

**Draft: Regulated Cannabis Market Act**  
**Statement of Reasons**  
**SUMMARY OF THE RIA FINAL REPORT**

**1 Identification information**

**Title of Draft Law: Regulated Cannabis Market Act**

**Author / Representative of the Submitter: Expert group established by the Czech Pirate Party<sup>1</sup>**

**Expected date law will come into effect: 1 January 2023**

**Implementation of EU law: n.a.**

**2 Goals of the proposed law**

The primary goal of the new legal amendments concerns regulation of the cannabis market, and can be divided into three areas:

**2.1 Public health**

- Reducing the health risks for users which are associated with the currently illegal cannabis market.
- Creating an effective system of harm reduction, treatment, and prevention of problem use of cannabis.
- Limiting access to cannabis by risk groups in the population (youths, addicts, etc.).

**2.2 Control and enforcement of the law**

- Elimination of disproportionate criminal penalties for otherwise non-problematic behaviour related to the use of cannabis.
- Reduction of the number of persons incarcerated due to the use of cannabis.
- Reduction in organised crime connected with the illegal production and distribution of cannabis.
- Freeing the financial and staffing capacities of law enforcement agencies currently dedicated to prosecuting cannabis trafficking.

**2.3 Economy, market, and budget**

- Increase in state revenues from the legal cannabis market.
- Creation of a legal market for businesses in the Czech Republic.
- Support for small businesses.

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### 3 Aggregate impacts of the proposed law

#### 3.1 Impacts on the national budget and other government budgets

##### *Costs*

- a) creation of a control agency (Bureau) for regulating cannabis in conjunction with the United Nations Single Convention on Narcotic Drugs of 1961, the operations of which are estimated at CZK 30 million (€1.2 million);
- b) creation of a registration system for administration of permission to handle cannabis for recreational purposes, and at the same time an electronic system to monitor production and distribution of cannabis by all licensed subjects; costs for implementing this system are estimated at CZK 100 million (€4 million);
- c) increasing funds for prevention, treatment, and harm reduction in conjunction with cannabis, which could reach CZK 346.2 million (€14 million) annually, based on the number of new daily users and the percentage of cannabis users who will enter treatment or take advantage of harm reduction programmes (see section 2.2.b. and the detailed analysis in Addendum 2 – not available in English).

##### *Revenues*

- a) excise tax from cannabis and additional tax revenues in the form of VAT and tax from profits of licensed businesses allowed to produce and distribute cannabis, which is estimated at between CZK 657 million and 1,836 million (€26.7 million to 74.5 million) annually, depending on the size of the cannabis market and the price of cannabis after legalisation;
- b) reduction of law enforcement expenditures in conjunction with the new legal recreational cannabis market and associated licensed possession, production, and distribution of cannabis, which on the basis of data from abroad is estimated at between CZK 458.4 million and 619.5 million (€18.6 million to 25.2 million) annually, if the share of the black market will fall similarly as it has in Uruguay, Canada, and the USA.

#### 3.2 Impacts on businesses

- Creation of new economic opportunities in conjunction with licensed growing, distribution, and sales of recreational cannabis.
- Strict regulation of profit motives in the licensed recreational cannabis market for the purpose of preventing negative impacts on public health.

#### 3.3 Impacts on local self-government units

The right of municipalities to regulate licensed sales and growing of cannabis; i.e. to allow or prohibit licensed sales of cannabis within the given municipality.

#### 3.4 Social impacts

On the basis of analysing foreign models of cannabis regulation, we have identified possible social impacts of the regulation in question, and we have selected instruments of regulating the market and consumer behaviour which should minimise them. Multicriterial analysis was used to evaluate

the social impact of foreign regulation, based on which we expect neutral to positive social impact from the submitted regulation.

Positive social impacts:

- reduction of misdemeanour and criminal activity in conjunction with cannabis, including organised crime which is satisfying the current demand for cannabis in the illegal market;
- reduction of direct and indirect expenses related to law enforcement of up to CZK 619.5 million (€25.2 million) annually due to the legality of behaviour by persons who are granted permission to handle cannabis for personal use (see the analysis of costs and revenues in chapter 2.2 and in Addendum 2 – not available in English);
- reduction in victimisation and stigmatisation of individuals, due to the fact that they can obtain cannabis in the legal market;

*and furthermore*

- reduction of health and social harm in conjunction with the use of recreational cannabis as the result of an effective system of prevention and treatment and introduction of a product quality control system;
- limiting access to cannabis by risk groups in the population (youths, problem users, etc.).

Possible negative social impacts:

- an increase of recreational cannabis users in the adult population, in conjunction with a possible increase in the problem use of cannabis and connected social costs;
- increased occurrence of negative health and social impacts (social costs) connected with the problem use of cannabis.

Social costs of the problem use of cannabis were quantified with the use of the QALY indicator, and thereby specifically taking into consideration the reduction of the quality of life of daily cannabis users and setting the value of CZK 1 million (€41 thousand) for QALY. The estimate of the social costs by this method is between CZK 21–494.2 million (€852.5 thousand to 20 million) annually, depending on the degree of problem use of cannabis in the population and the percentage of persons entering treatment or taking advantage of harm reduction programmes (see section 2.2.b. and the detailed analysis in Addendum 2 – not available in English).

Instruments for minimising negative health and social impacts:

- registration system allowing limited purchases of cannabis to authorised users in the licensed market for recreational cannabis (monthly purchase limit, possibility of establishing an individual purchase limit);
- offer of individualised harm reduction and treatment interventions linked directly to the registration system;
- strengthening prevention, harm reduction, and treatment services in connection with cannabis, to be financed by the revenues from taxes on recreational cannabis and within the framework of special licences for cannabis social clubs conducting their activities on the local level;
- a ban on all forms of promotion and advertising in the licensed cannabis market;

- limiting profitable opportunities for businesses which might operate contrary to requirements for protecting public health.

### **3.5 Environmental impacts**

- A system of waste management and control for cannabis production.
- Specification of growth stimulators and fertilisers which can be safely used when growing cannabis.

## **GENERAL INFORMATION**

### **Final Report on the Regulatory Impact Assessment**

#### **SECTION I. Reason for submission and objectives**

##### **Title**

Regulated Cannabis Market Act

##### **Summary of the proposal**

This proposal for a regulated cannabis market is based on a Regulatory Impact Assessment (RIA)<sup>2</sup> analysis prepared by an expert group of economists, lawyers, addictionologists, and public policy experts. The group identified a total of 27 regulatory aspects and developed regulatory options for each of these points, based on their research of international sources. At the same time, a multi-criteria analysis of foreign models of cannabis market regulation and a basic cost-benefit analysis of regulation in the Czech Republic were prepared. Recommendations on the most appropriate regulatory option were made, considering not only the results of regulation abroad but also the regulatory and socio-economic context in the Czech Republic. A detailed rationale of the proposal is presented in Section 3 of this report, where different regulatory options have been assessed. An overview of the selected options is then provided in Addendum 1 of this report – not available in English.

##### *Regulatory framework*

The regulation of cannabis for recreational use in the Czech Republic must comply with international and EU law, including the measures proposed in the 1961 UN Single Convention (see section 1.2), to the greatest extent possible. In this respect, the expert group recommends that the market should be subject to control by the Bureau for Cannabis (hereinafter referred to as the Bureau), which should ideally act as a separate central administrative authority (see 3.1). The Bureau should be in charge of issuing and controlling licences for authorised entities (growers, distributors, retailers, and cannabis social clubs), as well as granting possession licences to individuals and home growers (a registration system available through an online application with unique person identification, etc.). Municipalities play an important role in the proposed regulation; for them, not only an obligation to assess establishments as in the case of gambling regulation, but also an obligation to regulate cannabis establishments by municipal ordinance before specific establishments are licensed (see 3.2) are recommended by the expert group. The proposal also foresees the use of the current capacities of the state administration for excise tax collection and food regulation.

##### *Cannabis market structure and harm reduction*

In terms of market structure, the group has proposed a model that combines elements of good practice from foreign models of cannabis market regulation. In simplified terms, the proposed model uses elements of the licensed cannabis market model as implemented in some US states (see 3.3), as well as elements of restrictions on promotion as used in Canada (see 3.19) and registration of all legal consumers, similar to the one used in Uruguay (see 3.12). At the same time, the group has recommended making maximum use of harm reduction instruments associated with cannabis use and linking the registration system used for cannabis dispensing with the offer of prevention, treatment, and harm reduction services (see 3.14). Linking market regulation with harm reduction instruments for cannabis

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<sup>2</sup> <https://www.oecd.org/gov/regulatory-policy/regulatory-impact-assessment-7a9638cb-en.htm>.

use has not been used abroad; the proposed model is unique in this respect. In addition, an information campaign on harm reduction in cannabis use should be implemented, as it was in Canada (see 3.14.c). In addition, harm reduction activities should be implemented within the framework of cannabis social clubs, as in Spain (see 3.14.e).

The present proposal uses the instrument of limiting market power that could have negative impacts on public health (for example, by dumping prices that would drive up use, or in terms of efforts to influence the regulation). In this respect, the expert group recommends limiting the cultivation area of each licensed entity to 2,000 m<sup>2</sup> and proposes that no more than 10 licences be held by any one legal entity (licence types can be combined; the limit refers to their total number, including processing/distribution<sup>3</sup> and retail licences), see 3. 8. It proposes that licences be granted for a limited period of time (approx. 5 years), which will allow municipalities and the Bureau to change the regulation if necessary, without undermining the legitimate interests of businesses. The expert group also proposes to curb the coupling of the cannabis market with the alcohol and tobacco markets. The experts have not reached a consensus on whether favouring small growers should be a legitimate instrument for limiting market power, and thus leave this question to a political decision. The import and export of cannabis should be regulated in line with measures in the European common market (see 3.6.a).

#### *Taxation of cannabis*

Recreational cannabis will be subject to taxation (excise tax and value added tax, see 3.21). The rate of excise tax will be based on the THC content. The rate has been proposed to be between CZK 200 and 450 (€8.10–18.25) per gram of pure THC (i.e., approx. CZK 18–39, or €0.75–1.60, per gram of dry matter); the specific rate chosen should compensate for the decrease in margins on the cannabis market due to legal regulation and thus ensure that legal cannabis is sold at a similar price to illegal cannabis (see 3.22). This will encourage consumers switching from the illegal market but will not undesirably encourage an increase in cannabis use per se. Given the uncertainty concerning the size of the illegal cannabis market and the share that will be taken up by the legal market, the revenue from excise tax on cannabis (including VAT) is estimated to be in the broad range of CZK 657 million to 1,836 million (€26,662,000–74,503,000) annually. See Addendum 2 for more details – not available in English. It is proposed that part of the tax revenues should go to regions (20%) and municipalities (40%), see 3.23. The proposed distribution reflects the expected costs of cannabis regulation, but the exact share can be determined through the political process. Under this proposal, home growers and cannabis social clubs are exempt from excise tax (analogously to small breweries), however the clubs will pay a per capita fee for their members (see 3.21.g). The revenue from such fees has not been estimated for the purpose of this report.

#### *Market and product quality controls*

Cannabis production will be under strict control by the Bureau in terms of the quantity and quality of the cannabis produced (see 3.9). This will be done using a seed-to-sale tracking system that tracks the production and distribution of cannabis products from the seed as planted, cultivated, processed and sold. At the same time, the Bureau will issue a list of prohibited/permitted cultivation techniques and additives. The cannabis grown will be subjected to laboratory analysis by the control body. Producers will be obliged to test their harvests routinely in accredited laboratories and make the results available in the seed-to-sale system. The same measures will apply to cannabis social clubs (see below). Persons authorised to grow cannabis for their own personal use (up to 5 plants) will not be subject to the quality

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<sup>3</sup> Every holder of a growing licence may carry out the processing/distribution of their products without a special licence.

measures but should have access to recommended procedures as well as the possibility to have their grown cannabis subjected to laboratory analysis at their own expense (see 3.10).

The sale of cannabis will take place in specialised licensed shops, which may also sell related products including beverages and food (excluding alcohol, tobacco, and products aimed at children and young people). These shops may operate an outdoor terrace if they meet the conditions and hygienic standards set by law and obtain a permit from the municipality (see 3.4); the use of cannabis would take place on the premises of such a terrace. At the same time, the consumption of alcohol should be prohibited, and the shop should be located at least 250 metres away from restaurants and bars dispensing alcohol (see 3.4). The aim of this measure is to prevent the use of cannabis in connection with alcohol. The age limit for purchasing cannabis and entering any cannabis premise under this proposal will be set at 18 years (see 3.15e) and will be restricted to Czech citizens (see 3.16). Sales staff will be required to receive training in harm reduction approaches to cannabis (see 3.14.d). The law provides for a prohibition on the location of cannabis shops within 250 metres of schools, educational establishments, and leisure facilities for children and young people, and a prohibition on sales in health care facilities and premises related to their operation; further conditions may be set by municipal ordinance (see 3.15.c). It is also proposed to limit the hours of operation of retail outlets from no earlier than 9 a.m. to no later than 10 p.m. (see 3.15.b.). On-line sales are proposed to be allowed in the next phase of regulation to better control sales restrictions (see 3.15.d). The expert group also proposes to prohibit any form of advertising and promotion of cannabis, including sponsorship (see 3.19).

The quantity limit for cannabis purchases will be set centrally, using a registration system for authorised consumers (managed by the Bureau) and user accounts. The upper limit for purchases will be 10 grams per day and 100 grams per month. Individuals will be able to set a lower limit for themselves, if necessary, to facilitate control over their use (see 3.13). Significant increases in the volume of cannabis obtained or increases in the individually set limit will be grounds for offering harm reduction counselling interventions.

The proposal also provides for licences for cannabis social clubs that cultivate and distribute cannabis among their members. The clubs should operate on the basis of a delegated home-growing licence (5 plants per person), grow a maximum of 250 plants (i.e., a maximum of 50 persons per club) and carry out activities to reduce harm from cannabis use among their members. Cannabis may only be dispensed to members of the club, either at harvest time or in the form of individual withdrawals of up to 10 grams per day and 100 grams per month (see 3.3.d and 6.2.c below).

#### *Restrictions on cannabis products*

The proposed regulation places restrictions on the type of cannabis products in terms of their potential risk. In phase I, the expert group recommends permitting the sale/dispensing of cannabis dry matter only (see 3.11). The sale/dispensing of other products such as products intended for ingestion as food or beverages (edibles), liquids for electronic cigarettes (e-liquids), and cannabis extracts are recommended to be banned for the first year of legalisation (i.e., allowing only the sale of cannabis dry matter), similar as in Canada; subsequently, an evaluation of their possible introduction to the market is suggested. At the same time, limitation of a maximum THC concentration (20%) and a minimum CBD concentration (1%) in cannabis dry matter, as well as a ban on adulteration of cannabis dry matter, are proposed. The products sold must not be attractive to children and young people. The expert group proposes a strict regulation of packaging: uniform packaging without specific graphic elements and with information on the exact composition of the product and its risks (see 3.20).

#### *Use of cannabis in public*

The use of cannabis in public places should be subject to the same regulations as tobacco or e-cigarettes use (in the case of cannabis vaporisation), see 3.17. This means a ban on smoking cannabis in food

service establishments (pubs, restaurants, bars), and the possibility of smoking cannabis in outdoor areas of food service establishments (outdoor terraces), see 3.18. Establishments that explicitly state that they allow the use of e-cigarettes can do the same for vaporisation of cannabis dry matter. Municipalities should have the power to further restrict, but not outright prohibit, the use of cannabis in public to avoid potentially harmful use of cannabis in homes where children and young people may be endangered (see 3.17).

### *Law enforcement*

The proposal does not require any changes to the Criminal Code (see 3.24). The proposed registration system of authorised users can be used by the State Police to determine whether a person is an authorised cannabis possessor. The sale of cannabis will remain a criminal offence if carried out by unlicensed persons/entities. Free sharing of cannabis on a small scale (up to 10 grams) between authorised recreational cannabis users will not be penalised. Any transfer of cannabis will remain a criminal offence for persons/entities who are unlicensed or unauthorised to handle cannabis, and the penalties and elements of other criminal offences and misdemeanours will remain unchanged for these unauthorised persons/entities. The law will introduce penalties in cases where such conduct is committed by authorised entities. At the same time, it is proposed that a clean record for drug, violent, and other serious crimes will be required from business owners and founding members of cannabis social clubs and their spouses, with the exception of suspended sentences in relation to cannabis (see 3.25.c and Section 6.2). The proposal contains no changes concerning cannabis-related driving offences (see 3.26).

## **1 Problem definition**

The new approach to regulating the cannabis market in the Czech Republic stems from two aspects. Firstly, the current legislation criminalises the possession of psychoactive cannabis for non-medical purposes. This generates excessive social costs in law enforcement. In public health, it limits the scope for reducing negative impacts through effective prevention, harm reduction, and treatment instruments. At the same time, it also limits the opportunities for economic subjects in the Czech Republic in relation to cannabis. The ban on the recreational cannabis market also deprives the state budget of significant tax revenues that could be realised in the event of legalisation.

The second aspect of the proposed regulation is an attempt to take a modern approach to the regulation of cannabis, which will reduce these social costs by means of using effective tools that have been applied in selected countries over the last decade. The proposal draws on expert sources describing and evaluating the legalisation of cannabis over the last ten years in a number of US states, Uruguay, and Canada, and also takes into account the results of *de facto* legalisation in Spain and the Netherlands.

### **1.1 Criminalisation of cannabis in the Czech Republic and its social impact**

Prohibition of possession and cultivation of cannabis as currently established in the Czech Republic (i.e., making possession of small quantities a misdemeanour, and larger quantities a criminal offence) is costly and does not provide an effective framework for regulating drug use and harm reduction. This repressive policy towards cannabis does not reflect significantly lower negative health impacts and risks of cannabis dependence compared to other drugs. According to expert consensus, the negative health impacts and risks of addiction are substantially higher for legal alcohol and tobacco (Mravčík, Chomynová, & Grohmannová, 2019; Nutt, King, Saulsbury, & Blakemore, 2007).

Cannabis consumption in the Czech Republic is high despite current legislation – according to various surveys, 16.6 percent of young adults (aged 15–34 years) have used cannabis substances in the last year

(Mravčík et al., 2019). This estimate ranks the country relatively high on the European level, where the Czech Republic ranks behind France (21.8%), Italy (20.9%), Spain (18.3%), and some other countries, but also far exceeds estimates in neighbouring countries such as Slovakia (9.3%) and Poland (7.8%) (EMCDDA, 2020). Estimates of cannabis consumption in the Czech Republic are around 20 tonnes annually (Vopravil, 2011; Mravčík et al., 2019). However, approximately two thirds of cannabis consumers report that they have always obtained cannabis for free or by sharing or have grown it in the last year (about one tenth of all cannabis consumers). Cannabis that was obtained for free or home-grown can thus account for up to 40% of the cannabis market.<sup>4</sup>

In the long term, the number of cannabis cultivation facilities discovered (from 145 in 2010 to 258 in 2019, with a peak of 305 in 2017) and the volume of cannabis seized (from 278 kg in 2010 to 546 kilograms in 2017, with a peak of 1,095 kilograms in 2017) have increased significantly (National Drug Headquarters, 2020). The data reflects an increase in repressive police activity and cannot be interpreted as a clear indicator of a growing supply of illicit drugs; however, it does show that despite repressive activities, there is significant illegal production of cannabis in the Czech Republic.

It is even reasonable to assume that, given inelastic demand, this intensified repression against producers leads to an increase in revenues from the sale of illicit psychotropic substances and an increase in the amount of economic resources involved in their production and distribution (Becker, Murphy, & Grossman, 2006).

Repressive drug policies are costly:

- 11.2% of all prisoners are serving sentences for offences related to the production, distribution, and possession of addictive substances; 45% of them are cannabis-related (most on probation);
- The State Police investigate approximately 2,000 cannabis-related offences every year, spending much of their capacity on investigating drug offences, i.e. offences where there is no real victim and no harm; the capacity of the police is thus lacking in the prevention, detection, and investigation of other crimes;
- Repressive drug policies also have problematic health consequences that negate the main official purpose of prohibition, i.e., protecting public health (Csete et al., 2016; Scheim et al., 2020; Small, Kerr, Charette, Schechter, & Spittal, 2006; Werb et al., 2008);
- The illicit cannabis production and distribution sector completely escapes taxation, the proceeds of which can make a significant contribution to the state budget and can fund targeted prevention and harm reduction in relation to cannabis use, etc.

## **1.2 Description of the legal situation**

### **1.2.a. Associated legal emendations**

At present, the area of handling cannabis is regulated for the most part by the Criminal Code and the Law on Addictive Substances<sup>5</sup>.

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<sup>4</sup> According to a representative population-wide survey in 2016, people who bought cannabis are more likely to use it than those who did not and received it for free or grew it themselves.

<sup>5</sup> Act No. 167/1998, Czech Law Coll., on Addictive Substances and on the amendment of several other laws regulates the handling of addictive substances, their export, import, transportation, the handling of preparations

Act No. 40/2009, Czech Law Coll., the Criminal Code, regulates “drug-related criminal activities”, i.e. especially Unauthorised Production and Other Handling of Narcotic and Psychotropic Substances and Poisons (§ 283), Possession of Narcotic and Psychotropic Substances and Poisons (§ 284), Unauthorised Growing of Plants Containing Narcotic or Psychotropic Substances (§ 285), Production and Possession of Items for Unauthorised Production of Narcotic and Psychotropic Substances and Poisons (§ 286), and Inciting Toxicomania (§ 287). Also crucial is § 130, which defines narcotic substances, and especially § 289, which empowers the government to issue laws determining which substances are considered poisons and which plants and mushrooms contain psychotropic substance, and what quantity is “greater than a small quantity”.

These implemented regulations are:

- Government Regulation 467/2009, Czech Law Coll., which determines for the purposes of the Criminal Code what is considered poison and what quantities are greater than a small quantity for narcotic substances, psychotropic substances, preparations containing them, and poisons.
- Government Regulation 455/2009, Czech Law Coll., which determines for the purposes of the Criminal Code which plants and mushrooms are considered to be plants and mushrooms containing a narcotic or psychotropic substance and which quantity is greater than a small quantity in the sense of the Criminal Code.

In terms of regulating the growing of cannabis, it is important to state that the Criminal Code already distinguishes between “cannabis-related” and other criminal drug offenses; whereby, for example, the possession of cannabis for personal use is punished by half the penalty as compared to other drugs (see § 284, paragraph 1 and paragraph 2).

The Czech Constitutional Court, in the Constitutional Court Plenary Finding Pl. ÚS 13/12, intervened in the above-mentioned provisions and in the government regulation which determined what is larger than a small quantity for various narcotic and psychotropic substances; in short, the Constitutional Court decided that this is a question of criminality, which must either be determined directly by law, or must be left to the interpretation of the competent authorities (courts). It is not possible to authoritatively determine these values by mere government decree.<sup>6</sup> However, the finding of the Constitutional Court did not apply to cannabis and mushrooms, where a quantity larger than a small quantity is still determined by government regulation (Act No. 455/2009, Czech Law Coll.). This amendment is currently being reviewed by the Constitutional Court.

The Criminal Code itself, however, does not define which substances are considered as narcotic and psychotropic substances; here it refers to another law, which is the Act on Addictive Substances.

Certain acts that are similar to those prohibited by the Criminal Code, but do not reach the required intensity, are punishable as offenses under this Act (e.g. possession of substances in small quantities).

- Government Regulation No. 463/2013, Czech Law Coll., on Lists of Addictive Substances, further contains the list of substances that are considered addictive. It is divided into 7 addenda where addictive substances are arranged according to their legal regime. It is largely a transcription of the lists from the UN Single Convention on Narcotic Drugs of 1961 and the UN Convention on Psychotropic Substances of 1971.

The current adjustment of the definition of narcotic and psychotropic substances is therefore constructed in such a way that the Criminal Code refers to the Law on Addictive Substances, and this

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containing addictive substances, and the growing of poppies, cannabis, and coca, and the export, import, and disposal of poppy plants.

<sup>6</sup> The Czech Supreme Court since that time has issued several decisions and opinions which again defined these figures.

definition is left to the by-laws. This concept is sometimes criticised by the professional public as a violation of the principle of *nullum crimen sine lege* [no crime or punishment without a law]<sup>7</sup>, but for the time being, it has been upheld by the Constitutional Court.

The Criminal Code also uses the term “addictive substances” in some of its provisions, but this is a term with a different content than in the Law on Addictive Substances – according to the Criminal Code, addictive substances also include substances whose possession and production are legal, such as alcohol.

Act No. 65/2017, Czech Law Coll., on the Protection of Health from the Harmful Effects of Addictive Substances, touches upon the issue only marginally. The majority of this law concerns alcohol and tobacco; only some provisions apply to cannabis, for example § 28 and § 29 on anti-drug policy and the role of local governments in its implementation. However, this law defines places where smoking and the use of related products (including electronic cigarettes and herbal products intended for smoking) are prohibited. In this regard, an amendment will be necessary that will allow the use of cannabis, including its smoking, in selected places according to the terms of this proposed adjustment. In short, these will be places in which the retail sale of cannabis will be permitted, and which will also have a licence to operate food services. At the same time, the sale and serving of a selected range of products such as alcoholic beverages will be prohibited in these places.

Furthermore, the proposed amendment will affect Act No. 110/1997, Czech Law Coll., on Food and Tobacco Products, or more precisely, its sections and implemented regulations regarding the marketing and labelling of herbal products intended for smoking, in particular Decree No. 37/2017, Czech Law Coll., on Electronic Cigarettes, Replacement Cartridges for Them, and Herbal Products Intended for Smoking. If cannabis or a cannabis product is marketed as a herbal mixture or a product intended for smoking, it will have to meet the conditions for herbal products intended for smoking according to this law and its subordinate norms. Their existing adjustment is however sufficient and does not require further modification for this reason.

Regarding taxation, given that there is no legal cannabis market in the EU except for medical purposes, the tax legislation does not include it. It will therefore be necessary to amend the relevant laws, especially Act No. 353/2003, Czech Law Coll., on Excise Taxes.

### **1.2.b. Evaluation of the compliance of the proposed amendment with the Constitutional Order of the Czech Republic**

The proposal is fully compliant with the Constitutional Order of the Czech Republic. Growing cannabis and the consumption of cannabis products is not an act that should be punishable by the State according to the Constitution. Also, the new adjustment does not interfere with the constitutional rights of other persons. The Constitution only requires that the punishment for an illegal act be proportionate to the social danger. The proposed law meets this requirement, because the social danger and harmfulness of cannabis is lower than in the case of alcohol or tobacco (Nutt, King, & Phillips, 2010; Nutt et al., 2007; Zábanský, Běláčková, Štefunková, Vopravil, & Langrová, 2011), which are legal.

### **1.2.c. Evaluation of compliance of the proposed amendment with international pledges of the Czech Republic to the EU and UN**

The proposed regulation is proposed in such a way that it remains to the maximum possible extent within the pledges of the Czech Republic to the European Union and the United Nations concerning control of narcotic and psychotropic substances.

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<sup>7</sup> E.g. Viktor Mravčík, Kateřina Grohmannová, Michaela Štefunková, Vendula Běláčková, Tomáš Zábanský: Omamné a psychotropní látky jsou když... – návrh legislativní definice omamných a psychotropních látek v ČR [Narcotic and psychotropic substances are... – a proposal for the legislative definition of narcotic and psychotropic substances in the Czech Republic], *Trestněprávní revue [Criminal Law Review]* 5/2016, p. 111.

The proposal mainly affects the UN Single Convention on Narcotic Substances of 1961, as amended by its later protocols. The Czechoslovak Socialist Republic agreed to the UN Single Convention on Narcotic Substances on 31 July 1961, and the President of the Republic ratified it on 23 November 1963, with reservations made at the time of signing. The Convention entered into force on 13 December 1964, and on that date it also entered into force in the Czechoslovak Socialist Republic (the "Convention"). On 25 March 1972, the Protocol on Amendments to the Single Convention on Narcotic Drugs of 1961 was negotiated in Geneva, and adopted by Federal Ministry of Foreign Affairs communication No. 458/1991, Czech Law Coll., (the "Protocol"). When delivering the instrument of ratification, the Czechoslovak Socialist Republic negotiated an exemption from the application of selected provisions of the Convention (Article 12, paragraphs 2 and 3; Article 13, paragraph 2; Article 14, paragraphs 1 and 2; and Article 31, paragraph 1(b) of the Convention), which therefore do not apply to the Czech Republic.

The proposed regulation is in accordance with the Convention, with the exception of Article 4 letter c., which stipulates that states will limit the production, manufacture, export, import, distribution, trade, use, and storage of narcotic substances (hereinafter "handling") exclusively to medical and scientific purposes. In this regard, the regulation introduces the possibility of authorised handling of cannabis and cannabis products also for the purposes of recreational consumption (i.e., for the same purposes for which e.g. alcohol or tobacco are consumed), but strictly under the condition of granting a permit for such handling in the sense of the Conventions and in compliance with the Convention.

As regarding other provisions of the Convention, all obligations will be upheld relating to the establishment of a national Bureau for Cannabis, the criminality of unauthorised handling, statistical and record-keeping obligations, obligations regarding the import and export of narcotic drugs and psychotropic substances, etc. The proposed regulation thus does not concern the obligations of the Czech Republic to the UN and the International Narcotics Control Board (INCB), nor towards other states, and in this respect the Czech Republic will continue to respect and observe international law.

In accordance with the Convention, based on the proposed regulation, the Czech Republic will continue to limit and punish unauthorised handling of cannabis. In this regard, the Czech Republic does not fundamentally change the existing legislation regarding the unauthorised handling of addictive substances; it only introduces administrative offenses and misdemeanours for holders of recreational cannabis handling permits in the event of a violation of the legal rules introduced by the proposed regulation.

The proposal is fully in concordance with the original goals set by the UN for itself in the Convention, but subsequently failed to fulfil, namely "concerned with the health and welfare of mankind", as stated in the Preamble of the Convention. Countless UN documents and other documents and expert sources, based on proven information, demonstrate that the prohibition of narcotic and psychotropic substances introduced by the 1961 Convention and other UN conventions with regard to narcotic and psychotropic substance control did not fulfil its purpose, did not lead to the eradication of the recreational use of narcotic and psychotropic substances, nor to the eradication of their unauthorised handling. The black market and the prohibition of narcotic and psychotropic substances are a source of considerable health and social harm.

Regarding compliance with other international conventions and obligations, the human rights dimension of the proposed regulation is important, namely compliance with the Universal Declaration of Human Rights, in particular with the right to basic freedoms, non-discrimination, and the dignity of all individuals. As stated in the Declaration, human rights are universal, indivisible, interrelated, and inalienable, and it is the duty of individual states to guarantee the primacy of their protection over other international treaties, including the Convention.<sup>8</sup>

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<sup>8</sup> Contribution of the Human Rights Council to the special session of the General Assembly on the world drug problem of 2016: [https://digitallibrary.un.org/record/795313?ln=zh\\_CN](https://digitallibrary.un.org/record/795313?ln=zh_CN).

As regards the issue of compliance with EU legislation, this concerns in particular 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. Compliance with Czech and EU law, as far as this framework decision is concerned, is ensured in particular by the provisions sanctioning the illegal handling of narcotic and psychotropic substances in the Criminal Code (criminal acts) and in the Act on Addictive Substances (misdemeanours). As stated above, the proposed regulation does not change the provisions regarding the punishment of criminal offenses and misdemeanours associated with the illegal handling of narcotic and psychotropic substances.

### **1.3 Identification of entities concerned**

Overview of entities and groups of entities involved in the regulation:

- Public authorities and their subordinate bodies
  - o Ministry of Health of the Czech Republic and its Inspectorate of Narcotic Drugs and Psychotropic Substances
  - o Ministry of Agriculture of the Czech Republic
  - o Ministry of Finance of the Czech Republic
  - o General Financial Directorate
  - o Customs Administration of the Czech Republic
  - o Ministry of Labour and Social Affairs of the Czech Republic
  - o Ministry of the Interior of the Czech Republic
  - o Ministry of Justice of the Czech Republic
  - o Office of the Government of the Czech Republic, where the Secretariat of the Government Council for the Coordination of Drug Policy is located
- Bodies of territorial self-government (municipalities)
- Business entities
- Holders of a permit (licence) obtained in accordance with the law
- Authorised persons
- Non-governmental non-profit organisations
- Consumers

### **1.4 Description of the target state**

The primary objectives of the new legal amendments on the regulation of the cannabis market can be divided into three areas:

#### **1.4.a. Public health, prevention, and treatment**

- Reducing the health risks for consumers which are associated with the currently illegal cannabis market.
- Establishing an effective system of harm reduction, treatment, and prevention of problem use of cannabis.
- Limiting access to cannabis by risk groups in the population (youths, problem users, etc.).

#### **1.4.b. Control and enforcement of the law**

- Reduction of the number of persons who encounter law enforcement authorities due to illicit psychotropic substances.
- Reduction of the number of incarcerated persons.
- Reduction in organised crime.
- Freeing the financial and staffing capacities of police officers, prosecutors, judges, and other authorities.

- Elimination of disproportionate criminal penalties for an otherwise non-problematic population of cannabis consumers.

#### **1.4.c. Economy, market, and state budget**

- Increase in state revenues.
- Creation of a legal market for businesses in the Czech Republic.
- Support for small businesses.

### **1.5 Main principle of the proposed regulation**

#### **1.5.a. Harm reduction**

The proposed regulation is motivated by the effort to enhance harm reduction related to cannabis use on several levels:

- limiting access to the cannabis market for minors by recording all sales under individual customer accounts and monitoring all legal cannabis in a seed-to-sale tracking system;
- setting limits on individual cannabis consumption by using a registration system for the purchase of cannabis by (authorised) adults;
- providing treatment and harm reduction programmes in a targeted way to people showing patterns of problem use (using the above-mentioned registration system to identify and contact these people);
- strengthening cannabis prevention, harm reduction, and treatment services (financed by allocated tax revenues);
- use of regulatory tools to improve the safety of cannabis and cannabis products (content analysis, list of unauthorised adulterants, regulation of active compounds THC and CBD, health warnings on packaging)<sup>9</sup>;
- use of current tobacco regulation to regulate cannabis use in public spaces and restaurants/bars.

#### **1.5.b. Restrictions on market power**

For-profit entities in the commercial cannabis market may have an interest in increased sales of cannabis, especially towards risk groups (problem/heavy users). Experience in the alcohol and tobacco sectors in particular points to the risks associated with entities who have extensive market power and are spending significant resources to influence and circumvent public health regulation, making innovations ahead of regulators. Therefore, the proposed regulation includes the following elements:

- a ban on all forms of advertising and promotion, restricting products to “plain packaging”;
- a system of licensed production, distribution, and sale, which will keep track of (the activities of and, if necessary, the limit of) the number of entities producing and selling cannabis;
- licensing of non-profit entities that run harm reduction activities alongside cannabis production and distribution (see Cannabis social clubs under 1.5.c.ii);
- capping production by the size of the allowed cultivation area;
- limiting the number of licences per entity in order to avoid creating a situation that restricts competition;
- allowing the sale of cannabis only in specialised licensed shops that can offer related products (including refreshments but excluding alcohol and tobacco and items aimed at children).

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<sup>9</sup> The current proposal relates to herbal cannabis; it is recommended to assess the risk of other products whose introduction could potentially reduce harm from cannabis use (e.g. vaping pens, edibles, extracts) within one year of the law coming into force.

### **1.5.c. Strict regulation and control of the cannabis market and its management**

The proposed regulation introduces the legalisation of a recreational cannabis market for authorised entities in accordance with the legal order of the Czech Republic and its obligations towards the EU and the UN.

To that end, this proposal brings:

#### *1.5.c.i A registration system for granting authorisations for natural persons with the Bureau*

- natural persons who obtain an authorisation to possess cannabis for recreational use and to share it gratis with other persons, within specified limits;
- natural persons who obtain an authorisation to grow cannabis for their own recreational use and to share it gratis with other persons, within specified limits.

#### *1.5.c.ii Licences for legal persons granted by the Bureau and the municipality<sup>10</sup> in whose territory the establishment is located*

- cannabis social clubs that grow cannabis for the use of their members and provide harm reduction programmes from funds received above and beyond their common expenses;
- growing of cannabis for sale to authorised entities (licensed legal persons);
- processing and distribution of cannabis obtained from and destined for other licensed legal persons;
- sale of cannabis to authorised entities (natural persons as defined in point 1.5.c.i.).

### **1.5.d. Revenue for state and local public budgets**

- excise tax on the THC unit levied at the time of leaving the tax inventory (before sale) and value added tax;
- distribution of the excise tax between state and local budgets;
- payment of registration and licensing fees to the Bureau to finance its operations.

### **1.5.e. Reduction of the black market**

- maintaining the existing sanctioning framework for unauthorised operators (at the level of misdemeanours and criminal offences);
- creation of a new sanctioning framework for authorised operators (misdemeanours and administrative offences, including loss of licences or a ban on further activities);
- monitoring of the produced cannabis under the seed-to-sale tracking system, i.e. from seed to cultivation to final sale, to prevent its leakage onto the black market;
- targeting the excise tax rate so that the price of cannabis on the legal market at the time of legalisation is approximately equal to the price of cannabis on the illicit market; this will neither encourage black market purchases (in the case of more expensive legal cannabis) nor encourage use (in the case of cheaper legal cannabis).

## **2 Impacts Analysis**

### **2.1 Multicriteria analysis of existing models of cannabis regulation**

#### **2.1.a. Overview of recreational cannabis regulation models around the world**

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<sup>10</sup> The expert group proposes that municipalities that grant permission to operate licensed activities on their territory should be obliged to do so only on the basis of the prior adoption of a general binding ordinance (GBO) regulating the local licensing system.

In order to conduct an analysis of the impact of cannabis legalisation, the expert group identified countries in the world that have introduced some form of non-prohibitory cannabis regulation. Examples from abroad show that a rational approach to cannabis in terms of legalisation for recreational purposes and strict market regulation is possible. To date, Canada, Uruguay and 20 states in the US have done so. Inspiration can also be drawn from the Netherlands, which introduced a non-enforcement approach to the sale of small quantities of cannabis in the 1970s, or certain parts of Spain, where cannabis social clubs have been prolific since around 2005, providing cannabis to a limited number of members.

These countries can be simplistically classified as regulatory models that define possible approaches to the cannabis market:

- certain US states – commercial market operated by licenced entities
- Canada – regulated market operated by licenced entities and state-owned organisations (state monopoly in certain provinces)
- Uruguay – regulated market with government-authorised growers and non-profit associations
- The Netherlands – regulated retail market but growing is still illegal
- Spain – non-profit associations

A more detailed description of each model is given below. In addition to these countries, home growing of cannabis, which is part of a number of cannabis policy reforms, has also been included in the analysis, either in countries listed below or in other locations.

#### *2.1.a.i USA*

At the time of translating this report (August 2022), a total of 20 US states have legalised cannabis for recreational use. The first two states, Colorado and Washington, did so in 2012 by referendum, and they opened the recreational cannabis market in 2014 (Matheson & Le Foll, 2020). In all states except Vermont and Illinois, cannabis legalisation was passed through popular vote (Seddon, 2020).

Legalisation models in the US can be described as predominantly liberal and commercially oriented. They feature profit-oriented cannabis producers and sellers, and promotion and advertising are allowed (Fischer, Daldegan-Bueno, & Boden, 2020). Although there are some differences between states, the models are more similar than different – the differences are mainly in the types of products allowed and the level of taxation (Pardo, 2020). Legalisation efforts in the US are limited by federal law, under which cannabis remains illegal (Carnavale, 2017).

#### *2.1.a.ii Uruguay*

In 2013, Uruguay was the first UN member state to legalise cannabis at the national level. It differs from other models in having significant government involvement in the production and distribution of cannabis. Legalisation was designed to increase public safety and reduce drug crimes (Queirolo, 2020). Regulation was not motivated by possible tax revenues; cannabis is only nominally taxed (Seddon, 2020). Public opinion in Uruguay does not seem to be on the side of cannabis legalisation (Fischer, Daldegan-Bueno, & Boden, 2020).

#### *2.1.a.iii Canada*

In October 2018, recreational cannabis was legalised in Canada. The legalisation was pushed through by the ruling party, which campaigned on a promise to keep “cannabis out of the hands of children” and “money out of the pockets of criminals” while protecting public health and order (Seddon, 2020).

This is a model that combines state involvement with private entities; a few (large) cannabis growers are licenced at the federal level, and sales are regulated at the provincial level. In selected provinces, there are a state monopoly, online trade, or home-growing (Seddon, 2020).

#### *2.1.a.iv The Netherlands*

In the Netherlands, the cannabis market has never been fully legalised, but the first regulation regarding the operation of “coffee shops” was adopted in 1976 (Korf, 2002). The basis of the regulation is that the police do not enforce the prohibition of the sale of small quantities of cannabis (up to 5 grams per person per day). Although growing cannabis or trading in larger quantities remains illegal, this practice has enabled the establishment of end-user shops that often also serve as a venue for cannabis consumption.

In addition to the 5gram sales limit, coffee shops are not allowed to advertise, sell so-called “hard drugs” or cannabis to anyone under 18 years of age. Also, they are not allowed to have a disruptive impact on the surrounding area (Monshouwer, Van Laar, & Vollebergh, 2011). Since 2012, it has been possible to prohibit foreigners from entering coffee shops and several municipalities in border areas have applied this measure (van Ooyen-Houben, Bieleman, & Korf, 2016).

#### *2.1.a.v Spain*

In Spain, there has also been no formal legalisation of the cannabis market; however, since about 2002, cannabis “social clubs” have started to emerge and operate thanks to the interpretation of their legality with regard to the decriminalisation of possession and cultivation of cannabis in private spaces and the depenalisation of drug sharing as such (Muñoz & Soto, 2001).

Cannabis social clubs are particularly widespread in Catalonia and the Basque Country. These are civic associations of cannabis users that grow and process cannabis for their respective members, while also working to educate their members and the general public about cannabis and its regulation (Barriuso, 2011a). Harm reduction approaches have been documented within these clubs, where members, for example, begin to use safer methods of inhalation and/or stop adding tobacco (V. Belackova, Alexandra Tomkova, & Tomas Zabransky, 2016).

### **2.1.b. Criteria for assessing regulatory models and their analysis**

Twelve criteria for assessing the effectiveness of regulatory models were then established in the following areas:

- i. Cannabis use among adults
- ii. Cannabis use among adolescents
- iii. Problem/intensive cannabis use
- iv. Method of cannabis consumption (smoking, with tobacco, vaporisation, ingestion, others)
- v. Cannabis related health care costs
- vi. Harm reduction and treatment options
- vii. Cannabis quality and THC/CBD content
- viii. Black market/participation in the legal market
- ix. Criminal offences and misdemeanours
- x. Traffic accidents
- xi. Prices
- xii. Taxation

The impact of the legalisation of a recreational cannabis market in each country was assessed on the basis of peer-reviewed studies. The evidence was assessed hierarchically, i.e., systematic reviews published in peer-reviewed impact journals were considered of highest relevance. If this type of literature was not available, studies with an experimental design were considered most relevant. Next in line were

quasi-experimental studies, which typically assessed the same indicator over time and compared it with relevant places that have not legalised recreational cannabis (e.g., neighbouring states).<sup>11</sup> In states where these studies were not available, any peer-reviewed studies in impact journals were taken into consideration. Any other sources were considered low level (e.g., freely available reports and analyses, time-series data involving legalisation, etc.).

An overview of the impacts of legalisation based on these scientific sources is presented in Addendum 3 of this report (tables summarise the results of the studies and their translation into percentage changes before and after legalisation, with color-coded indications of whether these are positive or negative impacts and an indicator of the quality of the evidence) – not available in English. Table 1 below presents the scores based on a colour scale of -2 (very negative), -1 (negative), 0 (neither negative nor positive, or fluctuation), +1 (positive) to +2 (very positive). In case the quality of the particular study or data was low, the score was reduced by 50%.

Based on the overall score in this analysis, the best market regulation model was the Canadian one (+7), which achieved a negative score only in terms of a slight increase in cannabis use in the adult population (use during past 3 months increased from 14.9% to 16.8%) (Rotermann, 2020), and then in relation to the increase in emergency hospital admissions related to cannabis use, and, lastly, the fact that only about half of all users buy their cannabis legally. In other areas, the impacts of legalisation were rated as neutral or positive. Note that the relatively short period since the introduction of legalisation (2018) and the launch of edibles and other cannabis derivatives (2019) may contribute to this rating.

The lowest score was achieved by legalisation in Uruguay (-2), where increases in cannabis use in the adult population and among adolescents and an increase in demand for cannabis-related health treatment have been seen since the legalisation of cannabis in 2014, as well as an increase in traffic accidents (in all cases, there is relatively low evidence level and it is therefore unclear to what extent cannabis legalisation has contributed to these trends). In any case, a relatively low participation in the legal cannabis market has been documented in Uruguay thanks to problems with the availability of legal cannabis in pharmacies and cannabis clubs (Queirolo, 2020). Given the relative rigidity of the model (high levels of regulation and its slow adjustments to challenges), it is possible that for precise interpretation of results we will need to wait even longer.

The impacts of the market model within cannabis regulations in individual US states were assessed as neutral (0). Due to the relatively low controls on the availability and sale of cannabis (licenced cultivation and sales system, permitting of some promotional channels in accordance with the US Constitution), there was an increase in cannabis use among adults and an increase in daily/problem cannabis use in these locations. After legalisation, cannabis use among respondents aged 26 years and older increased from 5.65% to 7.10% in the past month (odds ratio 1.28; 95% confidence interval, 1.16-1.40), frequent use in the past month from 2.13% to 2.62% (OR, 1.24; 95% CI, 1.08-1.41), and problem use in the past year from 0.90% to 1.23% (OR, 1.36; 95% CI, 1.08-1.71) (Cerdá et al., 2020). In the state of Colorado, there has been a sharp increase in hospitalisations after cannabis use, mainly related to the lack of regulation of so-called edibles (Roberts, 2019). However on the other hand, tax revenues have been far exceeding initial expectations in US states.

A neutral score was also achieved in the analysis of the Dutch model (0). The biggest positive of the cannabis market in the Netherlands can be identified as the high level of participation of users. However,

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<sup>11</sup> In public health, experimental study designs are often neither feasible nor ethical; thus, quasi-experimental studies represent the most common research design in this field and are considered a sufficient level of evidence, as opposed to the situation in clinical research. (Ashcroft, 1999; T. Christie, Wood, Schechter, & O'Shaughnessy, 2004).

the continued criminalisation of cannabis production and costs associated with this repression, as well as the increasing rate of problem cannabis use – the latter correlates with the increasing percentage of THC on the market (Freeman et al., 2018) – may be considered negative.

Positive scores came out in models allowing for personal cannabis cultivation and cannabis clubs (+4 and +3), although this can be partly attributed to the fact that relevant studies are not available for many areas.

### **2.1.c. Conclusions of multicriteria analysis of regulatory models**

The analysis shows that the legalisation of cannabis can have a range of negative and positive effects, i.e., societal costs and benefits. In market-oriented models, the basic risk comes in the form of an increase in cannabis use among adults (typically over the age of 26) and the associated increase in problem/intensive use. Recent studies suggest a causal relationship between these variables; the development of problem use has been documented in one in five new users (Leung, Chan, Hides, & Hall, 2020). However, increase in problem use may be lower in the long term under legal cannabis regulation, unless there is an increase in adolescent cannabis use.

In Canada, preliminary studies suggest that past-three-months' cannabis use among 15–17-year-olds has declined from 19.8% to 10.4% (Rotermann, 2020). Studies suggest that there has been no increase in new users among adolescents in the US states (Smart & Pacula, 2019). At the same time, however, the prevalence of problem cannabis use has increased in these states (from 2.18% to 2.72% in the 12–17 population, a 25% higher increase than the same age group in states that have not adopted legal cannabis market regulations (Cerdá et al., 2020).

One positive effect of cannabis legalisation is tax revenue, particularly in models that encourage the development of a commercial market, giving them arguably a better chance to absorb users who previously participated in the black market. For example, in Washington state, they estimate that about 63% of consumed cannabis comes from legal sources (Caulkins et al., 2019). In Uruguay and Canada, it was 25% and 50%, respectively. At the same time, recreational marijuana generated approximately \$70 million in tax revenue in Washington state in the first year of sales – double the original revenue forecast (Dills, Goffard, Miron, & Partin, 2021).

There are limitations to this analysis, such as the fact that it cannot be derived from the results exactly which parameters of the systems mentioned have the greatest impact on the individual criteria and associated costs (they could be the main system standards in terms of the market model, but also sanctioning parameters, pricing mechanisms, the actual availability and accessibility of cannabis, the state of the existing black market, harm reduction tools and/or certain social factors).

### **2.1.d. Implications for the legalisation of cannabis in the Czech Republic**

From the analysis of foreign models, one can argue that the impact of cannabis legalisation on the Czech Republic will closely depend on the choice and setup of the regulatory model.

The expert group proposal incorporates a licenced cannabis market with stronger elements of market regulation and focus on prevention and harm reduction measures. It also includes the legalisation of home growing and creation of non-profit associations. Based on the analysis presented, the following can be concluded:

- The advantage of a regulated market lies in its flexibility and ability to generate higher tax revenues.
- The regulated market as established in the US or some Canadian provinces is likely to have the capacity to diminish the black market (leading to greater benefits from regulation, including tax revenue) than is the case in, for example, Uruguay, where

growers are significantly controlled by the government agency and consumers are subject to registration.

- However, a highly developed market may be related to higher levels of (problematic) cannabis use.
- Allowing home growing and non-profit associations does not seem to have an impact on the level of use. These features help significantly divert users from the black market and facilitate the implementation of prevention and harm reduction measures.

#### **2.1.e. Risks of the proposed model and their mitigation**

The application of a regulated market model of legalisation similar to that in the US may result in increased levels of (problem) cannabis use. Therefore, a market model which is not a highly centralised or monopolistic model of cannabis production and distribution, it must be accompanied by strong prevention and harm reduction tools as well as strict regulation of advertising and marketing – as in Canada.

It is appropriate to anticipate the increased risks associated with the marketing of edibles and cannabis derivatives, in particular acute overdoses and possibly unwanted intoxication in children. That is why in Canada, their introduction has been delayed.

None of the existing models sufficiently exploit the potential of linking the legal market to prevention, harm reduction, and treatment programmes. In this respect, the presented proposal is innovative, but by definition does not offer the possibility of adopting an already working model from abroad.

The centralised registration system for authorised users (consumers), which is the subject of this proposal and which, in addition to controlling the market and complying with the Czech Republic's international obligations, is also intended to promote prevention, harm reduction, and treatment interventions, though with the risk of low participation in such programmes by cannabis users.

Ultimately, the proposed regulatory model depends on the ability to successfully implement the registration system and its functionalities.

Regarding the possible risks of non-commercial modalities (home growing, cannabis social clubs), it can be extrapolated that high participation in these forms of cannabis procurement, which can be anticipated given the current shape of the cannabis black market in the Czech Republic,<sup>12</sup> will negatively affect the tax revenue from (more) taxed market channels.

There are corruption risks associated with the presented proposal, namely with licence granting and compliance control, and with the creation and management of two systems: cannabis user registration and the seed-to-sale tracking system of the production.

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<sup>12</sup> In the Czech Republic, approximately 9% of respondents to a representative population-wide survey who had used cannabis in the last year reported that they had grown the cannabis they had last used themselves (Belackova, Nechanska, Chomynova, & Horakova, 2012), as did 14% of Czech cannabis users participating in an EU online survey on drug markets (Trautmann, Kilmer, & Turnbull, 2013). The role of these small-scale growers in the Czech cannabis market is further explained by the relatively high proportion of Czech cannabis users in that survey (44%) who reported receiving cannabis for free. This is a much higher number than in any other EU country that participated in the survey – and more than double than in the Netherlands (21%). In fact, Dutch respondents are twice as likely to buy their cannabis as their Czech counterparts, 75% as compared to 37%. Only 2% of Dutch respondents who use cannabis said they grew their own – the lowest figure of any country participating in the survey (Trautmann, Kilmer, & Turnbull, 2013).

**Table 1: Impacts of recreational cannabis legalisation – a multicriteria analysis (Addendum 3 – not available in English)**

CRITERIA	SCORE	TOTAL	Adult cannabis use	Adolescent cannabis use	Problem / intensive cannabis use	Method of consuming cannabis	Health costs related to cannabis	Harm reduction and treatment options	Cannabis quality and THC / CBD content	Black market / Participation in the legal market	Criminal offences and misdemeanors	Traffic accidents	Prices	Taxes
THE NETHERLANDS – first regulation 1976, increase in the 1980s, restrictions since 1996 <sup>13</sup>	Score based on Addendum 3	0	-2	0	-2	0	0	1	0	2	-2	0	2	1
	Study relevance based on quality	92%	50%	100%	100%	100%	100%	100%	100%	100%	100%	100%	50%	100%
	<b>Adjusted score</b>	<b>0</b>	<b>-1</b>	<b>0</b>	<b>-2</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>-2</b>	<b>0</b>	<b>1</b>	<b>1</b>
CANADA – October 2018 reduction in penalisation, January 2019 legal sales	Score based on Addendum 3	7	-1	2	1	0	-2	2	1	-1	2	1	1	1
	Study relevance based on quality	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
	<b>Adjusted score</b>	<b>7</b>	<b>-1</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>-2</b>	<b>2</b>	<b>1</b>	<b>-1</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>
URUGUAY – growing 2014, clubs 2015, pharmacies mid-2017	Score based on Addendum 3	-6	-2	-2	-2	0	0	1	2	-1	1	-2	-2	1
	Study relevance based on quality	83%	50%	50%	50%	100%	100%	100%	100%	100%	100%	50%	100%	100%
	<b>Adjusted score</b>	<b>-2</b>	<b>-1</b>	<b>-1</b>	<b>-1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>-1</b>	<b>1</b>	<b>-1</b>	<b>-2</b>	<b>1</b>
USA – 2012 first two states Washington and Colorado (medical cannabis since 1996 in various states)	Score based on Addendum 3	0	-1	1	-2	0	-2	-1	-2	2	2	1	0	2
	Study relevance based on quality	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
	<b>Adjusted score</b>	<b>0</b>	<b>-1</b>	<b>1</b>	<b>-2</b>	<b>0</b>	<b>-2</b>	<b>-1</b>	<b>-2</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>2</b>
HOME GROWERS (Different countries – decriminalisation or depenalisation; legalisation without stores temporarily in Maine, Vermont, Washington DC)	Score based on Addendum 3	4	2	1	0	0	0	0	1	2	-2	0	0	0
	Study relevance based on quality	92%	100%	100%	100%	100%	100%	100%	100%	50%	50%	100%	100%	100%
	<b>Adjusted score</b>	<b>4</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>-1</b>	<b>0</b>	<b>0</b>	<b>0</b>
SPAIN – cannabis social clubs began to emerge in 2002 thanks to the decriminalisation of growing and depenalisation of cannabis sharing	Score based on Addendum 3	6	0	0	0	2	0	1	2	2	-2	0	0	1
	Study relevance based on quality	79%	100%	100%	50%	50%	100%	50%	50%	100%	100%	100%	100%	50%
	<b>Adjusted score</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0.5</b>	<b>1</b>	<b>2</b>	<b>-2</b>	<b>0</b>	<b>0</b>	<b>0.5</b>

<sup>13</sup> In the Czech Republic, approximately 9% of respondents to a representative population-wide survey who had used cannabis in the last year reported that they had grown the cannabis they had last used themselves (Belackova, Nechanska, Chomynova, & Horakova, 2012), as did 14% of Czech cannabis users participating in an EU online survey on drug markets (Trautmann, Kilmer, & Turnbull, 2013). The role of these small-scale growers in the Czech cannabis market is further explained by the relatively high proportion of Czech cannabis users in mentioned survey (44%) who reported receiving cannabis for free. This is a much higher number than in any other EU country that participated in the survey – and more than double than in the Netherlands, with 21%. In fact, Dutch respondents are twice as likely to buy their cannabis as their Czech counterparts, 75% as compared to 37%. Only 2% of Dutch respondents who use cannabis said they grew their own – the lowest figure of any country participating in the survey (Trautmann, Kilmer, & Turnbull, 2013).

## **2.2 Costs and benefits associated with cannabis use and legalisation**

### **2.2.a. Categories of costs and benefits of cannabis legalisation**

The social costs associated with cannabis use can be categorised as follows (Hall, 2020; Shanahan & Ritter, 2014):

- law enforcement (police, prosecution, and courts – public budgets and wasted **human** resources)
- problem use (treatment, lost productivity, reduced quality of life)
- health-related conditions (chronic and acute conditions – treatment and lost productivity)
- traffic accidents (law enforcement, property damage, health impacts, lost productivity)

Although traffic accidents seem to represent a significant item in adding up the costs of cannabis use (Fischer, Daldegan-Bueno, & Boden, 2020), previous analyses have not proved that cannabis legalisation has any effect on the increase or decrease of traffic accidents (Aydelotte et al., 2017; Lane & Hall, 2019).<sup>14</sup> We therefore do not quantify this area for the purpose of the presented report.

At the same time, we have not been able to obtain the underlying health data to quantify the health costs associated with cannabis use in the Czech Republic, although international studies point to a range of associated diseases, particularly in the areas of respiratory, cardiovascular, and mental illness (Gracie & Hancox, 2021; Jouanjus, Raymond, Lapeyre-Mestre, & Wolff, 2017; World Health Organization, 2016).

### **2.2.b. Costs and benefits of cannabis legalisation in the Czech Republic**

The analysis presented in Addendum 2 of this report estimated selected costs and benefits of cannabis legalisation in the Czech Republic – not available in English. These costs and benefits are in public budgets – specifically in the areas of law enforcement savings, tax revenue, and (more) cannabis-related treatment and harm reduction costs. Furthermore, the analysis reflects the societal costs (beside costs to public budgets), namely the loss of quality of life associated with problem cannabis use.

The analysis uses parameters from Uruguay, Canada, and the USA when modelling possible participation rates in the illicit market and purchases in the legal commercial market, the increase in problem (daily) cannabis users and the percentage of users who engage in treatment or harm reduction programmes; see estimation methodology in Addendum 2 – not available in English. Table 2 below also presents extreme variants that are not workable in actual implementation of cannabis regulations; or, rather, they are very far from the level of the parameters in listed countries.<sup>15</sup>

In terms of public budget costs and benefits, the tax revenue and law enforcement savings outweigh the (increased) costs of treatment and harm reduction programmes related to the proposed cannabis market regulation in all presented options. This is the case even when including the cost of running the regulatory Bureau, which can be estimated at around CZK 30,000,000 (€1,230,000) per year, and approximately CZK

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<sup>14</sup> A comparison of pre- and post-legalisation trends in states that have legalised cannabis with neighbouring countries that have not implemented similar reforms showed no effect of legalisation on traffic accidents (Aydelotte et al., 2017; Lane & Hall, 2019). Similarly, a survey of cannabis users in Canada did not show any change in the proportion of people driving under the influence of cannabis after legalisation (Rotermann, 2020). A study from Uruguay indicated an increase in traffic accidents after cannabis legalisation, but it did not examine whether these were cannabis-impaired accidents and the authors did not make comparisons with neighbouring countries (Nazif-Munoz, Oulhote, & Ouimet, 2020).

<sup>15</sup> Specifically, 100% participation of all entities in the legal market, and therefore full tax revenue from the commercial market and complete elimination of law enforcement costs related to cannabis.

100,000,000 (€4,100,000) for the creation of a registration system for authorised growers under this proposal.

Further analysis of all identified social costs (i.e., including the cost of lost QALY due to reduced quality of life of everyday cannabis users) shows a similar bottom line. With very small revenues from cannabis legalisation due to low participation in the legal market as in Uruguay (i.e., an annual tax yield of only CZK 210,100,000 and savings in enforcement costs of only CZK 458,400,000, i.e. €8,600,000 and €18,700,000 respectively), these could only be outweighed by the costs associated with problem cannabis use, if and only if use were to increase as in the US (the increase would be associated with QALY of CZK 377,546,000 – €15,400,000 – and, if 30% of these users were in treatment, also with additional costs of CZK 346,217,000, i.e. €14,120,000). Such a scenario is very unlikely – the increase in problem use is probably due to the expansion of the legal (commercial) market.

In all other scenarios, the benefits of cannabis legalisation exceed the costs shown below; the highest excess of revenues over costs would be achieved with a larger market (48 tonnes), setting the excise tax at 39.3 CZK/g (€1.6; possible to apply to THC content in grams) and legal market parameters similar to Canada. In this case the public budget revenue would reach CZK 2,384,069,000 (€97,200,000) annually. In the case of the Canadian cannabis scenario, the cost of problem use and treatment would be only CZK 29,243,000 (€1,200,000). The benefits would therefore exceed the costs by a factor of about 80.

A limitation of this analysis is the restriction only to the cost and benefit categories which were possible to calculate for the purpose of this report. Other benefits could include intangible revenues resulting from consumer protection and/or an increase in the quality of life of consumers in the legal cannabis market. Conversely, problematic cannabis use can contribute to a range of chronic diseases, and indiscriminate recreational use can lead to a variety of acute health conditions. From this perspective, the analysis is rather incomplete and serves mainly to understand the primary costs and benefits of cannabis legalisation.

Table 2: Overview of annual costs and revenues related to the use of cannabis (in thousands of CZK) depending on the impact of cannabis legalisation in various countries (in thousands of CZK).

	CZECH REPUBLIC – under present conditions	URUGUAY	CANADA	USA	CZECH REPUBLIC – with 100% participation in legal market
<b>IMPACT ON PUBLIC BUDGETS</b>					
<b>Total savings in law enforcement</b>	0	458 402	530 069	619 447	<b>885 146.3</b>
<b>Tax revenue – market estimate 48 tonnes</b>					
V2: Significant drop of margin, slight decrease of wholesale price, excise tax 39.29 CZK/g (€1.60)	1 462 000	677 000	1 854 000	2 246 000	3 565 000
V3: Significant drop of margin, slight decrease of wholesale price, excise tax 18.29 CZK/g (€0.75)	1 047 000	485 000	1 328 000	1 608 000	2 553 000
V4: Slight drop of margin, moderate decrease of wholesale price, excise tax 25.79 CZK/g (€1.05)	1 195 000	554 000	1 515 000	1 836 000	2 914 000
<b>Tax revenue – market estimate 21 tonnes</b>					
V2: Significant drop of margin, slight decrease of wholesale price, excise tax 39.29 CZK/g (€1.60)	634 000	294 000	804 000	974 000	1 546 000
V3: Significant drop of margin, slight decrease of wholesale price, excise tax 18.29 CZK/g (€0.75)	454 000	210 000	576 000	698 000	1 107 000
V4: Slight drop of margin, moderate decrease of wholesale price, excise tax 25.79 CZK/g (€1.05)	518 000	240,000	657 000	796 000	1 264 000
<b>Increased costs of treatment and harm reduction compared to current situation</b>					
8% users in treatment	0	-4 513	-1 789	-26 724	
15% users in treatment	-70 718	-86 735	-73 922	-128 381	
30% users in touch with harm reduction services	-230 892	-262 927	-237 299	-346 217	
<b>PUBLIC COSTS (others than those included in public budgets)</b>					
<b>Increase in number of daily users – Converted to CZK (1 QALY equals CZK 1,000,000, i.e. €40,800)</b>					100% participation in treatment
Scenario 1 – same number of users in treatment as today (8%)	0	-137 269	-27 454	-494 168	0
Scenario 2 – 15% users in treatment / in touch with services	0	-127 347	-25 469	-458 449	0
Scenario 3 – 30% users in treatment / in touch with services	0	-104 874	-20 975	-377 546	0

### **3 Selection of final variants and reasons for them**

#### **3.1 Evaluation of specific emendations in the context of the Czech Republic**

In Addendum No. 4 to this report, regulation variations are listed which have been considered in the context of the Czech Republic – not available in English. These are for the most part emendations to current regulations relating to alcohol, tobacco, gambling, smoking in public spaces, growing hemp, and growing cannabis for medical purposes:

- a) § 285; § 284; § 283 Act No. 40/2009, Czech Law Coll., the Criminal Code;
- b) Act No. 61/1997, Czech Law Coll., on Spirits;
- c) Act No. 167/1998, Czech Law Coll., on Addictive Substances;
- d) Act No. 353/2003, Czech Law Coll., on Excise Tax;
- e) Act No. 187/2016, Czech Law Coll., on Taxing Gambling;
- f) Act No. 186/2016, Czech Law Coll., on Gambling;
- g) Act No. 65/2017, Czech Law Coll., on Health Protection from the Harmful Effects of Addictive Substances;
- h) Addendum to the opinion of the Supreme Court Panel on Criminality as to interpretation of the term “a quantity greater than a small amount” regarding narcotic and psychotropic substances and preparations containing them and poisons (§ 283, § 284, § 285 of the Criminal Code), Czech Supreme Court Considered Opinion No. 301/2013;
- i) Government Regulation No. 455/2009, Czech Law Coll., Government Regulation No. 455/2009, Czech Law Coll., where for the purposes of the Criminal Code are stated which plants or mushrooms are considered plants and mushrooms containing narcotic or psychotropic substances and what quantities of them are “greater than a small amount” in the sense of the Criminal Code;
- j) Item No. 92 of the addendum to Act No. 634/2004, Czech Law Coll., on Administrative Fees, as amended;
- k) Amendment of the Act on Addictive Substances,  
[www.psp.cz/sqw/text/tiskt.sqw?O=8&CT=864&CT1=0](http://www.psp.cz/sqw/text/tiskt.sqw?O=8&CT=864&CT1=0).

Tables depict the regulatory variants in several categories: T0. Possession of cannabis, T1. Home growing, T2. Social clubs, T3a. Licensed growing, T3b. Retail licence. Several dimensions are monitored within each category, depending on how the aforementioned regulations address the given aspect. The variants in green are those preferred.

#### **3.2 Overview of legal subjects according to the proposed regulation**

##### **3.2.a. Consumers**

FORM: natural person

REGISTRATION with the Bureau / Inspectorate of Narcotic Drugs and Psychotropic Substances

- authorises the possession of max. 100 grams of dried cannabis for one’s own personal use at one’s residence and 10 grams in public;
- authorises purchasing up to 100 grams of dried cannabis per month (on a sliding basis: always one month from the date of the last purchase, not transferrable to the following month) in the retail

network or from cannabis social clubs (i.e., the limit per purchase is 10 grams of dried cannabis per day = the max. possession amount in public);

- authorises sharing gratis max. 10 grams of dried cannabis, but only to persons who are authorised to handle cannabis (i.e., another registered user or home grower).

PREREQUISITES FOR APPLYING FOR AUTHORISATION/REQUIREMENTS FOR LICENCE HOLDERS: valid state ID card and must be 18+ years old

FEES/TAXES: none

SANCTIONS: transfer gratis of over 10 grams by an authorised handler to another authorised handler is a misdemeanour; transfer of any amount to an unauthorised handler or sales to an unauthorised handler is a criminal offense

### **3.2.b. Home growers**

FORM: natural person

REGISTRATION with the Bureau/Inspectorate of Narcotic Drugs and Psychotropic Substances

- authorises the growing of max. 5 cannabis plants for one's own use (when harvesting, one can state 1, 2, 3, 4, or 5 plants);
- registration as a cannabis social club member or home grower automatically reduces the monthly limit of retail network cannabis purchases to 50 grams of dried cannabis monthly;
- obligation to state the estimated harvest date and subsequently also the number of plants grown (1, 2, 3, 4, or 5) and the cannabis harvest volume before drying, on the basis of which the authorised volume of dried material to possess will be determined;
- the Bureau can carry out random or targeted control of the number of plants and (estimate) harvested cannabis at the estimated harvest date or on the basis of the stated amount; part of which can be an analysis of a cannabis sample to determine whether these are plants with a predominant CBD content;
- authorises the sharing gratis of max. 10 grams of cannabis (same as for Consumers; see 3.2.a).

PREREQUISITES FOR APPLYING FOR AUTHORISATION/REQUIREMENTS FOR LICENCE HOLDERS: valid state ID card and must be 18+ years old

REGISTRATION WITH THE MUNICIPALITY: none

FEES/TAXES: one-time registration fee of CZK 500

SANCTIONS:

- transfer gratis by a home grower of over 10 grams to another authorised handler is a misdemeanour; transfer of any amount to an unauthorised handler or sales to an unauthorised handler are a criminal offense;
- having over 5 plants is a misdemeanour – penalty and loss of authorisation; the same if one is determined to have a greater amount of dried cannabis flower than was reported when harvesting the cannabis.

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### **3.2.c. Cannabis social club**

FORM: association (non-profit organisation)

LICENCE (approved by the Bureau/Inspectorate of Narcotic Drugs and Psychotropic Substances, not issued automatically)

- authorises the growing of max. 5 plants per member on the basis of delegating home grower authorisation;
- issuing of cannabis is possible in two variants: (1) in one-time withdrawals of up to 10 grams per day (max. 100 grams monthly) only to club members; (2) by sharing the harvest; the method of sharing the harvest and its distribution are determined in the licence application;
- max. volume of cannabis production is 250 plants and 50 members at any given moment;
- issuing of cannabis in the form of sharing the harvest automatically reduces the monthly cannabis purchase limit in the retail network to 50 grams monthly (for one-time withdrawals, the limit is 100 grams monthly, enforced across social clubs and retail outlets).

PREREQUISITES FOR APPLICATION OF AUTHORISATION/REQUIREMENTS FOR LICENCE HOLDERS:

- founding document of the association according to the Civil Code and a copy of the organisation's constitution;
- floor plan of the growing space(s) and technology; floor plan of the cannabis issuing space;
- proof of ownership, rental contract, or future rental contract of the space;
- plan of activities leading to waste reduction from the use of cannabis among club members;
- statutory declaration of no ties of the founding members to the alcohol and tobacco industries;
- extract from the criminal record for the founding members (in case of a suspended sentence connected to cannabis, then also a notarised copy of the court decision);
- if the licence is granted, then proof of training of the personnel who will issue the cannabis.

REGISTRATION WITH THE MUNICIPALITY: required (must submit a floor plan of the growing space and technology and of the cannabis issuing space, and the mechanism of issue)

FEES/TAXES

- a one-time registration fee of CZK 3000, and a CZK 1000 annual fee for licence renewal;
- a CZK 500 fee per member per year (it is possible to apply for a waiver for therapeutic reasons) – see the proposal for cannabis substitution by the organisation Podané ruce where the cannabis used is not medical nor recreational.

FURTHER OBLIGATIONS:

- the social club has the obligation to keep records of its members and the distributed cannabis (NB: not present in the Associations Act); it is possible to be a member of only one cannabis social club; membership in a cannabis social club is recorded in the registration system (a person cannot join if they are registered elsewhere);
- a harm reduction activity plan for club members is a component of the licence application.

CONCURRENT LICENCES: not allowed

### **3.2.d. Indoor grow room**

FORM: any legal entity

PREREQUISITES FOR APPLICATION OF AUTHORISATION/REQUIREMENTS FOR LICENCE HOLDERS:

- proof of legal entity registration and its ownership structure;
- a floor plan of the growing space(s) and technology;
- security plan;
- proof of ownership, rental contract, or future rental contract of the space;
- statutory declaration of no ties of the founding members to the alcohol and tobacco industries;
- extract from the criminal record for the founding members (in case of a suspended sentence connected to cannabis, then also a notarised copy of the court decision).

LICENCE (approved by the Bureau/Inspectorate of Narcotic Drugs and Psychotropic Substances, not issued automatically)

- authorises the growing of max. volume of cannabis production to an area of 2000 m<sup>2</sup> and to processing and distributing cannabis grown within the scope of this licence;
- submission of a floor plan of the growing space(s) and technology, processing space(s) and technology, and cannabis issuing space(s).

REGISTRATION WITH THE MUNICIPALITY: required

FEES/TAXES

- one-time registration fee of CZK 30,000 (includes fees for inspection); CZK 10,000 annual licence renewal fee;
- nominal obligation to pay excise tax, depending on whether the cannabis will leave taxed inventory and will be put into taxed circulation;
- excise tax on the basis of (1) volume of dried cannabis flowers produced and (2) the percentage of THC in the cannabis as analysed by a certified laboratory;
- value added tax.

FURTHER OBLIGATIONS:

- analysis of cannabis by a certified laboratory;
- integration into the seed-to-sale tracking system; i.e. accounting for all plants grown, the volume of dried flowers and their sales; unsold cannabis (e.g. after its sell-through date) must be liquidated in the presence of an official;
- supply the cultivated cannabis to the retail network in proper packaging with at least the minimum required information on the product and its risks AND/OR use a licensed distributor/processor.

CONCURRENT LICENCES

- possibility of applying for a processing/distribution and/or retail licence; a legal entity can apply for max. 10 licences from the categories micro indoor growing room, processing /distribution, or retail.

### **3.2.e. Distributor/Processor**

FORM: any legal entity

PREREQUISITES FOR APPLICATION OF AUTHORISATION/REQUIREMENTS FOR LICENCE HOLDERS:

- proof of legal entity registration and its ownership structure;
- a floor plan of the processing space(s) and technology;
- security plan;
- proof of ownership, rental contract, or future rental contract of the space;
- statutory declaration of no ties of the founding members to the alcohol and tobacco industries;
- extract from the criminal record for the founding members (in case of a suspended sentence connected to cannabis, then also a notarised copy of the court decision).

LICENCE (approved by the Bureau/Inspectorate of Narcotic Drugs and Psychotropic Substances, not issued automatically)

- authorises the processing of cannabis/manufacture of cannabis products from cannabis grown by the holder of this licence or other growers (in this stage it is almost exclusively to ensure the packaging of dried cannabis for retail sales) and its distribution;
- submission of a floor plan of the processing space(s) including processing technology.

REGISTRATION WITH THE MUNICIPALITY: required

FEES/TAXES

- one-time registration fee of CZK 15,000 (includes fees for inspection); CZK 5,000 annual licence renewal fee;
- excise tax (according to the taxed inventory statute), VAT.

FURTHER OBLIGATIONS

- integration into the seed-to-sale system; i.e. accounting for all dried plant matter obtained and processed; unprocessed cannabis (e.g. after its expiration date) must be liquidated in the presence of an official;
- supply the cannabis products to the retail network in proper packaging with at least the minimum required information on the product and its risks.

CONCURRENT LICENCES

- possibility to apply for a processing/distribution, retail, or growing licence;
- max. 10 licences per legal entity.

### **3.2.f. Retail shop**

FORM: any legal entity

PREREQUISITES FOR APPLICATION OF AUTHORISATION/REQUIREMENTS FOR LICENCE HOLDERS:

- proof of legal entity registration and its ownership structure;

- a floor plan of the retail space(s) and layout of the shop's interior design;
- security plan;
- proof of ownership, rental contract, or future rental contract of the shop;
- statutory declaration of no ties of the founding members to the alcohol and tobacco industries;
- extract from the criminal record for the founding members (in case of a suspended sentence connected to cannabis, then also a notarised copy of the court decision);
- if the licence is granted, then proof of training of the personnel who will sell the cannabis.

LICENCE (approved by the Bureau/Inspectorate of Narcotic Drugs and Psychotropic Substances, not issued automatically)

- authorises the sale of cannabis and associated goods;
- bans the sales of certain goods (alcohol, tobacco, toys and other products intended for children and youths);
- submission of the shop floor plan;
- possibility of consuming food and drinks on premises if licensed to provide dining services.

REGISTRATION WITH THE MUNICIPALITY: required

FEES/TAXES

- one-time registration fee of CZK 30,000 (includes fees for inspection); CZK 10,000 annual licence renewal fee;
- VAT.

FURTHER OBLIGATIONS

- integration into the seed-to-sale system; i.e. accounting for everything sold; unsold cannabis (e.g. after its sell-through date) must be liquidated in the presence of an official;
- implement a system of customer registration and training of personnel in harm reduction interventions.

CONCURRENT LICENCES

- possibility to apply for processing/distribution, and micro growing licences;
- limit of the number of licences per legal entity – max. 10 licences.

ADMINISTRATIVE SANCTIONS

- up to double the allowed number of plants, there are administrative sanctions with graduated fines;
- the same applies with violation of rules in the area of promotion and other licence requirements;
- repeated violations will lead to licence revocation and a ban on activities in this sector.

CRIMINAL PENALTIES

- unauthorised sales will be penalised according to the Criminal Code (sales to youths, sales without permission, sales of unauthorised cannabis to a licensed subject, any sales by the consumer, growing more than twice the allowed number of plants, etc.), and licensed entities will also receive a ban on further activities.

## **Overview of selected variants**

### 3.1 Regulatory infrastructure

Separate regime for cannabis, separate central administrative authority (Bureau) + making use of capacities for collection of excise tax and food regulation.

### 3.2 Local regulation of retail sales

Local (municipal) regulation, where municipalities will be required to assess cannabis establishments and will have the ability to regulate cannabis shops by municipal ordinance.

### 3.3 Basic legal entities of the regulated market

Combination of the above-mentioned options (private market operators + home growers + cannabis social clubs).

### 3.4 Regulation of retail sales

Licencing of specialised shops selling only cannabis.

### 3.5 Wholesale distribution network

Provided by growers for their own products + provided by special licensed legal entities.

### 3.6 Origin of cannabis on the market

Provided by private licensed growers + sourced from imports.

### 3.7 Regulation of production and distribution: vertical integration

Vertical integration permitted.

### 3.8 Regulation of market power

Limit in terms of production scale to 2,000 m<sup>2</sup> growing space + no more than 10 licences held by any legal entity + prohibition of alcohol and tobacco industry participation.

### 3.9 Regulation of cultivation practices and quality control

Combination of the following options: introduction of a system of control of the cannabis grown (seed-to-sale tracking) + list of prohibited/permitted cultivation techniques and additives + laboratory analysis of the final product by the control body (random) and laboratory analysis of the product provided by the grower and/or producer (mandatory).

### 3.10 Regulation of cultivation techniques and quality control for home growers

Recommended cultivation techniques.

### 3.11 Regulation of the product on the market

Combination of the following: restrictions on the type of product in terms of its potential risk + restrictions on the maximum THC concentration (20%) and minimum CBD concentration (1%) + restrictions on dry matter adulteration + restrictions on the potential attractiveness of the product (dry matter) for children and youths.

### 3.12 Consumer registration/licensing

Registration of cannabis social clubs, home growers, and customers on the market.

### 3.13 Regulation of consumption quantities (at the individual level)

Combination of the following options: maximum quantity of 10 grams bought at retail per day + maximum quantity of 100 grams bought at the individual level per month + quantities set externally via a centralised system, preferably with real-time connection + possibility to limit the maximum quantity permitted the consumer to the above-mentioned limits.

### 3.14 Prevention, treatment, harm reduction

Combination of the following options: linkage with addiction treatment and harm reduction programmes + creation of new interventions + harm reduction information campaign + requirements towards cannabis distributors/training of dispensing staff in risk reduction, distribution of information leaflets + self-help harm reduction activities in cannabis social clubs.

### 3.15 Normative regulation of availability

No legal limit of the total number of cannabis shops nor of their number per geographical unit.

Limit for opening hours no earlier than 9:00 a.m. – no later than 10:00 p.m.

The proposed law prohibits the location of cannabis shops within 250 metres of schools, educational establishments, and leisure facilities for children and youths, and prohibits sales in health care facilities and premises related to their operation; further conditions may be set by municipal ordinance.

Allowing on-line sales only at a later stage of legalisation in order to better control sales restrictions.

Setting the age limit for cannabis consumption at 18 years of age; prohibiting persons under 18 years of age from entering any premises handling cannabis.

### 3.16 Tourism

Legalisation for domestic consumers only.

### 3.17 Use of cannabis in public

Partial ban on smoking cannabis in public places.

### 3.18 Indoor cannabis use (restaurants, bars, shops)

Prohibition of smoking cannabis indoors (as with tobacco smoking) + special regulation for less harmful forms of cannabis use.

### 3.19 Regulation of advertising

Prohibition of any form of advertising and promotion of cannabis, including sponsorship.

### 3.20 Regulation of packaging

Combination of the above-mentioned measures (prohibited graphic elements + mandatory information).

### 3.21 Excise tax, tax base, possible exemptions

Excise tax levied on the basis of THC content + value added tax + exemption for home growers and cannabis social clubs (administrative fee only).

### 3.22 Tax rate

Determination of the excise tax according to the price of cannabis on the black market.

### 3.23 Collection of tax

Part of the collected excise tax will be allocated to regions (20%) and municipalities (40%) + no new tax administration (using VAT and excise tax collection mechanisms).

### 3.24 Sanctions

Handling of cannabis substances outside the scope of authorised activities will be treated as a misdemeanour or criminal offence in accordance with the current legislation; the law newly provides for sanctions in cases where such conduct is committed by authorised legal entities.

### 3.25 Definition of legal entities that may hold a licence/permit for handling

A clean record for drug-related, violent, and other serious crimes by licence holders and their spouses, except for suspended sentences connected to cannabis.

### 3.26 Traffic safety measures

Maintaining existing penalties for driving under the influence of cannabis.

### 3.27 Transitional period

Opening on-line market at a later date + opening market for dried cannabis only with legalisation of other cannabis products to be assessed later + possible revision of tax rates.