

Cannabis Laws in Europe

In June 2023 the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) published a report on *Cannabis Laws in Europe: Questions and answers for policymaking*.¹ The aim of the report is to describe the current position across Europe in relation to recreational cannabis use (while also drawing on the experiences of the Americas) and “to map the regulatory and other issues that need to be considered when assessing different approaches to cannabis regulation and control” (p.49).¹ In the Irish context, the report is a timely and valuable resource for policymakers and other stakeholders to inform their discussions about Ireland’s approach to recreational cannabis use.

Nature and focus of the report

The EMCDDA published the report in response to “the speed and scale of cannabis policy change and the potential impact of these policies on public health and safety” (p.6).¹ It focuses on recreational cannabis use. However, to provide context for the various policy initiatives relevant legislation for other uses (for example, medical use) is also covered. The report synthesises the necessary information in an accessible way and makes reference to other EMCDDA publications that explore specific cannabis-related issues in more detail.

The report outlines key issues related to cannabis legislation and it is structured around five frequently asked questions on the topic. Below are some of the key messages from each section:

- **Why is defining cannabis important?**

It is important to have a shared understanding of what forms of cannabis are under consideration to have a clear grounding for any debate on cannabis controls. The authors provide an overview of the main chemical substances the plant contains, the different cannabis plant varieties, what a dose of cannabis is, and the importance of different routes of administration. While this is a complex area, it is essential that these concepts are clarified to avoid what the authors call the “sometimes misleading claims that ‘cannabis may be legal’ or ‘has been legalised’ in a particular country or jurisdiction” (p.9).¹

- **What are countries’ international obligations to control cannabis?**

This section of the report considers the obligations of EU Member States to control cannabis under the UN drug control treaties, and the implications of a review by the World Health Organisation Expert Committee on Drug Dependence.^{2,3} Under the UN conventions the production, trade and possession of around 300 psychoactive substances (including cannabis) are controlled. Most of these have a recognised medical use so the focus is on ensuring that they are only traded and made available for medical or scientific purposes. Substances are classified into one of four schedules according to the perceived danger to health, risk of abuse and therapeutic value. In its simplest terms, while in 1961 cannabis was listed under Schedule IV (i.e. among the substances considered to be the most harmful), following the WHO review it was rescheduled as a Schedule I drug in December 2020.

While under the UN treaties the possession, acquisition, and distribution of scheduled substances must be punishable offences in national laws, this does not apply to drug use *per se*. Furthermore, the requirement to punish possession where it is for personal use is open to interpretation under the treaties. Indeed, a stated common position among UN system entities in 2018 included, “among other measures, that in appropriate cases, to promote alternatives to conviction and punishment, including the decriminalisation of drug possession for personal use” (p.17).¹ The authors conclude that there is considerable flexibility available to countries in how they implement their

responsibilities under the treaties and that this has resulted in a wide variety of responses in Europe and beyond.

- **How do EU countries respond to the illegal use and supply of cannabis?**

The recreational use of cannabis is illegal across nearly all EU Member States. However, the laws and their implementation differ greatly. The report outlines, for example, how countries vary in the imposition of penalties to cannabis in comparison to other drugs; whether they have imprisonment as a possible penalty for possession for personal use; the consequences of testing positive for cannabis; the limits countries have set for possession for personal use; responses to the cultivation of cannabis for personal use; and the alternative approaches adopted by countries to deal with people who use cannabis. The current situation in relation to each of these topics is addressed in a synthesised manner in this section of the report. While changes in national policies have been implemented for different reasons, the authors conclude that based on the limited evidence available “no simple association could be found between legal changes and the prevalence of cannabis use” (p.24).¹

- **Is there a trend towards cannabis regulation, and if so why?**

Since the early 2000s the general trend in national laws in Europe has been to reduce or remove prison penalties for minor cannabis possession offences, although in a minority of countries these have increased. However, prior to 2017 no national EU government supported the idea of regulating cannabis for recreational purposes. Since then there have been significant developments in five EU Member States - Malta, Netherlands, Luxembourg, Germany and Czechia. Each are taking or proposing to take a different approach to regulation including one or more of a variety of elements such as: the introduction of non-profit cannabis growing clubs (for example, in Malta); allowing personal cultivation of a limited number of plants (for example, in Luxembourg); establishing a controlled supply chain with state approved growers (for example, in the Netherlands); and a system of controlled dispensing of cannabis to adults for non-medical purposes (for example, in Germany). Stated motivations for these changes vary. Examples include: to remove consumers from the illicit market, to increase opportunities for harm reduction, to reduce illicit drug market activities, to prevent the sale of contaminated substances, or to ensure the protection of minors.

The EMCDDA highlight the importance of policy evaluations where these changes are being made – as with other policy evaluations, to ensure they are having “the desired effect, provide value for money and do not lead to unacceptable levels of negative unintended consequences” (p. 35).¹

- **What laws cover medical and commercial cannabis-derived products?**

This section of the report provides an overview of legislation in the EU as it applies to the legal use and supply of cannabis in Europe - the EU has directives and regulations that apply to low-THC cannabis products that can be used for medical purposes, in wellness products, cosmetics or food supplements, for example.

Authors’ conclusions

Based on the responses to these questions the authors draw six main conclusions:

- The policy challenges in this area are growing in both importance and complexity.
- Where changes in drug laws are being made and regulation of recreational cannabis use is being considered, it is critical that robust evaluation frameworks are in place to understand and quantify the costs and benefits of any changes.

- There is not currently a common EU approach to recreational cannabis use. While at the time the report was published, relatively minor changes had been made in relation to the legislation affecting the penalties for cannabis use, these changes have rarely been subject to rigorous scientific evaluation. Therefore, their impact is unknown.
- Policies are not always reflected in practice – while the law ‘in books’ may take a certain position this is not always reflected in law enforcement practices.
- There is a need for greater definitional clarity in policy and public debate. There needs to be clarity about the substances under consideration and the legal positions being considered. For example, decriminalisation and legalisation are often conflated which causes confusion.
- Investment is needed for monitoring and research to understand the impact (positive and negative) of policy changes on population health, crime and public safety.

Concluding comment

This is an extremely accessible report that covers the complexities and the dynamic nature of the recreational cannabis debate and policy change in Europe. The point is clearly made that changes in policy must have clearly defined outcomes of what they want to achieve. These need to be matched by rigorous evaluations that will effectively capture evidence of the intended and unintended outcomes of the approach taken.

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1. European Monitoring Centre for Drugs and Drug Addiction. (2023) Cannabis laws in Europe: questions and answers for policymaking. Luxembourg: Publications Office of the European Union. <https://www.drugsandalcohol.ie/38939/>
2. United Nations (1961), Single convention on narcotic drugs; United Nations (1971), Convention on psychotropic substances; United Nations (1988), Convention against illicit traffic in narcotic drugs and psychotropic substances. For more information see: https://www.unodc.org/unodc/en/commissions/CND/Mandate_Functions/conventions.html
3. For more information on the WHO Expert Committee on Drug Dependence, Critical review of cannabis and associated substances, see: <https://www.who.int/news-room/events/detail/2018/11/12/default-calendar/forty-first-meeting-of-the-expert-committee-on-drug-dependence>