

JOINT OPEN LETTER BY CITIZENS TO THE ASSEMBLY OF THE REPUBLIC IN PORTUGAL

Five Principles for Responsibly Regulating Cannabis

Twenty years ago, Portugal reformed its drug policy to decriminalize the consumption of all drugs, while investing, and implementing programs aimed at harm reduction, treatment and prevention of substance use. The successful results of the Portuguese approach have international recognition and almost unanimous national support. Today, Portugal is once again experiencing a groundbreaking moment that should serve to complement and improve the effectiveness of its drug policy framework, strengthening public and individual health, the rule of law and the fight against drug trafficking.

Currently, there are two different bills, each presented by a political party, advocating for the legalization of cannabis at the Assembly of the Republic, in the Health Commission. We consider this issue to be of utmost importance, and as citizens, we want to contribute to an informed and responsible discussion. Following the positive comments expressed in the first parliament hearing of both proposals, we invite members of parliament from all political spectrum to engage in a serious and in-depth discussion, addressing relevant points for the regulation of the production, sale, and consumption of cannabis for adults. As in the debate that took place in the 2000s, it is again desirable to obtain the widest possible consensus. To achieve this goal, analysis and debate must be based on facts, empirical judgment, pragmatism and, most importantly, defending the human rights of the people who use drugs.

REASONS TO CONSIDER CANNABIS LEGAL REGULATION IN PORTUGAL

The decriminalization of drug use in Portugal allowed the creation of important devices that enable the collection and analysis of empirical data on the country's drug use situation. The past twenty years of experience allow for an informed, pragmatic, and prudent assessment, revealing that:

The prohibition of sale and consumption of cannabis had no effect on reducing its use, which continues to increase and tends to normalize itself socially. Figures from the most recent report by SICAD (Service for Intervention in Addictive Behaviors and Addictions) reflect this normalization: between 2012 and 2016, lifetime use of cannabis among the Portuguese population rose by 1.5% — from 8.2 % to 9.7% — particularly among young adults. Of these, 14.4% in 2012 assumed such consumption throughout their lifetime, a percentage that rose to 15.1% in 2016. According to the European Cannabis Report, the illicit cannabis market in Portugal is worth at least 106 million euros per year. The figure is only likely to increase; in 2019, 12 077 plants were seized, representing an increase of 39% compared to 2018.

Cannabis sale on the illicit market is having a dangerous effect on public health, contributing to an uncontrolled and continuous increase in cannabis potency (i.e. the percentage of THC, the psychotropic component of the plant). Between 2006 and 2016, the percentage of THC in cannabis resin (hashish) increased from 8% to 17%. The European Monitoring for Drugs and Drug Addiction (EMCDDA) European Drug Report 2021 indicates that cannabis resin sold in Europe has an average THC content of between 20 and 28%, which makes it likely to increase the possibility of psychotic and addictive effects. It also fosters the appearance of synthetic cannabis, which is associated with more health risks.

Thus, aware of the legislative reforms in Canada, Uruguay and in several US states that led to the regulation of cannabis and the consistent data collection and evaluation, and of the advanced discussion that is taking place in other countries;

Recognizing that cannabis is not a harmless substance, and, therefore, its use must be prevented, discouraged and, for those who opt to consume, fit tools for reducing the associated health harms must be given;

A group of citizens representing different areas and perspectives, proposes five principles for the responsible regulation of Cannabis:

1. Define goals with a transparent and collective process. Cannabis regulation is a public policy that must be based on studied, transparent and pragmatic objectives. The participants in this discussion are urged to complement their points of view by assuming the elements of convergence and approximation. Regulating cannabis should serve to defend health and fight crime by financing these goals with taxes collected in the cannabis sector. Concrete measures should make consumption migrate from the illicit market to the controlled market, taking all the necessary precautions and investing in programs for the prevention of use so that there is no increase in consumption, especially among younger and more vulnerable people.
2. Protect health. The responsible regulation of cannabis for adults should aim to protect the health of those who use this substance, especially the most vulnerable consumers and their communities. Thus, legislation should: (i) define a minimum consumption age (ii) limit the maximum THC level of the products sold, following up to date scientific evidence; (iii) define rules on cultivation and production aimed at protecting public health and the environment (e.g. defining authorized pesticides); (iv) prohibit and punish the driving of motorized vehicles under the influence of cannabis and equip law enforcement with the necessary means for its control; (v) create consumer information obligations at the point of sale about products content and associated risks, such as addiction, as well as harm reduction practices, and treatment programs details, indicating organizations and public services to contact.
3. Reduce the illicit market. The regulation of the responsible use of cannabis by adults should aim to combat criminal activities, progressively eliminating the illegal cannabis market and the economic and financial crime, among others, that are associated with it. For this, it must use the necessary instruments to ensure that cannabis is produced and purchased in the legal, controlled and safe market circuit. In this sense, the legislation to be approved must: (i) contain measures for a strict control of natural and legal persons involved in the cultivation, production, distribution and sale of cannabis; (ii) contain product traceability measures from the seed to the final sale, thus preventing the introduction of illicit cannabis into the circuit, or the sale in the illicit market;

4. Collect taxes to invest in prevention and information. According to the latest public figure, there are currently 500.000 people who use cannabis in Portugal. The transition from the production and sale of a substance consumed annually by hundreds of to the legal market will allow the State to collect new tax revenue. At this point, the legislation should (i) create a special tax on cannabis that has the dual purpose of raising revenue, but also of shaping consumption patterns so that the objectives described in (1) are achieved through price intervention — for example, creating a minimum price; progressively taxing products with higher THC concentrations; (ii) allocate part of the tax revenue collected to the reinforcement of the prevention of new consumption, and to the investment in the device for reducing risks and minimizing damage, as well as in the means responsible for treatment. Tax intervention in the price of cannabis must take into account the delicate balance between the objective of eliminating the illicit market. Therefore, the price of legal cannabis must compete with the prices of the illicit market to encourage users' transition to the regulated market, always for the purpose of general prevention. In other words: cannabis cannot be so cheap that the low price increases consumption among younger populations, nor so expensive that it makes the illegal market attractive.

5. Gradually regulate, periodically evaluate. The regulation of the responsible use of cannabis must be based on an idea of gradualism and regular evaluation with the objective of allowing the adjustment of policies in response to medical-scientific evolution. In this sense, at first, (i) the forms of production must be consensual, as well as (ii) the forms of authorized presentation whose consumption is potentially more dangerous must be consensual. For the same reasons, at least initially, (iii) imports of the final product must be restricted. A transversal structure must be created for the continuous monitoring of the new policy for regulating the responsible use of cannabis, operating in principle within SICAD but always with the reinforcement of resources.