even centuries, acclimatising to specific ecosystems and local crops. These areas can be seen on Figure 27.

²⁶⁸ “Why the concept of terroir matters for drug cannabis production”, P.-A. Chouvy, GeoJournal, January 2022.

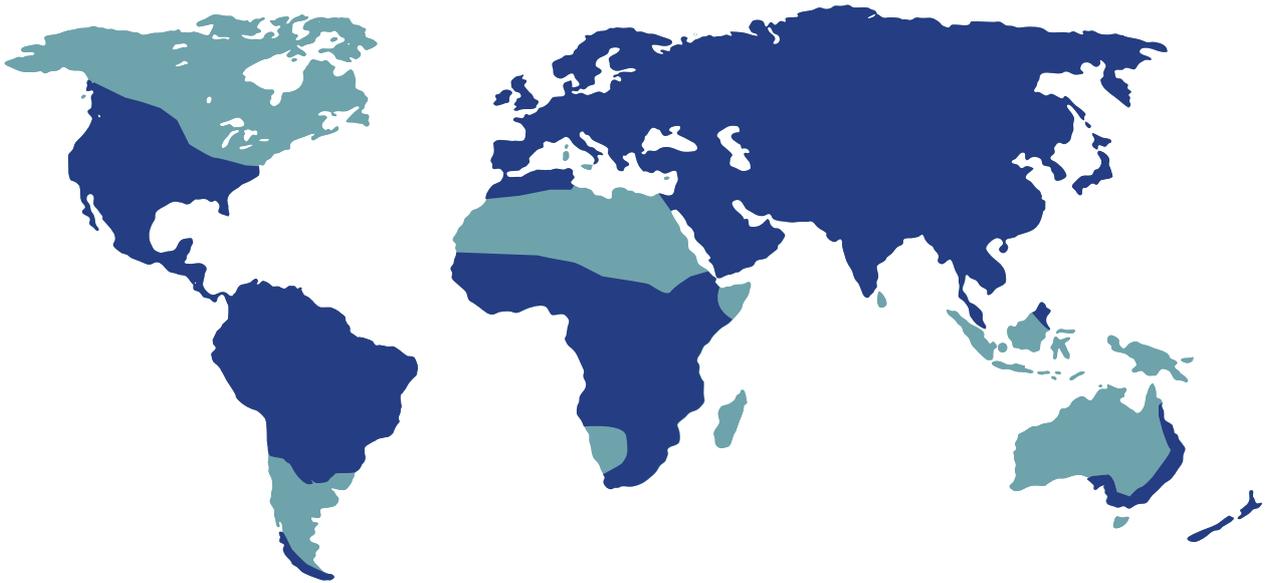
²⁶⁹ “Territorial control and the scope and resilience of cannabis and other illegal drug crops”, P.-A. Chouvy, Special issue of EchoGeo on cannabis edited by P.-A. Chouvy, EchoGeo, n°48.

²⁷⁰ A chemovar refers to the unique chemical composition of a plant, in this case Cannabis.

²⁷¹ “Indica and Sativa are Dead: The Quest for a New Cannabis Classification System”, True Terpenes, 9 March 2022.

²⁷² “Cannabis, Social Clubs, Biodiversity, Nagoya Protocol, Appellations of Origin: Contribution to the National Assembly”, K. Riboulet-Zemouli, March 2021.

Figure 27: Where Cannabis cultivation has centuries of history



Source²⁷³: Annual Review of Plant Biology, 2020

As can be seen, cannabis is endemic to all five continents²⁷⁴, and in particular has been present in Europe for millennia and cultivated at least since late prehistoric times. However, it is particularly in the intertropical areas – where a large part of the overseas territories of European countries (France, Netherlands, UK, Spain, Portugal) are located – that the greatest risk of biopiracy and bioprospecting malpractice exists²⁷⁵, “prejudicing the rights and future development of the local populations that have maintained, preserved and passed on from generation to generation this ancestral knowledge and practice, as well as endemic Cannabis varieties (which are often referred to as “landraces”²⁷⁶), varieties that often exhibit atypical phytocannabinoid and terpene profiles. **These particular phytochemical profiles are a goldmine for medical research and development.** Landraces are also sources of varieties used for food or fibre.”

Ultimately, Pierre-Arnaud Chouvy²⁷⁷ observes that “the recognition and protection of cannabis terroirs and landraces are at least as important as for other crops, because”:

- they promote the conservation and promotion of biological, cultural and sensory (taste, etc.) diversity;
- they give diversity a chance in a consumer market mainly defined by standardisation and commoditisation²⁷⁸;
- they promote low-input, low-carbon farming systems;

²⁷³“What are cannabis landrace strains?”

Aggregations of data from: “The Genomics of “Cannabis” and Its Close Relatives”, I. Kovalchuk, M. Pellino, P. Rigault, R. van Velzen, J. Ebersbach, J. R. Ashnest, M. Mau, M. E. Schranz, J. Alcorn, R. B. Laprairie, J. K. McKay, C. Burbridge, D. Schneider, D. Vergara, N. C. Kane, T. F. Sharbel, Annual Review of Plant Biology, Vol^o71(1), 2020.

²⁷⁴“Cannabis cultivation in the world: heritages, trends and challenges”, P.-A. Chouvy, EchoGéo, 48, 2019.

²⁷⁵“Cannabis, Social Clubs, Biodiversity, Nagoya Protocol, Appellations of Origin: Contribution to the National Assembly”, K. Riboulet-Zemouli, March 2021.

²⁷⁶“What are cannabis landrace strains?” E. Earlenbaugh, The Cannigma, 2 December 2021.

²⁷⁷“Why the concept of terroir matters for drug cannabis production”, P.-A. Chouvy, GeoJournal, January 2022.

²⁷⁸“The nature and value of terroir products”, S. Charters, N. Spielmann, B. J. Babin, European Journal of Marketing, 51(4), 748–771, 2017.

- they make ecologically coherent farming systems possible;
- they make small-scale farming (and indeed large-scale farming) more financially viable;
- they value and respect geohistorical specificities, traditions and heritages (varieties developed in isolated areas partly because of prohibition), without denying progress and economic development.

i.3 → Towards a regenerative culture horizon

A recent study²⁷⁹ compared the nutritional content of crops grown using conventional versus regenerative farming practices — those that build the soil by using cover crops, a diverse rotation of crops, and minimal tilling. It was found that raw product grown on the regenerative farms contained, on average, more magnesium, calcium, potassium and zinc; more vitamins (including B1, B12, C, E and K), and more phytochemicals. *“Most notably, soil health appears to influence phytochemical levels in crops indicating that regenerative farming systems can enhance dietary levels of compounds known to reduce risk of various chronic diseases.”*

The core principle of **regenerative farming**²⁸⁰ is summarised as **“closing the loop”**²⁸¹, i.e. **trying to reuse or recycle resources in as many stages of the cannabis plant’s life cycle as possible and ultimately trying to lower carbon footprint**²⁸² in any way possible. The upfront cost of starting such a system can be steep, but the benefits could be worth it in the mid to long run. For outdoor and indoor cultivators, that includes notably:

- **Using living soil**²⁸³ that doesn’t require added nutrients: making sure it is replete with microorganisms, compost and all the key ingredients for growing healthy plants.
- **Crop rotation for outdoor growth**: for example with plant legumes in the fields that are not planted with cannabis. Rotating crops allows the soil to replenish nutrients that one type of plant depletes and can **reduce the need for adding fertiliser**²⁸⁴.
- **Capturing wastewater** for reuse.

²⁷⁹ “Soil health and nutrient density: preliminary comparison of regenerative and conventional farming”, D. R. Montgomery, A. Biklé, R. Archuleta, P. Brown, J. Jordan, PeerJ 10, 27 November 2021.

²⁸⁰ “How regenerative farming can help cannabis growers boost sustainability”, B. Schaneman, 12 March 2022.

²⁸¹ “Some outdoor marijuana growers finding success using all-natural, ‘closed-loop’ approach”, MJBiz Daily, 17 September 2021.

²⁸² “How cannabis growers can use no-till methods to reduce carbon footprint”, B. Schaneman, MJBiz Daily, 21 April 2022; “How cannabis growers can use cover crops to reduce their carbon footprint, save money”, B. Schaneman, MJBiz Daily, 6 April 2022.

²⁸³ “How living soil can reduce marijuana growers’ impact on the environment”, B. Schaneman, MJBiz Daily, 24 March 2022.

²⁸⁴ “Sustainable marijuana fertilizer options as prices rise for key nutrition providers”, L. Drotleff, MJBiz Daily, 17 February 2022.

- **Reducing energy consumption**²⁸⁵ in an indoor grow or greenhouse through the use of cooler, outside air to lower the temperature, and **LED lights**²⁸⁶.
- Incorporating an integrated **pest-management system** through the use of certain insects, mites and organisms.
- Using **eco-friendly packaging**²⁸⁷ and **eliminating plastic use**²⁸⁸.

In regard specifically to indoor and greenhouse growing operations, being fully regenerative is not an easy task. One challenge, for example, is that many growers want to use crop steering in greenhouse operations, where specific nutrients are added to plants at certain times of the day. But a grower using regenerative practices trying to reuse irrigation water might not know exactly how much fertiliser remains in the reclaimed water. Therefore, the fertigation process is less precise. It is recommended therefore that indoor growers who want to reduce their energy use should consider **free cooling**²⁸⁹, a term that means using cooler outside air to regulate indoor temperatures. Caution is advised though, as outside air can contain contaminants such as mould. In such case, growers will often use a **Minimum Efficiency Reporting Values**²⁹⁰ (MERV)-rated filter to keep out the contaminants in fresh air.

With cannabis growth being such a resource-intensive crop, making regenerative farming a priority could represent a sensible option for companies, **even if it seems not to make the most sense financially in the short term, there are ways to reduce costs**²⁹¹.

i.4 → Promoting craft skills through micro-production licences

The conceptualisation of a cannabis craft implies favouring the production of raw and manufactured products with a high attention to quality and attention to detail, usually associated with smaller-scale production, the use of appropriate and/or labour-intensive cultivation, drying and processing methods, and a strong focus on cultivar selection and the consumer experience.

²⁸⁵“Best practices for cannabis growers seeking to reduce energy use”, B. Schaneman, MJBiz Daily, 23 February 2022.

²⁸⁶“Lighting considered key to making cannabis cultivation operations more sustainable”, B. Schaneman, MJBiz Daily, 9 February 2022.

²⁸⁷“Opinion: Let the cannabis packaging sector lead the way out of an environmental tragedy”, D. Estoque, MJBiz Daily, 11 May 2022.

²⁸⁸“Tips for reducing and eliminating plastic use in cannabis cultivation”, L. Drotleff, MJBiz Daily, 25 January 2022.

²⁸⁹“6 Myths About Cooling Your Cannabis Grow Room”, S. Keen, Maximum Yield, 3 July 2017.

²⁹⁰“A building Opportunity: Energy efficiency best practices for cannabis grow operations”, N. Kolwey, Southwest Energy Efficiency Project, December 2017.

²⁹¹“3 tips for making a cannabis grow operation sustainable without breaking the bank”, B. Schaneman, MJBiz Daily, 26 January 2022.

In the future global adult-use cannabis market, **high quality and sustainable products**²⁹² could represent a favourable path for European countries. These products would be differentiated mainly in terms of quality and rarity, rather than availability and price. Similar to the **alcohol**²⁹³, food and beverage sectors, there is indeed **a proven demand for local and high quality cannabis products**²⁹⁴.

A few years ago, the Canadian cannabis market was still entirely dominated by **large licensed producers**²⁹⁵, mainly from the medical cannabis market (about 70% of the market share). By 2022, this share had fallen to **less than 30%**²⁹⁶, due to an increasing number of artisanal growers with a greater emphasis on quality and cultivation techniques. Several **US jurisdictions**²⁹⁷, including **California**²⁸⁸, **New Mexico**²⁹⁹, **Massachusetts**³⁰⁰ and **Michigan**³⁰¹, also offer 'microbusiness' licence. In **New Jersey**³⁰², for example, 25% of all cannabis licences must be issued to microbusinesses.

These craft products mainly integrate **5 transversal dimensions**³⁰³:

- **Attention to detail:** microculture allows the grower to be personally involved at every phase of the growth process.
- **Sustainable practices:** organic, open-air, pesticide-free farming not only saves energy and reduces the ecological impact on the environment, but simply produces better taste and effects.
- **High-quality end product:** manual cutting and trimming preserves the trichomes, thus maintaining the full spectrum potential of the plant.
- **Strong social responsibility:** small-scale farmers usually rely on neighbouring business relationships, which creates jobs and local economic activity.
- **Artisanal branding:** traditional yet sustainable and sophisticated packaging can appeal to different types of consumers.

These micro-productions generally require less capital and the associated licensing fees should be lower, due to restrictions on facility size, plant development and/or production. While "small" is not automatically synonymous with artisanal, **micro-licences are generally seen as a tool to encourage diversity in the sector by facilitating the transition of expertise from black/grey markets to legal markets.**

²⁹² "Top of the pot: the cannabis growers cornering the luxury market", T. Darke, The Financial Times, 28 April 2021.

²⁹³ Wine, for example, has been around almost as long as cannabis, with evidence of fermented grape-based beverages dating back 6 000 years (See: "Early Neolithic wine of Georgia in the South Caucasus", P. McGovern, M. Jalabadze, S. Batiuk, M. P. Callahan, K. Smith, G. R. Hall, E. Kvavadze, D. Maghradze, N. Rusishvili, L. Bouby, O. Failla, G. Cola, L. Mariani, E. Boaretto, R. Bacilieri, P. This, N. Wales, D. Lordkipanidze, Proc Natl Acad Sci U S A., Vol°114, (48), p°E10309-E10318, 28 November 2017). See: "Reimaging weed: what if cannabis was treated like wine?" J. Reilly, Cannigma, 4 May 2022.

²⁹⁴ "How large Canadian cannabis producers are leveraging small-batch craft cultivation", M. Lamers, MJBiz Daily, 7 January 2022.

²⁹⁵ "Small Changes In Canadian Market Share Are Creating Major Ripples Across Canadian Licensed Producers", M. Berger, Technical 420, 17 February 2022.

²⁹⁶ "Licensed area market data", Health Canada, 2022.

²⁹⁷ "States escalate microbusiness cannabis licences as 'hedge' against MSOs", J. Smith, MJBiz Daily, 17 December 2021.

²⁹⁸ "High cost of business: Small-plot cannabis grower struggles to prevail", W. Roller, The Union, 29 July 2021.

²⁹⁹ "New Mexico Cannabis Control Division announces two micro-producers received approval for licenses", M. Narvaiz, The Business Journals, 16 December 2021.

³⁰⁰ "Inside A Family's Quest To Be First Cannabis Microbusiness In MA", N. McNamara, Patch, 17 Jan 2020.

³⁰¹ "How Michigan hopes to make small marijuana business ownership more accessible", G. Burns, Michigan Live, 26 September 2021.

³⁰² "Will There Be a Craft Marijuana Industry in New Jersey?", W. J. Beneduce, The National Law Review, 14 May 2021.

³⁰³ "The Allure of Craft Cannabis to Investors", I. Ghosh, Visual Capitalist, 13 June 2019.

Countries wishing to support small-scale operators can do so in a number of ways, including **policies that allow “farmers’ markets/micro-producers”, as well as “canna-tourism”, such as retail sales and on-site consumer shows directly at the place of production.** As we shall see, it is also advisable to establish regional or geographical indicators for cannabis products, rooted in the concept of “terroir”. *Terroir* is used, for example, in **wine making**³⁰⁴ to best capture the flavours and processes associated with products from a particular region.

i.5 → Access and Benefit Sharing (ABS): a necessary protection

As of today, and even more so if legalisation is implemented in one or more European countries, it would be possible to **protect these varieties, as well as this traditional knowledge and know-how via ABS (Access and Benefit Sharing)**³⁰⁵. These provisions stem from the use of genetic resources and traditional knowledge, which is integrated into the UN **Nagoya Protocol**³⁰⁶, in force since 2017 in the European Union with the ratification of **the Convention on Biological Diversity**³⁰⁷. This protocol **prevents biopiracy and protects cultural and agricultural treasures in many sectors**³⁰⁸.

ABS is a major vector of development for the local populations that provide genetic material. Europe is particularly concerned by the overseas territories of some of its Member States. While the continent is the cradle of traditional hemp varieties and knowledge, the varieties with a higher THC content **concerns above all the national territories in the overseas territories** (particularly in the West Indies or in the Indo-Pacific area, see Figure 28), as well as a large number of territories with which Europe shares a common history, notably the former colonies in Asia or Africa. **For example, if Morocco were to hypothetically announce a forthcoming reform of its non-medical cannabis legislation, an EU-Moroccan relationship incorporating ABS around cannabis will become essential.**

³⁰⁴“European Adult-Use Cannabis Markets Should Follow A Wine – Not Pharmaceutical – Pathway”, B. A. Jeanroy, BusinessCann, 18 January 2022.

³⁰⁵“Focus on ABS (Access and Benefit-Sharing)”, Foundation for Biodiversity Research, 2017.

³⁰⁶“The Nagoya Protocol on Access and Benefit-sharing”, Convention on Biological Diversity, 2022.

³⁰⁷“The Convention on Biological Diversity”, Convention on Biological Diversity, 2022.

³⁰⁸The Nagoya Protocol aims to make the use of genetic resources subject to 3 conditions: 1) Obtaining prior informed consent before any prospecting or collection; 2) Payment of monetary and/or non-monetary compensation (cooperation, research, development); 3) Reinvestment in the conservation and sustainable use of biodiversity. See “Cannabis, Social Clubs, Biodiversity, Nagoya Protocol, Appellations of Origin: Contribution to the National Assembly”, K. Riboulet-Zemouli, March 2021.

Figure 28: Overseas countries and territories (OCTs) and outermost regions (ORs) of the EU



Source³⁰⁹: *European Integration and Postcolonial Sovereignty Games. The EU Overseas Countries and Territories, 2017*

i.6 → Protected designations

In addition to the passive protection offered by the Nagoya Protocol, it is **essential to deploy a proactive sustainable development strategy**. To use the **Capsicum analogy**³¹⁰, **Appellations/Designation of Controlled / Protected Origin**³¹¹ and **Protected Geographical Indications (PGI)**³¹² can represent relevant tools to **enhance the market value of “quality, specificities, organoleptic properties linked to the origin and to traditional cultivation and/or processing practices.”**

The situation is paradoxical: Europe – France being the originator of the concept in particular – is the generator of AOCs and the protection of local agronomic heritage. These concepts are now becoming the inspiration for the most developed cannabis industry in the world, located in the state of California. On the west coast of the United States, the Mendocino Appellations Project³¹³, or MAP, developed by the **Origins Council**³¹⁴, is one of the **initiatives that aims to do for Californian cannabis what the AOC designations did for champagne in France.**

³⁰⁹“European Integration and Postcolonial Sovereignty Games The EU Overseas Countries and Territories”, Eds. R. Adler–Nissen, U. Pram Gad, 1st edition, Routledge, 29 October 2013.

³¹⁰“Cannabis, Social Clubs, Biodiversity, Nagoya Protocol, Appellations of Origin: Contribution to the National Assembly”, K. Riboulet–Zemouli, March 2021.

³¹¹“Appellation d’origine protégée/contrôlée (AOP/ AOC)”, Institut National de l’Origine et de la Qualité (INAO), 2021.

³¹²“Protected Geographical Indication (PGI)”, Institut National de l’Origine et de la Qualité (INAO), 2021.

³¹³“Mendocino Appellations Project”, Facebook Page, 2021; “Mendocino County divided into cannabis appellations”, C. Sweeney, North Bay Business Journal, 13 June 2016; “Mendocino Appellation Project”, Swami Select, 30 August 2017.

³¹⁴“Origins Council”, 2022.

The general idea here is to protect the intellectual property of farmers in Mendocino County, Humboldt County and other parts of the Emerald Triangle, where illicit and licit production in the state has been concentrated for decades. **Growers there have developed unique growing methods and strains that tend to thrive in different microclimates.** A strain might grow better near the coast or further inland, or on a hill that gets more or less sun, for example.

In 2017, the California Senate passed a [bill](#)³¹⁵ requiring the state's Department of Food and Agriculture (CDFA) to propose by 2021 a **process by which licensed cultivators can establish standard, practice, and variety designations applicable to cannabis grown in a certain geographic area.** To this end, MAP's goal was to **formalise designations of origin to reflect the cultivation communities that have formed over the years around certain strains through the delineation of environmental and cultural boundaries defining a designation of origin district.** In an effort to preserve this added value by growing in certain geographic origins, the CDFA issued a proposed rule in February 2020 [to implement the cannabis designation programme](#)³¹⁶. Under the programme, state-licensed cannabis growers may be able to establish designations of origin for cannabis grown in certain geographic areas.

³¹⁵ "Cannabis Appellations Program (CAP), California Department of Food and Agriculture, 2022.

³¹⁶ "CalCannabis Cultivation Licensing proposed text of regulation", California Code of Regulations, Title 3, Food and Agriculture division, Division 8. Cannabis Cultivation, CDFA, 8 February 2020.



Figure 29: California's Controlled Designation of Cannabis Proposal



Source³¹⁷: *Mendocino Appellations Project, 2020*

European countries, in the same spirit, could therefore **establish standards for designating a country of origin for cannabis products and facilitate a process of establishing Designations corresponding to the practices, standards, and varieties applicable to cannabis grown in specific geographical areas of continental Europe and overseas.**

³¹⁷ Mendocino Appellations Project, Swamiselect, 2020.

ii → Distribution

European countries have varying degrees of tolerance for **possession for personal consumption**³¹⁸, ranging from hard prohibition to decriminalisation regimes. In the US, where a growing number of states regulate their adult markets, the limit varies just as much in these jurisdictions³¹⁹.

Consumers now have almost instant access to cannabis, via an increasingly sophisticated illegal supply, accessible nationwide, with **a large number of distribution entry points in physical locations and online**. Consequently, **a successful legal transition must incorporate the same level of accessibility and convenience for distribution** to adults via specialised shops, social clubs and online purchase, home delivery and also direct sales from producers.

ii.1 → Prerequisites on THC levels

This report previously covered **the need not to limit THC levels in legally sold products**³²⁰. Cannabis ‘overdoses’ are not fatal, but they can be very unpleasant and have a negative impact on consumers and market regulation. **Clear identification rules for consumers are therefore important**. In a well-regulated cannabis market, **consumers should be able to understand and titrate their dose without difficulty**. However, in most legal markets today, consumers still generally have limited information about the dosage of their products.

In principle, the legalisation of cannabis provides a better opportunity to communicate clear and accurate information to consumers through **packaging and labelling standards**. However, jurisdictions that have legalised have generally experienced problems in this regard. The limited research that exists suggests that current regulatory practices for labelling THC levels on packaging may be ineffective due to, among other things, consumer difficulties in understanding the numbers (e.g., mg versus percent) and the different ways in which THC levels are communicated across product categories. In particular, **current labelling practices generally provide little guidance on the ‘expression of dose’, i.e. how the ‘dose’ of THC translates into the amount to be consumed for a specific product, in particular with edibles**.

³¹⁸“Penalties for drug law offences in Europe at a glance”, EMCDDA, 2022.

³¹⁹“Marijuana Laws by State”, W. Williams, Investopedia, 8 April 2021; “Cannabis Overview”, National Conference of State Legislature, M. Hartman, 6 July 2021.

³²⁰“Note de synthèse – Réguler le taux de THC ? Le piège à éviter.”, K. Riboulet-Zemouli, F. Ghehiouèche, Project: Politiques publiques du Cannabis en France, October 2016.

A recent study³²¹ identified **several principles that should guide the regulation of cannabis labelling and packaging**, including

- THC digital labelling considerations;
- the use of standard portions or doses for different forms of products;
- communication strategies for the expression of “dose” and packaging per unit “dose”.

Overall, there is a need for regulated cannabis markets to develop more effective packaging and labelling standards to enable consumers to effectively titrate their THC consumption, with the aim of **promoting safer cannabis consumption**.

ii.2 → Specialised shops

The distribution of cannabis, in all types of specialised outlets dedicated to sale and/or consumption, could be realised after the **issuance of a specific licence (including, however, a specific provision for direct sales by micro-producers)**. All types of cannabis products will be subject to a **reasonable taxation allowing for competition with the black market**.

One of the major issues concerning this market dimension is to set up a dedicated market exit. **This issue arises when, for example, pharmacies³²² or tobacco shops³²³, wish to co-opt this dimension of the market**. In Uruguay, mainly for **political reasons³²⁴**, the choice was made to distribute cannabis for non-medical use through the pharmacy network. With important problems in consequence³²⁵. **This question is now being debated in Germany³²⁶**. However, it is important to remember that **a distribution in pharmacies, besides the incongruity of such a service in terms of public health, will necessarily integrate additional unnecessary costs, as well as a potential problem of insufficient supply, a probable lack of knowledge of cannabis for non-medical use by the pharmacist and of what consumers are looking for, leading de facto to a strong resilience of the black market**.

³²¹“Communicating THC levels and ‘dose’ to consumers: Implications for product labelling and packaging of cannabis products in regulated markets” D. Hammond, International Journal of Drug Policy, Vol°91, 2021.

³²²“Drugstores, in-store pharmacies push for right to sell recreational cannabis”, M. Strauss, C. Pellegrini, The Globe and Mail, 15 August 2018.

³²³“French tobacco shops ‘ready’ for legalisation of cannabis”, France 24, 22 July 2018. See also: “Waiting for the Opportune Moment: The Tobacco Industry and Marijuana Legalization”, R. A. Barry, H. Hiilamo, S. A. Glantz, The Milbank Quarterly, Vol 92, (2), p°207–242, June 2014; “How Tobacco Giant Altria Is Becoming A Cannabis Company”, C. Roberts, Forbes, 9 February 2021; “Perils of the tipping point of Big Tobacco 2.0 taking over the legal cannabis industry”, A. S. L. Tan, S. Title, Blog Tobacco Control, 10 April 2021.

³²⁴“Someone has to be the First: Tracing Uruguay’s Marijuana Legalisation Through Counterfactuals”, J. von Hoffmann, Journal of Politics in Latin America, Vol°12(2), 7 October 2020.

³²⁵“This study shows a change in the public opinion toward legalisation of marijuana although most people still remain opposed to the law. However, the data do not provide indication of a significant change in its use. Results suggest that opposition to legalisation may be focused on the pharmacy retail provision.” See: “The status of support for cannabis regulation in Uruguay 4 years after reform: Evidence from public opinion surveys”, J. M. Cruz, M. F. Boidi, R. Queirolo, Drug & Alcohol Review, Vol°37, Suppl 1, p°S429–S434, April 2018. See also: “The Uruguayan Model of Regulating Cannabis – Legal and geopolitical questions”, P. Galain Palermo, Zeitschrift für die gesamte Strafrechtswissenschaft, De Gruyter, 17 October 2018.

³²⁶“Hanfverband: Kein Cannabis zu Apothekenpreisen”, P. Hollstein, Apotheke Adhoc, 7 April 2022.

In particular, **specialised shops** could offer consumption areas that meet specific health standards set by the regulatory authority and will be able to **play the same role as a “safe consumption room” as bars do today for alcohol**. Product samples will be available for visual and olfactory observation by potential customers. **Staff will have to be trained** in terms of strains, cultivation and consumer advice, as well as prevention and education on consumption. Specialised shops will need to have **a licence, which can be withdrawn if the rules are not respected**. Detailed information on harm reduction services as well as on the effects, genetic profile of the variety, and risks of consumption must also be visible in specialised shops.

ii.3 → Cannabis Social Clubs (CSC)

The designation of “Cannabis Social Club” (CSC)³²⁷ *“refers to an economic model of access to cannabis in a closed circuit within a non-profit structure.”* In France, it is an association under the 1901 law³²⁸, an “ASBL” in Belgium, a “Vereinigung ohne Gewinnerzielungsabsicht” or “VoG” in Germany, etc. The CSCs appeared in the 1990s and were driven by civil society and nonprofits advocacy. Since then, they have been tested in many countries such as Uruguay³²⁹, but also in Europe (Belgium³³⁰, United Kingdom³³¹, Spain³³², etc.). *The system³³³ “is essentially based on the grouping together of people who use cannabis and people who know the techniques of growing the plant in order to share the harvest and the costs on a closed circuit basis, both for access to the products (restricted to members) and for the profits (directly reinvested in the structure)”*.

³²⁷ “Innovation Born of Necessity Pioneering Drug Policy in Catalonia”, O. Parés Franquero, J. C. Bouso Saiz, Global Drug Policy Program, Open Society Foundation, March 2015; “Cannabis social clubs in Spain: legalisation without commercialisation”, G. Murkin, Transform Drug Policy Foundation, January 2015; “Tomorrow, Cannabis Social Clubs. Social innovation, solidarity economy model, and health safeguards for cannabis regulation in France.” K. Riboulet-Zemouli, F. Ghehiouche, FAAAT editions, January 2021.

³²⁸ Institutionally in France, a comparison could be made with AMAP, Associations pour le Maintien d'une Agriculture de Paysanne. Wikipedia defines AMAP as follows: “a proximity partnership between a group of consumers and a local farm, leading to a regular harvest sharing composed of the farm’s products.” See also “What is an AMAP?”, N. Laurent, in “Guide pour la création d'une AMAP”, Alliance Paysans Écologistes Consommateurs / Réseau AMAP, 2003.

³²⁹ “Regulating Cannabis Social Clubs: A comparative analysis of legal and self-regulatory practices in Spain, Belgium and Uruguay”, T. Decorte, M. Pardal, R. Queirolo, M. F. Boidi, C. Sánchez Avilés, O. Parés Franquero, International Journal of Drug Policy Volume 43, May 2017, Pages 44–56.

³³⁰ “Cannabis Regulation in Europe: Country Report Belgium”, T. Decorte, Country Report, Transnational Institute, February 2019.

³³¹ “In Their Own Words: The Story of the UK’s Cannabis Social Clubs”, Volteface, 2021.

³³² “Cannabis Regulation in Europe: Country Report Spain”, X. Arana, Country Report, Transnational Institute, March 2019; “Cannabis social clubs in Spain: legalisation without commercialisation”, G. Murkin, Transform Drug Policy Foundation, January 2015.

³³³ “Tomorrow, Cannabis Social Clubs. Social innovation, solidarity economy model, and health safeguards for the regulation of cannabis in France.” K. Riboulet-Zemouli, F. Ghehiouche, FAAAT editions, January 2021.

CSCs implement full transparency of their activities in compliance with data protection rules and are **governed by these cardinal principles**:

- Flexible, inclusive and hybrid approach³³⁴.
- Non-profit purpose and internal reinvestment of any gains.
- Willingness to cooperate with local and national authorities, as well as with local civil society, in particular the medico-social sector.
- No access for minors.
- Transmission among members and employees of education on consumption and culture, as well as harm reduction practices.
- The need to be sponsored by someone who is already a member of the CSC, in order to become a member in turn, with a view to limiting the creation of consumer and producer communities to enthusiasts with a genuine interest in the plant.
- Possibility of social consumption on site, supervised by peers, and participation in the association's activities.
- A space for the agricultural community to share expertise and knowledge on all aspects of cannabis cultivation, including genetics, environmental sustainability, and considerations for the multiple and future uses of hemp.
- Eco-responsible approach, human-sized structure, health and harm reduction perspective.
- Lack of external commercial publicity or campaigns to increase the CSC's membership base.

This innovative model³³⁵, particularly convincing in the case of harm reduction, is also **a social, ethical and human-scale configuration**³³⁶, making it possible to counteract many of the fears and potential risks of legalisation. In particular, by facilitating the integration of "legacy" players wishing to join the legal sector, while reducing the possibilities of concentration and economic oligopolies. **This associative model, as a complement to a regulated market system, and to self-production, would be able to generate potentially three times more job creation than forecasts based solely on commercial market sales**³³⁷.

³³⁴ A hybrid system allows for different configurations for cultivation and sharing practices, including the possibility of operating in a virtual space and within private residences. See: "The European Guidelines for Cannabis Social Clubs", ENCOD, 2020.

³³⁵ "Insights for the design of Cannabis Social Club regulation", T. Decorte, M. Parda, Psychology, 20 February 2020.

³³⁶ "Overview of 'home' cultivation policies and the case for community-based cannabis supply", V. Belackova M. Roubalova (Stefunkova), K. de Vende, International Journal of Drug Policy, Vol°71, p.36-46, September 2019.

³³⁷ "Tomorrow, Cannabis Social Clubs. Social innovation, solidarity economy model, and health safeguards for the regulation of cannabis in France." K. Riboulet-Zemouli, F. Ghehiouche, FAAAT editions, January 2021.

ii.4 → Markets for micro-producers (Farmers markets)

A cannabis micro-producer market is very **similar to a traditional producer market** in terms of design, layout and set-up. However, it is **specifically designed for cannabis growers and buyers**. These markets have emerged in many parts of the West Coast of the United States (California, Oregon, Washington) as well as in other states that have legalised. Cannabis farmers' markets are generally limited to the sale of consumable products, and some even sell a variety of cannabis products, as well as regular fruits, flowers and vegetables.

The Californian example is quite emblematic. In Humboldt County, a geographical area on the west coast of the United States with a strong historical presence of growers, the latter were quickly suffocated after the 2016 legalisation by the cost of licences and other regulations. **These historical players are suffering the full force of the drop in market prices in the face of gigantic farms able to offer products of lower quality, but at a particularly low price.** Small-scale farmers often live on their growing sites and, over the years, have adapted to their environment, becoming **experts not only in outdoor cannabis cultivation, but also in organic farming and permaculture**. As the price of cannabis continues to fall, small-scale growers struggling to stay afloat fear for their future, **as Jason Gellman**³³⁸, a second-generation cannabis farmer in southern Humboldt, **explains**:

*“Not all cannabis consumed in California is purchased at legal retailers, so a very conservative estimate is that we produce twice what the legal market can consume, but in reality it's probably more than that. **Most of this overproduction is attributable to large-scale farms outside the Emerald Triangle, on the central coast and elsewhere, where it is common for individual farms to be allowed to operate tens of hectares. These areas continue to bring hundreds of acres of new production online, despite the fact that there is not yet a market for this new large-scale production.**”*

³³⁸“Times are really, really tough: Plummeting cannabis prices strain small Northern California farmers”, I. Vanderheiden, Silicon Valley, 23 August 2021.

In these convoluted new markets, farmers can legally sell cannabis products directly to consumers. **To do so**³³⁹, a licensed distributor must deliver the pre-packaged and pre-tested products to a licensed retailer on site who collects the sales revenue and taxes for the distributor, who then pays the taxes to the state and county. In accordance with regulations that vary from state to state and county to county, consumers usually make their choice at the various stands and receive an order form. They then go to a nearby third party location, where they show the order form to receive their products. The total cost to the customer is often considerably lower than buying from a dispensary. And the return price for the farmer is significantly higher.

In the District of Columbia, **such a measure is under discussion**³⁴⁰ and would create a “*craft license*” that would “*authorise the licensee to cultivate and produce cannabis in the licensee’s place of residence for sale and wholesale delivery directly to manufacturers, and dispensaries, as well as for retail sale at farmers’ markets.*” Licensees would then be able to apply for a Farmers Market Endorsement licence (about \$100 (or €93,43) per year), which would allow them to “*sell cannabis at farmers markets in the District of Columbia.*” Micro-business licensees would also be eligible for this endorsement.

“We have an obligation to put in place a system that does not exclude any cannabis entrepreneur who wants to earn a legal living, who will comply with regulations and who will pay taxes on their profits.” Indeed, in state after state, US lawmakers have left many entrepreneurs out in the cold by allowing **an exclusive “Big Pot” oligopoly to dominate the local adult-use market**³⁴¹. Regulation of the farmers’ market would go some way to redressing this. In this regard, **people who own or work for businesses with a cannabis dispensary licence would be excluded from such a framework.**

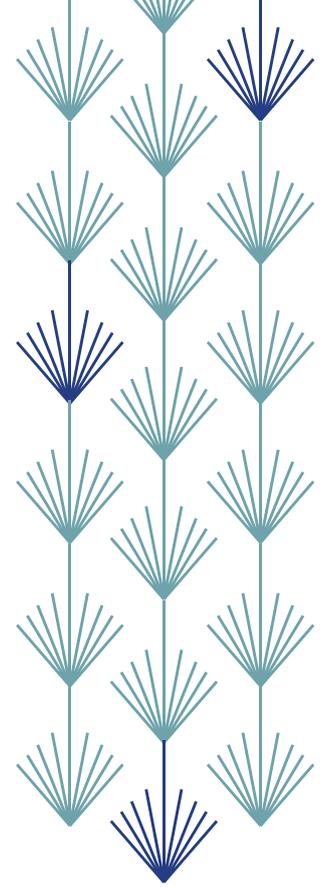
³³⁹ “Cannabis flowers and sunflowers at Earthworks Healing Farm’s booth. PHOTOS Nikki Lastreto Industry Events Mendocino’s Cannabis Farmers Market”, N. Lastreto, Cannabis Now, 15 July 2021.

³⁴⁰ “Cottage Industry Licence”, D.C., 2021.

³⁴¹ “Marijuana Could Be Sold At D.C. Farmers Markets Under Amendment Unveiled By Local Activists”, K. Jaeger, Marijuana Moment, 17 November 2021.

A large majority of these farmers are “legacy”, which means that they have generally learned their know-how from their parents, or even their grandparents. **For several generations, they have developed an expertise, close to craftsmanship, which is the envy of cannabis connoisseurs the world over.** This is a “brand” in the making of invaluable quality for the State of California (especially in the perspective of interstate and international exports), if and only if legal regulation takes into account these social and historical specificities, and integrates a logic of proactive accessibility of the smallest players in the value chain to the legal market.

By combining criminal justice reforms and economic innovation, the establishment of such sales outlets would ensure the implementation of a cost-effective, fair, affordable and transparent system for the sale and cultivation of cannabis for adult consumption.



ii.5 → Online shopping and home delivery

As mentioned earlier, **in order to compete effectively with the black market, online ordering and home delivery should also be allowed**, as this practice is now common on the European continent³⁴², both for legal products such as alcohol³⁴³ and for cannabis consumers on the illicit market³⁴⁴. These are two means of access that the Covid pandemic has amplified: off-site pick-up and home delivery. Most Canadian provinces allowed them and then made them permanent once the pandemic had “normalised”.

In the largest local market in the United States, the ban on direct-to-consumer sales under California’s adult-use cannabis regulations was the first of many challenges faced by small-scale farmers **operating in the state’s legal market**³⁴⁵. As a result, 20 Mendocino County-based cannabis growers came together in March 2022 to launch **an online sales and delivery platform**³⁴⁶ allowing them to sell small quantities of their artisanal products directly to Sacramento and Butte County residents. **Through a direct-to-consumer route in a cooperative-like process, products purchased on the platform earn 90% of the retail price for the farmer, after payment of applicable taxes.** This is about double the profit per retail unit that most small farmers currently receive.

The operations participating in the platform are members of the **Mendocino Cannabis Alliance (MCA)**³⁴⁷, a cannabis trade association that provides guidance to small operators trying to stay afloat in the legal wholesale market. While this initiative cannot solve all the problems currently facing California cannabis growers, it aims to revive direct-to-consumer sales in a manner consistent with state regulations, while returning the majority of revenue to growers.

In addition to providing life-saving financial relief to farmers, this process can help cannabis consumers identify safe and reliable products that align with values and actions dedicated to environmental regeneration, sustainable agriculture, local soil genetics and growing the ‘best cannabis’ possible.

³³⁹ “Cannabis flowers and sunflowers at Earthworks Healing Farm’s booth. PHOTOS Nikki Lastreto Industry Events Mendocino’s Cannabis Farmers Market”, N. Lastreto, Cannabis Now, 15 July 2021.

³⁴⁰ “Cottage Industry Licence”, D.C., 2021.

³⁴² “The success rate of online illicit drug transactions during a global pandemic”, A. Bergeron, D. Décary-Hétu, L. Giommoni, M.-P. Villeneuve-Dubuca, International Journal of Drug Policy, n°99, January 2022; “Social Media and Access to Drugs Online: A Nationwide Study in the United States and Spain among Adolescents and Young Adults”, A. Oksanen, B. L. Miller, L. Savolainen, A. Sirola, J. Demant, M. Kaakinen, I. Zych, The European Journal of Psychology Applied to Legal Context, Vol°13. N°1, p.29 – 36, January 2021; “Drop-off drug distribution: why users choose to source illegal drugs from delivery dealers”, T. F. Sogaard, Nordic Journal of Criminology, Vol° 20, Issue 2, 2019; “Availability of Illegal Drugs During the COVID-19 Pandemic in Western Germany”, N. Scherbaum, U. Bonnet, H. Hafermann, F. Schifano, S. Bender, T. Grigoleit, J. Kuhn, P. Nyhuis, U. W. Preuss, G. Reymann, U. Schneider, J. Shibata, M. Specka, Frontiers in Psychiatry, 23 April 2021.

³⁴³ See for example the Kol application.

³⁴⁴ “A New Robot Dealer Service Makes Buying Drugs Easier Than Ever”, M. Power, Vice, 12 October 2020.

³⁴⁵ “California’s Small Cannabis Farmers Launch Direct-to-Consumer Sales Platform Inspired by Industry Struggles”, M. Schiller, Cannabis Business Times, 11 March 2022.

³⁴⁶ Mendocino Cannabis Shop, website, 2022.

³⁴⁷ Mendocino Cannabis Alliance, website, 2022.

ii.6 → “Cannabis tourism”

Countries moving towards reform have in the past, or are in the process of developing, “*culturally specific social control mechanisms*”³⁴⁸ that allow their citizens to develop relatively healthy and non-issue relationships with cannabis. It is possible that “cannabis tourists” – non-residents from outside the country – have not been integrated into this culture, and therefore do not adhere to (or are unaware of) local social control practices, which can lead to problematic or risky behaviour. That said, tourists have *multiple and heterogeneous motivations*³⁴⁹ for seeking to consume legal and illegal psychotropic drugs while travelling. The aim here is therefore to identify and minimise the potential cross-border issues associated between European jurisdictions with different regulatory approaches to cannabis.

In Colorado, the largest emerging cannabis tourism destination in the US, the lack of official support from the state government has not prevented several tourism-related businesses from developing, offering services such as cannabis-friendly accommodation guides, dispensary tours, various courses on cultivation, processing, marketing, legislation and other related topics³⁵⁰. According to the Colorado Department of Revenue – CDOR, sales³⁵¹ the state received \$2,228 million (€2103 million) in taxes, with total sales since 2014 reaching more than \$12 billion (€11.3 billion). Revenues³⁵² from taxes, licences and fees throughout 2021 were more than \$423 million (€399 million) and the total accumulated since 2014 was more than \$2 billion (€1.89 billion) in January 2022.

The opposite situation took place in Uruguay. Despite official rhetoric against this type of tourism, the prohibition on non-residents being able to obtain legal supplies allowed the *emergence of a nascent tourism*³⁵³ including tourists from other South American countries who wished to travel to this destination to satisfy their desire to consume without worrying about the risks and legal sanctions, as well as to satisfy a curiosity related to the relatively new legalisation.

³⁴⁸“How to Regulate Cannabis Cannabis A Practical Guide”, R. Rolles, H. Slade, Transform Drug Policy Foundation, 3rd edition, April 2022.

³⁴⁹“From escape to seeking: understanding drug tourists”, S. Bingöl, Journal of Tourism and Cultural Change, 2 August 2021.

³⁵⁰“Economic Effects of Colorado’s Legalization of Cannabis 2017”, Euflores, 29 December 2016.

³⁵¹“Marijuana Sales Reports, Colorado Department of Revenue (CDOR), 2022.

³⁵² Ibid.

As a result, **an illegal market has emerged to meet the demand.** In a survey³⁵⁴ on the perception and access of tourists to the legal cannabis market in Uruguay, conducted by the director of the Latin American Research Observatory on Criminal Policy and Criminal Law Reforms, Dr. Pablo Galain, it was observed that **63% of the tourists interviewed declared to have consumed cannabis during their stay.** The study also indicated that of these, 68% considered the transactions to be friendly and safe.

Limiting sales and/or restricting access to the legal market to residents only (with access controls based on residence or identity cards), may in some cases help to moderate cross-border flows. But **if the modalities are too restrictive, it will enable the sustainability of a parallel criminal market of opportunity.** The latter will, by definition, reflect the sophistication of the legal market and thus attract even more tourists in search of “**better quality products**”³⁵⁵. **Border control responses are therefore likely to be costly, ineffective and counterproductive.**

Cannabis tourism is a problem that can only really be addressed by the full legal regulation on both sides of a border. In the absence of this, **the challenge has no obvious solution**³⁵⁶. Bear in mind that **repressive measures would make things worse.** While responsible and localised market restriction may moderate the problem, it is unlikely to eliminate it. The supra-national legal issues of equality between citizens within the EU is an additional problem as explained in more detail in the white paper by Augur Associates, “*Obligations and flexibilities under European and international law: a pathway to national regulation of adult use cannabis*”³⁵⁷.

In reality, this is an issue that must be tolerated and managed pragmatically. The focus should be primarily on responding to any real emerging social harm, rather than targeting cannabis consumers with punitive enforcement measures. For the most part, this problem should remain marginal and localised, and should not be overstated in the policy debate.

³⁵⁴ “Especialista pede abertura de mercado da maconha para turistas no Uruguai”, D. Coutinho, Smokes Buddies, 18 June 2017.

³⁵⁵ “The Good, the Bad, and the Ugly Weed: How Consumers in Four Different Policy Settings Define the Quality of Illicit Cannabis”, V. Belackova, Contemporary Drug Problems, Vol°47(1), p.43–62, 20 January 2020.

³⁵⁶ “Reflecting on drug tourism and its future challenges”, T. F. P. D. Pereira, European Journal of Tourism, Hospitality and Recreation, Vol°10(1), Sciendo, p.83–92, May 2020.

³⁵⁷ “Obligations and flexibilities under European & international law: a path towards domestic cannabis adult-use regulation”, A. Bernard, B. A. Jeanroy, K. Riboulet-Zemouli, Augur Associates Think Tank, March 2022.

iii → Product analysis

One of the substantial problems of the cannabis industry worldwide is the lack of standardisation of quality control protocols and concentrations of the plant's active ingredients. This is partly due to decades of global criminalisation of cannabis. The organisations that develop standards have little interest in creating international guidelines for criminal activities. And even less so in ensuring the well-being of their clients.

This inconsistency is reflected in the **ease with which some companies in the sectors are concerned exclusively with showcasing the best side of their products, without reflecting the actual content.** To address this, several initiatives³⁵⁸ are being developed to **enable the establishment of robust and standardised methods for analytical laboratories.** In particular, these new techniques will need to be validated using internationally accredited guidelines. Providing a consistent, systematic and predictable methodology to improve products and services in **a cost-effective, accessible and value-adding process for all sectors.**

The opening up of cannabis markets for adults is currently taking place in the absence of regulation, or even within quality control frameworks that are unsuitable for the market (**the pharmaceutical framework in particular**³⁵⁹). However, reliable analyses are essential to ensure the safety of consumers and must be based on a clear and strict framework to ensure their safety. **The support and financial accessibility of producers, processors and distributors in the cannabis sectors for the implementation of these controls will be the key to developing this market with confidence.**

These initiatives³⁶⁰ are however still too few, far between and complex to implement. If there is no standardisation of these analyses, companies nor customers will have any recourse to question the results of content and product quality analyses. **The lack of standardisation of testing also undermines the industry's ability to make a convincing case on key issues** such as the presence of unfit inputs, but also to present a sufficiently complete genetic profile of the product being tested.

³⁵⁸ "The Cannabis Health and Safety Organization", Foundation of Cannabis Unified Standards, 2022; "Cannabis Analytical Science Program", AOAC International, 8 January 2020; "CMC Outlines Plans to Undertake a Comprehensive Review of Analytical Testing for the UK Cannabis Industry", The CMC, 3 October 2019.

³⁵⁹ "Inside big pharma's fight to block recreational marijuana", A. Serrano, The Guardian, 22 October 2016.

³⁶⁰ "Resources, Uploads, & Archives", AOC international, 2022.

So how do we regulate this dimension? **If being draconian and dictating too strict methodologies to laboratories could limit innovation, being too distant could distort results by allowing certain actors to take advantage of regulatory loopholes to the detriment of consumer safety.** There are now standards for analytical methods, developed in particular in the United States.

AOAC International is becoming one of the leaders in common standards for cannabinoid analysis. Its open-source platform for methodology development – the [Cannabis Analytical Science Program \(CASP\)](#)³⁶¹ – brings together government, industry, academic stakeholders and experts to establish a standardisation of analytical methods which are then submitted for accreditation by organisations such as the [United Kingdom Accreditation Service \(UKAS\)](#)³⁶², the only globally recognised government accreditation body responsible for determining the technical competence and integrity of organisations offering analysis, calibration and certification services.

Another promising project is the [Foundation of Cannabis Unified Standards \(Focus\)](#)³⁶³. With the help of more than 200 professionals from several industries, FOCUS has drawn on US and international regulations [21 CFR](#)³⁶⁴, [ISO](#)³⁶⁵, [OSHA](#)³⁶⁶, and [HACCP](#)³⁶⁷, existing global cannabis regulations, as well as [WHO](#)³⁶⁸ and [WTO](#)³⁶⁹ guidelines. **The inspiring idea here is not to reinvent the wheel, but to use everything that exists and make it specific to cannabis.** Four areas of certification have been defined: cultivation / primary production; manufacturing / processing, retail and labs.

The production of cannabis for the adult market in Europe could be controlled through the establishment of a seed-to-consumer traceability system following the sanitary and phytosanitary standards of other agricultural products. In addition, the industry could **rely on new security technologies available, such as the [blockchain](#)**³⁷⁰, some of which operate in a sustainable and environmentally responsible manner, as underlined by **the [OECD](#)**³⁷¹ and several UN agencies³⁷².

In the short term, a **system of public subsidies for analysis** should be put in place to make product control accessible to the different links in the production chain: a ***sine qua non condition for the sustainability of the reform.*** In the long term, the regulatory authority could set up its own testing units to ensure optimal price reduction and quality control along the production and processing chain.

³⁶¹ "Cannabis Analytical Science Program", AOAC International, 8 January 2020.

³⁶² UKAS, website, 2022.

³⁶³ "The Cannabis Health and Safety Organization", Foundation of Cannabis Unified Standards, 2022.

³⁶⁴ "The Beginners Guide to 21 CFR Part 11", O. Pearce, Montrium, 6 October 2014.

³⁶⁵ "What exactly is ISO certified? And why does it matter?" J. Wilber, Mead Metals, 17 June 2020.

³⁶⁶ "A complete guide to OSHA certified and OSHA compliant safety training", J. Smith, Safety Soft, 21 June 2019.

³⁶⁷ "The Ultimate Guide to HACCP Certification", A. Evans-Lara, HACCP Mentor, 20 February 2022.

³⁶⁸ "Cannabis", WHO, Alcohol, Drugs and Addictive Behaviours Unit, 2022.

³⁶⁹ "International trade in cannabis: International and domestic regulatory developments", P. Lalonde, S. Stephenson, Canada Regulatory Review, 3 September 2021.

³⁷⁰ "Why Weed Companies Are Embracing Blockchain", C. Chafin, Rolling Stones, 10 December 2018.

³⁷¹ "Blockchain Technologies as a Digital Enabler for Sustainable Infrastructure", OECD Case Study KEY FINDINGS, 5 September 2019.

³⁷² "In battle against climate crisis, don't overlook the blockchain", T. Kawabata, UNEP, 25 January 2022; "How blockchain can power sustainable development", S. N. Sirimanne, C. Freire, UNCTAD, 22 juillet 2021; "Blockchain and Sustainable Growth", C. Mulligan, in *New Technologies: Where To?*, Vol°LV, n°3 & 4, December 2018.

Ultimately, **an appropriate framework for analysis and testing standardisation are the only elements necessary for quality control in the adult-use market:** a framework that guarantees that the product is fit for consumption, free of pesticides, heavy metals or moulds, and that allows the exact composition of the product to be determined. **European countries have the opportunity to build on experiences developed abroad by adapting them contextually to local needs.** Collaboration on standardisation of analyses between industry, administration and academia should be encouraged.

iii.1 → Definition of the parameters to be analysed

While value chain actors in the adult market will benefit from independent laboratory testing, it will still represent significant costs for farmers and small entrepreneurs. Such testing is however necessary to determine the concentration of active ingredients, to reduce the risk of contamination and to improve the overall quality of products. **Routine cannabis testing services include cannabinoid concentration and determination of terpenes, aflatoxins, heavy metals, moulds, bacteria, pesticides, herbicides and residual solvents.**

Analytical detection of pesticides in the plant is still a challenge, however. To combat the many potential pests³⁷³, a wide range of pesticides are often used commercially, and no single laboratory can test them all. **Gas chromatography-mass spectrometry (GC-MS)³⁷⁴ seems to be one of the most appropriate avenues for such analyses.** Although there are currently no guidelines for the detection of residual pesticides in cannabis, most laboratories test for the most commonly used pesticides during cultivation: organophosphates, carbamates, pyrethroids and avermectins.

³⁷³ In North America, for example, pesticides are used in commercial grow operations to kill mites that can develop on hemp plants in indoor or greenhouse crops. Thrips (tiny, slender insects with fringed wings), aphids and root maggots are also common pests in indoor production. Spider mites, caterpillars and grasshoppers threaten greenhouse crops. *Halyomorpha halys*, also known as the brown marmorated stink bug, is also a voracious pest with an affinity for cannabis plants.

³⁷⁴ "Gas Chromatography coupled with Mass Spectrometer (GC-MS)", Institut de Chimie et des Matériaux Paris-Est, 6 January 2019.

iii.2 → Analysis techniques and methodology

A critical test associated with cannabis analysis is the concentration of cannabinoids. Most laboratories quantify the levels of at least three main cannabinoids: THC, CBD and CBN and their different forms (carboxylated vs. decarboxylated). Some laboratories use gas chromatography (GC), in which the sample is vaporised under heat. Both GC-FID and GC-MS are common. As GC uses intense heating, any THCA present in the natural sample is converted to THC and laboratories report this value as “total THC”.

Other laboratories use [high performance liquid chromatography \(HPLC\)](#)³⁷⁵ to determine the amount of cannabinoids present. As **HPLC does not require heating, testing by this method allows for a more accurate determination of the actual amounts of carboxylated or decarboxylated forms present in the sample** (although body enzymes naturally decarboxylate the acidic forms). **Concentration analysis, together with appropriate product labelling, is therefore necessary to ensure that consumers know exactly how much cannabinoids they are taking.**

³⁷⁵ “High Performance Liquid Chromatography (HPLC)”, Science Online, 6 January 2020.

³⁷⁶ “Mass spectrometry”, M. Magniez, TechnoBio, 6 January 2020,

iii.3 → Standardisation of results

As mentioned, there are no established standardised methods for chopping samples, homogenising them and performing extractions. As a result, variations in cannabinoid concentration can easily exceed 20%. **Nevertheless, concentration testing should improve as chemical standards for known principles become more readily available. However, the legal cannabis industry as a whole and specialised testing laboratories are in their infancy.** As the need for better quality control becomes apparent and the standardisation of these products continues, it is likely that lower limits will be set for the various contaminants and calibrated regulations will be adopted. **Mass spectrometry**³⁷⁶ **is likely to play a more important role in quantification**, as detection levels are lower and confirmatory testing is needed. The **potential of terpenes and flavonoids present** in rich amounts in the plant are also a fertile area for scientific research to determine the mechanisms of action, as well as their bioavailability.

iii.4 → Securing the supply chain from seed to consumer

More than most other industries, the cannabis industry (and its different markets: adult use, therapeutic, wellness, industrial) tends to be under increased public and official scrutiny. As a result, this increases the level of uncertainty in these developing markets. **Blockchain technology could be used here to increase confidence in these new products³⁷⁷, which are rapidly developing into sustainable operating systems³⁷⁸.** This issue of security will be of immediate concern to European countries embarking on a reform process, with **Germany³⁷⁹** being one of the first.

More than in any other industry, a growing number of companies in these sectors are choosing **Blockchain technology³⁸⁰** to build their own **tracking tools and processes³⁸¹**, as existing services do not always work or are not available for these new markets. Whether it is **tracking from seed to final sale³⁸²** (“seed-to-sale”), **streamlining the purchasing process³⁸³**, serving as a **payment solution for agricultural businesses³⁸⁴**, or enabling the **tracking of product lab test results³⁸⁵**, this technology development is an integral part of the **evolution of the cannabis sector towards greater supply chain security and transparency.** Most of these industry actors are betting that a **“Guaranteed Results via Blockchain” label³⁸⁶** will give consumers a safe standard by which to **judge the quality of products³⁸⁷.**

³⁷⁷“Can Blockchain Technology Really Solve The Problems Faced By The Cannabis Industry?”, K. Emert, Crypto Currency Guide, 2 December 2019

³⁷⁸“Blockchain as a sustainability-oriented innovation?: Opportunities for and resistance to Blockchain technology as a driver of sustainability in global food supply chains”, N. Friedmana, J. Ormiston, *Technological Forecasting and Social Change*, Vol°175, February 2022; “Unfinished Paths—From Blockchain to Sustainability in Supply Chains”, S. Köhler, M. Pizzol, J. Sarkis, *Front. Blockchain*, 16 November 2021; “Is blockchain able to enhance environmental sustainability?, A systematic review and research agenda from the perspective of Sustainable Development Goals (SDGs)”, A. Parmentola, A. Petrillo, I. Tutore, F. De Felice, *Business Strategy and the Environment*, Vol°31(1), p.194–217, January 2022; “Hemp and bitcoin mining green energy project begins”, S. Price, Cannabis Wealth, 28 February 2022.

³⁷⁹“Can the German Cannabis Supply Chain Benefit from Blockchain Technology?”, B. Holste, Facetten der Digitalisierung, p.133–155, 16 April 2020.

³⁸⁰“Why Weed Companies Are Embracing Blockchain”, C. Chafin, Rolling Stones, 10 December 2018.

³⁸¹“Blockchain For Cannabis: 10 Startups To Watch In 2019”, S. Mire, Disruptor, 18 January 2019.

³⁸²Trustt, website, 2022.

³⁸³Budbo, website, 2022.

³⁸⁴HempCoin, website, 2022.

³⁸⁵CBD LabChain, website, 2022.

³⁸⁶“Blockchain in Cannabis: Relieving Enterprises Pains”, L. Hofer, The Blockchain Land, 29 May 2019.

³⁸⁷“The Good, the Bad, and the Ugly Weed: How Consumers in Four Different Policy Settings Define the Quality of Illicit Cannabis”, V. Belackova, *Contemporary Drug Problems*, Vol°47(1), p.43–62, 20 January 2020.



e → Social justice mission

There are many legitimate reasons to support the legalisation of cannabis. However, the main motivating factor for many involved in this public policy reform movement is to **address the injustices caused by decades of uneven enforcement of prohibitive laws, particularly against the continent's most economically disadvantaged ethnic minorities and populations.**

US states and localities that have launched social justice initiatives include [California](#)³⁸⁸, [Massachusetts](#)³⁸⁹, and [Illinois](#)³⁹⁰, while the regulations of the future legal markets in [New York](#)³⁹¹, [New Jersey](#)³⁹², and the [US Virgin Islands](#)³⁹³ are also strongly rooted in equity considerations. **At the federal level, the MORE Act**³⁹⁴ (Marijuana Opportunity reinvestment and Expungement), **passed several times by the House of Representatives**³⁹⁵ and **rejected by the Senate**³⁹⁶, **explicitly bases its approach on addressing the past and present harms associated with cannabis prohibition.** In this regard, [the National Cannabis Equity Map](#)³⁹⁷ was created by the MCBA (Minority Cannabis Business Association) to serve as a research tool that can collect and archive data essential to understanding and analysing the social justice policies related to the legal regulation of adult-use cannabis markets in the United States. The map includes excerpts from laws to facilitate research and comparative study of state and local cannabis regulations.

Current processes in US states such as [Massachusetts and New York](#)³⁹⁸ in particular, highlight the road (and obstacles) to reform structured around social justice. **Building a circumstantial coalition of allies and framing the debate has been absolutely critical to achieving these reforms.** Part of this was to move cannabis policy reform from being seen as a marginal topic to a fundamental social justice issue. **The success and clarity of a reform campaign depends on bringing together the actors involved behind a broad set of key principles. These become the basis for reform and guide the roll-out of regulation and licensing.**

³⁸⁸ "California promised 'social equity' after pot legalization. Those hit hardest feel betrayed", M. Gerber, Los Angeles Times, 27 January 2022.

³⁸⁹ "Equity, Not Equality: How Massachusetts Is Ensuring a Diverse Cannabis Industry", S. Richtsmeier, Cannabis Creative, 2022.

³⁹⁰ "What is the State of Illinois Cannabis Social Equity Program and How Will New Legislation Reform It?", The Civic Federation, 18 June 2021.

³⁹¹ "New York's marijuana regulators just took a bold step for social equity", S. Teehan, Syracuse, 12 March 2022.

³⁹² "Social equity in NJ's new cannabis industry lagging, advocates say", T. Jung, NJ Spotlight, 25 April 2022.

³⁹³ "Cannabis Can-Do: Virgin Islands Legislators Learn Colorado Lessons", K. Griffin, NCSL, 15 November 2021.

³⁹⁴ "Marijuana Opportunity Reinvestment and Expungement Act", Wikipedia, 2022.

³⁹⁵ "US House passes landmark federal marijuana legalization bill - again", J. Smith, MJBiz Daily, 1 April 2022.

³⁹⁶ "Senate Pot Bill Pushed Back", J. Lee, The Paper ABQ, 28 April 2022.

³⁹⁷ "National Equity Maps", MCBA, 2022.

³⁹⁸ "The Social Justice Potential of Legal Cannabis Regulation", Transform Drug Policy Foundation, 29 April 2022

In the era of COVID-19, the legal regulation of cannabis for adults in Europe could have a significant impact on long-term economic recovery efforts.

Especially if these new regulations are deployed in such a way that the most vulnerable individuals can also access a new and promising activity. However, while legalisation may indeed help to boost the continent's economy, it will not fully eliminate the current and past effects of punitive measures that have disproportionately affected the most marginalised citizens. **It is therefore essential not only to regulate the legal cannabis market, but also to do so fairly.**

i → Background and findings

From the northern neighbourhoods of Marseille, through Scampia in Naples, Walworth in London, Husby in Stockholm and Ferentari in Bucharest, to name only the most emblematic (and stigmatised), **the violence stemming from illicit drug trafficking and the fight against it, strikes first and foremost at people living and growing up in the economically peripheral territories of our continent.** Many of them are racialised and come from immigrant backgrounds in the resident country and/or from disadvantaged socio-economic backgrounds.

Faced with the growing problems linked to identity checks and other factors crystallising the police/population relationship in these geographical areas, citizens are entitled to ask themselves whether the “War on Drugs”, whose sirens are still in full swing in a number of European countries³⁹⁹, and as enacted by successive governments on the continent, is not **in fact a war against certain specific categories of the continent's populations. A war against people.**

Elsewhere, particularly in the United States, the topic is no longer questioned, as **analyses and evaluations of public policies on drugs have repeatedly demonstrated their use as a repressive tool targeting ethnic and economic minorities.** For the same rates of illicit drug consumption, Afro-Americans are five and a half times more likely than non-racialised to be arrested **for drug offences**⁴⁰⁰.

³⁹⁹ “German police warn against legalizing weed, as parties hash out coalition deal”, L. Gehrke, Politico, 12 October 2021; “In blow for cannabis advocates, Italy's high court blocks referendum”, Euronews & AFP, 16 February 2022; “La “guerre à la drogue”, c'est de la merde”, M. Henry, Libération, 22 April 2021; “Viktor Orbán's new punitive drug policy”, S. Morozini, Talking Drugs, 21 February 2012.

⁴⁰⁰ “A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform”, ACLU, 17 April 2020.

Although there is a significant lack of scientific studies on the subject in Europe⁴⁰¹, parallel elements can be observed and further feed this hypothesis, as shown in the recent work of anthropologist-sociologist Didier Fassin⁴⁰² in France: “Black and Arab men represent two thirds of all inmates and even more than three quarters of those under 30”, commenting on the results of the ethnographic survey he conducted in a prison in the Ile de France⁴⁰³. His fieldwork⁴⁰⁴, as well as that of French researchers Jacques de Maillard and Matthieu Zagrodzki⁴⁰⁵, demonstrates the importance of ethnic origin, age, gender and supposed standard of living in regard to arrests and detentions.

For the French sociologist Sarah Perrin⁴⁰⁶, whose research focuses on the analysis of police profiling in the repression of illegal drugs: “All the police officers interviewed acknowledge that the vast majority of them question or arrest racialised men. In their speeches and practices, the supposed ethnic origin of the individuals plays a central role in the way the police categorise them.” The results presented are based on twelve interviews with police officers from different departments involved in the fight against illicit drug consumptions and sales.

Many NGOs, such as the Drug Policy Alliance⁴⁰⁷ in the United States, have been working for many years to structure this argument:

- The vast majority of drugs (legal and illegal) are purchased by the “white middle classes” who come to buy them in economically disadvantaged neighbourhoods (an analogy with the French situation confirmed by the French Office of Drugs and Drug Addiction in the ESCAPAD survey on young Parisians in 2004⁴⁰⁸).
- The “War on Drugs” is a concept that serves both as a political instrument of authority over the most disadvantaged ethnic minorities⁴⁰⁹, via law enforcement agencies, and as a tool of social control⁴¹⁰ against social and political reform movements, especially in regard to civil rights.
- These public drug policies are strongly opposed by black community organisations such as the American Civil Liberties Union (ACLU).

⁴⁰¹ “The war on drugs is built on racism. It’s time to decolonise drug policies”, A. Fordham, IDPC, 26 June 2020.

⁴⁰² The following two quotes are taken from the article “Couleur de peau, la justice pas si aveugle que ça”, D. Fassin, S. Faure, Libération, 5 February 2015.

⁴⁰³ L’Ombre du monde, D. Fassin, Seuil, 2015.

⁴⁰⁴ “La force de l’ordre. An anthropology of the police in the neighbourhoods”, D. Fassin, Seuil, 2011.

⁴⁰⁵ “Police styles and police legitimacy. La question des contrôles”, J. de Maillard, M. Zagrodzki, Droit et société, Vol°3, n°97, p.485–501, 2017.

⁴⁰⁶ “Arrests for drug trafficking and use: how the ‘crime of filth’ is made”, Sarah Perrin, The Conversation, 1 May 2022.

⁴⁰⁷ Drug Policy Alliance website, 2021.

⁴⁰⁸ “Les usages de drogues des adolescents parisiens”, Analyse de l’enquête ESCAPAD PARIS 2004, F. Beck S. Legley, S. Spilka, OFDT, December 2005.

⁴⁰⁹ “What is the Drug War? With Jay-Z & Molly Crabapple”, Drug Policy Alliance video, 15 September 2016

⁴¹⁰ “War on drugs, race war?”, Interview S. Kelton Roberts, F. Olivet, Esprit, February 2017.

This dialectical reversal remains difficult to achieve in the European context for four main reasons:

- Major lack of so-called 'ethnic' statistics (especially for Germany or France).
- Cultural difference with the word 'community'.
- The pre-existing stigma surrounding cannabis has led those primarily concerned by its repression to turn away from the subject politically.
- Explicit support of these public policies by some community political leaders.

All other things being equal, the North American and European contexts remain relevantly comparable:

- stigmatisation of certain consumers on the basis of their social categories and/or skin colour;
- racist discourse equating drugs and drug trafficking with ethnic minority populations;
- increase in transmittable diseases, and problematic consumption (crack, spices, etc.) in these spaces;
- targeted and stigmatised populations, forming the majority of those incarcerated in prisons for drug offences.

Today, **the demand for cannabis is a global demand of a largely guilt-free European society, especially among the urbanised middle classes. Because of prohibition, this demand weighs mainly on the vulnerable points of our social fabric**, namely certain socio-economically disadvantaged peri-urban geographical areas. Our current policies exploit this demand by discriminating against the purpose and application of these laws by only targeting these so-called "lawless areas", thus contributing to the increasing stigmatisation of these populations. **Thus, for the consumption of cannabis, there is today a *de facto* decriminalisation for the majority of the population when a repressive regime is applied to others.**

⁴¹¹ "The 2005 "riots" in France, London in 2011, Stockholm in 2013 for example did not concern the most important deal points. See: "Les émeutes juvéniles en Europe: question urbaine, sociale ou ethnique?" C. Avenel, Informations sociales, 3-4, n°165-166, p.60-68, 2011.

⁴¹² "The Facts on Marijuana Equity and Decriminalization", A. Amaning, American Progress, 20 April 2021; "Together for change. Listen. Advocate. Uplift.", Weedmaps, 2022.

⁴¹³ "Massachusetts aims to reduce barriers to entry for cannabis start ups", M. Lane, Cannabiz, 12 April 2022.

Having become adults and parents, former “suburban youths” retain a deep mistrust of the police and state representatives, distancing them from recourse to the law in the event of a dispute, particularly in cases of incivility or trafficking-related offences. Thus, beyond this heavy social history, which is still present more than ever, **the legalisation of cannabis in European countries cannot be achieved without strong social justice measures. It is not only a question of reversing a catastrophic situation, but also of recognising by whom the burden of prohibition has been borne, and how to begin to repair the damage caused.**

ii → Proposals

Not to take this issue full on under the guise of wanting to maintain a certain social peace is an unacceptable renunciation. Nevertheless, it touches on an important subject: **what will become of the geographical areas that depend in part directly or indirectly on traffic?**

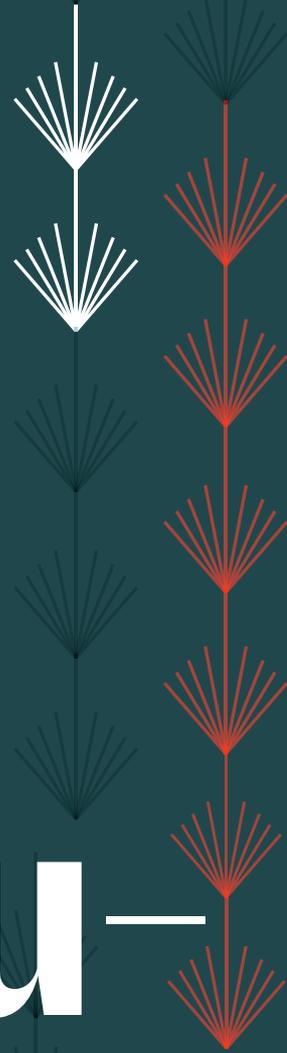
As we have seen, only a tiny minority of cannabis traffickers earn high incomes. The remaining 90% of the people involved in trafficking are small-time workers who barely earn the legal minimum and do not pay any social contributions. However, in some “neighbourhoods”, only the informal and illegal economy allows a part of the inhabitants of these territories to survive today. When legalisation ultimately come, if we do not want to see, rather predictable, new [social explosions](#)⁴¹¹ on the continent, **it is imperative to put in place an ambitious social policy for the inhabitants of the geographical areas where drug dealing openly takes place (and the “fight” against drug dealing) by channelling a significant part of the tax revenues from this new regulated economy to these areas.**

This proactive policy, financed by a substantial part of the tax revenues from legalisation, will aim in particular to move actors from the illegal to the legal sphere. It should include **proactive official communication to reach target audiences**. Specifically developed and aiming at favouring the integration of people living in or coming from “trafficking zones”, as well as non-violent actors who have had to deal with the judicial system, this dynamic policy could include [numerous measures](#)⁴¹², such as:

- Criminal amnesty, and automatic retroactive erasure of criminal records for small-scale dealing and non-violent acts (vendors, touts, nannies, lookouts, local micro-producers, etc.), as well as for consumption and small possessions.
- Regulatory and budgetary facilities for obtaining production and distribution licences.
- Professional and academic training related [to the new industry](#)⁴¹³.
- Validation of acquired experience (production, sales, prevention) for retraining in the legal market.
- Establishment of skills exchange programs between the rural world (agriculture and processing) and “neighbourhoods” (entrepreneurship, marketing and new technologies).
- Tax credits and interest-free loans to enter the industry .
- Establishment of “cannabis free zones”.



Conclu- sion



The system of prohibition still promoted in the vast majority of European countries is a failure: not only does it only benefit criminal organisations, but it is incapable of protecting the most vulnerable, especially the youngest within the European population. Moreover, it weighs heavily on public spending as there is no tax revenue to match these costs.

This observation of failure is shared by **all legitimate civil society actors working on the subject**¹, as well as by **a growing number of public figures**². At the European level, citizens are rallying around a campaign to launch a **European Citizens' Initiative**³ which would allow each EU member country to choose the best path **according to the aspirations of its inhabitants**⁴.

No other public policy has survived such an evaluation for so long without being called into question. The vast majority of the continent's law enforcement agencies and judiciary share this observation⁵. Their actions are now being misused and this system is suffocating their limited resources in a context of severe budgetary constraints and increasing demand for their activities. However, the regulation of cannabis would lead to a disruption of criminal mechanisms, firstly among consumers, and then, if the regulation is adapted, to the weakening of organised crime and the redirection of police action towards parallel trafficking networks and white-collar crimes.

The perception of the dangerousness of the product has decreased for the youngest (while increasing for alcohol and cigarettes). However, alternative experiences outside the continent appear to demonstrate that regulation leads to a decrease in consumption among adolescents who find it more difficult to obtain supplies. **It can therefore be argued that regulating and legalising cannabis better protects our children.** There is no evidence to date of a gateway effect from cannabis to more “dangerous” drugs, other than the dealer offering, under prohibition, other narcotic products along with cannabis.

¹ “L’Echec annoncé de l’amende forfaitaire délictuelle étendue au délit d’usage de stupéfiants”, Livre blanc inter-associatif sur l’article 37 du projet de programmation 2018–2022 et de réforme de la Justice, Synthèse, November 2018.

² “Drugs: ‘The failure of a public policy based almost exclusively on repression’”, Tribune of 158 public figures, ECHO Citoyen in Le Monde, 28 February 2017.

³ “European Citizens’ Initiative, Fact Sheets on the European Union European Parliament, 2022.

⁴ “The European Way for Legal Cannabis citizens’ initiative aims to exclude cannabis from the EU Joint Action on Judicial Cooperation in Criminal Matters in order to allow Member States to experiment locally with models of legal regulation of cannabis based on their own context.” There is currently a common legal standard for the criminalisation of cannabis in the EU. Framework Decision 2004/757/JHA equates Cannabis with other substances by obliging Member States to punish illicit drug trafficking. The exclusion of cannabis from the decision would allow Member States who so wish to no longer target activities related to the production, manufacture, transit, distribution, cultivation, possession and personal use of the cannabis plant and its derivatives. This new regime could pave the way for health-focused (cannabis) policies, decriminalisation programmes, as well as sovereign legal regulation of cannabis markets, and ultimately harmonisation of legislation across the EU. → This new regime could pave the way for Member States to (1) harmonise across the EU non-criminalisation and harm reduction policies regarding Cannabis consumption, and (2) to legally regulate Cannabis according to social and democratic aspirations. Treaty provisions considered relevant by the organisers: TFEU: Art.31 and 34. See: “Overview Document for Cannabis European Citizens Initiative”, LEGAL CANNABIS IN THE EU PROPOSAL FOR A JOINT “EUROPEAN CITIZENS INITIATIVE”, 2022.

⁵ LEAP Europe, 2022.

The application of a repressive policy towards cannabis is profoundly unequal and affects above all the most vulnerable people: ethnic minorities and the poorer classes. The attitude of disinterest of decision-makers – but also of the majority of the economic middle class –, has long stemmed from the fact that they are only marginally affected by this public policy (little control, financial capacity, easily available substance and possible consumption in a private setting, etc.).

This is a **European emergency**. A choice must be made: **the cannabis trade can either be left to criminal organisations or legally controlled by a public body.** Regulating such a market means controlling the availability of a product, not its free availability. It also requires strict controls on what can be sold, who can buy it, where and when different substances can be bought and consumed. The exact contrary to what is currently being deployed.

“While the situation is evolving rapidly around the world regarding the legalisation of recreational cannabis, the time has come (...) to opt pragmatically and firmly for a regulatory policy that will enable it to regain control.”

[These words from the French Economic and Social Council \(CAE\)](#),⁶ challenge current policies as the situation continues to deteriorate. The issue is eminently political. Thankfully, governing authorities are increasingly listening to science, public policy evaluation and feedback from new alternative policies. The current situation isn't satisfactory, which has led an increasing number of observers and researchers, but also of exercising law-enforcement officers, to criticise the current status quo. Those who, guided by ideology, seek to maintain it, are complicit. **A century of inaction, prohibition and moral posturing has been instrumental in empowering traffickers all around the European continent.** Maintaining the status quo strengthens them more and more every day.

The time has come today for more accountability on the impact of prohibition. While climate change and human rights issues remain intertwined with the question of Cannabis, this pressing societal and structural topic demands that all relevant stakeholders examine and discuss interdisciplinary data, in order to attempt to **find consensus on the most appropriate methods of reform via regulation which will vary from one country to another, depending on local contexts and needs.**

⁶“Cannabis: How can we take back control?”, E. Auriol, P.-Y. Geoffard, *Notes du conseil d'analyse économique*, Vol°52, (4), p.1-12, April 2019.

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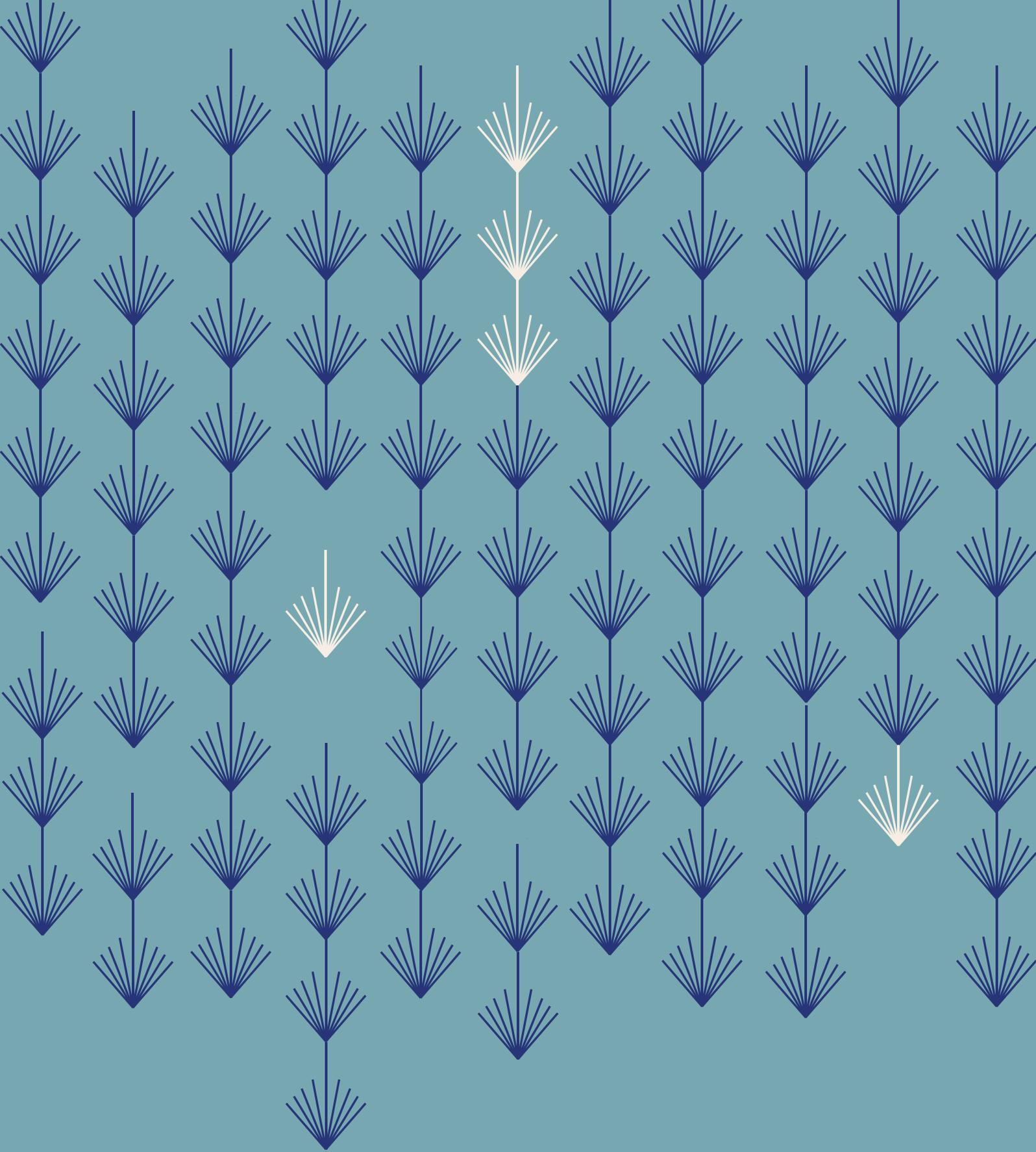
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