

Controlled access of recreational cannabis for adults

Cornerstones of a 2-pillar model:

1. private & community non-commercial home cultivation.
2. regional model project with commercial supply chains

On the basis of the coalition agreement 2021, the federal government has set out cornerstones for the introduction of a controlled supply of cannabis to adults for consumption purposes in licensed shops. The aim is to control the quality, to prevent the transfer of contaminated substances, to ensure the best possible protection of minors and health for consumers, and to curb the black market.

As stated in the key points, the Federal Government has also examined and evaluated the requirements of European and international law. It has already made it clear in the key points paper that in the implementation of the coalition proposal it will use the framework of international and European law when implementing the coalition's proposal. Against this background, the federal ministries involved in the cannabis project exchanged views with the EU Commission in Brussels at the end of 2022 and, in accordance with their respective areas of responsibility, presented their findings to the EU Commission.

The result of the consultations is a further development of the key points paper towards a 2-pillar model in stages: "Club Cultivation & Regional Model" with the following elements, which refer to other examples in the European Union:

Pillar 1: Private & community non-commercial own cultivation.

- Non-profit associations are allowed to cultivate cannabis in the community for the purpose of enjoyment under a narrow, clearly defined legal framework of conditions, may collectively cultivate cannabis for the purpose of enjoyment and members for their own consumption. The members should be as active as possible in the association. The involvement of employees of the associations in cultivation is permissible.

However, commissioning third parties with the cultivation is excluded.

- The framework conditions for handling are regulated in a separate law.
- In addition to harvested cannabis, members may also receive seeds and cuttings produced by the association for their own cultivation. It is examined whether and how seeds and/or cuttings for private cultivation may be obtained at cost via the associations, without membership in an association being a prerequisite.
- Approval and monitoring are carried out by the state authorities with regard to compliance with, among other things of the quantity, quality and youth protection requirements and with spot checks and on-site visits. Personal data collected in connection with the distribution of cannabis, and cuttings may not be passed on to unauthorised third parties or disclosed to third parties or used for other purposes. Membership in more than one association is prohibited.
- Fines, withdrawal of licences or fines/imprisonment for multiple violations are possible.
- Cultivation and harvesting quantities are geared towards meeting demand. There are reporting and documentation obligations on the quantities produced and sold. There is a ban on the import or export of cannabis for human consumption.
- Membership fees cover the cost price, graded according to the amount of cannabis dispensed (if applicable, with a basic fee and an additional fee per gram dispensed).
- The number of members per association is limited to a maximum of 500 with a minimum age of 18 years and residence or habitual abode in Germany. The number of associations may be limited according to population density.
- The association can only be run by natural persons whose reliability has been verified. The association shall be managed in accordance with the principles of association law. A

personal liability of the association's executive board in the event of pecuniary loss or the of official requirements shall only occur in the case of intent or gross negligence.

- The procurement of seeds for (initial) cultivation in the associations shall be made possible. The possibility of importing seed from third countries is being examined.
- The distribution of harvested cannabis (flowers) is only allowed to members; no passing on to third parties. Max. 25g of cannabis per day, max. 50g per month, max. 7 seeds or 5 cuttings per month. The supply of cannabis to adolescents under the age of 21 is limited to a quantity of 30g per month, additionally with a limit of the admissible THC-content (limit to be clarified). This should be reflected in the selection of varieties.
- It will be examined whether and how seeds and cuttings can be exchanged free of charge between associations for quality assurance purposes.
- Quality requirements apply to community self-cultivation (in particular prohibition of additives or admixtures such as tobacco or flavourings, requirements on plant protection products, no synthetic cannabinoids).
- Cannabis is only sold in its pure form (flowers or resin) in neutral packaging or in bulk with information on the product (variety). information on the product (variety, including its usual average THC content and the content of other cannabis). THC content and the content of other cannabinoids such as CBD), dosage and use, as well as risks of consumption and counselling centres.
- Consumption on the premises of the association is prohibited, as is public consumption near schools, day-care centres or the like, as well as in pedestrian zones until 8 pm.
- At the same time, the distribution of alcohol, tobacco or other stimulants and intoxicants is prohibited.
- Admission is only permitted for adults with a strict obligation to check age.
- Youth protection and prevention requirements apply: Youth protection, addiction and prevention officers to be appointed by the association.

There is compulsory cooperation with the local addiction prevention or counselling office and a minimum distance to schools, day-care centres, etc.

- There is a general ban on advertising for the associations and for cannabis. Factual information is permitted.
- Minimum security measures (e.g. burglar-proof premises, fencing) prevent access by unauthorised third parties.
- Possession without penalty (carrying in public) is possible for personal consumption of up to 25g; penalties apply for possession in excess of this amount.

There are penal provisions for possession in excess of this, for trafficking and distribution to non-members and children and young people, as well as for the distribution of cannabis not cultivated in the associations themselves.

- The limits in road, shipping and air traffic shall be reviewed with the involvement of the relevant expert bodies. Regulations on the permissibility of driving under the influence of cannabis are based exclusively on the requirements of road safety.
- Private cultivation of cannabis for one's own use, which is exempt from punishment, comprises a maximum of 3 female flowering plants and must be protected from access by children and adolescents.
- It is made possible to record convictions exclusively for acts in connection with cannabis. cannabis for which the law no longer provides for punishment (possession of up to 25g/own cultivation up to a maximum of 3 female flowering plants) can be deleted from the Federal Central Register upon application. With the entry into force of the law, ongoing investigative and criminal proceedings concerning these acts will be terminated by the possibilities already provided for in the Code of Criminal Procedure.
- The scope of application of the Federal Non-Smokers Protection Act will be extended to smoking of products in connection with cannabis; further protection of non-smokers in accordance with the regulations for tobacco must be ensured.

- Participation in early intervention and prevention programmes for minors if they consume cannabis is obligatory.
- After 4 years, an evaluation of the provisions of Pillar 1 will be carried out with the aim of examining possible changes.

The aim is to examine possible adjustments with regard to health and youth protection as well as the reduction of the black market.

In addition, the provisions on youth and health protection formulated in the key issues paper of 26 October 2022 are to be implemented. protection of young people and health. The intention is to design this regulatory project in such a way that it does not trigger a notification obligation and does not require the approval of the Bundesrat.

Pillar 2: Regional model project with commercial supply chains

In the next step on the way to a nationwide regulation, the second pillar continues from the key issues paper of 26 October 2022, including an evaluation, as a scientifically designed, regional and time-limited model: companies will be allowed the production, distribution and sale of cannabis to adults in specialised shops in a licensed and state-controlled framework. With this pillar, the effects of a commercial supply chain on health and youth protection as well as on the black market can be scientifically investigated.

- The project duration is 5 years starting with the establishment of supply chain.
- There is a spatial restriction to delivery points and adult residents of certain counties/cities in several federal states (opt-in approach).
- The law will allow the dispensing of edibles under strict youth and health protection regulations.
- The model will be scientifically monitored and evaluated. The findings will be made available to the European partners and the EU Commission.
- Health and youth protection also follows the key issues paper of 26 October 2022.

This part of the project will probably still be subject to notification.

3 Further procedure

In implementing the 2-pillar model, the Federal Government will take its international and European legal framework as a basis. It will refer to the relevant UN bodies to the interpretative declaration made in 1993 when ratifying the 1988 UN Convention. and issue a statement declaring the project to be compatible with the purpose and the legal requirements of the UN Conventions. In addition, close and transparent coordination with the European partners.

The federal ministries will work on all parts of the project within the framework of their respective competences, under the overall leadership of the Federal Ministry of Health. Both pillars will be incorporated into concrete draft legislation, with the working draft for Pillar 1 to be presented at the beginning of April 2023, followed by the draft legislation for Pillar 2. The results of the scientific report on the effects of the legalisation, which has already been commissioned, on the effects of the legalisation of recreational cannabis on the protection of health and young people in other countries will be taken into account in both pillars. At the same time, the Federal Government (in particular through its missions abroad) continues to advocate its efforts to European partners and to examine the extent to which the initiative of a sufficient number of the initiative of a sufficient number of EU member states will be possible in order to make the relevant EU legal framework more flexible and develop it further.