



16.4.2021

NOTICE TO MEMBERS

Subject: Petition 0477/2019 by Gustavo Adolfo Serrano Hidalgo (Spanish), on behalf of the National Nemesis Project Association, on regulating the use of cannabis

1. Summary of petition

The petitioner is seeking action by the European Parliament to protect and uphold the fundamental rights of those affected by drug control conventions.

2. Admissibility

Declared admissible on 21 October 2019. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 16 April 2021

The Commission's observations

The petitioner contends that the United Nations Single Convention on Narcotic Drugs of 1961 failed to attain its aim and has actually caused harm to citizens in Spain affected by the law transposing the Convention into national legislation. The petitioner therefore requests a public debate in the European Parliament, as a preparatory step for a Citizens Initiative, which ultimately should lead to an amendment of the said Convention and subsequently of the Spanish legislation in order to regulate in Spain the rational use of cannabis products, including probably the medical use of cannabis.

The United Nations Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol¹, aims to combat drug abuse by coordinated international action. There are two forms of intervention and control that work together. First, it seeks to limit the possession, use, trade in,

¹ United Nations Treaty Series, vol. 978, No. 14152.

distribution, import, export, manufacture and production of drugs exclusively for medical and scientific purposes. Second, it combats drug trafficking through international cooperation to deter and discourage drug traffickers.

Cannabis is listed in Schedules I and IV of the United Nations 1961 Single Convention on Narcotic Drugs; it is therefore considered as a narcotic drug and its cultivation, supply and possession can be allowed only for ‘medical and scientific purposes’. The Convention does not apply to the cultivation of the cannabis plant exclusively for industrial or horticultural purposes.

The Commission on Narcotic Drugs, a commission of the United Nations Economic and Social Council (ECOSOC), is competent to amend the list of substances that are annexed to the Convention on the basis of recommendations of the World Health Organisation, which is advised by its Expert Committee on Drug Dependence.

Pursuant to Article 47 of the Convention, any Party to it may propose an amendment of its text by communicating the proposed change and the reasons for them to the Secretary-General of the United Nations. All Member States are parties to the Convention, whereas the Union is not.

The World Health Organisation submitted on 24 January 2019 to the Secretary General of the United Nations² six recommendations following a critical review carried out at the 41st meeting of the Expert Committee on Drug Dependence concerning cannabis and cannabis-related substances. These recommendations do not aim at legalising the recreational use of cannabis as cannabis would remain in Schedule I of the United Nations Single Convention on Narcotic Drugs even once the recommendations are voted upon in the Commission on Narcotic Drugs.

In a Resolution adopted on 13 February 2019³, the European Parliament calls on the Commission and national authorities to draw a clear distinction between medical cannabis and other uses of cannabis. The resolution urges the Commission and Member States to address regulatory, financial and cultural barriers which burden scientific research and invites them to properly fund research. The Commission response to this Resolution⁴ considered that the current pharmaceutical legislation already addresses the specific calls made by the Parliament. The Commission explained that the EU regulatory framework for pharmaceuticals is robust and clear for the marketing authorisation (MA) of medicinal products, including those derived from cannabis, once their quality, safety and efficacy has been proven. Member States can decide to make cannabis-based products accessible for medicinal purposes in their territory.

At EU level, Council Framework Decision 2004/757/JHA⁵ obliges Member States to take the necessary measures to ensure that, when committed without right, the criminal offences listed in its Article 2(1) – also concerning cannabis – are punishable, except when the relevant conduct is committed by its perpetrators exclusively for own personal consumption as defined by national law.

²[https://www.who.int/medicines/access/controlled-](https://www.who.int/medicines/access/controlled-substances/UNSG_letter_ECDD41_recommendations_cannabis_24Jan19.pdf?ua=1)

[substances/UNSG_letter_ECDD41_recommendations_cannabis_24Jan19.pdf?ua=1](https://www.who.int/medicines/access/controlled-substances/UNSG_letter_ECDD41_recommendations_cannabis_24Jan19.pdf?ua=1)

³ 2018/2775(RSP).

⁴ SP(2019)327.

⁵ Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, OJ L 335, 11.11.2004, p. 8.

With regard to drug policy, different approaches exist in the Member States who also have, in line with Article 168 of the Treaty on the Functioning of the European Union quoted also by the petitioner, the main competence for legislation in the field of public health — including on drugs-related health damage.

Member States develop and implement policies on drug-demand reduction that are most appropriate in their socioeconomic and cultural contexts. The EU complements and supports Member States' action in all aspects of drugs policy, through its EU Drugs Strategy⁶ and Action Plans⁷ which are currently undergoing an external evaluation, including a public consultation⁸.

Conclusion

The Commission considers that drug policy should be based on facts, in line with the balanced, integrated and evidence-based approach of the EU Drugs Strategy. The United Nations Single Convention on Narcotic Drugs of 1961 is binding upon Member States and the Union. Member States may pursue the most appropriate national policies within the framework of Union law and this Convention.

6 EU Drugs Strategy (2013-20), OJ C 402, 29.12.2012, p. 1.

7 EU Action Plan on Drugs 2017-2020, OJ C 215, 5.7.2017, p. 21.

8 https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-5655037/public-consultation_en