



Augur associates

Recom- mendations

**Obligations and flexibilities
under European &
International law: a path
towards domestic cannabis
adult-use regulation**

As observed, the possibility exists for EU Member States intending to craft policy that combats drug abuse and harms, protects human rights, and complies with international drug control law in good faith, to regulate their domestic adult use market of cannabis products rather than outlawing them.

Consequently, [States Parties to the Single Convention can legally regulate non-medical cannabis industries today in compliance with international law](#)¹⁸⁹. Without the need for amendment, reservation, retraction or other unilateral moves. They can similarly opt for a *lex ferenda* approach via unilateral or collective action as well.

¹⁸⁹ "High compliance: a *lex lata* legalization for the non-medical cannabis industry – a method to regulate adult uses of cannabis in accordance with the Single Convention on narcotic drugs, 1961", K. Riboulet-Zemouli, FAAAT editions, 15 march 2022.

¹⁹⁰ "Annual statistics of production, manufacture, consumption, stocks and seizures of narcotic drugs", Single Convention on Narcotic Drugs of 1961: articles 1, 2, 13, 20 and 27 1972; Protocol amending the Single Convention on Narcotic Drugs of 1961: articles 1 and 10, International Narcotics Control Board, FORM C, 2022.

¹⁹¹ "How to regulate Cannabis. A practical Guide, Second Edition", S. Rolles, G. Murkin, Transform Drug Policy Foundation, October 2016.

On the short term, though, to be able to claim compliance, Member States need to operationally implement these two obligations:

- **Inform the annual tonnage of non-medical cannabis in their reporting to the INCB.** A dedicated space already exists in Form-C, Part II.B¹⁹⁰. This is mandated under Articles 2(9)(b) and 20(1)(b) of the 1961 Convention.
- **Implement prevention and harm reduction policies,** in order to ensure, by appropriate means, that non-medical cannabis products are not liable to substance use disorders and do not generate harm, in accordance with Article 2(9)(a) of the 1961 Convention.

However, time will only make more pressing the need for legal clarity with regards to international drug-related obligations. **Treaty reform will eventually be needed** to ensure the capacity for each Member States to implement contextually appropriate policies in all aspects of the drug regulatory conundrum. The challenges of the aforementioned listed options impose to consider several recommendations supported by [drug policy experts](#)¹⁹¹.

The easiest short term step for EU Member States would be to open regional informal discussions on cannabis and illicit drug policies.



Additionally, the **following recommendations** could be presented for EU Member States wishing to engage on cannabis policy reform schemes and desire to build on an international reform momentum:

- Weigh up legal and political pros and cons of different options in the context of their own domestic and geopolitical priorities. The political landscape of this debate is quickly shifting.
- States should make efforts to promote:
 - a **high level dialogue** on how to resolve emerging tensions between the need for reform, and obligations under an outdated and malfunctioning interpretation of the treaty regime;
 - the creation of an **expert advisory group**, analysing various formal treaty reform channels (which will stimulate dialogue even if unsuccessful), and engaging in informal dialogues with like-minded States.
- Sovereign domestic reforms, or reforms between groups of States are positive as long as it runs in parallel with multilateral dialogue and reform processes; thus demonstrating a clear **desire to resolve emerging challenges**.
- When engaging into a reform process, the challenges raised should be minimised by:
 - Providing reasoning for reforming rooted in the health and welfare of citizens, and wider UN Charter commitments in order to reinforce legal claims.
 - Actively promoting multilateral debate and reform efforts in parallel with any domestic reforms.
 - Establishing a cannabis regulation model that clearly set public health and wellbeing as a central goal, operating under licit rules and administrative oversight, and minimising negative impacts for immediate neighbouring States.
 - Ensuring a framework for comprehensive monitoring and evaluation with regular reporting to national legislatures and relevant UN agencies and stakeholders.
 - All reform efforts and high level dialogue will be facilitated by collective action of like-minded reform States, working in coordination rather than isolation.
 - Involve affected populations and field experts in the design and monitoring of policies.
 - Consider and address the broader issues related to the environmental, cultural, economic, social, gender and human rights-related aspects of cannabis laws and policies.