

From: EMCDDA drug policy news <policynews@emcdda.europa.eu>
Sent: Thursday 28 May 2020 16:46
To: Therese M. Molyneux
Subject: Cannabis policy news: New Zealand: referendum on cannabis legalisation to take place in September 2020

Quick Look

These e-mail updates from the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) inform you about key cannabis policy changes.

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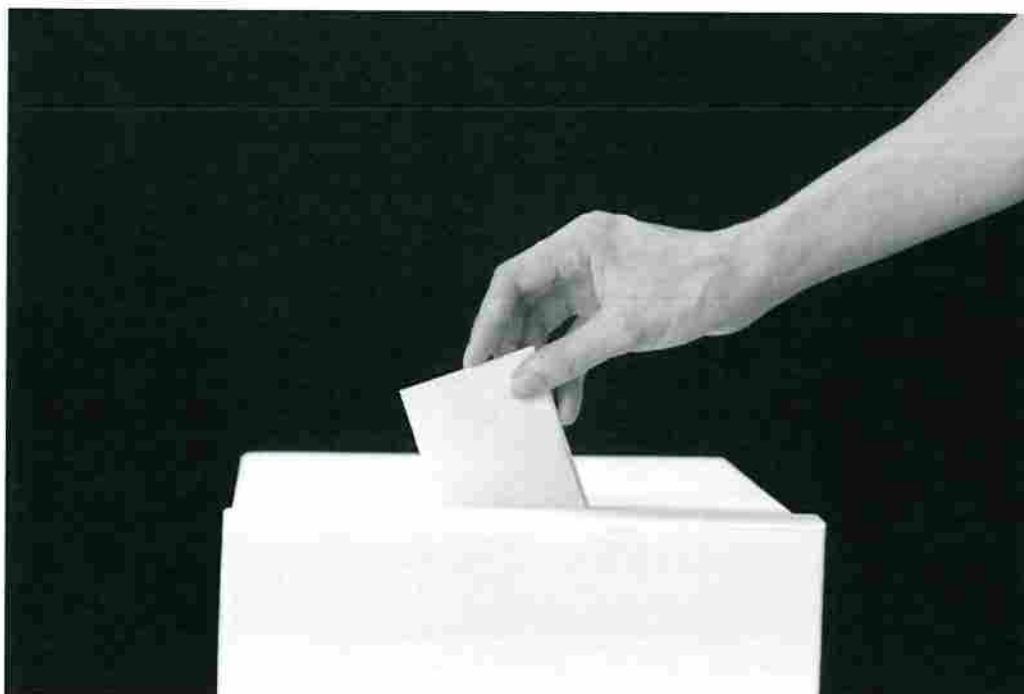


DRUG POLICY NEWS

Cannabis



New Zealand: referendum on cannabis legalisation to take place in September 2020



Following an agreement made in 2017 between the ruling coalition parties in New Zealand, it has been announced that a referendum on legalising the recreational use of cannabis will be held together with the next general election, on 19 September 2020.

On 1 May 2020, a draft bill was published alongside the referendum question: 'Do you support the proposed "Cannabis Legalisation and Control Bill"?', with a yes/no answer. The stated purpose of the bill is to reduce cannabis-related harm, and it proposes the

establishment of home grow and retail supply systems, as well as a 'Cannabis Regulatory Authority' to oversee the sector.

Under the bill, the minimum age for cannabis possession or purchase is 20 - by comparison, the minimum age for alcohol purchase is 18. A person may cultivate up to two cannabis plants, and the bill permits up to four plants per household. A person would be able to buy up to 14 grams of dried cannabis per day or its specified equivalent (such as 3.5 grams of concentrates), to be consumed in private or on licensed premises. Social sharing of up to 14 grams would be permitted. Use in public would be fined up to NZ\$500 (€280), and possession by an under-age person would be punished by a small fine or a health-based response. Selling to an under-age person would be punished by up to 4 years in prison.

Sales would be from licensed retailers, whose premises should not externally promote that they sell cannabis. Those selling cannabis to take away would not be allowed to sell tobacco, alcohol or food, while premises licensed for on-site consumption must provide food and non-alcoholic beverages for sale at the venue. Levels of THC would be limited to 15 % in dried cannabis, and THC and CBD content should be clearly labelled. Cannabis edibles, which must not appeal to children, may possibly be permitted for sale later but not at the first stage. Cannabis-infused products, however, could be produced at home. Neither the advertising of products nor online sales would be allowed. There would be an excise tax on retail products based on weight and potency.

The bill proposes a limit on annual production; the cap may be adjusted each year and apportioned between different types of growers, including micro-cultivators. No more than 20 % of the annual cultivation cap would be allocated to one licence holder. A special levy would raise money for harm reduction services, including education and treatment programmes.

The referendum vote does not bind the new New Zealand government to act. If more than 50 % of voters vote yes, cannabis will not become legal immediately; the government can introduce a bill to Parliament, which may be modified following public consultation. If more than 50 % vote no, the status quo will remain.

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Colin G. Lavelle

From: WP-DRUGS <WP-DRUGS@consilium.europa.eu>
Sent: Monday 30 November 2020 16:16
Subject: NOTE to HDG - Judgment Court of Justice concerning the marketing of CBD - Communication from the Commission

Importance: High

Dear delegates,

Please find below a message on behalf of the European Commission.

"As announced at the 24 November 2020 meeting of the HDG, the European Commission is currently assessing the impact and implications of the 19 November 2020 judgment of the Court of Justice of the European Union in case C-663/18 concerning the marketing of cannabidiol (CBD). Although this assessment is still ongoing, in the spirit of transparency and sincere cooperation with the international community, the European Commission will inform, via the Delegation of the European Union to the International Organisations in Vienna, the Commission on Narcotic Drugs about this judgment at its reconvened 63rd session."

Best regards,
Magda



Council of the European Union
General Secretariat
JAI/B
Evaluations in JHA and Drugs Policy

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From: EMCDDA drug policy news <policynews@emcdda.europa.eu>
Sent: Wednesday 16 December 2020 13:46
To: Therese M. Molyneux
Subject: Cannabidiol (CBD) is not considered a 'narcotic drug' under European law

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DRUG POLICY NEWS **Cannabis**



Cannabidiol (CBD) is not considered a 'narcotic drug' under European law



In November 2020, the European Court of Justice published a judgement stating that cannabidiol extracted from the cannabis plant should not be considered a drug under the 1961 United Nations Single Convention on Narcotic Drugs.

The 1961 UN Convention is the basis for national drug control laws controlling cannabis. It states that unauthorised sale of 'cannabis flowers' and 'extracts and tinctures of cannabis' should be subject to criminal penalties, and this was subsequently reflected in the EU Council Framework Decision 2004/757 on drug trafficking penalties. These flowers and extracts contain several different cannabinoids, whose concentrations can vary greatly by plant variety and by growing technique. The two most extensively studied cannabinoids are tetrahydrocannabinol (THC) and cannabidiol (CBD). While THC is known to be the main psychoactive component of cannabis, the recent review by the World Health Organization's Expert Committee on Drug Dependence found that CBD 'has no potential for abuse and no potential to produce dependence' (1).

The European Court ruling resulted from a case referred from the French courts. In 2017, a French court convicted the seller of e-cigarette cartridges containing CBD that had been legally extracted from the whole hemp plant in Czechia, because in France only fibre and seeds are legal hemp. This case was referred to the European Court of Justice (case C-663/18), and on 19 November 2020 the court [published its judgement](#). The court stated that, while evidence of the risk to health from CBD was still limited but may justify precautionary restrictive measures, it was inconsistent to apply the marketing ban only to organic, and not synthetic, CBD. Examining the legality of these measures that restricted the free movement of goods within the EU, the court also stated that CBD extracted from cannabis was not a drug within the meaning of the 1961 Convention; and that the EU industrial hemp regulations were not applicable to the CBD extract, as it is not an agricultural product within those regulations' definitions.

Following this decision, the European Commission has noted in a recent press briefing that cannabidiol should not be considered as a drug within the meaning of the United Nations Single Convention on Narcotic Drugs of 1961 and cannabidiol can be qualified as food, provided that the other conditions of the EU Food Safety Regulation are also met.

(1) [Report of 41st ECDD](#) – Cannabis: Report Extract, section 5.5.

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Colin G. Lavelle

From: Criminal Collaboration
Sent: Wednesday 10 February 2021 16:12
To: Colin G. Lavelle; Brendan D. Sheehy; Criminal Collaboration; CJ-Pol-ET&OC; CJ-Pol-CS
Subject: RE: PQ 8083/21 - Gino Kelly

Thanks Colin - we will share this with Transparency.

Kerrie

Kerrie Keegan

Oifigeach Feidhmiúcháin | Beartais Straitéiseacha, Pleanáil agus Taighde
Executive Officer | Strategic Policy, Planning and Research

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From: Colin G. Lavelle <CGLavelle@justice.ie>
Sent: Wednesday 10 February 2021 16:07
To: Brendan D. Sheehy <BDSheehy@justice.ie>; Criminal Collaboration <CriminalCollaboration@justice.ie>; CJ-Pol-ET&OC <CJ-Pol-ET&OC@justice.ie>; CJ-Pol-CS <CJ-Pol-CS@justice.ie>
Subject: RE: PQ 8083/21 - Gino Kelly

Hi Kerrie,

Agree with Brendan regarding enforcement. Also, DoH should be able to provide general material re CBD products and the licencing of them.

The following may be useful for Cormac re the legislation:

The [Criminal Justice \(Psychoactive Substances\) Act 2010](#) is a supporting criminal justice measure to specifically target what was then a very prominent and widespread headshop trade which had emerged very quickly in this jurisdiction. The Act gives An Garda Síochána and the courts appropriate powers to intervene quickly via civil procedures to prevent the sale of psychoactive substances and is designed so that it will not impact on legitimate trade. The Act does not apply to products which can legally be sold for human consumption, such as medicines, tobacco, alcohol and food. Provision is made for the exclusion of additional products by Ministerial order if considered appropriate.

The [Misuse of Drugs Acts 1977-2016](#) and the Regulations made thereunder control the cultivation, licensing, possession, administration, supply, record-keeping, prescription-writing, destruction and safe custody of substances controlled under the Act – either by being listed in the Schedule to the Act or declared controlled by Government order. These include substances which have legitimate and therapeutic uses but which are open to

abuse, e.g. heroin, cocaine, benzodiazepines, and substances which have no recognised or known legitimate and therapeutic uses.

In summary, the CJ (Psychoactive Substances) Act 2010 does not control substances. For substances not controlled under the Misuse of Acts, enforcement agencies are using Section 3 of the CJ (Psychoactive Substances) Act 2010:

3.— (1) A person who sells a psychoactive substance knowing or being reckless as to whether that substance is being acquired or supplied for human consumption shall be guilty of an offence.

Regards,
Colin

From: Brendan D. Sheehy <BDSheehy@justice.ie>

Sent: Wednesday 10 February 2021 15:58

To: Criminal Collaboration <CriminalCollaboration@justice.ie>; CJ-Pol-ET&OC <CJ-Pol-ET&OC@justice.ie>; CJ-Pol-CS <CJ-Pol-CS@justice.ie>

Subject: RE: PQ 8083/21 - Gino Kelly

Kerrie,

No info on this matter to hand – its operational, so is a matter for AGS – whatever info they can provide to Transparency will determine the reply.

Brendan

Brendan Sheehy
Assistant Principal

Criminal Justice Policy / Community Safety
Department of Justice, 51 St. Stephen's Green, Dublin 2 D02 HK52

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M. 
bdsheehy@justice.ie

From: Criminal Collaboration <CriminalCollaboration@justice.ie>

Sent: Wednesday 10 February 2021 15:29

To: CJ-Pol-ET&OC <CJ-Pol-ET&OC@justice.ie>; CJ-Pol-CS <CJ-Pol-CS@justice.ie>

Cc: Criminal Collaboration <CriminalCollaboration@justice.ie>

Subject: FW: PQ 8083/21 - Gino Kelly

Hi all,

Please see below PQ regarding the sale of CBD.

Grateful if you could respond, including nil obs, by 3pm Friday 12th Feb.

Kind Regards,

Kerrie

Kerrie Keegan

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From: Cormac X. Flood <CXFlood@justice.ie>
Sent: Wednesday 10 February 2021 14:53
To: Criminal Collaboration <CriminalCollaboration@justice.ie>
Subject: PQ 8083/21 - Gino Kelly

Dear colleagues,

Can you please provide obs on the below PQ which is for answer on 16 February.

Question

To ask the Minister for Justice the reason CBD shops in Ireland are currently having their stock seized and business owners criminalised when the CBD products in question are legal in the EU; and if she will make a statement on the matter.

I believe the substances referred to in the PQ are regarded as controlled substances under the [schedule](#) of the Misuse of Drugs Act ("Cannabinol, except where contained in cannabis or cannabis resin. Cannabinol derivatives. Cannabis and cannabis resin.") I tried to get it transferred to Health on these grounds but they refused to take it as it related to enforcement.


Are you aware whether these enforcement actions are carried out under the CRIMINAL JUSTICE (PSYCHOACTIVE SUBSTANCES) ACT 2010 or the Misuse of Drugs Act?

Could Policy please provide any relevant observations or comments which they believe would assist in the formulation of an answer by 12pm Monday 15 February.

I have also put this question to legislation for their obs.

Cormac Flood

Oifigeach Riaracháin | Coilocht agus Póilíneacht | Trédhearcacht - Ábhar agus Imeachtaí
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