

Factsheet: Cannabis legalization

Dealing with EU law

Cannabis in the Schengen Convention ("SDÜ")



Germany, as a member state of the European Union, has committed itself:

"to prohibit the direct or indirect supply of narcotic drugs and psychotropic substances of all kinds, including cannabis, and the possession of such substances for the purpose of supply or export, taking into account existing United Nations conventions, all measures necessary to prevent illicit traffic in narcotic drugs."

(Schengen Convention Art. 71 (1)) → **Exception: Medical and scientific use**

Four possible scenarios for dealing with the Schengen Agreement

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| Amendment of the agreement: <ul style="list-style-type: none">- Due process for amending the Schengen Agreement- Duration: 19 months on average- Risks: Time delay, required approval of a qualified majority (at least 55% of the member states in the Council and at least 65% of the EU population) | Violation of the agreement: <ul style="list-style-type: none">- Underlying argumentation: For the purpose of health protection and the protection of minors the regulations regarding cannabis have to be adapted nationally- Risk: Initiation of infringement proceedings against Germany by the EU Commission before the European Court of Justice |
| Amendment of international treaties with additional states: <ul style="list-style-type: none">- Joint procedure for amending the underlying international treaties: e.g. adaptation of the UN Single Convention and/or deletion of cannabis from Annex I of the WHO recommendation- Forming associations with like-minded states such as the Netherlands, Luxembourg, Portugal, Spain, Malta, Canada, Uruguay, South Africa and individual US states (e.g. Colorado, California, etc.).- Risks: Veto of the other contracting states and the subsequent time delay | Introduction of pilot projects: <ul style="list-style-type: none">- (Initially) introduction of pilot projects for recreational cannabis with scientific monitoring- No complete legalization of the entire value chain- Simultaneous effort by Germany at the European level to amend the Schengen Convention- Risks: Stuck in pilot projects as well as no guarantee of nationwide supply in the medium and long term and thus continued existence of the illicit market; loss of economic potential |

Excursus: Assessment of the EU Framework Decision 2004/757/JHA according to CannKG:

The draft cannabis control law by Bündnis 90/Die Grünen discusses how to deal with the EU Framework Decision 2004/757/JHA. According to the draft, the legalization of recreational cannabis would not be in conflict with said law, as the Framework Decision only prohibits trade "without corresponding authorization". Accordingly, a state-permitted trade in cannabis would take place with authorization. The EU Schengen Agreement is not explicitly addressed in the CannKG.

Sources

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