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REPORT

For a free cannabis market in France

Fight the black market,
protect consumers

By Kevin Brookes and Édouard Hesse



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FOREWORD

Bringing new and innovative ideas to light and advancing liberal reforms is the core mission of the European Liberal Forum. We do not do this alone but in close cooperation with a network of member and partner organisations across Europe. The present English translation of an original report by the French liberal think-tank GenerationLibre is part of this broader effort. Through this collaboration, we hope that the report's important messages will reach a wider audience, in Europe and beyond.

What better topic to start our collaboration than cannabis, as plans for the liberalisation of the drug unfold across the continent. In December 2021, Malta became the first EU Member State to legalise the cultivation and personal consumption of cannabis. The new German government is contemplating similar legalisation, and other countries could follow suit. Legalising is a difficult endeavour, as this report shows, but a necessary one since the detrimental consequences of criminalisation have never been felt more clearly.

Prohibition is a failure. It has not managed to stem the rise in cannabis consumption rates, either in Europe or worldwide; it has failed to protect users from the most acute forms of harm; and it has contributed to the growth of criminal networks. This can be seen in Europe, where entire swathes of our cities are under the control of organised crime, whose main revenues originate from the illegal cannabis business. Those who prohibition should in theory protect the most, youngsters who are most at risk of harm when using the drug, are the main victims, sometimes literally, from the current situation.

Prohibition is also at odds with our liberal values. The state should inform and provide a helping hand to those who err but should not prosecute and imprison people who have freely decided to engage in risky practices. The law should refrain from expressing moral judgements and only prohibit behaviours that bring significant harm to others or society. From this perspective, there is only a weak basis for prohibiting cannabis, a substance far less problematic for public health than alcohol and tobacco.

Fully legalising cannabis is the only way forward. But decriminalisation is only a first step towards the inclusion of cannabis in the normal legal channels of the economy. It would not only constitute a significant reform of our police and criminal justice systems, but it would also enable public authorities to devise an effective public health policy, targeting youngsters especially. It would also allow an entirely new economic sector to flourish, creating hundreds of thousands of jobs across Europe and generating a considerable amount of revenue for the public purse.

Based on a systematic and thorough review of past and current experiences in cannabis legalisation, this report shows, perhaps unsurprisingly, that, as in many other areas, free market solutions are superior to state planning and state monopolies. Only a legal solution that is sufficiently cheap and competitive can replace the black market and bring the benefits expected from legalisation. The state should regulate the product and ensure that those who participate in the cannabis business offer sufficient guarantees but it should not arbitrarily set prices or restrict distributions channels – to do so would run the risk of having legalised ‘for nothing’.

Europe has all the cards in hand to be at the forefront of drug policy reform and show the rest of the world that another path is possible. Courage and method are all we now need.

Daniel Kaddik
Executive Director, ELF





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ESSENTIAL INFORMATION

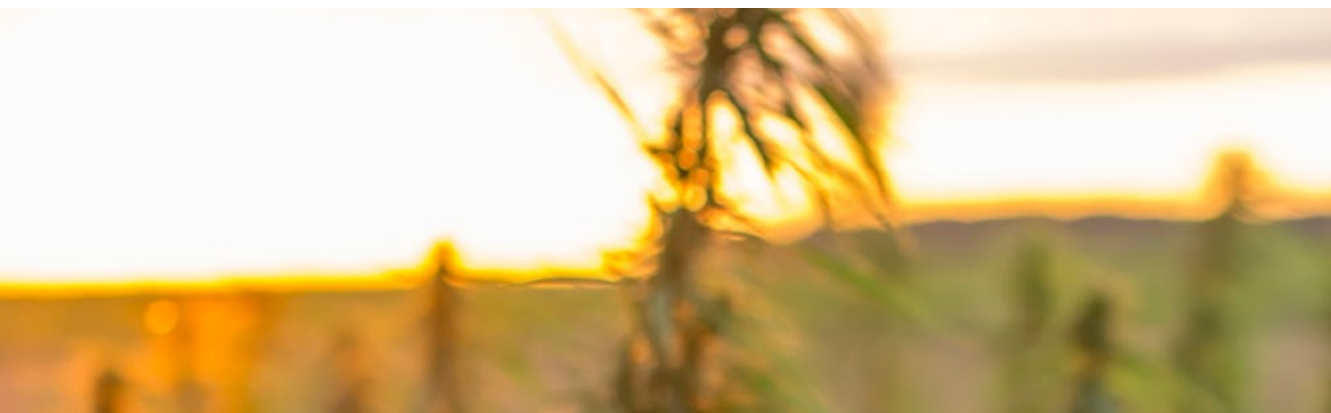
Our idea at a glance

Observation and analysis

The fight against cannabis in France is a failure for health and safety. Repression does not prevent cannabis use but does place users in the grip of a criminal system. Initial feedback shows that legalisation effectively reduces crime, and helps to protect the most vulnerable, without leading to an explosion in consumption.

An overview of the various legalisation experiments carried out abroad reveals the superiority of models based on a regulated free market over those based on a state monopoly. Only the former are able to stop the black market and eliminate the associated problems: crime, mobilisation of the repressive means of the state, and the impossibility of developing prevention policies.

Based on this observation, GenerationLibre proposes a free-market model for cannabis in France that meets two main objectives: eliminating the black market, by shifting all consumption to legal business, and implementing a prevention policy for the most vulnerable populations. To this end, we advocate the liberalisation of the production, distribution, and consumption of cannabis.



Proposal

Cannabis production is free. Regulations and a licensing system are put in place to ensure compliance with certain health standards. Within certain limits, self-production is possible.

Distribution is freely permitted by all licence holders. Distribution is permitted through all types of sales outlets. Different products may be offered for sale, subject to a specific tax. Cannabis advertising is regulated, aligned to that for alcohol.

The sale of cannabis is prohibited to minors and at petrol stations. Cannabis may be consumed outdoors, but not in enclosed public spaces.





KEY FIGURES

3 figures to consider

€568
million

The annual amount of public expenditure associated with the fight against cannabis in France.¹

The number of cannabis users in France (of which 1.5 million regular users).²

5
million

€360
million

The estimated amount of tax revenue from the legalisation of cannabis in our model (excluding VAT).³

¹ E. Auriol and P.-Y. Geoffard (2019), 'Cannabis: How Can We Take Back Control?', *Notes du conseil d'analyse économique*, 52(4), 1–12.

² OFDT, *Drogues, chiffres clés*, 8ème édition, June 2019, <https://www.ofdt.fr/publications/collections/periodiques/drogues-chiffres-cles/drogues-chiffres-cles-8eme-edition-2019/>.

³ GenerationLibre estimate.

INTRODUCTION

Fight the black market, protect consumers

In October 2019, France voted on the principle of experimentation of the use of medical cannabis. A parliamentary commission was also set up in July 2020 to study the possibility of legalising cannabis for recreational purposes.¹

In a previous note (pictured, right), **GenerationLibre pointed out the limits of the current repressive system and, backed up by medical sources, showed the low health risks posed by cannabis use, with the exception of the youngest populations.**

This note focused on the 'why', showing that the legalisation of cannabis would allow better supervision and encourage prevention policies aimed at young people. This report looks at the 'how' and, among the existing scenarios, outlines the one we think is most effective in achieving the objectives we set, that is, the end of the black market and consumer protection: the free cannabis market.



We will focus mainly on the question of fighting crime associated with this type of product. In fact, **according to the Nobel Memorial Prize Winner in Economic Sciences Gary Becker, the main cost of the prohibitionist approach to drugs is that of crimes associated with trafficking.**² He observes that, just as gangsters were largely deprived of their alcohol sales businesses after the end of the prohibition in the United States, unlawful activities relating to the sale and consumption of cannabis would be likely to be reduced in the event of legalisation, since they would become less remunerative. Users would turn to the legal market.

¹ <http://www2.assemblee-nationale.fr/15/missions-d-information/missions-d-information-communes/reglementation-et-impact-des-differents-usages-du-cannabis/>.

² Gary Becker and Kevin Murphy (2013), 'Have We Lost the War on Drugs?', *The Wall Street Journal*, 4 January.

Nevertheless, even if there was a legal cannabis market, users may use the black market for several reasons, related to cost (the price may be lower on the black market) or accessibility (for example, there are no limits on the quantities that can be purchased and the goods can be delivered to the home).³ **For the legal market to produce the crowding-out effect described above, it must therefore be regulated in a balanced manner and the means to compete with the illegal market must be assured.**

Subjecting cannabis to the logic of the market makes it possible to have sufficiently low prices and a high quality of service, with a view to reducing the crime associated with the black market and supplying quality products, while ensuring the implementation of a prevention policy.

This report proposes a model of legalisation that differs from several proposals already formulated in the French context: the establishment of a public government monopoly to set selling prices and regulate distribution and consumption⁴ and the establishment of a Cannabis Regulatory Authority based on the model of the regulation of online gambling.⁵ We will explain why we are opposed to this model. By setting sufficiently high prices and introducing taxes, these proposals are in fact intended to

³W.J. Meadows (2019), 'Cannabis Legalization: Dealing with the Black Market', DEPC Student Paper Series, The Ohio State University, no. 13, October.

⁴P. Kopp, C. Ben Lakhdar, and R. Perez (2014), 'Cannabis: Réguler le marché pour sortir de l'impasse', Report by Terra Nova, 19 December.

⁵C. Ben Lakhdar and J.-M. Costes (2016), 'Contrôler le marché légalisé du cannabis en France – L'exemple fondateur de l'ARJEL', Report by Terra Nova, 4 October.

deter the use of cannabis. The main weakness of this approach is that it denies the potential persistence of a black market that would continue to offer low prices and a service more adapted to consumer demand, thus rendering legalisation ineffective.

Our proposal is based on solid scientific foundations, an overview of the various legalisation experiences around the world, particularly in North America, and a rigorous analysis of the literature on the subject.

The main lesson we learn from this is that legalisation based on a free market for the production and sale of cannabis is more effective than a state monopoly.⁶ Subjecting this product to the logic of the market, competition and free prices makes it possible to have sufficiently low price levels and a sufficient quality of service, with a view to reducing the crime associated with the black market and supplying quality products, while ensuring the implementation of a prevention policy.



©budding

⁶ Auriol and Geoffard, 'Cannabis: How Can We Take Back Control?'; Kopp et al., 'Cannabis: Réguler le marché'.

PART 1

Prohibition and legalisation of cannabis: an overview

1.1. The situation in France

Criminalisation and the active police battle against cannabis use have continued to increase in France in recent years. They are part of a logic of the 'war on drugs', born in the 1970s, which was frequently criticised because of its manifest ineffectiveness,¹ and to which many countries around the world have returned (first and foremost the United States). The French legal framework dates back to the law of 31 December 1970, issued at a time when little cannabis was consumed and which, since that date, has become tougher and tougher. The Government recently decided to persevere in this logic by introducing a fixed fine of 200 euros for drug users, which will lead to strengthening the 'policy of targets' among police officers.²

There is now general agreement that the French prohibitionist model failed.³ **First of all, a paradox: France's punitive regime is one of the most severe in Europe, but France is nevertheless the country with the largest cannabis consumption.** In 2017, 44.8% of adults aged 18 to 64 stated that they had consumed cannabis during their life, 3% higher than in 2014.⁴

The real problem comes from the exposure of young people to cannabis use: four out of ten teenagers said in 2017 that they had already tried it. Indeed, if moderate consumption does not have proven harmful effects on the health of the population as a whole,⁵ it nevertheless represents a danger for the youngest: problems of addiction, desocialisation, memory disorders and in some cases even psychological disorders. The policy of repression has failed to keep the most fragile populations away from this market.⁶ Prevention is one of the weaknesses of the French model.⁷

¹ 'Ending the Drug Wars: Report of the LSE Expert Group on the Economics of Drug Policy', London School of Economics, May 2014.

² J. Bouchet-Petersen (2020), 'Contre le trafic de cannabis, la France loupe encore le coche de la légalisation', *Libération*, 21 August.

³ See in particular M. Zagrodzki (2020), 'Cannabis: pour une autre stratégie policière et pénale', Terra Nova Report, 9 October.

⁴ Observatoire Français des drogues et des toxicomanies, 'Synthèse thématique: cannabis'.

⁵ Me Francis Caballero and Pr. Amine Benyamina, 'Légaliser le cannabis. Agréments légaux et médicaux en faveur d'un changement de modèle', Policy Paper, GenerationLibre, May 2018.

⁶ Observatoire Français des drogues et des toxicomanies, 'Synthèse thématique: cannabis'.

⁷ Ben Lakhdar and Costes, 'Contrôler le marché légalisé du cannabis'.

In addition to being ineffective, this policy has a cost: it allocates significant public spending to arrest users who harm only themselves, diverting police officers from more useful tasks. Every year, 145,000 people are arrested for drug use (in nine out of ten cases for cannabis) and the number of people arrested for simple cannabis use has increased 50-fold since 1970.⁸ Annual public expenditure associated with the fight against the sale and use of cannabis is estimated at €568 million.⁹ Moreover, on the ground, it is often impossible to strictly apply the law and control trafficking due to the complex procedures associated with it. In addition, the number of people prosecuted for drug use varies greatly from one country to another.¹⁰

The benefits of legalisation are obvious. According to a study by the think-tank Terra Nova, 86.4% of public spending related to cannabis would disappear with police and judicial disengagement, while the **state would gain several billion euros in taxes that could be directed towards prevention** (later in the report we will estimate that this assessment is perhaps too optimistic).¹¹

1.2. The effects of legalisation

While there is a consensus on the failure of prohibitionist policies, there is no consensus on the effects of legalisation, which depend on the model followed: to simplify, competitive market or state monopoly. The absence of a long historical perspective makes it impossible to systematically compare the effects of each of these scenarios. However, the few lessons learned make it possible to draw two conclusions: crime is falling and the number of users is not increasing exponentially.

EFFECTS ON CRIME

We might expect legalisation to increase cannabis use, and that the proliferation of people under the influence of drugs would lead to more

⁸ Auriol and Geoffard, 'Cannabis: How Can We Take Back Control?', p. 2.

⁹ Auriol and Geoffard, 'Cannabis: How Can We Take Back Control?.'

¹⁰ Kopp et al., 'Cannabis: Réguler le marché'.

¹¹ Kopp et al., 'Cannabis: Réguler le marché'.

crime. In fact, the opposite has happened in several US states where recreational cannabis has been legalised.

Comparing Washington State with others, researchers showed that the legalisation of recreational marijuana use led to a significant decrease in rape (–30%) and theft (–20%).¹² In general, one of the consequences of the legalisation of medical cannabis in several US states has been to significantly reduce violent crime (–12.5%) in areas controlled by Mexican cartels.¹³

This decline in crime can be explained in two ways. On one hand, legalisation reduces the activities of criminal organisations that thrive on trafficking. Users are encouraged to buy from the legal market and are less exposed to violence.¹⁴ On the other hand, there are more means for fighting crime. Instead of arresting drug dealers, the police were free to combat other forms of crime. This was demonstrated, for example, in a place in England that experimented with decriminalisation.¹⁵ In addition, the tax revenues from this new market can also be used by local governments to fight crime. Washington State, for example, raised nearly a billion dollars between 2014 and 2017 through legalisation.¹⁶

A final explanation for the reduction in criminal activity lies in the state of relaxation and euphoria induced by cannabis use that would reduce the likelihood of engaging in violent activities. Cannabis may be a substitute for substances that cause these behaviours, such as alcohol, cocaine or amphetamines.¹⁷

Moreover, in Colorado and Washington, the legalisation of cannabis has not had a significant statistical effect on the number of accidents or

¹² D. Dragone et al. (2019), 'Crime and the Legalization of Recreational Marijuana', *Journal of Economic Behavior & Organization*, 159, 488–501.

¹³ E. Gavrilova et al. (2019), 'Is Legal Pot Crippling Mexican Drug Trafficking Organisations? The Effect of Medical Marijuana Laws on US Crime', *The Economic Journal*, 129(617), 375–407.

¹⁴ D. Dragone et al. (2017), 'Crime and the Legalization of Recreational Marijuana', IZA Discussion Papers, No. 10522.

¹⁵ J. Adda, B. McConnell and I. Rasul (2014), 'Crime and the Depenalization of Cannabis Possession: Evidence from a Policing Experiment', *Journal of Political Economy*, 122(5), 1130–1202.

¹⁶ C. Mosher and S. Akins (2020), 'Recreational Marijuana Legalization in Washington State: Benefits and Harms', in T. Decorte, S. Lenton and C. Wilkins (eds.), *Legalizing Cannabis: Experiences, Lessons and Scenarios* (London: Routledge), p. 80.

¹⁷ Dragone et al., 'Crime and the Legalization of Recreational Marijuana'.

deaths on the roads.¹⁸ Similarly, the number of people stating that they had driven under the influence of cannabis did not change significantly in Canada one year after legalisation.¹⁹ However, the debate on the effects of cannabis consumption on driving performance is not clear-cut (in some cases, performance could improve).²⁰

EFFECTS ON CONSUMPTION AND HEALTH

Contrary to fears, the legalisation of cannabis has not led to an explosion in consumption in the cities or territories that have made this choice.

The figures provided by the US administration are useful for judging the situation. They show that legalisation experiences have not changed consumer habits (Figure 1). This is all the more striking given that this figure was probably underestimated in the past, as it was more difficult for respondents to report engaging in illegal activities.

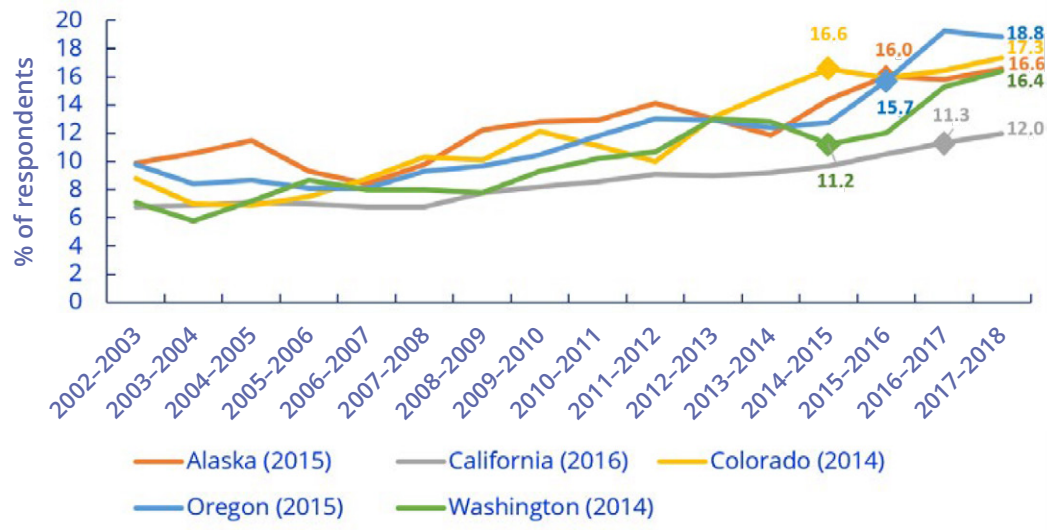
Cannabis use has been steadily increasing in the United States since 2002, well before the legalisation experiments. Legalisation experiments do not seem to have accelerated or curbed this trend. **The evolution of consumption in the US states that have legalised cannabis has broadly followed the US average (Table 1). The increase in the number of users has even been slower in some of them, with the exception of Oregon.**

¹⁸ J.D. Aydelotte, L.H. Brown, K.M. Luftman, et al. (2017), 'Crash Fatality Rates after Recreational Marijuana Legalization in Washington and Colorado', *American Journal of Public Health*, 107(8), 1329–1331.

¹⁹ M. Rotermann (2020), 'What Has Changed since Cannabis Was Legalized', Statistique Canada, 19 February.

²⁰ Mosher and Akins, 'Recreational Marijuana Legalization in Washington State', p. 75.

Figure 1: Evolution of cannabis consumption in the past month (all age groups combined)



Sources: Substance Abuse and Mental Health Services Administration, NSDUH State Reports, 'NSDUH State Prevalence Estimates', 2013–2014 / 2014–2015 / 2015–2016 / 2016–2017 / 2017–2018; Substance Abuse and Mental Health Services Administration, NSDUH State Reports, '2002–2014 Marijuana Trends'. N. B. The rhombuses indicate the date of entry into force of the legalisation of cannabis.

Table 1: Evolution of monthly consumption of cannabis in the United States and in certain specific states since legalisation

	Period	Evolution of monthly consumption of cannabis in the state since legalisation	Evolution in the United States in the same period
Alaska (2015)	2014–2017	+ 15.2%	+17.9
California (2016)	2015–2017	+13.9%	+14.3
Colorado (2014)	2013–2017	+16.1%	+23.5%
Oregon (2015)	2014–2017	+47.9%	+ 17.9%
Washington (2014)	2013–2017	+28.1%	+ 23.5%

Sources: Calculation by the authors based on Substance Abuse and Mental Health Services Administration, NSDUH State Reports, 'NSDUH State Prevalence Estimates', 2013–2014 / 2014–2015 / 2015–2016 / 2016–2017 / 2017–2018; Substance Abuse and Mental Health Services Administration, NSDUH State Reports, '2002–2014 Marijuana Trends'.

These are descriptive observations and it is difficult to measure whether legalisation has led to an increase in consumption, both among the general population or among young people. Most of the existing meta-studies focus on the processes of legalisation of cannabis for medical use, due to the availability of data, and do not really make it possible to clarify whether there is an actual effect on consumption.²¹ The legalisation of recreational cannabis in Washington State appears to have led to an increase in consumption of 2.5%.²² But this effect is not observed in Colorado, one of the most liberal states in this field.²³

Even if the legalisation of cannabis were to lead to a moderate increase in consumption among the adult population – still to be demonstrated – the effect on health would not necessarily be negative. Indeed, more and more studies point to the substitution effect of cannabis in place of more dangerous drugs or alcohol.²⁴ In Washington State, for example, legalisation has reduced the consumption of other drugs by 0.5% and alcohol by 2%.²⁵ This potential substitution effect would even have had significant effects since the legalisation of cannabis for medical use during the 2000s in the United States, reducing the number of alcohol-related traffic accidents.²⁶

However, the problem is less about adult use than about young people, for whom health effects are significant, which can lead to cognitive impairment and a decline in IQ.²⁷ This is why some are concerned about an increase in consumption among this group as a result of increased accessibility and the social acceptance of cannabis. The first argument that can be made against them is that the product was already widely available in places where legalisation occurred.²⁸

²¹ W. Hall and M. Weier (2015), 'Assessing the Public Health Impacts of Legalizing Recreational Cannabis Use in the USA', *Clinical Pharmacology Therapeutics*, 97(6), 609.

²² Dragone et al., 'Crime and the Legalization of Recreational Marijuana'.

²³ T. Subritzky, S. Lenton, and S. Pettigrew (2020), 'Practical Lessons Learned from the First Years of the Regulated Recreational Cannabis Market in Colorado', in T. Decorte, S. Lenton, and C. Wilkins (eds.), *Legalizing Cannabis: Experiences, Lessons and Scenarios* (London: Routledge), p. 41.

²⁴ Mosher and Akins, 'Recreational Marijuana Legalization in Washington State', p. 69.

²⁵ Dragone et al., 'Crime and the Legalization of Recreational Marijuana'.

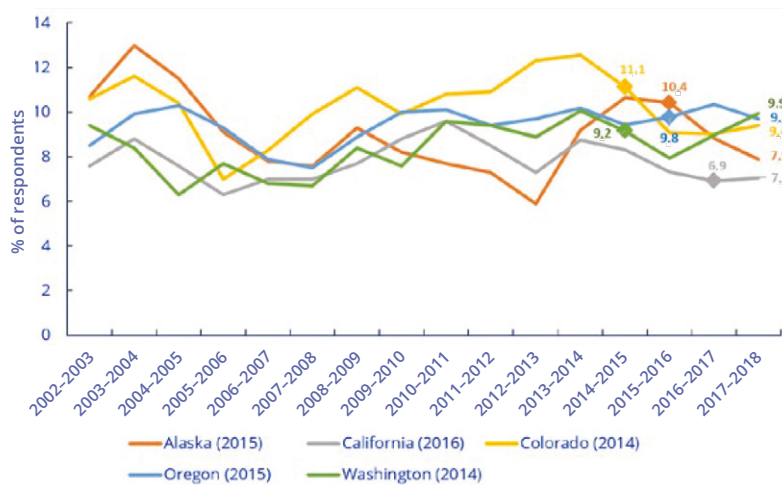
²⁶ Hall and Weier, 'Assessing the Public Health Impacts', p. 610.

²⁷ Hall and Meier, 'Assessing the Public Health Impacts'. See also the GenerationLibre report on this matter.

²⁸ D. Weinstock (2020), 'Will Legalization Protect Our Kids?' in A. Potter and D. Weinstock (eds.), *High Time: The Legalization and Regulation of Cannabis in Canada* (Monreal: McGill-Queen's University Press), p. 69.

No study concludes that there has been a significant increase in cannabis use among adolescents in the US states that have legalised it.²⁹ Another study, covering all countries that have relaxed their cannabis laws, concludes that there is no statistically significant link between the liberalisation of cannabis production or consumption and use by young people.³⁰ Official US data even show a decline in under-age consumption in most of these states (Figure 2). **The same observation was made in Canada,³¹ particularly in Quebec, where no increase in consumption among young people was recorded after the introduction of the law.³²** It is difficult to explain this trend, which is generally observed in the United States. Prevention campaigns for young people financed by tax revenues from the legalisation of cannabis may have played a role.

Figure 2: Evolution of cannabis consumption in the past month (12–17 years)



Sources: Substance Abuse and Mental Health Services Administration, NSDUH State Reports, 'NSDUH State Prevalence Estimates', 2013–2014 / 2014–2015 / 2015–2016 / 2016–2017 / 2017–2018; Substance Abuse and Mental Health Services Administration, NSDUH State Reports, '2002–2014 Marijuana Trends'.

²⁹ A. Sarvet et al. (2018), 'Medical Marijuana Laws and Adolescent Marijuana Use in the United States: A Systematic Review and Meta-Analysis', *Addiction*, 113(8), 1003–1016; A. Stevens (2019), 'Is Policy "Liberalization" Associated with Higher Odds of Adolescent Cannabis Use? A Re-analysis of Data from 38 Countries', *International Journal of Drug Policy*, 66, 94–99.

³⁰ Rotermann, 'What Has Changed?'.
³¹ Rotermann, 'What Has Changed?'.
³² M. Gachet (2019), 'Légalisation, un an après', *Quartier Libre*, 13 November.

PART 2

The legalisation of cannabis around the world

2.1. World portrait of the legalisation of recreational cannabis

Legalisation is the result of different processes depending on the country: in some, it comes from the government, for others it is the result of the mobilisation of civil society in the form of a popular referendum.¹

To compare models, we have to differentiate three levels of the cannabis market (Table 2). For production, the state can set the price and select the cannabis producers. Conversely, the price may remain unrestricted and production adapted to market demand. When it comes to distribution, the government can act as a monopoly (physical and online) or let private companies compete with each other. Consumption can be limited to private homes with restrictions on the amounts people can hold, may be tolerated in user clubs (such as in Spain) or permitted in public spaces.

Table 2: Three levels of the cannabis market

	Level of regulation		
	State monopoly	Broker	Free cannabis market
Production	Delegation to public players, or chosen by the government	Companies chosen by the government and tolerance towards small producers' clubs	Free-market competition and authorised self-production
Distribution	Governmental sales outlets	Allocation of licences to pharmacies	Private licensed sales outlets
Consumption	Strictly private use	Use in consumers' clubs or designated public establishments	Public use outdoors (legislation similar to tobacco)

Source: GenerationLibre

¹ M. Gandilhon et al. (2018), 'Colorado vs Uruguay: deux modes opposés de légalisation du cannabis', *Drogues, santé et société*, 16(1), 70–85.

The cases presented in Table 3 lie within a *continuum* of two opposing poles of legalisation. On one hand, legalisation where the state exercises significant control over production, sale and consumption (such as Quebec or Uruguay), on the other a free-market model (Colorado).

Table 3: Experiences of the legalisation of cannabis around the world

Country/ State/Province	Years of legalisation	Production			Distribution		Consumption		
		Market	Taxation	Self-cultivation	Shop	Advertising	Possession	Place	Legal age
Canada									
Alberta	2018	Federal licences	\$1/g or 10% of sales price	4 plants per household	Private or governmental for online sales	Highly regulated	30 g (1.06 ounce)	Forbidden like tobacco use, and in the presence of children	18
Ontario	2018	Federal licences	\$1/g or 10% of sales price	4 plants per household	Private or governmental for online sales	Highly regulated	30 g (1.06 ounce)	Forbidden like tobacco use, and in the presence of children or in front of hospitals	19
Quebec	2018	Federal licences	\$1/g or 10% of sales price	Forbidden	Governmental	Highly regulated	30 g (1.06 ounce)	Forbidden in public: sale of edible derivatives prohibited	21
United States									
Alaska	2015	Vertical integration permitted	Duty \$50/ ounce of sales tax	6 plants per household	Licensed private	Regulated (limited to three packs per shop)	28 g (1 ounce)	On site, where approved by the local authorities	21

Country/ State/Province	Years of legalisation	Production			Distribution		Consumption		
		Market	Taxation	Self-cultivation	Shop	Advertising	Possession	Place	Legal age
California	2016	Vertical integration prohibited until 2023	Duty 15% on sales + variable tax according to the type of product	6 plants per household	Licensed private	Highly regulated (to avoid exposure to minors)	28 g (1 ounce)	On site, approved by the local authorities	21
Colorado	2014	Vertical integration permitted	Duty 15% on cultivation + 15% tax on the sale of marijuana + local taxes	6 plants per person, 12 plants per household	Licensed private	Authorised in media with a minority of young people in the audience	28 g (1 ounce), 7 grams for non-residents	Authorised places of use	21
Oregon	2015	Licences limited and granted as a priority to medical companies: vertical integration permitted	Duty 17% + local taxes	4 plants per household	Licensed private	Regulated: false advertising, targeting young people and the promotion of excessive use forbidden	28 g (1 ounce)	Only at home	21
Washington	2012	Vertical integration prohibited	Duty 37%	Forbidden	Licensed private	Regulated: false advertising, targeting young people and the promotion of excessive use forbidden	28 g (1 ounce)	Only at home	21
Other countries									
Uruguay	2013	Public production (delegated to private companies)	No specific taxes, variable licence costs	Up to 6 plants for registered growers	Distribution authorised in pharmacies and self-producer clubs	Forbidden	40 g, user register held, forbidden for tourists	Forbidden	

Main sources: S. Lescione et al. (2019), 'Non-medical Cannabis in North America: An Overview of Regulatory Approaches', *Public Health*, 178, 7–14.

B. Pardo (2020), 'The Uneven Repeal of Cannabis Prohibition in the United States', in T. Decorte, S. Lenton, and C. Wilkins (eds.), *Legalizing Cannabis: Experiences, Lessons and Scenarios* (London: Routledge), 29–33; I. Obradovic (2019), 'La légalisation du cannabis aux États-Unis. Vers une régulation du marché?' Note no. 2019-01, Observatoire Français des Drogues et Toxicomanie.

We chose to present three Canadian provinces out of 13 territories and provinces. We selected them according to their legalisation model and their population. Equally, we considered five US states among the 15 that have legalised recreational cannabis (the states offering us a historical perspective).

2.2. The limits of government monopoly: Quebec and Uruguay

To illustrate the effects of governmental monopoly of cannabis, we selected two particularly relevant examples.

Uruguay was the first country in the world to legalise cannabis, in 2013, which offers a certain perspective of its effects. The country has adopted a model that gives the state a predominant role at all market levels.² Two private companies, chosen by the state, produce the goods for sale in pharmacies. Private cultivation is possible, alone or through clubs, but the sale of these products is prohibited.³ It is necessary to register with a national registry to buy cannabis in pharmacies. The price is set by the state.

Canada legalised non-medical use of cannabis in 2018. Production is controlled by the federal government, but each province or territory decides the rules that apply to distribution and consumption. Quebec is one of the most restrictive provinces: self-production is prohibited, as is consumption in public. The Quebec government plays a central role through the Société Québécoise du Cannabis, which alone ensures distribution (which corresponds to the model advocated by many observers in France).

More than a year after the legalisation of cannabis, the Société Québécoise du Cannabis (SQDC) considered that it had only managed to cover one-fifth of the total market,⁴ although these figures were revised upwards recently, since it was estimated that it had conquered 40% of the underground market in 2020.⁵ The black market still has a large hold over province, although only 38% of Canadian users say they still use illegal sources.⁶ Although it is a little early to assess the consequences of this legalisation, there are still many signs that indicate that in Quebec (and in

² R. Queirolo, 'Uruguay: The First Country to Legalize Cannabis', in T. Decorte, S. Lenton, and C. Wilkins (eds.), *Legalizing Cannabis: Experiences, Lessons and Scenarios* (London: Routledge), pp. 116–130.

³ M. Gandilhon et al., 'Colorado vs Uruguay'.

⁴ La Presse Canadienne (2020), 'Marché noir: la SQDC dit faire des avancées malgré la pandémie de COVID-19', Radio-Canada, 11 June.

⁵ H. Jouan (2019), 'Le cannabis canadien, de l'euphorie à la déception', *Le Monde*, 30 December.

⁶ S. Lancione et al., 'Non-medical Cannabis in North America'.

the rest of Canada), the black market still has a bright future.⁷ **In Uruguay, only 26,000 users (out of a population of 3,387,605) were registered in the national register as of August 2018, suggesting that many people continue to procure it elsewhere. It is estimated that only half of Uruguayan users buy from the legal market.** A survey reported that there were twice as many illegal producers as legal producers in the country.⁸

In Uruguay and Quebec, legalisation has not put an end either to the black market or associated crime. **The blame for this has been attributed to excessively high prices (Quebec) and strong constraints on the market that have affected the attractiveness of the legal supply (both countries).**

The price set by the government is too high compared to that on the black market. Economists estimated the gap between the legal price and that of illegal supply at 12.6% for the last quarter of 2019 (one year after legalisation).⁹ The provincial government's distribution control strategy and its desire to increase the taxation of this type of product (10% in addition to provincial and federal consumption taxes) partly explain this.

Distribution is too restricted. **The 'Belle Province' suffered from a significant lack of sales outlets six months after legalisation: there were only 0.2 shops per 100,000 inhabitants, ten times less than in Alberta where private shops operate.**¹⁰ Similarly, opening hours are poorly suited to the needs of users (approximately 60 hours of opening per week), less than in provinces that have opted for the distribution of cannabis through private stores (77 hours in Alberta). Generally, in Canada, physical and temporal access to cannabis stores is better in provinces that have adopted a private or hybrid model than in those that have opted for a government-run distribution system, such as Quebec.

There is also a lack of product diversity, derivatives are prohibited, and the service is less suited to user needs than that of dealers. As Serge Brochu and Laurence D'Arcy state, prior to legalisation: 'in Quebec, all you have to do is make a phone call or send a text message and the seller

⁷ J. Lemon (2019), 'Marijuana Black Market "Business Has Never Been Better" in Canada Despite Legalization, Cannabis CEO Warns', *Newsweek*, 20 March.

⁸ Queirolo, 'Uruguay: The First Country to Legalize Cannabis', p. 124.

⁹ J. Childs and J. Stevens (2019), 'The State Must Compete: Optimal Pricing of Legal Cannabis', *Canadian Public Administration*, 62(4), 656–673.

¹⁰ D.T. Myran et al. (2019), 'Access to Cannabis Retail Stores Across Canada 6 Months Following Legalization: A Descriptive Study', *CMAJ Open*, 7(3), 13 August.

comes to the customer's home in a few hours with the goods'.¹¹ The online service proposed by the government is far from offering this level of service.

In Uruguay, the main objective of legalisation was to fight organised crime. Positive effects have been felt compared to the previous situation, but they remain insufficient. The number of homicides has continued to increase in the country and no link has been established between the legalisation of marijuana in Uruguay and the improvement in security (there are methodological difficulties in measuring this due to the lack of statistical data).¹²

Uruguayan regulations seem ill-suited to achieving this objective. Pharmacy distribution is difficult because pharmacists are reluctant to sell cannabis for fear of losing their traditional clientèle or facing violence. Only 13 pharmacies sold cannabis in 2018, out of 1,200 in the country, while 11 of the 19 departments in the country do not have pharmacies that sell these products.¹³

Moreover, the obligation to sign up to a consumer register does not help to fight the black market, especially since the insufficient supply pushes those who register to use it anyway. As one Uruguayan consumer said: 'The government makes you register at the pharmacy to end drug trafficking and there is never any stock. I've been waiting 20 days to buy, and nothing, damn it. So I'm going back to the black market to buy it.'¹⁴ Finally, supply problems were recorded in both Uruguay and Quebec. A few hours after the start of the sale in Uruguay, pharmacies were already out of stock, due to the very tight control exercised by the government over the production companies and the limitation of the monthly stock of pharmacies to 2 kg.¹⁵ In the very short term, in extremely different contexts, we have observed the consequences of an overly strict market framework: stock shortages have occurred as well as queues in front of legal sales outlets.

¹¹ S. Brochu and L. D'Arcy (2018), 'La légalisation du cannabis enrayera le marché noir, mais ne pourra y mettre fin à court terme', *Options politiques*, 12 September, <https://policyoptions.irpp.org/magazines/september-2018/le-marche-noir-et-la-legalisation-du-cannabis/>.

¹² Queirolo, 'Uruguay: The First Country to Legalize Cannabis', p. 126.

¹³ Queirolo, 'Uruguay: The First Country to Legalize Cannabis', p. 126.

¹⁴ Queirolo, 'Uruguay: The First Country to Legalize Cannabis', p. 124.

¹⁵ Queirolo, 'Uruguay: The First Country to Legalize Cannabis', p. 123.

In Uruguay and Quebec, legalisation has not put an end either to the black market or associated crime. The blame for this has been attributed to excessively high prices (Quebec) and strong constraints on the market that have affected the attractiveness of the legal supply (both countries).

2.3. An example of the free market: Colorado

One-quarter of US inhabitants experienced the legalisation of cannabis during the 2010s. Since the last US election, recreational use has been allowed in 15 states. Most of them have opted for a free cannabis market with private sales.

It is important to remember first that a free market does not mean a lack of rules. In the states that have made this choice, there are many: control of the location of sales outlets in order to limit exposure to drivers or young people (in Colorado, shops may not be located within 300 metres of a school) or to limit the proximity to certain public or religious buildings,¹⁶ restrictions on the types of products offered for sale, limitation of advertising (which is prohibited or strictly regulated depending on the states, especially in relation to adolescents), etc.

Usage is also regulated. Products are allowed only from the age of 21 (as with alcohol) and the quantity for purchase is limited (see Table 3). Consumption is prohibited in public places, as is driving under the influence of cannabis.¹⁷ In Colorado, products sold must carry a special health warning that side effects may result from cannabis use (especially for pregnant women).¹⁸ Certain rules have sometimes been left to the discretion of local authorities: in Colorado, counties and municipalities hostile to the establishment of stores or cannabis production can prohibit it.¹⁹

Although regulated, cannabis is nevertheless subject to market rules: free competition and free price system. There is a wide variety of cannabis products for sale: vaporisers, beverages, concentrates, cosmetics, joints, etc.

¹⁶ Lancione et al., 'Non-medical Cannabis in North America'.

¹⁷ Obradovic, 'La légalisation du cannabis aux États-Unis'. Vers une regulation du marché?' *art. cit.*

¹⁸ Subritzky, Lenton, and Pettigrew, 'Practical Lessons Learned', p. 45.

¹⁹ Gandilhon et al, 'Colorado vs Uruguay', p. 11.

Colorado is one of the most liberal states in this field. This is a particularly interesting case to study, as it was the first to legalise cannabis in the United States. It was also one of the first states to legalise the medical use of cannabis in 2000, and to allow self-cultivation for patients.²⁰

Here, the legalisation of cannabis was done with a view to adopting a regulatory framework similar to that used for alcohol. Production and distribution are governed by a relatively flexible licensing system (there is no cap on the number of outlets): to obtain a sales license, you must be over 21 years of age, have a 'good moral character', be a resident of Colorado, and pay certain fees.²¹ The product, authorised in different forms, can be sold to people aged 21 and over and the amount is limited to 1 ounce of cannabis to smoke (28 g). Production is taxed at 15% and sales at 10% (plus local taxes).

The consequences of the liberal model adopted by Colorado are clear: the black market has greatly diminished and additional resources have been made available to combat illegal consumption and run prevention campaigns.

Free competition has allowed the price of cannabis products to fall gradually, to the point of reaching a price close to that of the black market. Flower prices fell three-fold between 2014 and 2017 and the price of concentrate halved.²² The number of sales outlets has multiplied: from 59 stores in January 2014 to more than 500 at the end of 2018 (more than Starbucks).²³ In just five years, legal sales represent nearly 70% of the market.²⁴ Colorado has been more successful in reducing the size of its black market than California, due in part to lower prices and easier access to the product for consumers.²⁵ To ensure that it competes well with the black market, a seed-to-sale traceability system has been established in all US states that have legalised cannabis, including Colorado.²⁶

²⁰ Gandilhon et al, 'Colorado vs Uruguay', p. 11.

²¹ Subritzky, Lenton, and Pettigrew, 'Practical Lessons Learned'.

²² Subritzky, Lenton, and Pettigrew, 'Practical Lessons Learned'.

²³ Obradovic, 'La légalisation du cannabis aux États-Unis', p. 10.

²⁴ Obradovic, 'La légalisation du cannabis aux États-Unis', p. 15.

²⁵ Meadows, 'Cannabis Legalization', p. 4.

²⁶ Obradovic, 'La légalisation du cannabis aux États-Unis'.

In the first years after legalisation, observers noted a certain persistence of the black market and cannabis-related crime in Colorado, explained by the emergence of a new illegal black market for neighbouring states.²⁷ But the decline in crime is undeniable. **Arrests for drug use or possession have dropped and the number of marijuana-related court cases has fallen five-fold.**²⁸ This has made it possible to reallocate resources to combat consumption by young people.

The legalisation of cannabis in Colorado has also generated significant additional tax revenues: \$129 million was raised after just two years of legalisation.²⁹ Since then, recreational sales tax revenues have continued to rise.³⁰

All US states that have legalised cannabis have implemented a system of flagging tax revenues from the sale of cannabis. These were mainly allocated to the education sector and programmes related to the prevention and recidivism of drug-related crimes. In Colorado, a major prevention campaign ('Good to Know') was launched at the same time as the legalisation process to inform the population about certain risks associated with cannabis use (for pregnant women for example) and special efforts were devoted to communication with young people.³¹

²⁷ Obradovic, 'La légalisation du cannabis aux États-Unis', p. 5.

²⁸ Drug Policy Alliance (2016), 'So Far, So Good. What We Know About Marijuana Legalization in Colorado, Washington, Alaska, Oregon and Washington, D.C.', p. 4, <https://drugpolicy.org/resource/so-far-so-good-what-we-know-about-marijuana-legalization-colorado-washington-alaska-oregon>.

²⁹ Drug Policy Alliance, 'So Far, So Good', p. 7.

³⁰ Subritzky, Lenton, and Pettigrew, 'Practical Lessons Learned'.

³¹ Gosh et al. (2016), 'The Public Health Framework of Legalized Marijuana in Colorado', *AJPH, Perspectives from the Social Sciences*, 106(1), 21–27.



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...

If you are looking to buy marijuana, go to a legit business and avoid street dealers who might rob you.
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PART 3

A free cannabis market in France

The end of prohibition and the implementation of a legal framework for marketing cannabis are urgently required. Even the United States, the historic champions of the war on drugs, is now backtracking.¹ The question is therefore no longer whether or not to legalise, but how to do it: which model to implement in France? The first feedback, the lessons of which must be taken with caution, leads us to recommend the establishment of a free cannabis market, the objectives and operation of which we now detail.

Table 4: A free cannabis market in France

Production	Distribution	Consumption
Operated by the private sector All types of production models authorised, provided health regulations are complied with Flexible and cheap production licence, also open to prior non-violent illegal producers Seed-to-sale traceability	Operated by the private sector Flexible distribution licence with quotas , also open to prior black market sellers No restriction on the place of sale apart from petrol stations Strict and systematic checking of consumer age Online sale with authorised delivery Diversified product range 15% tax to fund prevention Regulated advertising, based on the Evin law model	Self-cultivation authorised: 6 plants per person, 12 per household Age limit 18 years Consumption authorised outdoors, as with tobacco

Source: GenerationLibre

¹ É. Hesse (2020), 'Les États-Unis, grands champions de la libéralisation des drogues', *Slate*, 16 November, <http://www.slate.fr/story/197103/drogues-etats-unis-amerique-stupefiants-cannabis-legalisation>.

3.1. The aims of a free cannabis market

DRYING UP THE BLACK MARKET AND ASSOCIATED VIOLENCE

The prohibitionist regime has not prevented France from becoming the top-consuming country for cannabis in Europe. In order to meet this huge demand, an extensive black market has developed on which organised crime thrives. This is the focus of the dramatic effects of prohibition: adulterated products for consumers, police and judicial resources exhausted in a sterile fight, and insecurity for the rest of the population.

Eliminating the black market must therefore be the main objective of legalisation, as this conditions the success of all the others: reduction of crime, reallocation of police and justice resources, public health policy, etc. For this, it is crucial that the legal supply and distribution meet the expectations of consumers as much as possible. Only a thriving market with varied, accessible and cheap products is able to dry up the illegal supply.

PROMOTING THE RATIONAL USE OF CANNABIS

Unlike the prohibitionist regime where public policies can only have a limited impact on the use of cannabis, **legalisation makes it possible to implement effective public health measures**. These should focus on people for whom cannabis has a particularly harmful effect: minors and adults with problematic use.

It seems essential to educate the general public about the scientifically proven effects of cannabis on human health and to promote its moderate use. As such, not all methods of consumption are equal: vaping, edibles and cannabis-infused beverages allow users to enjoy the effects of the plant without harming their respiratory system. Reducing the risks also implies that users adhere to an appropriate dosage.

3.2. Cannabis production

EFFECTIVE CANNABIS PRODUCTION BY THE PRIVATE SECTOR

In relation to the first objective of drying up the black market, **we believe it is essential to treat cannabis as an agricultural product and allow it to be freely cultivated.** The competitive private agricultural sector alone is able to produce quality cannabis in sufficient quantities to meet the enormous needs of the 3.9 million French cannabis users (including 1.2 million regular users).² French farmers must be free to experiment with various modes of cannabis production, whether conventionally or by adhering to the rules of organic production.

Many jurisdictions that have legalised cannabis have immediately faced significant stock shortages, particularly in Quebec, as we have seen. In order to avoid this and effectively fight the black market from day one, **it seems essential to us not to set quotas on cannabis production. A licence will be required to grow the plants. This licence must be easy and inexpensive to obtain, with a simple check of the farmer's age and criminal record status.** Easily procuring cannabis is crucial for avoiding the limitation of the number of legal producers, which could indeed lead to shortages and therefore to the persistence of the black market, thus drastically reducing the benefits of legalisation.

A REASONED FRAMEWORK FOR CANNABIS PRODUCTION

One of the serious consequences of cannabis prohibition is the poor and unpredictable quality of cannabis distributed on the black market, which endangers consumer health. **Cannabis production must be regulated in the same way as other agricultural products, particularly in terms of sanitary and phytosanitary standards.** Rules regarding the control and surveillance of production areas, as well as the tracing of plants from seed to sale, must nevertheless be put in place to prevent legally produced cannabis from falling into the hands of the black market, as has been done in all states that have legalised in the United States.³

² Observatoire Français des drogues et des toxicomanies, 'Synthèse thématique: cannabis'.

³ Obradovic, 'La légalisation du cannabis aux Etats-Unis'.

In order to ensure the quality of the products and to avoid overdoses, **a mandatory testing system must be put in place before they enter the distribution channels.** Private laboratories, which already have extensive expertise in food or tobacco testing, could conduct them.

While all this guidance is essential, it is nevertheless important not to over-regulate the new sector of legal cannabis production. In a 2018 study conducted in California, 31% of respondents explained that they produced cannabis without having obtained the necessary authorisations for it.⁴ One of the main explanations put forward by these illegal producers was the high cost of California's regulatory system. Half of them felt that legalisation had promoted the prosperity of large farms to the detriment of smaller producers.

The French legalisation of cannabis must learn from these mistakes and not strangle producers with costly and unreasonable regulations that would form a strong entry barrier for small producers. In particular, the law must avoid dictating a specific method of production: farmers must be free to experiment so that they can find the best ways to produce cheap, quality cannabis, whether indoors or outdoors.

Flexible legislation would also make it easier for current hemp producers to transition to cannabis. With 16,400 hectares cultivated in 2017, France is one of the world's largest producers of industrial hemp.⁵ Aside from their THC content, nothing else distinguishes cannabis from hemp, both of which belong to one and the same species: *cannabis sativa* L.⁶

DO NOT FORCE OR PROHIBIT VERTICAL INTEGRATIONS

For a company, being vertically integrated means fully managing the cannabis cycle: from production to transport and finally to distribution. As in other markets, this must be authorised without demonstrating any particular incentives.

⁴H. Bodwitch et al., 'Growers Say Cannabis Legalization Excludes Small Growers, Supports Illicit Markets, Undermines Local Economies', *California Agriculture*, 73(3), 177–184.

⁵'Les chiffres clés du chanvre en France', InterChanvre.

⁶Weedy, 'La culture du chanvre en France: situation et opportunités, France: le deuxième producteur mondial de chanvre', <https://weedy.fr/la-culture-du-chanvre-en-france/>.

Vertical integration can lead to increased efficiency and therefore cost reductions. It should therefore not be banned, contrary to what has been done in California and Washington State,⁷ because it could harm the competitiveness of the legal market in relation to the black market.

Conversely, the legislator might be tempted to force such vertical integrations in order to make the task of supervision and taxation easier. This was the case in Colorado, which required companies that distribute cannabis to produce 70% of it on their own. Such forced vertical integrations, however, have the effect of creating high barriers to market entry for small players. This concern was what led Colorado to end this rule in 2019.⁸ According to a 2017 study on legal cannabis in the United States, making vertical integrations mandatory undermines the efficiency of the cannabis market.⁹

⁷ F. Hernandez, 'Horizontal and Vertical Integration Affect the Cannabis Industry', <https://www.leafbuyer.com/blog/horizontal-vertical-integration/>.

⁸ Hernandez, 'Horizontal and Vertical Integration'.

⁹ B. Hansen, K. Miller, and C. Weber (2017), 'The Taxation of Recreational Marijuana: Evidence from Washington State', NBER Working Paper, No. 23632, July.

3.3. Cannabis distribution

CANNABIS DISTRIBUTION ENTRUSTED TO THE PRIVATE SECTOR

Today, cannabis users have access to a diversified illegal market throughout France, with many sales outlets. Consequently, to enable them to make the transition to the legal market, it is essential that distribution is made equally accessible and practical.

The legal distribution of cannabis must therefore be open to all, without any arbitrary limitation of the number of sales outlets. This would undermine accessibility for the consumer and create an entry barrier for new players wishing to provide better quality cannabis products or innovative services, to the benefit of a black market that would then continue to thrive.

Nor should there be any limitations on the geographical location of these sales outlets, which could greatly limit their number in large cities.

The implementation of a strict digital identity verification system, with controls, as is the case in the United States, should ensure that minors do not have access to the product. Like alcohol, cannabis will nevertheless have to be banned from sale at petrol stations. The type of sales outlet should also not be subject to restrictions: like alcohol, cannabis must be able to be sold in specialist shops or in super- or hypermarkets with dedicated counters clearly separated from the rest of the products.

Online orders with home delivery should also be permitted. This is indeed a common practice today for cannabis users in France,¹⁰ who may be tempted to continue to purchase from black market sellers if the legal supply is only available in physical stores. This would also be consistent with the existence of legal alcohol delivery services in France.¹¹

¹⁰ C. Bargain (2020), 'Ubérisation du trafic de stupéfiants — 'Se faire livrer du cannabis, c'est un peu comme aller sur UberEats maintenant'', *SudRadio*, 12 February.

¹¹ See, for example, the Kol app: <https://kol-app.com/fr/>.

A FLEXIBLE LICENSING SYSTEM OPEN TO BLACK MARKET SELLERS

We propose the establishment of a transparent licensing system based on the Colorado model. This distribution licence would be accessible to any major store owner without a criminal record. Such licences should not be limited in number or too expensive. This is particularly important in a context where it is a matter of promoting the transition to the legal sector of sellers currently active on the black market.

There are indeed legitimate fears about the consequences that the legalisation of cannabis could have on certain neighbourhoods.¹²

An estimated 200,000 people currently work in cannabis retail organisations. It is therefore necessary to devise a legal framework adapted to the situation of these persons in order to reintegrate them into the legal market.¹³

A system like this has been set up in California. People imprisoned for selling cannabis could ask the judge for a reduced sentence as well as the removal of barriers related to obtaining a job or a student loan.¹⁴

Inspired by the California model, an amnesty period could be instituted to allow and encourage former non-violent black market sellers to operate in the legal market. As suggested by the CAE (Conseil d'analyse économique?), consideration could also be given to clear the criminal records of petty criminals in cannabis-trafficking networks.¹⁵ Such a measure would not only be beneficial for the objective of combating the black market, but it would also be useful from the point of view of cannabis shops, which could benefit from the expertise of those sellers. The legal market could see the emergence of training programmes aimed at developing the skills of these cannabis professionals.¹⁶

¹² CNEWS with AFP (2019), 'Les dealers s'inquiètent de perdre leur business avec la légalisation du cannabis', 2 December.

¹³ Auriol and Geoffard, 'Cannabis: How Can We Take Back Control?'.
¹⁴ A. Tchekmedyian, 'Prosecutors Move to Clear 54,000 Marijuana Convictions in California', *Los Angeles Times*, 1 April.

¹⁵ Auriol and Geoffard, 'Cannabis: How Can We Take Back Control?'.
¹⁶ B. Black (2020), 'Creating a Qualified Cannabis Workforce: How Higher Education Can Support Cannabis Career Pathways', doctoral thesis in education sciences, Kansas State University.

Going further, **a proactive policy of information and assistance for former sellers of illegal cannabis could be put in place to promote their integration into legal channels.** Such a priority is not intended to limit the access of others to licences but rather to help individuals for whom integration into the legal economy can be more difficult.

A RANGE OF DIVERSIFIED AND REASONABLY TAXED PRODUCTS

With cannabis users now having access to a wide range of products on the black market, the legal market must offer the same diversity. This must of course remain subject to compliance with health standards. **In addition to conventional products, cannabis must therefore also be able to be sold in the form of edibles, beverages, oils, cartridges for electronic cigarettes, topical products or concentrated liquid or solid products.**

As Andrew Potter and Daniel Weinstock explain very well about the black market in cannabis in Canada: 'If the goal is for a legal market to be competitive, then the federal government must stop banning the sale of cannabis-derived products.'¹⁷

Although it is legitimate to limit the maximum dose of derived products in a spirit of consumer protection, these limits should be handled with great care so as not to disadvantage the legal market. This is especially important in the early years of drying up the black market. A re-evaluation may be carried out a few years later in order to consider stricter rules concerning the products authorised for sale.

In addition, in the same spirit of competitiveness in the face of the illicit market, cannabis products must be able to be physically handled and smelled by users in specialist shops. These shops must be open not only to adults residing in France, but also to foreign tourists, so as not to preserve a privileged niche for the black market.

Regarding the selling prices of legal cannabis, it is crucial that they are unrestricted. Indeed, prices are an essential signal for adapting production

¹⁷ A. Potter and D. Weinstock (eds.), *High Time: The Legalization and Regulation of Cannabis in Canada* (Montreal: McGill-Queen's University Press).

to the demand for a product. If the quantities of cannabis initially produced are not sufficient to meet the demand, the price of the plant will increase, thus encouraging growers to increase their production to meet the demand. If the price is kept artificially low, it could lead to a shortage. Conversely, too high a price would keep regular users on the black market. **It is therefore crucial that prices are left unrestricted so that the legal market can achieve a balance and represent a viable alternative to the black market.**

In addition to VAT, it makes sense to subject the sale of cannabis to a specific tax to take into account the negative health effects that it can have and their associated costs. As in Colorado, this could be set at 15% of the selling price. The total turnover of cannabis in France in 2020 is estimated at 3.2 billion euros;¹⁸ assuming that between 50 and 75% of purchases would be made on the legal market, the revenue from this tax would amount to between 240 and 360 million euros. This amount would be used to fund prevention and assistance programmes for people suffering from cannabis addiction.

We must be mindful, however: as Jason Childs and Jason Stevens have shown, taxes to offset the social cost of cannabis (also called 'Pigouvian taxes') are not beneficial for society in the presence of a strong competing illegal market.¹⁹ In fact, as explained above, legislators must be careful not to overburden the price of legal cannabis, putting the legal industry at a disadvantage with respect to the black market. In 2018, cannabis was sold in France at around €10 per gram;²⁰ too heavy taxation pushing the price of legal cannabis above this €10 would jeopardise the objectives of legalisation.

¹⁸ 'Ventes illégales de cannabis en 2020 en France', *Newsweek*, 2020, <https://www.ofdt.fr/produits-et-addictions/de-z/cannabis/>.

¹⁹ J. Childs and J. Stevens (2020), 'A Cannabis Pricing Mistake from California to Canada: Government Can't Tax Cannabis Optimally', *Applied Economics Letters*, 28(9), 1–5.

²⁰ Observatoire Français des drogues et des toxicomanies, 'Synthèse thématique: cannabis'.

REGULATED MARKETING

It is important to regulate the marketing of legal cannabis, in particular to ensure that it does not target young people. However, marketing should not be totally prohibited. Indeed, it will be essential for the new legal cannabis industry to convince users to turn away from the black market and inform them of the different types of products available and the qualities and disadvantages of each.

It is equally important for legal cannabis companies to be able to market their brand. Indeed, severe restrictions would affect the ability of new entrants to compete with large established companies: finding a place in the legal market would become very difficult and expensive. It has been shown that heavy advertising regulations lead to a market with few players and high prices.²¹

As with alcohol, it is also important for cannabis companies to be able to advertise their product packages. This is essential so that users, especially the most inexperienced, can differentiate between products and their different effects. Packaging is a key element for cannabis producers to communicate their brand, explain why their products are healthier, safer, or more environmentally friendly, for example with less usage of plant protection products.

It therefore seems justified to align regulations concerning cannabis advertising with those applicable to alcohol in France.²² The level of toxicity of cannabis is lower than that of alcohol. Advertising for cannabis would therefore be prohibited on television and in the cinema, where the risk of affecting minors is greatest, but would still be allowed in the written press, with the exception of publications aimed at young people, on certain time slots on the radio, and in public spaces, with the exception of areas most frequented by young people. Cannabis actors would not be permitted to sponsor major events.

²¹ T.R. Sass and D.S. Saurman (1995), 'Advertising Restrictions and Concentration: The Case of Malt Beverages', *The Review of Economics and Statistics*, 77(1), 66–81.

²² Article L3323-2 of the public health code.

3.4. Cannabis consumption

As with alcohol and tobacco, the sale of cannabis must be prohibited to minors. Based on the Colorado model, self-cultivation must be allowed up to 6 plants per person and 12 plants per household. This limit ensures that there is no parallel market alongside regulated agricultural production.

In addition, since tobacco consumption is permitted in outdoor public places, for the sake of consistency the same should be the case for cannabis. If certain municipalities were faced with particular local circumstances, such as an influx of tourists linked to legalisation or smoking in certain specific places, considering that the odour nuisance was too great, they would be allowed to restrict its consumption in public spaces by means of decrees. In order to remain consistent with tobacco legislation, smoking cannabis in indoor public places must be prohibited.

Public authorities will have a key role to play in raising awareness of the risks inherent in cannabis use and how to reduce them through moderate use, especially among young people. Communication on the pros and cons of each method of cannabis use is also important. In addition to the media, this awareness raising must also be carried out in physical or online sales outlets, in middle and high schools, as well as on the products themselves.

Although there is no risk of death from overdose, a special effort will nevertheless have to be made to raise awareness of the risks associated with the consumption of highly dosed products. Following what is being done today for alcohol and cigarettes, special prevention efforts will have to be made to combat cannabis addiction. All of these prevention campaigns, as well as the help for people suffering from addiction, will be financed by tax revenues from the sale of cannabis, as has been done in Oregon.²³

²³ Obradovic, 'La légalisation du cannabis aux Etats-Unis'.

Conclusion

The wind of cannabis change in the EU

According to the most recent data from the European Monitoring Centre for Drugs and Drug Addiction (European Drug Report 2021), 22.2 million European adults (aged 15–64) have used cannabis in the last year and 78.5 million have done so in their lifetime. This represents respectively 7.7% and 27.2% of the European population. Levels of lifetime use of cannabis differ considerably between countries, ranging from around 4% of adults in Malta to 45% in France, but cannabis remains by far the most widely consumed illicit drug in Europe. This statistic alone shows, and France is a case in point, how ineffective prohibition has been at deterring users from purchasing and using the drug. Rather than preventing trade in cannabis from taking place, prohibition and criminalisation have left entire parts of France in the hand of organised criminal networks. This situation is not unique to France and can be seen in other EU Member States.

Prohibition is not only unsuccessful at what it is supposed to achieve, but its side effects are disastrous. It prevents hazardous users from seeking adequate help, it leaves the product unregulated – cannabis sold on the European market has never had a higher concentration of THC, the molecule responsible for its psychotropic effects – and fosters crime, pushing tens of thousands of youngsters into the black economy. What France also offers by way of example is how much cannabis puts the police and justice systems under strain. Data shows that half of the proactive activity of the French police – controls operated on the streets and related arrests – is related to suspected violations of the law on narcotics. The French police spend a considerable amount of time and resources in arresting people whose only crime is most often to have in their possession a small amount of cannabis for personal use.

Despite this blatant failure, most EU countries persist in upholding their repressive policies towards cannabis. The tides are turning, however. The cultivation of hemp, a variety of the cannabis plant that can be legally cultivated and used for industrial and recreative purposes, is booming. Hemp is the plant from which cannabidiol, or CBD, is extracted, a molecule known for its relaxing properties. The consumption of CBD products has grown increasingly popular in Europe, and in a recent judgment the Court of Justice of the European Union has clarified that, unlike THC, CBD cannot be considered a psychotropic substance and hence an illicit drug. At the same time, experimentation with medical cannabis is also taking place across the continent.

It is against this background that a number of EU Member States have recently decided to re-evaluate their cannabis policies more generally and turn their back on the repressive stance adopted to date. At the end of 2021, Malta became the first EU member to legalise the cultivation and personal use of cannabis. Luxembourg is poised to do the same in 2022. Contrary to a widely held belief, the sale of cannabis is not legal in the Netherlands, where the authorities only apply a policy of tolerance and refrain from prosecuting behaviours that are still identified as criminal offences under the law.

These different models have certain advantages. They may bring benefits to the police and justice systems by relieving them from the obligation to prosecute individual consumption that does not create a significant threat to public order. What they fail to allow for, however, is for a wholly legitimate cannabis market to bloom, where the production, the transport, the distribution, the sale, and the consumption of cannabis are legal. Cannabis should be treated like any other commodity that poses a risk to human health: permitted but regulated. Consumption is not a matter of crime, but a matter of public health. Full legalisation is what EU Member States should aim for, a road down which the new German government seems decided to go, although the specifics of this plan still need to be worked out. It is to be hoped that this will further stimulate discussion in France, to which the present report has already greatly contributed.

GenerationLibre's report offers two main takeaways. The first is that any attempt at legalising cannabis should have two main interrelated objectives at heart: removing the cannabis business from illegal hands

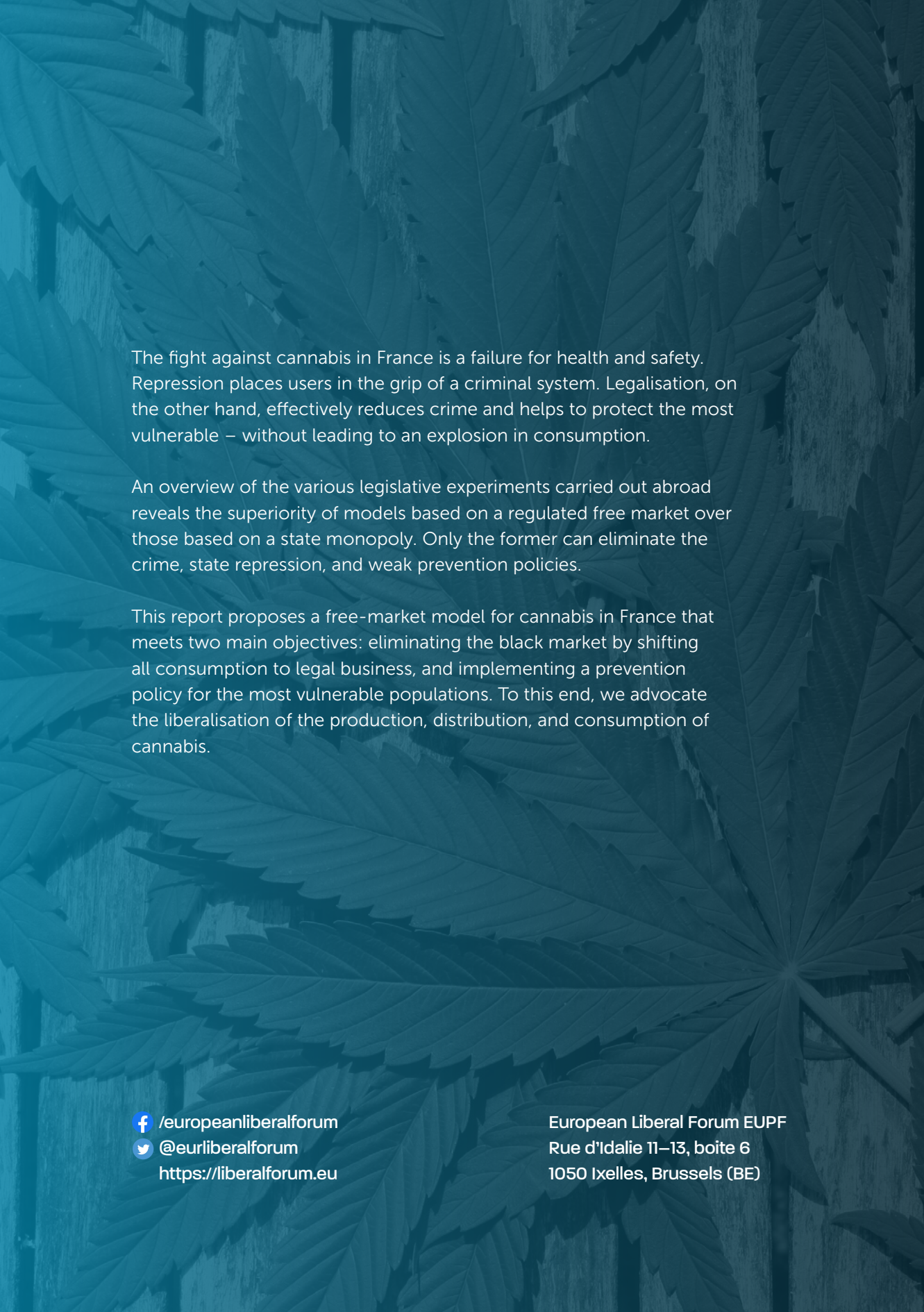
by eradicating the black market and conducting a genuine public health policy. This prevention policy should aim at protecting youngsters from the drug, offering treatment to hazardous users and informing the wider public of the effects of cannabis and its various modes of consumption. Achieving the first of these two objectives is paramount, for it is impossible to take effective action regarding health as long as cannabis remains confined to illegal channels. Eliminating the black market is only possible if the legal solution is attractive enough, which requires – this is the second main takeaway of this report, and arguably the most important – to allow a genuinely free cannabis market to take hold. What the review of experiences recorded in Canada, Uruguay, and the United States shows, is that free market solutions are superior to heavily regulated state monopoly systems.

While the cannabis situation is specific to each and every country, we hope that the broader lessons offered in this report will contribute to informing the policy process at national and EU levels. Perhaps unknowingly to most citizens and even EU savvies, cannabis liberalisation is an EU matter, for EU law currently mandates Member States to criminalise a number of conducts related to drug trafficking, including cannabis. This is so because the EU and its Member States are signatories to the United Nations Conventions on narcotic drugs and psychotropic substances. Hence, for national initiatives aiming at fully liberalising trade in cannabis to succeed, the discussion will need to be taken at the EU level – not least because of the pressure that a German move towards legalisation would put on France, with which it shares hundreds of kilometres of borders.

A long way lies ahead for free cannabis, but the moment has come for a drastic change of perspective that would put the EU and its Member States at the cutting-edge of policy developments worldwide.

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The fight against cannabis in France is a failure for health and safety. Repression places users in the grip of a criminal system. Legalisation, on the other hand, effectively reduces crime and helps to protect the most vulnerable – without leading to an explosion in consumption.

An overview of the various legislative experiments carried out abroad reveals the superiority of models based on a regulated free market over those based on a state monopoly. Only the former can eliminate the crime, state repression, and weak prevention policies.

This report proposes a free-market model for cannabis in France that meets two main objectives: eliminating the black market by shifting all consumption to legal business, and implementing a prevention policy for the most vulnerable populations. To this end, we advocate the liberalisation of the production, distribution, and consumption of cannabis.