

Controlled dispensing of cannabis to adults for recreational purposes
Outline of a 2-pillar model:

1. Non-commercial private & community cultivation for personal use
2. Regional pilot project including commercial supply chains

Based on the 2021 Coalition Agreement, the Federal Government has presented a Key Issues Paper on the introduction of the controlled dispensing of cannabis to adults for recreational purposes through licensed shops. The objective is to enable quality control, prevent the distribution of adulterated or contaminated substances, ensure child and youth protection and consumers' health protection as best as possible while curbing the black market.

As specified in the Key Issues Paper, the Federal Government has also reviewed and evaluated the requirements of both European and international law and clarified its intention to take account of the relevant provisions of European and international law in implementing the Coalition project. Against this background, the federal ministries involved in the cannabis project held consultations with the EU Commission in Brussels at the end of 2022. According to their specific remits, the ministries contributed their results to the ongoing work and fine-tuning within the Federal Government.

As a result of the fine-tuning, the Key Issues Paper was further developed into what is now a 2-pillar model in steps: "Club Anbau & Regional-Modell" (Club Cultivation & Regional Pilot Project) containing the following components which refer to other examples within the European Union:

Pillar 1: Non-commercial private & community cultivation for personal use

- Non-profit associations (clubs) may cultivate cannabis for recreational purposes under narrow, clearly defined legal framework conditions on a community basis and supply to members for their personal consumption. Where possible, members are meant to participate actively in the club. Whereas club employees are allowed to participate in cultivation, the farming out of cultivation to third parties is prohibited.
- The specific framework conditions are to be laid down in a separate law.
- Alongside the harvested recreational cannabis, the club will also be allowed to provide its members with seeds and cuttings from its own plants for their personal cultivation. It is currently being examined whether and how seeds and/or cuttings for personal cultivation could be obtained through clubs at cost price, without club membership being a prerequisite.
- The authorisation and monitoring of these activities are to be conducted by Land authorities, for instance regarding compliance with the relevant quantity, quality and youth protection requirements and include random sampling and inspections on site. Personal data collected in the context of supplying recreational cannabis, seeds and cuttings to club members may not be disclosed to unauthorised parties or used for other purposes. Membership in multiple clubs is prohibited.

- Regulatory fines, the withdrawal of authorisations, prison sentences and punitive fines in the event of repeat offending are all possible.
- The quantities cultivated and harvested are to be tailored to the amounts necessary to satisfy need. Reporting and documentation obligations for the quantities produced and supplied are envisaged. The import or export of recreational cannabis will be prohibited.
- Membership contributions cover prime costs, graduated according to the amounts supplied (perhaps consisting of a basic lump sum and additional amounts per gram supplied).
- The number of members per club is limited to a maximum of 500, the minimum age being 18 years and the domicile or habitual residence being Germany. The number of clubs may be limited based on population density.
- Clubs may only be operated by natural persons who are vetted for reliability. Clubs are to be operated according to the basic principles of the laws governing associations. Personal liability on the part of the club's management in the event of property damage or the breach of regulatory requirements is to apply only in the presence of intent or gross negligence.
- The procurement of seeds for (first-time) cultivation in the clubs will be facilitated. The possibility of importing seeds from third countries is being examined.
- The harvested cannabis (flowers) may be supplied exclusively to members and may not be passed on to third parties: a maximum of 25g of cannabis per day, a maximum of 50g per month and a maximum of 7 seeds or 5 cuttings per month. The supply of cannabis to adults under the age of 21 years is limited to 30g per month, with an additional limitation on the admissible THC content (limit still to be clarified). This should be reflected in the choice of cannabis strains.
- Whether and how seeds and cuttings can be exchanged among clubs free of charge, for the purpose of quality assurance, is currently being examined.
- Quality requirements apply to community cultivation for personal use (especially the prohibition of additives or admixtures such as tobacco or flavouring agents, requirements concerning pesticides, the absence of synthetic cannabinoids).
- The cannabis may be supplied only in its pure form (flowers or resin), in neutral packaging or loose, with enclosed information on the product (strain, including its usual average THC content and the content in terms of other cannabinoids such as CBD), dosage and use, as well as consumption risks and counselling centres.
- Consumption on the club's premises is prohibited, as is consumption in public in the vicinity of schools, kindergartens and similar locations, as well as in pedestrian areas before 8.00 p.m.
- Clubs are to be concurrently prohibited from serving alcohol, tobacco or other stimulants and intoxicating agents.
- Entry is to be allowed only for adults combined with an obligation to exercise strict age verification checks.
- Requirements are to exist with regard to youth protection and prevention: The youth protection, addiction and prevention officers to be appointed by the club must have proven expertise; cooperation with the local addiction prevention and/or counselling centre is mandatory and a minimum distance from schools, kindergartens and the like must be maintained.
- There is to be a general ban on advertising both of the clubs and of cannabis. Factual information will be permitted.

- Basic security measures (such as burglary-safe premises, fencing) are to prevent access to unauthorised third parties.
- Non-punishable possession (carrying in public) of up to 25g for personal use is to be possible; penal provisions are to apply to possession exceeding that quantity, trade or supply to non-members, children or adolescents, as well as to supplying cannabis that has not been cultivated in the clubs.
- The maximum limits for road, sea and air traffic are currently under examination with the participation of the relevant expert bodies. Regulations on the permissibility of driving under the influence of cannabis will be exclusively based on the requirements of traffic safety.
- Non-punishable private cultivation comprises a maximum of 3 female flowering plants that must be kept out of the reach of children and adolescents.
- Measures will be taken to facilitate the striking of convictions for acts that are exclusively cannabis-related and will no longer be punishable by law (possession of up to 25g/ private cultivation of up to a maximum of 3 female flowering plants) from the Federal Central Registry for Judicial Records, upon application. As the law enters into force, ongoing investigations and criminal proceedings on such acts will be terminated by the options already provided for in the Code of Criminal Procedure (StPO).
- The scope of application of the Federal Non-smoker Protection Act is to be extended to include the smoking of cannabis-related products; further non-smoker protection in keeping with the regulations on tobacco must be guaranteed.
- It is to be binding for minors to participate in early intervention and addiction prevention programs, if they possess or consume cannabis.
- After a period of 4 years, the requirements for Pillar 1 will be evaluated with the aim of assessing potential adjustments regarding health and youth protection, as well as black market erosion.

In addition, the requirements regarding youth and health protection, outlined in the Key Issues Paper of 26 October 2022, are to be implemented. It is intended to formulate this regulatory project in such a way as not to trigger a notification obligation or an obligation to consent on the part of the Bundesrat.

Pillar 2: Regional pilot project including commercial supply chains

In a next step towards a nationwide regulation, the second pillar will implement the additional approaches contained in the Key Issues Paper of 26 October 2022 in the form of a scientifically designed, regional and time-limited pilot project, including an evaluation: Enterprises will then be allowed to produce, distribute and supply cannabis for recreational use to adults in specialty shops within a licensed and state-controlled framework. This pillar will make it possible to scientifically assess the effects of a commercial supply chain on health and youth protection, as well as on the black market.

- This project is to run for 5 years once the supply chain has been set up.
- There is to be a spatial restriction to points of supply and a limitation to adult inhabitants of specific districts/towns in various federal Länder (opt-in approach).

- When drafting the bill of law, the possibility of authorising the supply of edibles subject to the observance of strict youth and health protection regulations will be examined.
- The pilot project will be scientifically monitored and evaluated. The findings will be made available to the European partners and the European Commission.
- Health and youth protection will also be in line with the Key Issues Paper of 26 October 2022.

This part of the project is likely to continue to be subject to notification.

Further procedure

In implementing this 2-pillar model, the Federal Government takes its international and European legal framework as a basis. With respect to the relevant UN bodies, it will refer to the interpretative declaration issued in 1993 on ratifying the UN Convention of 1988 and issue a statement declaring the project to be in keeping with the purpose and the legal requirements of the UN Convention. Moreover, close and transparent coordination with the European partners will be decisive.

In all aspects of the project, the Federal Ministries will be collaborating under the overall leadership of the Federal Ministry of Health in line with their specialisation and within the framework of their specific remit. Both pillars are to be incorporated into bills of law, whereby the working draft of the first pillar is to be submitted early April 2023, and then followed by the draft bill on the second pillar. The results of the already commissioned scientific assessment of the impact of the legalisation of recreational cannabis on health and youth protection in other countries will be taken into account in both pillars.

Concurrently, the Federal Government (especially through its foreign missions) is continuing to undertake efforts to win over its European partners to these approaches and, at the same time, determine whether the initiative of a sufficient number of EU Member States will be able to render the relevant EU legal framework more flexible and develop it further in the medium term.