

## **Controlled dispensing of recreational cannabis to adults**

### **Cornerstones of a 2-pillar model:**

#### **1. private & community non-commercial home cultivation**

#### **2. regional model project with commercial supply chains**

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

As stated in the key points, the German government has also examined and evaluated the requirements of European and international law and has already made it clear in the key issues paper that it will take into account the framework of international and European law when implementing the coalition proposal. Against this backdrop, the federal ministries involved in the cannabis project exchanged views with the EU Commission in Brussels at the end of 2022 and contributed their findings to the ongoing work and coordination of the federal government in accordance with their respective areas of responsibility.

The result of the consultations is a further development of the cornerstone paper into a 2-pillar model in stages: "**Club Cultivation & Regional Model**" with the following elements, which are based on other examples in the European Union:

#### **1st pillar: private & community non-commercial home-cultivation**

- Non-profit associations are allowed to collectively cultivate cannabis for recreational purposes and distribute it to members for personal consumption under a narrow, clearly defined legal frameworks. The members should be as active as possible in the association. The involvement of employees of the associations in the cultivation is permissible. However, the commissioning of third parties with the cultivation is excluded.
- The general conditions for handling are regulated in a separate law.
- In addition to the harvested cannabis, members may also receive seeds and cuttings produced by the association for their own cultivation. It will be examined whether and how seeds and/or cuttings for private self-cultivation may be obtained at cost price

through the associations, without membership in an association being a prerequisite for this.

- Licensing and monitoring are carried out by state authorities with regard to, among other things, compliance with quantity, quality and youth protection requirements and with spot checks and on-site visits. Personal data collected in connection with the distribution of cannabis, seeds and cuttings to members by the associations may not be disclosed to unauthorized third parties or used for other purposes. Membership in more than one membership is prohibited.
- Fines, withdrawal of registration or fines/imprisonment for multiple violations are possible.
- Cultivation and harvest quantities are geared towards meeting demand. There are reporting and documentation obligations for produced and delivered quantities. There is a ban on the import or export of cannabis for human consumption.
- Membership fees cover the cost price, staggered according to the dispensing quantity (if applicable, with a basic flat fee and an additional amount per dispensed gram).
- The number of members per association is limited to max. 500 with a minimum age of 18 years and residence or habitual abode in Germany. The number of associations can be limited according to population density.
- Only natural persons whose reliability has been verified may lead the association. The association is managed according to the principles of the law on associations. A personal liability of the association's board of directors in case of financial loss or violation of official shall only occur in case of intent or gross negligence.
- The procurement of seeds for (initial) cultivation in the associations shall be made possible. The import possibility of seeds from third countries is examined.
- The distribution of the harvested cannabis (flowers) is only allowed to members; no transfer to third parties; max. 25g cannabis per day, max. 50g per month, max. 7 seeds or 5 cuttings per month. Dispensing to adolescents under the age of 21 is limited to an amount of 30g per month, with an additional limit on the allowable THC content (limit to be clarified). This should be reflected in strain selection.
- Consideration will be given to whether and how seeds and cuttings can be exchanged free of charge between associations for quality assurance purposes.
- Quality specifications apply to community self-cultivation (in particular prohibition of additives or admixtures such as tobacco or aromas, specifications on plant protection products, no synthetic cannabinoids).
- The product can only be supplied in its pure form (flowers or resin) in neutral packaging or loose with information on the product (variety, including its usual average THC content and content of other cannabinoids such as CBD), dosage and application, as well as on risks of consumption and counseling centers.

- Consumption on the premises of the association is prohibited, as is public consumption near schools, daycare centers or similar, as well as in pedestrian areas 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.
- Obligations regarding the protection of minors and prevention apply: Youth protection, addiction and prevention officers to be appointed by the association. There is a mandatory cooperation with the local addiction prevention or counseling center and a minimum distance to schools, daycare centers, etc.
- There is a general ban on advertising for the associations and for cannabis. Factual information is permitted.
- Minimum protection measures (e.g. burglar-proof premises, fencing) prevent access by unauthorized third parties.
- Possession without penalty (carrying in public) is possible for personal consumption of up to 25g. Penalties apply to possession in excess of this amount, to trafficking and distribution to non-members and children and adolescents, as well as to the distribution of cannabis not grown in the cannabis and not cultivated in associations.
- The limits in road, shipping and air traffic are 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.
- The 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 young people.
- It shall be made possible to apply convictions registered solely for acts related to cannabis, for which the law no longer provides a penalty in the future (possession up to 25g/own cultivation up to max. 3 female flowering plants), to be deleted from the Federal Central Register upon application. With the entry into force, ongoing investigative and criminal proceedings concerning these acts will be terminated by the possibilities already provided for in the StPO.
- The scope of application of the Federal Non-Smoker Protection Act will be extended to include smoking of products in connection with cannabis; non-smoker protection beyond this must be ensured in accordance with the regulations for tobacco.
- Participation in early intervention and prevention programs for minors if they possess or use cannabis is mandatory.
- After 4 years, an evaluation of the requirements for pillar 1 is carried out with the aim of examining possible changes. The aim is to examine possible adjustments with regard to health and youth protection and the reduction of the black market.

In addition, the requirements on youth and health protection set out in the key issues paper of October 26, 2022 must be implemented. The intention is to structure this regulatory project in such a way that it does not trigger a notification requirement or an approval requirement of the Bundesrat (2nd chamber).

## **Pillar 2: Regional model project with commercial supply chains.**

In the next step on the way to a nationwide regulation, the second pillar continues the further approaches from the key issues paper of October 26, 2022, including an evaluation as a scientifically designed, regionally and time-limited model:

The production, distribution, and dispensing in specialty stores of recreational cannabis to adults in a licensed and state-controlled setting. With this pillar, the impact of a commercial supply chain on the protection of health and minors, as well as on the black market can be scientifically studied.

- The project duration is 5 years from the established supply chain.
- There is a spatial limitation to dispensaries and adult residents of certain counties/cities in several states (opt-in approach).
- Under the bill, a permit to dispense edibles while maintaining strict youth and health protection regulations is being considered.
- 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 October 26, 2022.

This part of the project is still expected to require notification.

## **3. Further procedure**

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

The federal ministries will work on all parts of the project within the scope of their respective responsibilities, under the overall leadership of the BMG. Both pillars will be incorporated into specific 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 already commissioned on the effects of legalizing recreational cannabis on health and youth protection in other countries will be taken into account for both pillars.

In parallel, the German government (particularly through its foreign missions) is continuing its efforts to promote its approaches to its European partners and to examine the extent to which 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 in the medium term.

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*This is a translation of the official German version:*

<https://www.bundesgesundheitsministerium.de/presse/pressemitteilungen/eckpunkte-cannabis-12-04-23.html>