

Malta: Decriminalisation of Cannabis for personal use

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In March 2021, proposals for the decriminalisation of cannabis for personal use were published by the government in the form of a White Paper for general discussion. A consensus exists that cannabis users should not be sent to prison, but NGOs are divided on the exact way forward. While some NGOs expressed their support for the proposal, the psychiatrists association and other NGOs warned of a potential increased cannabis use and dependency. The public consultation evoked an interesting response, and now that it is over, revision of the current legislation may not take long, unless it is postponed because of looming general elections.

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Description

The *Drug Dependence (Treatment not Imprisonment) Act*, introduced in April 2015, decriminalised the possession of less than 3.5 grams of cannabis. By means of this provision, persons found in possession of said amounts are now subject to proceedings before the Commissioner for Justice, and are liable to a fine ranging between €50 and €100. If someone is found guilty of the same offence for a second time, and the Commissioner for Justice considers it necessary, the person may also be made to appear before the Drug Offenders Rehabilitation Board. Despite this, the use of cannabis is widespread: a 2019 *MaltaToday* survey reported that at least 9.3% of respondents had smoked cannabis at some point during their life. However, according to the same survey, many Maltese believe that cannabis use is worse than alcohol use.

The Maltese government is proposing to decriminalise the use of cannabis for personal consumption under certain conditions. A *White Paper, Towards the Strengthening of the Legal Framework on the Responsible Use of Cannabis*, published in March 2021 claims that cannabis use in Malta is found across numerous social groups. The White Paper is based on the principle that consumption of the cannabis plant, despite the potential health risks, should not lead to the criminalisation of the cannabis user. It is thus proposing decriminalisation, subject to the following conditions:

a) Possession of up to 7 grams of cannabis for personal use would be completely legal.

b) Possession of between 7 and 28 grams for personal use would be subject to a fine before a drugs tribunal.

c) Personal possession of cannabis would no longer be an arrestable offence and anyone caught with such amounts would not be interrogated by the police.

d) Individuals would be allowed to grow up to four cannabis plants for personal use at home, provided the plants cannot be seen from outside their home.

e) Anyone with a criminal record for simple cannabis possession would have their record wiped clean.

f) Cannabis consumption would be forbidden in public areas, punished with a fine of €233.

g) A legal way for users to buy cannabis buds and seeds would be created.

The White Paper has generated extensive public discussion. In early contributions to the debate following its publication, a number of NGOs, primarily *Releaf* and *Moviment Graffiti*, expressed support for the proposal, whereas organisations such as Caritas, OASI, *Sedqa* (the government's own anti-addiction agency) and *the Malta Psychiatry Association* warned of a possible increase in consumption and dependency patterns among users. In individual and joint statements, they insisted that, while they did not believe cannabis users should be sent to prison, users should seek help and move away from drug use. They also believe that the White Paper gives less protection to people who might suffer serious consequences because of cannabis. These groups claimed that adolescents

who use cannabis endanger their brain and risk developing serious mental problems.

In its submissions to the public consultation, *Sedqa* publicly expresses its agreement with the proposal to decriminalise the use of cannabis, but adds that this should not be limited to persons over 21, with those under 21 still penalised because cannabis use would still be a criminal act for them. *Sedqa* insists on the need for effective mechanisms to ensure “that vulnerable youths do not become double victims, i.e. of cannabis addiction and of the sharks who operate the black market”. It urges the government to increase awareness of “the negative outcomes of indulging in cannabis use” and proposes that “the name of the game here should be education, education, education and we say prevention, prevention, prevention”. It adds that it would consider legalisation “a lesser evil compared to a rampant black market”.

Similarly, Caritas also agrees with decriminalisation, but in its official statement and submissions it states that it “is also concerned that a number of proposals in this white paper may go on to further normalise cannabis use and may inadvertently lead to more use”.

The Labour Party, currently in government, submitted proposals for full legalisation to kill the exploitation of users by black market operators. The Opposition contends that laws regulating cannabis use should also consider the social impact and include safeguards against abuse.



Outlook and commentary

The period allowed for public consultation on the White Paper, which closed in May, attracted more than 350 submissions from organisations and individuals. From what is known so far (Delia 2021), it appears that consensus on decriminalisation of cannabis for personal use is wide, but support for legalisation is not as large as the consensus on the necessity to keep minors (under 18) away from the criminal justice system as well as from cannabis itself and to discourage its use. In this context, proposals have been made to send minors in possession of cannabis for their personal use before administrative tribunals rather than before criminal courts.

It is not clear whether the results of the consultation will be implemented during the current legislature, given the relatively short time left before the general elections. The fact that there is no universal consensus on all the proposals, and particularly on whether the reform should go as far as legalising the use and cultivation of cannabis, might push reforms to after the elections.

The need to revise the current legal position on cannabis appears consensual, but political considerations arising from the lack of full consensus on all aspects of the proposed reforms may delay its revision.

Further reading

Caritas Malta (2021a) [Fondazzjoni Oasi, Aġenzija Sedqa u l-Assoċjazzjoni tal-Psikjatrija f'Malta dwar l-użu tal-Kannabis u implikazzjonijiet għal-liġi Oasi Foundation, Sedqa Agency and the Malta Association of Psychiatry on the use of Cannabis and its legal implications](#)

Caritas Malta (2021b) [White Paper – Towards the Strengthening of the Legal Framework on the Responsible Use of Cannabis: Caritas's Malta Position](#), May 2021

Delia, J. [Stakeholders offer mixed reactions on cannabis White Paper](#), *Times of Malta*, 1 April 2021

FSWS (2021) [Sedqa: Position on the Cannabis Reform White Paper](#)

Government of Malta (2015) [Drug Dependence \(Treatment not Imprisonment\) Act](#)

Government of Malta [Towards The Strengthening of The Legal Framework on The Responsible Use of Cannabis White Paper](#), March 2021

Government of Malta [Public Consultation on White Paper](#), May 2021

Pace, Y. [PN Reacts to Cannabis White Paper, Says Internal Discussions Still Underway](#), *Lovinmalta*, 1 April 2021

Sansone, K. [MaltaToday Survey: 32,000 say they have used cannabis, but just one in five supports legalisation](#), 11 February 2019

Sansone, K. [Cannabis reform consultation ends with 350 submissions](#) *MaltaToday*, 18 May 2021

Times of Malta [Legalising cannabis will increase consumption, rehab organisations warn](#), 17 February 2021

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