

THE GREY ZONE

CANNABIS LEGISLATION AND PRACTICE IN EUROPE

Antwerpen,
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Dear reader,

In most European countries, cannabis legislation and practice are two very different things. In theory, production, distribution and consumption of cannabis that contains more than 0,2 % of THC is forbidden in all countries, following the legislation that is based on the UN Conventions on Illicit Drugs. In practice, most European authorities have installed a grey zone, where it is up to the individual policeman or judge to apply these laws.

The grey zone is the achievement of European citizens who in spite of all the drug war madness that has been imposed on them the past 40 years, have continued to practice their belief in the benefits of cannabis, not only for themselves, but for the entire world. Since the end of the 1960's, they have claimed that the only way to increase these benefits and reduce eventual harms related to cannabis is by abolishing cannabis prohibition. But that is a measure that no national government in Europe is prepared to take.

The result is the grey zone, which you find described in detail for a number of European countries in this document. It is an overview of the state of cannabis legislation and practice made by national drug policy reform groups, members of ENCOD. When reading it, please remember that cannabis is the most popular illicit drug consumed in Europe. According to the European Monitoring Centre on Drugs and Drug Addiction in Europe, lifetime experience of cannabis use is reported by 20-25% of the adult population in Europe. So one out of every 4 European adults has been or still is in the grey zone. Let's make sure it does not turn black.

It's time for a different drug policey. Please consider joining us in achieving it.

Best wishes,

Joep Oomen - ENCOD

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Belgium

1. Cannabis use (recreational and /or medicinal)

Is prosecuted if you are under 18, if you have more than 3 grammes, if you are into 'problematic' consumption or cause public nuisance, if there are aggravating circumstances or if you are stopped by police outside the district where you live. Punishment is with fines or prison in case of aggravating circumstances.

2. Cultivation

One female plant is allowed

3. Distribution

Illegal

4. Provision of seeds, tools to produce and consume cannabis with etc

Unknown

5. Production and distribution of hemp products

In theory it is legal, but it is difficult to find.

Contact for Drug Policy Activism in Belgium: Liaisons Antiprohibitionistes – Brussels,
la@skynet.be

Bulgaria

1. Cannabis use (recreational and /or medicinal)

There is no such thing like medical marijuana in Bulgaria. The possession and use of marijuana is punished by law with imprisonment plus fine

2. Cultivation

The cultivation is not regulated by the law. Marijuana is planted illegally and according the penal code the punishment for cultivation is 15 to 25 years imprisonment.

3. Distribution

Absolutely illegal.

4. Provision of seeds, tools to produce and consume cannabis with etc

Absolutely illegal again. Tools to produce and consume cannabis are sold legally nowhere.

5. Production and distribution of hemp products

Hemp products are produced and sold in Bulgaria, but there is no legal regulation for it. It is not forbidden but it is not admitted either.

Contact for Drug Policy Activism in Bulgaria: HOPE – Sofia, hope_sofia.bg@abv.bg

Denmark

1. Cannabis use (recreational and /or medicinal)

All use of cannabis, that is except for marinol and that must be doctor-prescribed, is prohibited in the DK. Getting caught smoking a joint will cost you a fine from 500 danish kroner and up, according to your income. Prohibition seems to be the danish policy concerning drugs and use.

2. Cultivation

If you grow your own "stone", it will considered being a worse crime than only possion. You will probably get a hard time trying to convince the judge that you are only growing your own. "We" don't have a minimum amount, that is so small that you will be freed from the hook. Growing your own is hard criminality.

3. Distribution

The same factor applies here, dealing and traffiking will be punished as severely as the Danish laws allow. Up to 10 years imprisonment or even 12 years, if the judge can be convinced that your a professional criminal. DK no longer makes distinctions between hard and soft drugs.

4. Provision of seeds, tools to produce and consume cannabis with etc

The distribution of potent hempseed is illegal in Danmark, if tools are confiscated during a "bust" they will of course ad to troubles of the busted. Pipes and paraphernalia are legal if you are not caught redhanded using the "stuff".

5. Production and distribution of hemp products

Is legal in Denmark, but the amount of red tape et al has drastically reduced the number of growers/ manufacturers/inovators in this field in DK.

About the development at Christiania, well the police withdrew their constant presence about a month ago, quickly followed by clashes between pushers resisting arrest and the dark force, so the police are still trying in vain to eradicate the pushing that's still going on all over Christiania and Copenhagen. Also there have been an article in Berlingske, THE conservative Danish paper, telling about how the distribution of cannabis now have spread to the whole of Copenhagen, how deals now are struck down at the local supermarket and with a doctor from the "council of the marginalised" getting the last words which of course were Legalization.

And a last little strange tidbit, it seems that the police are focusing their efforts against the young. When the tightening of the Danish drug- practises were announced, the government said they would try to make it so, that older users were not targeted. It seems that somehow this has become a practice, that is a non-equality amongst citizens? Law-professors were protesting when this was mentioned at first.

Contact for Drug Policy Activism in Denmark: Fri Hash Movement – Copenhagen:
hampvision@yahoo.dk

Finland

1. Cannabis use (recreational and /or medicinal)

Drug laws were changed in Finland a couple of years ago. A new separate category of "drug use crime" was created. Previously there was only "drug crime", which applied to use, possession, and trafficking. Under the new rules cases of personal use usually yield a small fine, which can be paid without even going to court.

2. Cultivation

This is one of the real drawbacks with the new law. Even small-scale cultivation of cannabis qualifies as "production", which is automatically considered more serious than personal use. We have tried to point out that this actually favours the illegal drugs trade by providing a disincentive for users to grow their own.

3. Distribution

Criminalised - those convicted of small-scale dealing might get off with a fine, but prison sentences are frequent when large amounts are involved.

4. Provision of seeds, tools to produce and consume cannabis with etc

Possession and/or sale of seeds is not criminalised, and head shops seem to operate without any problems. Sale of pipes and rolling papers (intended for use with tobacco) are restricted to those 18 and over.

5. Production and distribution of hemp products

No problem: hemp clothing, soaps, shampoos, oils, and even chocolate and other food products are sold at a few stores in Finland.

Contact for Drug Policy Activism in Finland: HPPRY – Helsinki: kwilska@pp.htv.fi

Germany

1. Cannabis use (recreational and /or medicinal)

Cannabis use is not forbidden, but everything you have to do to consume (buy, possess etc.). For consumers with small amounts there is the possibility to get no prosecution. The definition of a small amount is very different in the German regions - from almost nothing up to 30 grams of cannabis (in the city of Berlin). The same is true for the intensity of law enforcement - Bavaria is worst.

Possession of more than a small amount for personal use: fine or prison up to five years. For more than 7,5 g THC-content: minimum 1 year prison.

Medical cannabis is practically impossible in Germany. There are only pure THC-products on the market - very expensive. But we have 2-3 court-decisions allowing 2-3 persons to possess/grow cannabis for medical reasons. If that is it all or becomes a trend we have to see in the next month/years.

2. Cultivation

Is forbidden, too. There is no regulation to tolerate it, but they usually use the same "small amounts" to close a case as with possession. That means almost every grower comes to a judge: fine or prison up to five years. For more than 7,5 g THC-content minimum 1 year prison.

3. Distribution

Fine or prison up to five years. For more than 7,5 g THC-content minimum 1 year prison. To make it more complicated the punishment in all segments can be less if the case is less "heavy" - and the punishment can be harder if it depends "organised crime" (minimum 5 years prison for more than 7,5 g THC).

4. Provision of seeds, tools to produce and consume cannabis with etc

Seeds are forbidden, if they seem to be sold or possessed for illegal cultivation. so there is no legal way to sell or possess seeds for that purpose. But in the 'grey area', they are sold as 'birds feed', everyone knows what this means, but the head shops are not especially prosecuted for this. Besides- there is a razzia. Growing and smoking equipment is no problem in Germany. But a grow shop should not tell the people, how to grow Cannabis with it.

5. Production and distribution of hemp products

Not a big problem, but very bureaucratic ways of surveillance and narrow THC-levels for hemp-food etc. The people who control for what purpose the cultivation is have no training to see the differences.

**Contact for Drug Policy Activism in Germany: AKZEPT - Berlin, akzeptbuero@yahoo.de
Deutsche Hanf Verein, Berlin: Georg.Wurth@hanfverband.de**

Hungary

1. Cannabis use (recreational and /or medicinal)

There is no distinction in Hungarian law between illicit drugs according to dangers, heroin use has the same consequences as cannabis use. Use or possession of small amount of drugs cause you up to two years of prison, but after the penal code modification (March 1 2003) there is a possibility for choosing "diversion into therapy," which means if you participate in a 6 months therapy you can avoid jail. The amount of the drug is counted as the amount of the pure psychoactive substance, in case of cannabis the limit of small amount is 1 gram pure THC. No medical use is permitted. If you possess more, you can go to jail for 5-10 years.

2. Cultivation

The limit of small amount for cultivation is 5 cannabis plants, in this case you face the same punishment as described above. If you grow a significant amount of cannabis, you can go to jail from 5 to 10 years.

3. Distribution

Small amount - up to 2 years.

Significant amount - 5-15 years or lifelong imprisonment.

4. Provision of seeds, tools to produce and consume cannabis with etc

Seeds cannot be distributed, because police will accuse you of "preparation of crime," but for this they should prove the intention of crime. There is no precedent for this as far as I know, but distributing seeds is risky. Cannabis paraphernalia can be distributed.

5. Production and distribution of hemp products

Hemp products: if there is no significant THC in the products they can be distributed and purchased legally.

Contact for Drug Policy Activism in Hungaria: KENDAMAR – Budapest, sarosip@yahoo.com

Italy

1. Cannabis use (recreational and /or medicinal)

Under the present law, personal use and possession of small quantities of cannabis is not a criminal offense but is still punished with fines, suspension of driving licence, suspension of passport, and similar. Medical use of cannabis is not provided for by the law.

However, things might change very soon in the future. The Italian government has recently presented in parliament a bill of law which is much stricter and, if passed, would put many cannabis users at risk of prison or treatment-instead-of-prison programmes. If the new law is passed by the parliament, the maximum quantity of THC decriminalized would be 250 milligrammes. In other words, if a person is found with 251 milligrammes of THC, he/she will be automatically charged with a criminal offense. Those who are found with smaller quantities of cannabis will be sent to "drug treatment" programmes. The Italian anti-prohibition movement is fighting this law which would bring Italy many steps back in the field of drug policies.

2. Cultivation

Growing, buying, selling of small quantities of cannabis are still addressed as criminal offences.

3. Distribution

Giving cannabis to someone else for free is treated as a criminal offence, however it partly depends on how judges interpret the law. In other words, if the accused people are able to convince judges that they are not drug pushers but simple users, they can be cleared of criminal charges.

4. Provision of seeds, tools to produce and consume cannabis with etc

Illegal.

5. Production and distribution of hemp products

Cannabis growing for industrial use is permitted in theory, but problems have often arisen with police forces. The same is true for shops selling hemp products.

Contact for Drug Policy Activism in Italy: Forum Droghe, Rome: mimpallomeni@fuoriluogo.it

Macedonia

1. Cannabis use (recreational and /or medicinal)

The current drug policy in Macedonia makes no difference between recreational and medical use of cannabis. The existing laws make no difference between different types of drugs or quantity. It's up to the lawyer (what kind of case he is going to build) and the judge on what kind of verdict he/she is going to bring. So, if you are caught with a smaller quantity of any drugs (including cannabis) that you can prove it is for a personal use, you should be prosecuted according to the "Law for Misdemeanours Against Public Peace and Order", for which you can be punished with a fine or with 30 60 days of prison.

This law is a very old one, from the ex Socialist Federative Republic of Yugoslavia.

The Ministry of Interior register all drug users that are caught with any kind (any quantity) of drugs. According to the latest experiences from the people that have been caught with a small quantity of cannabis (a joint or so) for a personal use, it seems that it's up to the police officers from the Department for Drugs and Crime to decide weather they are going to be processed to the court or not. If you are caught with a bigger quantity of cannabis, you will be prosecuted according to the Criminal Code, Article 216, for Enabling the taking of narcotics, psychotropic substances and precursors", which can lead to imprisonment of three months to five years, and in case the act is committed towards a minor or it caused severe consequences, of one to ten years.

2. Cultivation and 3. Distribution

According to the law mentioned above, the narcotics, psychotropic substances and precursors shall be confiscated. This covers all the questions regarding cultivation, distribution or provision of seeds. According to the information we have from the regions in Macedonia (South-Eastern part of Macedonia) where there is a tradition of growing cannabis, the police is usually more liberal, they just confiscate the plants and do not raise any case. Very often people grow cannabis on the land which is a state property.

4. Provision of seeds, tools to produce and consume cannabis with etc.

With regards to tools for production or consumption of cannabis, there is no problem. The same goes for the distribution of hemp products.

5. Production and distribution of hemp products.

With regards to the production of hemp products, there may be no problem. On the contrary, there is a long tradition of producing hemp products in Macedonia, but this tradition is slowly disappearing or you can find it only in rural parts of Macedonia.

Contact for Drug Policy Activism in Macedonia: HEALTHY OPTIONS:

nora@soros.org.mk

Netherlands

1. Cannabis use (recreational and /or medicinal)

Recreational cannabis use is allowed but in practice it is restricted to private places, or specific places like coffeeshops. In most restaurants and cafe's it is not allowed. Cannabis possession for personal recreational consumption of up to 30 grams is a misdemeanor and is not prosecuted in practice. Medicinal use of cannabis is legalised in a strict formal fashion. Patients are to obtain a prescription from their GP's for their pharmacy that will provide them with government produced medicinal cannabis (which is more expensive than average weed from coffeeshops.)

2. Cultivation

Not allowed. Up to five plants has a low priority - still, police might confiscate the plants. More than 5 plants is a crime and there is a gliding scale of fines and even imprisonment for larger amounts.

3. Distribution

Coffeeshops that have a "gedoogvergunning" (a license from the municipality that says the coffeeshop is tolerated) may sell max 5 grams per customer, on strict conditions such as: no hard drugs, no alcohol (except for certain coffeeshops in Amsterdam), no people under 18 allowed in the premises, no advertising or solliciting cannabis sale and a few other conditions that vary from town to town like for example distance from schools. Cannabis oil is regarded a hard drug and therefore strictly forbidden.

4. Provision of seeds, tools to produce and consume cannabis with etc.

The provision or sale of seeds is legal but the growth of cannabis seeds is only allowed in the open air. The Netherlands do not have laws prohibiting tools to produce or use cannabis.

5. Production and distribution of hemp products.

The production and distribution of hemp products not containing relevant amounts of THC is legal. The production and distribution of products containing relevant amounts of THC (such as hash oil or cake) is forbidden.

Contact for Drug Policy Activism in the Netherlands: Dutch Drug Policy Foundation:

fpolak@knmg.nl

THC Ministry, Amsterdam: admin@thc-ministry.net

Poland

1. Cannabis use (recreational and /or medicinal)

Cannabis becomes more and more popular in Poland these days. Pot is smoked at schools, city parks, pubs - almost everywhere. The age of smokers has also increased, but still the most of marihuana users are young people and teenagers. Unfortunately, THC is used only recreational - medical use is illegal in Poland.

2. Cultivation

Growing any variety of cannabis is illegal in Poland. Grower can be sentenced even for two years of prison.

3. Distribution

Distribution and possession of marihuana and hashish are of course also illegal, the max punishments (for the large amounts) are: three years for possession and ten for distrubution.

4. Provision of seeds, tools to produce and consume cannabis with etc.

Although seeds are legal to possess, sell and buy - there is possibility of having a police visit after buying seeds from online shop. In Poland there are no growshops or reliable seedbanks. Accessories used to smoke and grow marihuana can be legally bought.

5. Production and distribution of hemp products.

There is no problem with production and distribution of hemp products. Most popular hemp product in Poland is hemp beer that is available in many shops, supermarkets and even pubs.

Contact for Drug Policy Activism in the Poland: Kanaba: artur@kanaba.info

Portugal

1. Cannabis use (recreational and /or medicinal)

In Portugal, recreational use of cannabis is forbidden by law; also the medicinal use is not yet (there are a debate and some law projects in Parliament) officially recognized. Portugal signed all the UN conventions on narcotics and psychotropic to date.

With the 2001 decriminalization bill, the consumer is now regarded as a patient and not as a criminal (you can buy, posses, the amount usually used for ten days) but repression persists. You can be sent to a dissuasion committee and have a talk or you must pay some money

2. Cultivation and 3. Distribution

The cultivation of cannabis, even if in very small scale home grow can legally be persecuted. In 2003 another update to the "drugs law" brought the criminalization of the possession of cannabis seeds, except certified industrial hemp seed. A shady tone of a law that in practice while targeting the personal non-problematic home growers, benefits the black market of near-monopoly of Moroccan commercial hashish.

4. Provision of seeds, tools to produce and consume cannabis with etc.

Illegal

5. Production and distribution of hemp products.

There are a few hemp shops in Portugal and hemp products are legal.

Contact for Drug Policy Activism in Portugal: Abraço: luis.mendao@netvisao.pt

Russia

1. Cannabis use (recreational and /or medicinal)

No distinction between the two. Recreational use is regulated according to the administrative code - as any other drugs

2. Cultivation

Any amount leads to criminal prosecution, 20 plants and more is considered as a "large amount".

3. Distribution

Criminal

4. Provision of seeds, tools to produce and consume cannabis, hemp products etc.

No regulations, they are in free access (seeds are available mainly through internet), BUT products with symbols of cannabis (t-shirts, cell phones...) is considered as propaganda of drug use (several court cases started this year) – and leads to administrative sanctions. Also some books describing medical use of cannabis were prohibited for the same reason

Contact for Drug Policy Activism in Russia: New Drug Policy Alliance: dasha@drugpolicy.ru

Spain

1. Cannabis use (recreational and /or medicinal)

Use of drugs in a private place is allowed. Possession or use of drugs in a public place (in the street, in a bus, in your own car if it is in the street, in a bar, etc.) is not a crime, but it is a violation of the law: fines are 300 euros minimum.

2. Cultivation

Cultivation for your own use (for recreational or medicinal or another purpose) is allowed. If the judge thinks that this cultivation is not for own use, it will be a crime (punishable from 1 to 3 years).

3. Distribution

Selling drugs is a crime. For cannabis, the conviction goes from 1 year till 3 years of jail and a fine.

4. Provision of seeds, tools to produce and consume cannabis, hemp products etc.

It is legal to sell or to buy seeds and other hemp products (it depends on THC levels).

This is the law. Then the police have their own laws...

Contact for Drug Policy Activism in Spain: ARSECA: rafaelramosrodriguez@hotmail.com

Switzerland

1. Cannabis use (recreational and /or medicinal)

Cannabis use is illegal in Switzerland, the parliament just refused in June to do a drug law reform, not only concerning Cannabis (the idea was to clear the situation for the heroin trials which still go under exception, as well). So, Cannabis stays illegal, consumption stays illegal, but thousands of people smoke it and the police, who said they wanted the reform, admits that they impossibly can sort of really control the situation. If you smoke in public e. g. in a park, you can get fined. It depends also on the kind of 'mood' of the police, but if they pass and see you, they should do something. For people under 18 that are under "Jugendstrafrecht", there is the possibility to go 2 times to a social office with their parents to talk about the situation, e.g. there are measures that are worked out by the social services. If you do not go there you have to go to (Youth-)court.

2. Cultivation

A couple of years ago there was more outdoor hemp, now you have to ask for allowance if you want to grow potent THC (e. g. for perfume). If you grow a small amount for your own, it's no problem. In the shops now (there are still shops) they sell mostly indoor, as the farmers do not want to take risks, and indoor is produced out of sight.

3. Distribution of cannabis, seeds, paraphernalia, hemp products etc.

Distribution of hemp products is legal, but people who had had shops in the last years and openly sold high THC Marijuana (lot of it outdoor, potent but naturally grown and not pushed indoor) have got big fines and prison to expect. There is a couple of people ruined, even in their family lives.

Switzerland is a federation, so we have 26 different police and governments in the 26 Kantone (states). So you have 26 different drug policies, based on the same laws, but handled quite different, generally you can see the difference between urban and rural areas/Kantons. The Kantons with big cities are more progressive (in cities as Zurich and Basel the DroLeg Initiative (a proposal to repeal prohibition which was put to a referendum) obtained over 60% yes. More conservative cantons have more harsh policies.

Contact for Drug Policy Activism in Switzerland: DROLEG: droleg@droleg.ch

United Kingdom

1. Cannabis use (recreational and /or medicinal)

Cannabis use is illegal in the UK. However, there is now a presumption against arrest for those caught with it in their possession. This means that, unless the following conditions are breached, anyone caught possessing cannabis will most likely receive an informal warning and have their cannabis confiscated.

The conditions which could lead to arrest are:

- 1) Smoking openly
- 2) Smoking repeatedly
- 3) Being under 18
- 4) Smoking near under 18 year-olds
- 5) If the use is deemed by the police to be part of a wider social problem

As with many other laws in Britain, there is often a great difference between the letter of the law and how the law is implemented. In practice it is unlikely anyone caught possessing cannabis will now be arrested. There is no provision for the therapeutic use of cannabis in UK law. Despite this, it is extremely rare for anyone with a recognised medical condition to be prosecuted for possession.

On the other hand, there is an increasing argument that can be called as 'cannabis psychosis' which is quite a resemblance of the 'reefer madness'; this time supported by some hypothesis from researchers about the strength of contemporary cannabis or skunk. This has alerted some parents and social perception, who might consider that today's cannabis is not the wacky-backy grass of the happy 60s... Although there has been enough pressure for significant changes in cannabis legislation, government and politicians are still reluctant to implement changes toward decriminalization or legalization even for medical purposes. The fact is that UK cannabis policy requires of a deep examination on its grey areas, and the possibility of going further the downgrading of cannabis toward the medicalization of cannabis or the acceptance of cannabis as an important part of the economy.

2. Cultivation

Cultivation is illegal in the UK and carries a maximum penalty of 14 years. Despite this the police and courts are taking an increasingly lenient line toward those who grow a small number of plants and especially those who grow for medicinal needs. The approach of the police differs from area to area, however. Those caught growing in rural areas are more likely to receive heavier punishment than those caught in cities.

3. Distribution

The distribution or supply of cannabis is illegal in the UK and again carries a maximum penalty of 14 years. The maximum penalty is rarely, if ever, enforced and would generally only apply to those importing very large quantities and to those with many previous convictions. Most people caught with around a kilo successfully argue that the cannabis is purely for their own consumption.

4. Provision of Seeds, Tools to Produce and Consume Cannabis with etc

All growing equipment and cannabis paraphernalia is legal in the UK. The law is broken only when the equipment is used.

5. Production and Distribution of Hemp Products.

It is legal to produce and distribute hemp products in the UK.

Contact for Drug Policy Activism in the UK:

John Mordaunt Trust: A.Efthimiou-Mordaunt@lse.ac.uk

The Hempire: dhc@thehempire.com

European Union

EU Authorities (Council of Ministers, European Commission, European Parliament) have no direct decisive powers on cannabis or drug legislation or practice – yet. It is up to each Member state to decide the way it wants to interpret the United Nations Conventions. However, the EU plays an important role in the debate how on the evolution of drug policies in Europe. National authorities regularly refer to ‘pressure from abroad’ as a justification for not adopting more flexible regulations on drugs. The EU provides the forum where the international debate takes place.

In July 2004, the European Council approved a non-binding resolution calling on all Member States to, among other measures to reduce cannabis consumption, “consider taking measures against Internet sites providing information on cultivation and promoting the use of cannabis.”

Contact for Drug Policy Activism in the European Union: encod@glo.be