



## **TOWARDS STRENGTHENING THE LEGAL FRAMEWORK ON THE RESPONSIBLE USE OF CANNABIS**

*April 2021*

### **FOREWORD**

KSU welcomes the government's launch of the White Paper on such a pertinent issue. As can be seen in the following section's data, the use of cannabis is no strange notion in this day and age, and the White Paper's aim to reflect such a reality is very positive in this regard. Following the reforms introduced over the last decade, this change appears to be the natural next step.

Similarly, it is only natural for KSU to have a position on such a matter as the national union of students. In 2018 KSU published a policy paper on the subject entitled 'A Comprehensive Analysis of the Implications of Legalising Marijuana in Malta', some proposals of which are still pertinent and are being reproduced hereunder. The aim of this succinct document is to analyse the White Paper while proposing and highlighting areas which need to be addressed so as to have a coherent and sound reform.

This document is to be sent to the Parliamentary Secretariat for Civil Rights and Reforms as part of the public consultation process, and KSU will be lobbying the proposals and voicing the concerns found in this document with all relevant policy makers and legislators during this time period; following up where necessary once the proposed reform has been turned into a proper bill.

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This document is endorsed by the following organisations: ALLT, ASCS, Betapsi, CSA, ELSA Malta, ESO, GhSL, ICTSA, Insite, JCA, JEF Malta, KSJC, MAKE, MHSA, MIRSA, MKSA, MUHS, PULSE, S-Cubed, SACES, SDM, SHS, The Third Eye, TSA, UESA, UM Futsal, UM Rowing and USPA.

## BACKGROUND

As part of the Your FuturEU Campaign, KSU commissioned a survey questionnaire through MISCO on drug use and regulation in Malta. From a total of 967 responses, mostly between the ages from 16 to 34 and with the majority between the ages of 17 and 19, the following observations were derived:

- 67% have made use of drugs for recreational purposes, 98% of whom have tried cannabis
- 68% disagreed that cannabis acts as a gateway drug to harder substances
- 46% considered cannabis to be dangerous for daily use
- 79% agreed that cannabis should be decriminalised and legalised
- 73% agreed that small quantities of drugs such as cannabis should be legalised
- 78% agreed that legalisation would help to weaken the black market
- 71% believed that legalisation would result in a decrease in drug related crimes
- 50% noted that legalisation will result in some level of increase in use
- 85% agreed that drug laws should distinguish between hard and soft drugs
- 70% agreed that drugs for personal use should be decriminalised
- 60% believed that local drug laws are not liberal enough

## PROPOSALS OF NOTE

Given the results delineated in the above section, KSU welcomes the ideas behind proposals:

**II: Personal cultivation and private consumption** resulting in easier and safer access to the drug, which simultaneously bypasses the black market.

**III: Expungement of criminal records** to reflect the reality that such acts are no longer considered to be offences in the eyes of the law.

**IV: Distinction between CBD and THC at law** given the fact that the latter is psychoactive while the former is not.

**VI: Administrative measures for minors** to shield them from the criminal justice system.

**VII: A dedicated Cannabis Authority** responsible for all matters relating to the responsible use of cannabis, save for the medicinal and scientific areas.



## GENERAL COMMENTS

### *Credibility*

The proposed White Paper fails to make clear reference to scientific research carried out by experts in the field or peer-reviewed journals, whether locally or foreign - especially studies in countries where the laws regulating the use of cannabis have already been relaxed.

### *Detail*

More information should have been included on the physical and psychological effects cannabis can have; both the therapeutic and the negative effects. Terms such as ‘paranoia and anxiety’ should have been clearly defined since they might not necessarily be understood to their truest extent. Moreover, such terms are easily subjected to use in irrelevant situations and consequently, the idea of the symptom itself can be downplayed by society. Furthermore, the White Paper proposes that frontline officials working with cannabis users are to be trained, which is a good initiative, however clarification is needed as to who exactly these officials will be.

### *Public Awareness*

Prior to introducing such a bill, during these 6 weeks of public consultation, and in the short-to-medium term, efforts should be made to ensure that an educational drug use campaign is carried out. These should aim towards:

- **Enhancing the public’s knowledge on cannabis itself**, placing emphasis on scientific facts, clear definitions of the psychoactive substances of THC and CBD risks, clarifying what responsible use of cannabis entails and what cannabis is composed of chemically in terms of CBD and THC levels, in contrast to the already legalised medical cannabis, etc.;
- Educating the public about the **issues** and **risks** which drug use brings with it;
- Emphasising the importance of **harm reduction measures and tips**. This is necessary to ensure that the personal use of this drug, as the bill turns into law and takes effect, is carried out in a safe and less harmful manner.



## SPECIFIC PROPOSALS

### Proposal II: Personal cultivation and private consumption

The proposed requirement of consumption only within the same habitation as where the cannabis is cultivated is anomalous. This is grounded in the inherent difficulty of tracing the origin of the cannabis consumed by any one person within a private household. Moreover, there do not seem to be any other practical and legal merits which justify such a limit on consumption within a private space.

The enforceability of a prohibition of consumption before minors leaves much to be desired. Similarly, the storage of cannabis in places inaccessible to minors is good on paper, yet no measures to enforce and ensure observance are proposed. The corollary punishment for both of these offences needs to be established, keeping the best interests of the minor at heart.

The requisite for plants can be cultivated ‘in a space which is not visible to the public, and which does not emit smells’ holds good public policy objectives. Nonetheless, it leaves out a significant portion of the public which does not have such a space at its disposal. Most importantly, the White Paper **fails to specify the manner in which cannabis will be made accessible**, and how the sale of such a substance will be regulated. Questions pertaining to:

- the possible cannabis market,
- the licensing, associated fees and requirements of establishments partaking in such a market,
- the possibility of advertising said establishments,
- the production and distribution of cannabis products, and
- the quality control by a regulatory entity

remain unanswered and need to be addressed with caution and sensitivity in the upcoming bill.

### Proposal V: The prohibition of cannabis consumption in public

The notion of what entails a ‘**public space**’ needs to be clearly defined within the bill so as to ensure legal certainty and public confidence in the reporting of any possible offence.



### **Proposal VII: A dedicated Cannabis Authority**

The proposed Cannabis Authority must be guaranteed a minimum yearly budget rather than limiting its funding to any amount of administrative fines meted out or any revenue generated through indirect taxation on cannabis. The important role played by such an authority would necessitate a reliable stream of funding.

### **Proposal VIII: Education**

The education section in the white paper is rather stale. The White Paper lacks a clear framework for the education of youths when it comes to cannabis. The addition of a respective component on the responsible use of cannabis must be included in the relevant syllabi and learning outcomes, to ensure that all youths have been exposed to some form of educational content by the time they leave compulsory education. In the transitory period up until responsible use of cannabis is normalised, a nation-wide multi-pronged campaign to inform and educate the general population on cannabis should be undertaken.