

Policy Brief – Summary

TREATY COMPLIANCE OPTIONS FOR CANNABIS REGULATIONS IN THE EU

Models of decriminalisation and legal regulation compliant with International Law & EU acquis

This [policy brief](#) summarises the **feasible and viable policy options** that allow EU Member States to regulate non-medical cannabis, while remaining compliant with UN & EU legal frameworks.

The brief analyses critical challenges to international and EU legal compliance raised for national authorities while exploring cannabis decriminalisation and legal regulation. The legal environment for *licit non-medical* cannabis has been insufficiently analysed, in particular in light of recent changes (treaty descheduling; recent CJEU rulings...). The brief comprehensively reviews the current applicable EU and UN legal framework for licit non-medical cannabis (the 1961 Single Convention on narcotic drugs being *ipso facto* part of EU acquis).

Cannabis policy is primarily a competence of EU Member States, but their legislative capacity is clearly limited under international and European law, albeit differently. **The most accepted view is that the 1961 Single Convention on narcotic drugs prohibits non-medical uses of cannabis** and refrains States from regulating them. **But this view is highly questionable.** There is no provision explicitly banning non-medical use in neither EU acquis nor international law. Meanwhile, there are **provisions in the Single Convention for “cases in which non-medical consumption is exceptionally permitted”** (as explained in the UN Secretary-General’s 1973 Commentary on the Single Convention, pp. 113-114). Whether there is a violation actually depends on the specific design of reforms, and particularly, it depends on the **choice of legal interpretation made** of the Single Convention. The policy brief provides the elements of treaty interpretation enabling compliant legal regulations.

Report findings show the legal panorama enables a total of **11 different options** open for EU Member States to **legalise cannabis domestically** while upholding and promoting the strict observance and the development of international law (TEU articles 2 and 3(5)). Among these, the brief highlights a recommended option and 4-steps pathway, easy to navigate politically, and which alleviates rule tensions and risks of norm decay or non-compliance cascade:

Step 1 – Immediate Action: Decriminalize personal cultivation, possession, and use, aligning with common practice in the EU, promoting budget savings and immediately-measurable positive effects socially and in terms of public health and access to care.

Step 2 – Short-Term Strategy: Regulate non-medical cannabis industries under “Option E” consisting in:

- Incorporating language from **Articles 2(9) and 28(2), Single Convention** and comply with its two obligations (harm reduction contemplated in the law; quantitative data reporting to INCB),
- Publicising the rationale of treaty interpretation, in non-binding government Statements,
- Adopting a precise approach to EU cross-border issues, within the law.

Joint/coordinated action of like-minded EU Member States can further reinforce this method. The method is designed to fall entirely within sovereign domestic competences: EU institutions do not have a mandate to get involved at this stage.

Step 3: Engage in inter-institutional dialogue with United Nations (INCB & WHO) and EU institutions:

- INCB, directly mandated to collect data (in kg.) on licit non-medical cannabis industries under Article 2(9) (b),
- WHO, not mandated but competent to assist in complying with the harm reduction obligation of Art. 2(9) (a),
- EC, not directly competent but with which a dialogue should be opened at this stage to ease up tensions with the (perceived) conflicts with Schengen and the “framework decision” on illicit activities.

Step 4: On the longer-term, explore like-minded initiatives for possible future international regulatory adjustments.

National cannabis law reforms such as *decriminalisation* and *legal regulation* trigger complex questions of compliance with international law and European acquis. The legal grounds for regulations of cannabis departing from prohibition, within and possibly between Member States, need ascertainment.

[Download the Policy Brief.](#)