



LEGALINK

INTERNATIONAL BUT PERSONAL

CANNABIS REGULATION
AND CANNABIS
DERIVED PRODUCTS



INTRODUCTION

As more jurisdictions around the world move to legalize various forms of cannabis, including hemp and CBD products, recreational marijuana, and medical marijuana, the global cannabis industry continues to blaze forward. But changing and even inconsistent laws and an evolving regulatory environment have created legal uncertainties and tensions in the development of the industry and marketplace. This booklet aims to provide practitioners a summary reference for cannabis laws and regulations in various jurisdictions across the globe. Practitioners should note that because cannabis laws are quickly evolving, through the legislative process, ballot initiatives and regulatory rule implementations and changes, each jurisdiction's most recent cannabis laws and regulations should be reviewed and assessed.

A QUICK PRIMER ON CANNABIS BASICS

Cannabis vs. Marijuana vs. Hemp

Cannabis refers to a genus of plants that has three species - indica, sativa, and ruderalis. Marijuana and hemp are both cannabis. Despite popular misconception, marijuana and hemp are not different species of cannabis.

Marijuana, in the common parlance, is cannabis that, when consumed, results in a "high." The "high" in marijuana is produced as a result of high tetrahydrocannabinol or THC content. Hemp, again in common usage, does not cause intoxication because it has low levels of THC.

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Some jurisdictions around the world still do not distinguish between marijuana and hemp. For example, for decades, the federal government in the U.S. did not distinguish between hemp and marijuana or the level of THC content in either – both were illegal cannabis and a controlled “Schedule I” drug.

As cannabis laws and policy have changed over the years, now, in the U.S. and, as applicable, in other jurisdictions, the legal difference between marijuana and hemp is often based upon THC content level. In the U.S., again by way of further example, the Agriculture Improvement Act of 2018 defines legal hemp as “Plant Cannabis sativa L. and any part of that plant, including cannabinoids with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.” Thus, under federal law in the U.S., cannabis that has no more than 0.3% THC is legal hemp, but cannabis that contains more than 0.3% remains illegal marijuana. Each jurisdiction’s definitions for each should, of course, be consulted to determine whether hemp and marijuana are distinguished from one another and where the lines of cannabis legality or illegality are drawn.

THC vs. CBD

THC and CBD are both cannabinoids found in cannabis. A cannabinoid is a naturally occurring compound that reacts with cannabinoid receptors found in our nervous system that are part of our endocannabinoid system, involved in appetite, mood, and sensing pain.

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As noted, THC is a psychoactive cannabinoid in marijuana that produces a “high.” CBD, or cannabidiol, is a non-psychoactive cannabinoid that may have some health benefits. But more studies are needed. CBD can be derived or extracted from hemp and marijuana. Many CBD products are derived from hemp, containing low levels of THC and higher levels of CBD. Whether CBD or CBD products are legal in any particular jurisdiction will be driven by legal definitions and parameters established by applicable regulatory authorities.

TURKEY GÜN & PARTNERS

1. What regulatory frameworks are relevant to medical and recreational cannabis and the cultivation, manufacture, distribution etc of cannabis and cannabinoids in Turkey?

Turkish law includes provisions in relation to the cannabis plant itself and to delta 9-tetrahydrocannabinol (THC); however, it does not include any provision specific to other cannabinoids. Turkish law considers THC to be a narcotic drug. As there is no regulation on acceptable levels of THC in a substance, any substance containing THC, regardless of its level of concentration, will be considered a narcotic drug as well. Therefore, cannabis is illegal in almost all of its forms (i.e. recreational use of cannabis, smoking cannabis or cannabis products for medicinal purposes) in Turkey.

The Turkish Criminal Code numbered 5237 (TCC) enumerates a series of provisions which regulate the criminal offenses related to the use, trade and possession of narcotic drugs, which also include cannabis. Article 3 of Law No. 2313 on the Supervision of the Narcotic Substances clearly provides that “growing cannabis for the sole purpose of producing marijuana and preparation, importation, exportation and sale of the same are prohibited”. Turkey is also a party to the Single Convention on Narcotic Drugs 1961 as amended in 1972, which in turn lists cannabis as a drug as well. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances dated 1988 is another convention to which Turkey is a party. The Narcotic Drugs Convention, which became an integral part of Turkish Law in 1996, provides under its Article 3 that the signatory states shall enact laws to criminalise cannabis cultivation.

Law No. 2313 also sets forth that narcotic drugs that are listed under Annex I and II of the Narcotic Drugs Convention can only be produced, imported, exported, possessed, sold and bought as per the authorisation of the Ministry of Health. In this regard, the Communiqué on the Importation Monitoring of the Substances Requiring Authorisation from the Ministry of Health numbered 2020/4 regulates this subject.

Finally, it is worth noting that there is a relatively new regulation regarding the production of cannabis plants called the Regulation on the Production and Control of the Cannabis which was published in the Official Gazette on 29th September 2016. The

Regulation lists 19 cities in Turkey where cannabis can be produced under the supervision of the Ministry of Agriculture and Forestry.

2. What are the regulatory challenges in allowing the medical and recreational use of cannabis and cannabinoids in Turkey?

As explained above, the production, usage, importation and exportation of cannabis and THC is regulated, with a particular focus on the prohibition and restriction of such plant and that specific cannabinoid. All considered, it is crystal clear that all forms of cannabis are illegal for recreational use in Turkey. One caveat here would be that, as per the Single Convention, cannabis is defined as the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) from which the resin has not been extracted. Within the context of these provisions, seeds of cannabis and leaves which are not accompanied by cannabis tops are not defined as cannabis and therefore are not subject to the restrictions on narcotic drugs. As an example, cannabis seed oil is sold in Turkey freely.

Secondly, as a general rule, cannabis, as a plant, cannot be used for medicinal purposes; only in cases where THC is used in a pharmaceutical drug and a special licence is provided for that pharmaceutical product by the Ministry of Health under the provisions of the Communiqué can cannabis be used in Turkey.

Needless to say, unauthorised and illegal narcotic drug production and trade are subject to serious criminal sanctions such as being sentenced to imprisonment and judicial fine under the TCC, unless there is a provision of law which allows for such activities.

3. What regulatory frameworks are relevant for the cultivation, manufacture and supply of medicinal and recreational cannabis products in Turkey?

Please refer to our response under Question 1 above.

4. Which body is responsible for legislative controls relating to CBD?

As indicated, there is no legislation regulating cannabinoids apart from THC (such as CBD) in Turkey at present, and therefore no Turkish authority is directly involved in legislative controls relating to CBD. However, the Ministry of Health is responsible for importation, exportation and local sales of narcotic drugs in general, which also covers

THC and/or CBD which is extracted from the flowering or fruiting tops of the cannabis plant, whereas the Ministry of Agriculture and Forestry is responsible for production of cannabis in Turkey.

5. Is there any possibility to commercialise CBD products without a Novel Food approval or medicinal product marketing authorisation in Turkey?

N/A since there is currently no legislation in Turkey regulating CBD. However, considering that Turkish legislation is very strict regarding cannabis plants and THC, we do not think that commercialising CBD products would be possible without some sort of approval from official authorities in Turkey.

6. What are the testing specifications in Turkey for determining the compliance of CBD with regulatory requirements (i.e. what are the testing specifications for determining the purity and/or level of any controlled substances in CBD?) and what documentation or evidence would need to be submitted to the regulatory authority in this regard?

As mentioned above, Turkish law does not allow any level of THC to be included in any substance, nor does it contain any provision specific to CBD. As a result, there is no testing specification for determining the purity and/or level of any controlled substances in CBD. Where there is any suspicion that a product (e.g. CBD) contains any level of THC, it should be evaluated as a narcotic drug as per the Law No. 2313 in light of our above explanations.

7. Are there any regional limits on the quantity of CBD that can be purchased or imported?

As there is currently no legislation relating to CBD, regional limits on the quantity of CBD that can be purchased or imported are not regulated in Turkey. Nevertheless, THC and cannabis are considered narcotic drugs and their importation or local sales are subject to the authorisation of the Ministry of Health.



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