



**Parliament of Montenegro
Parliamentary Institute
Research Centre**

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**Legal treatment of the use of cannabis for medical purposes in the
member states of the European Union**

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** The views expressed in this paper do not represent the official views of the Parliament of Montenegro*

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INTRODUCTION

Cannabis is a genus of flowering plant native to Central Asia and the Indian Peninsula, whose main psychoactive ingredient is tetrahydrocannabinol (THC). Despite the fact that this plant is widely utilised in industry, as well as in medicine, because of its psychoactive properties it is included in lists of controlled substances in the majority of countries, consequently making its production and use illegal. According to the data presented in the UNODC World Drug Report 2016¹, drafted by the United Nations Office for Drugs and Crime, cannabis is the world's leading illegal substance when it comes to cultivation, production, sale and the number of users. However, the Report also notes that, during the last four years, the use of cannabis for recreational purposes has been legalised in Uruguay and the United States, *i.e.* in federal states of Alaska, California, Colorado, Maine, Massachusetts, Oregon and Washington. When it comes to European countries, recreational use of cannabis is legal in Netherlands and Spain, while a number of other countries have decriminalised its use.

Unlike the recreational use of cannabis, its utilisation for medical purposes has been subject to an entirely different legislative treatment, and is legally allowed in a significantly larger number of countries. Certain derivatives and synthetic preparations obtained from this plant (*i.e.* cannabinoids) are used for treatment of a number of medical conditions, such as nausea and vomiting caused by chemotherapy for cancer patients, or stimulating appetite within treatments of anorexia or weight loss of AIDS patients. However, the use of cannabis and its derivatives is currently most common as a part of therapy for relieving pain and muscle spasms, particularly those caused by the multiple sclerosis, in which its efficiency has been confirmed by a number of medical studies.^{2 3}

In Montenegro, cannabis is considered to be an illegal substance, which means that its possession, production and distribution are all illegal. Exceptionally, the Law on determining the state body for performing certain tasks in the field of production and distribution of narcotic drugs (*“Official Gazette of Montenegro”* no. 7/81) states that the state body responsible for health is in charge of giving permits to organisations registered for production, import, and export of narcotic drugs, as well as giving permits to organisations performing scientific and research work for “producing opium by incising poppy cocoons, cultivating the coca plant and producing preparations of cannabis plant with psychoactive properties, for scientific purposes”. Cultivation of hemp, *i.e.* cannabis which contains no more than 0,2% of the psychoactive substance tetrahydrocannabinol (THC) in dried plant, is allowed in Montenegro exclusively for industrial and nutritional purposes. This issue area is regulated by the Rulebook on contents of the request and permit for cultivating poppy and hemp (*“Official Gazette of Montenegro”* no. 27/14), which regulates the form and contents of the request, as well as the form and contents of the permit for cultivation of hemp for the stated purposes.

In the following chapters we shall present the legislative provisions which regulate the treatment of medical cannabis in the member states of the European Union, as well as the manner of its distribution and use in practice.

¹ UNODC *World Drug Report 2016*,
https://www.unodc.org/doc/wdr2016/WORLD_DRUG_REPORT_2016_web.pdf (accessed on 13.12.2016)

² Grant *et al.* Medical Marijuana: Clearing Away the Smoke,
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3358713/> (accessed on 26.12.2016)

³ Borgelt *et al.* The Pharmacologic and Clinical Effects of Medical Cannabis
<http://onlinelibrary.wiley.com/doi/10.1002/phar.1187/full> (accessed on 22.12.2016)

MAIN FINDINGS

When the legislative treatment of medical cannabis in the member states of the European Union is analysed⁴, we can observe a certain degree of diversity of legislative solutions regarding this issue area in individual national legal systems. Regarding the availability of medical cannabis in any form, out of 27 European states encompassed by this research, 19 states currently allow a certain degree of legal use of pharmaceutical products derived from this plant (Austria, Belgium, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Ireland, Italy, Netherlands, Poland, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom). On the other hand, the remaining eight countries (Bulgaria, Cyprus, Greece, Hungary, Latvia, Lithuania, Luxembourg and Portugal) treat cannabis as an illegal substance, meaning that its possession, cultivation and distribution are entirely forbidden by the law, implying that its use in medicine is also illegal.

However, it is important to note that the countries which allow legal use of medicines based on cannabis plant for treating a number of medical conditions also have clear and detailed regulations regarding the cultivation of cannabis, preparation of medical products and pharmaceutical preparations, their import and export, as well their prescription to patients by doctors or pharmacists. Legalisation of medical cannabis does not imply issuing the plant itself on prescription, but instead issuing finished medical products which contain the extract of the plant, or, in some cases, individually prepared pharmaceutical preparations based on cannabis. A number of countries, such as Belgium and Denmark, do not allow the use of the above mentioned preparations, but only licenced finished products, such as oral sprays.

In recent years there has been a noticeable trend of further legalisation of medical use of cannabis, *i.e.* of pharmaceutical products derived from this plant, in member states of the EU, since a number of states has allowed its legal use during the period, while there have been no cases of its prohibition. Also, in a number of countries which currently prohibit the use of cannabis in medicine, there are ongoing public or parliamentary discussions regarding this issue. For example, a draft law proposing its legalisation is currently in procedure in the Parliament of Cyprus, while debates on the issue have been recently held in parliaments of Luxembourg and Hungary.

For acquiring necessary information, this paper primarily uses questionnaires and replies published on the website of the European Centre for Parliamentary Research and Documentation (ECPRD)⁵, while relevant legal acts of individual countries were used as the additional source of information. In the remainder of the paper, we shall present individual legislative provisions regarding the legal status of medical cannabis in member states of the European Union encompassed by this research paper.

The complete document in Montenegrin language can be found at:

<http://www.skupstina.me/images/dokumenti/biblioteka-i-istrazivanje/2017/10.pdf>

⁴ This paper analyses 27 EU member states, with the sole exception of Malta.

⁵ Information provided in replies to ECPRD requests does not necessarily represent the official position of the respective parliaments.