

## Legitimately Using of Psychotropics: An Overview of the Albanian Legal Treatment Toward the Legalization of Cannabis

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**ABSTRACT:** *The widespread use of Cannabis or other related substances is now a major concern not only in Europe but worldwide. This study focuses on the description and legal analysis of illegal activities carried out in the field of narcotics, as well as finding ways to reduce the risks associated with their use. It is based on the criminal strategy that covers the legal criminal field, as shown in the changes that have occurred while improving the laws. Through a comprehensive desk research and qualitative analysis, this study summarizes the criminal legislation and the changes that the Albanian Criminal Law, compared to its European counterparts, have undergone since 2001, the proposed legislation on the legalization of medicinal cannabis in 2023, as well as the legal measures taken in drug trafficking, illicit substances, and psychotropic drugs.*

**KEYWORDS:** psychotropic substance, cannabis legalization, criminal activity, European Law, Albanian criminal law.

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### INTRODUCTION

Cannabis perspectives have changed significantly in Europe during the past several years (Beweley-Taylor,2020; Beweley-Taylor et al.,2014). The continent is seeing a "green wave" as various countries work to decriminalize and legalize cannabis (Kilmer,2019; Piomelli et al.,2016; Rehm & Fischer,2015). This shift has affected cannabis laws and regulations, but it has also sparked a more significant debate about the drug's benefits for health, its potential for economic growth, and its social ramifications (Hammond et al.,2020; Williams et al.,2016). In the subsequent work, we take a deep dive into the European legalization of cannabis and Albanian medical cannabis legalization regulations while looking at the countries that lead this movement within the International and Albanian contexts, the different approaches used, the emerging trends, and the challenges that come with this developing business as in the prospect of the Rule of Law.

## METHOD

The current article seeks to explore, from a comparative and legal perspective, the development of the "*Efforts against drugs and psychotropic substance consumption*" has had on the delicate domain of Cannabis use and abuse as perceived in the Albanian Penal Code. Using a desk research and analytical-qualitative approach, the article aims to discuss the growth of drug cultivation, utilization, and dissemination in Albania as a solitary and exclusive origin. It will also emphasize the Albanian criminal justice reaction to the occurrences and provide a glimpse into the progression of the same notion in other European nations.

### **The Green Wave: A Landscape Exploration on Cannabis Legalization in Europe.**

Cannabis legalization has recently been on the rise in Europe, with some nations adjusting their drug policies and embracing a more liberal outlook (Hughes,2018; Bifulco& Pisanti,2016). One such project that tries to control the use and cultivation of cannabis for both medical and recreational purposes is the European Psychotropic Drugs Law, often known as the "*Green Wave*"(Rubin-Kahana,2022; Hughes,2018). The Green Wave acknowledges the potential advantages of cannabis while also addressing the risks involved, striving to achieve a balance between public health issues and individual freedoms. According to this law, cannabis is divided into three groups based on its Tetrahydrocannabinol (THC) content, with tougher rules applying to plants with greater THC concentrations (Rubin-Kahana,2022). Cannabis cultivation, distribution, and consumption are all outlined in detail by the European Psychotropic Drugs Law (Vari et al., 2020; Hughes,2018). It establishes licensing procedures to make sure cannabis-related enterprises adhere to strict quality and safety standards. Additionally, it sets standards for the labeling and packaging of cannabis products, giving customers precise details about the substance's strength and potential health hazards (Vari et al.,2020; Smart & Pacula,2019; Wang et al.,2019). The Green Wave's focus on minimizing damage and education constitutes one of its main features. The law encourages public awareness efforts that support the responsible use of cannabis and accurately convey its potential advantages and concerns (van Kempen et al.,2019; Hammond et al.,2020). It also promotes projects to conduct further research on cannabis's therapeutic benefits and create treatment plans based on scientific data. It is crucial to remember that while the European Psychotropic Drugs Law is a significant advance toward the legalization of cannabis, it is not a one-size-fits-all solution. Each nation is free to modify and apply the law in accordance with its unique requirements and cultural context (Joshua Babu & Krishnan,2012; Shaddel & Ghazirad,2012). As a result, cannabis carries various legal statuses in different European countries, with some having looser laws than others (van Kempen et al.,2019; Hughes,2018). The Green Wave indicates a gradual change in European drug laws that takes note of public opinion on cannabis and any potential benefits it may have (Hickman et al.,2020; Hammond et al.,2020). European nations have paved the way for a safer and more informed

approach to cannabis use by putting in place a well-regulated system while generating economic opportunities and reducing the load on the criminal justice system (Gabri et al.,2022; Vari et al.,2020; Hammond et al.,2020; Aaronson,2020; Carrieri,2019; Johnson et al.,2019; Bahji & Stephenson,2019).

Below is an explanation of how certain prominent initiatives to legalize marijuana in several European nations have been implemented:

### ***The Netherlands***

The Netherlands plays a crucial role in the development of any action plans, as it is the only country in Europe that has effectively implemented the concept by incorporating the principle of discretion into its legal system (Knottnerus et al.,2023; MacCoun & Reuter,1997). This principle allows for the decision not to prosecute a crime if it is deemed to be in the collective interest (MacCoun & Reuter,1997). The use of drugs is not an inevitable outcome, and the criminalization of light drug users contributes to a social inclination towards more dangerous substances and excessive use (Palali & van Ours,2014). The Dutch legal system has implemented a "*separation of the markets*" approach, which distinguishes between consumers and those involved in drug trafficking. This approach is evident in practice and establishes a clear boundary between the two groups. With the aim of safeguarding the greater interests of public health and public order, *coffee-shops* are tolerated, and some minor offenses are prosecuted with minimal priority (Mennes et al.,2020). The prioritization is determined by the directives of the Prosecutors General, a stance which has resulted over time in the decriminalization of possession for personal use and the sale of limited quantities of cannabis. Since 1979, the Municipalities of the State have authorized the establishment of coffeeshops; their business operations are conducted in accordance with the regulations outlined in the abbreviation AHOY-G, which stands for "***No Promotion, No Hard Drugs, No Disturbance, No Youth, and a Gram limit***" (Grund,2017). In other words, coffee-shop managers are prohibited from advertising themselves, selling illicit substances or serving alcohol, contributing to creating disorder or disruption to public peace, and selling cannabis to individuals under the age of 18. Each transaction may involve no more than 5 grams of substance per customer, and stockpiles may not exceed 500 grams of substance for each establishment. The violation of these few and explicit regulations results in the imposition of administrative and criminal penalties(idem). Coffeeshops are inappropriate establishments for cannabis consumers and within their premises, the promiscuous relationship between the legal market and the illegal drug market thrives (Goodman et al.,2020). Drugs are legally sold through the front entrance of the shop with the approval of the authorities but are illegally obtained through the back entrance, as the cultivation and wholesale distribution of cannabis remains a criminal activity. This issue is commonly referred to as "*the back-door problem*" and surprisingly, it does not seem to be a major concern for those responsible for enforcing the current legislation (Yeoh,2020; Weinberger et al.,2019). This attitude has also caused tensions within the European Union; several Member

States, particularly France, have previously pressured the Netherlands to adopt a more repressive approach, due to concerns about the widespread "drug tourism" in neighboring countries. The legal basis for regulation was found in the provisions of Article 76 of the Schengen Acquis (Regulation (EU) 2018/ 1862). This provision ensures that the signatory countries of the Agreement align their legislation to the most restrictive laws among the states, to maintain the objectives of their respective legal systems. In accordance with this provision, the Dutch government has implemented measures since January 2013 to safeguard diplomatic relations (van Laar et al.,2016). These measures state that only Dutch citizens who possess an identity card or residence permit are permitted to purchase cannabis in coffee- shops. However, the implementation and enforcement of this rule vary across different Municipalities in the Netherlands. Perhaps due to this restriction, the number of coffee shops in the country is consistently decreasing, with approximately two-thirds of Municipalities choosing not to authorize such establishments (idem). In terms of the societal impact of this policy, a study conducted in 2009 revealed that coffee- shops were the primary source of cannabis for consumers. It also found that the market for soft drugs remained relatively unaffected compared to hard drugs and that the usage of cannabis by adults was relatively low compared to other European countries (see EMCDDA,2017). The consumption by underage individuals has, nonetheless, risen and the marketing industry has become a progressively appealing field for organized crime(Knottnerus,2020).

### ***Spain***

Regarding the policy on mild narcotics, the Netherlands, and other Latin American countries, especially Uruguay, can be seen as territories located on opposite sides of the same river, symbolized by strict adherence to global agreements (Hughes,2018). However, the solutions are not the sole ones found worldwide; other countries in Europe have also demonstrated flexibility in interpreting international drug conventions, as seen in the case of Spain's lengthy legal disputes surrounding *cannabis social clubs* (Pardal et al.,2020a). These clubs consist of adult collectives that come together to cultivate cannabis plants with the intention of using the final product for personal consumption within private spaces exclusively reserved for club members (Pardal et al.,2020b). The primary objective of these organizations is to oversee the complete production and distribution process of the substance in affiliated form, preventing members from resorting to the illegal market (Belackova & Wilkins,2018; Belackova et al.,2016; Descorte et al.,2017). By operating in this way, the production activity would be able to ensure the quality of the drug, delete the dangers associated with consuming contaminated substances, and promote responsible and well-informed consumption within the clubs, thus preventing members from engaging in abusive behavior. All of this is done with the intention of normalizing consumption and making it reasonably safe (Pardal et al,2020a). This proposed model was introduced as a measure to reduce risks and was based on the legal recognition of personally cultivating cannabis plants and engaging in group consumption within the Spanish legal framework. Once dispersed throughout the territory, these organizations proved to be an underground system of cannabis production and distribution that was particularly challenging to oversee (Pardal et al.,2020b; Franquero et

al.,2019). In September 2015, the *Pleno de la Sala Segunda* of the Spanish Tribunal Supremo (de Urbano Castrillo,2022) intervened to determine the legality of the model – in the context of an uncertain legal production, confirming the criminal relevance of cannabis social clubs and attributing the activities carried out within them to the case referred to in Art. 368 of the Spanish Criminal Code (see Comentario a Artículo 368 del Código Penal Español,2008). The Court ruled that, within the clubs, there is a "*real and evident risk of dissemination of the narcotic substance*" and of its transfer to third parties (non-affiliated) by the participants. In the case of group consumption, an individual is given the mandate to purchase drugs for the purpose of using them collectively and in a specific context by previously designated individuals (de Urbano Castrillo,2022). This action is not considered illegal, as it falls within the realm of exclusively personal consumption. However, the large amount produced within cannabis social clubs and the impossibility of determining how the members will utilize the substance distributed to them pose a significant risk of its dissemination. It could be ruled out that it may then be transferred to unaffiliated third parties (Pardal et al., 2020b). Additionally, unlike cases of shared consumption, clubs have a structure that allows for the continuous admission of new members. During registration, prospective members are only required to declare themselves as regular cannabis users. However, the actual consumption of the substance does not necessarily occur in a shared, immediate, or simultaneous way among these individuals, who often have no prior knowledge of or relationship with one another (Pardal et al.,2020b; Sanchez,2015). Some scholars of the mentioned ruling argue that the illegality of cannabis social clubs primarily stems from the alleged inability of their organizers to monitor the actual production quantity and destination of the substance (Yeoh,2020; Pardal et al., 2020a; Pardal et al.,2020b: Sanchez,2015). In the absence of evidence regarding the illegal transfer to third parties by the members, the logical assumptions that arise would not appear to support an indictment. Similarly, the fact that clubs allow entry to new members does not imply that their structure is open to indiscriminate membership by anyone since their statutes provide for selective procedures for admitting new members and mechanisms for their proper identification. The same authors argue on the part of the judges, for a method of determining the offense wisely and more attentively to the attitude of the specific case. Only in the case in which the activity of the clubs is resolved in an effective activity of promotion, facilitation, or aiding of drug consumption by third parties, does the danger to public health exist that the legislator intends to prevent ((Yeoh,2020; Pardal et al., 2020a; Pardal et al.,2020b: Sanchez,2015).

### ***Switzerland***

In Switzerland, starting in 2016, cannabis flowers with a THC content of less than 1% have been available for purchase in specialized stores. According to the regulations set by the Federal Department of the Interior regarding the lists of illegal drugs, mind-altering substances, precursor chemicals, and chemical additives (see CMS,2023), hemp with a total THC concentration below this threshold is not considered a psychotropic substance and is therefore exempt from the laws regarding illegal drugs. In Switzerland, low-THC cannabis is categorized as a substitute for

tobacco and is sold in packaging like tobacco products. It is also subject to the same taxation regulations as tobacco, positioning itself as a less harmful alternative. The reform of this matter has established a set of strict rules and regulations that retailers must adhere to enter this thriving market (Baltes-Flueckiger et al,2023). These regulations are primarily outlined in the food law (RS 817.0) and the tobacco ordinance (RS 817.06). Although these products are not governed by drug laws, they are not allowed to be freely advertised and can only be sold after notification to the Federal Office of Public Health by the interested party (see CMS,2023). At first glance, the purported cannabis market in Switzerland is well-regulated and controlled in a rather transparent manner, with a primary focus on safeguarding consumers' well-being. It was deemed, within that country's context, that prioritizing health protection alone is a valid justification for implementing a distinct regulation for the issue of mild narcotics; any reform initiative should strive for this outcome (Cattacin,2021; Seddon & Floodgate,2020). The Swiss case is particularly noteworthy, particularly when juxtaposed with the current situation in the Balkans and Albania concerning the commercial distribution of cannabis products containing minimal amounts of the active component THC (Scheim et al.,2020).

### *Italy*

In Italy, as a place of reference for Albania, the initial legislative measures concerning narcotic substances were Law-Decree No.396/1923, n.1145/1934 (see Decreto- Legge No.1145/1934), and No.1041/1954 (see Legge nr. 1041/1954). These statutes were designed to suppress the trade of these substances, primarily opiates at that time, and mandated the involuntary confinement of users in psychiatric hospitals. The principles established in the Single Convention on Narcotic Drugs of 1961 were incorporated into Italian legislation through Law No. 685 of 1975 (see Legge No.685/1975). This legislation introduced the "*list*" definition of substances considered illegal, including cannabis. For the first time, a distinction was made between the drug trafficker and the substance consumer, who would not face punishment if found in possession of "*modest amounts*". Reflecting an increased understanding of the scientific standards guiding addiction research, the law also included a range of social prevention and socio-health assistance measures. The notion of "*average daily dose*" was introduced, serving as the maximum limit for personal possession. Beyond that limit, criminal penalties were imposed. The classification of cannabis separately from substances like heroin and cocaine, and the non-punitive approach towards its consumers, contributed to its legal and social recognition as a mild drug (see Decreto del Ministero della Salute,2004). Of a stricter nature was Law No. 49 of 2006, known as Fini-Giovanardi (see Convenzione di Legge,2006). With this provision, the legal distinction between soft and hard drugs was effectively ceased, as all prohibited substances were included in a single table. In the case of cannabis, this also occurred based on the denial of its therapeutic benefits, a factor that should have altered its regulation. With Law 49/2006, quantitative limits were once again implemented to differentiate between possession for personal use and possession for drug trafficking. The modifications introduced by the Fini-Giovanardi law would remain in effect until 2014, when the Constitutional Court, in ruling No. 32 of February 25, would declare it unconstitutional (see

Sentenza Corte Costituzionale,32/2014). As early as 2013, a decree by the health minister of the Monti government, Renato Balduzzi, made alterations to the text of the law. Specifically, cannabis and its derivatives were included in Table II based on the acknowledged therapeutic properties of the plant, which therefore made them eligible for prescription as a medication (see Decreto del Ministero della Salute,2013). At the start of 2014, Senator Luigi Manconi proposed a bill (Legge. 1222, January 7) aimed at decriminalizing personal consumption and, to a certain extent, the cultivation of hemp. The Decree Law issued March 20, 2014, No. 36, signed by the Minister of Health, Beatrice Lorenzin amended the lists of narcotic substances, and the severity of the penalties envisioned for possession and transfer was reassessed. There were five new lists: I and III group hard drugs, II and IV light drugs. The last one concern medications. The fines were reduced for minor trafficking. For the transfer of small amounts of drugs, imprisonment from 6 months to 4 years and a fine of one thousand to 15 thousand euros are anticipated (see Legge 115/2014). Cannabis, included in List II, maintained its status as a "soft" substance with acknowledged therapeutic properties. Possession or purchase for personal use no longer held criminal significance, and the "modest quantity" for personal use was canceled. The Lorenzin law decree was converted into law on May 16, 2014, n. 79, officially coming into effect and still in force in the neighboring country (idem).

### **Albanian Criminal law revisions for the fight against narcotics**

Early in the 1990s, narcotics started to penetrate and spread throughout the country. Chaos and anarchy ruled the overthrow of Albania's dictatorial government. The nation was not focused on progressing beyond but on destroying its industries and economy. The Albanians were obliged to make the choice of mass immigration due to the collapse of industry and plants, the uncontrolled expansion of cities, and the absence of foreign investment (Lutz,2014). Because of its location as Western Europe's closest point to the Balkans and its historical commercial ties with the Balkan states, Albania created the ideal environment for the emergence of potent criminal organizations that now control the supply and delivery of drugs to their final destinations. The position of the state and the institutions in Albania was another factor that affected drug trafficking here. Transiting narcotic trafficking also included domestic drug trafficking. Due to the need for legal reforms, which were required by international obligations, agreements under international conventions, constitutional principles, and the enactment of international acts by the Albanian state in 1998, the Criminal Code (special section) underwent numerous and significant improvements and changes (Elezi,2002). Albania's Criminal Code has provided for various figures and the various forms and ways of committing criminal offenses to comply with the obligations arising from international conventions and various agreements for preventing and combating organized crime with narcotics. The phenomenon of drug addiction, because of the misuse and consumption of various narcotic substances, endangers the health of the population and the preservation of public order and security. However, the use of narcotics and the illegal trade of drugs as a phenomenon escalated even more, resulting in dangerous consequences for society and the economy. This has been caused by Albania's unique geographical location. In response to these

developments, the legislation on drug-related offenses had to be strengthened further, and the punishments needed to be more detailed and harsher (Elezi et al.,2009). As a result, there are now new criminal offenses that are in line with the evolving requirements of the fight against organized crime in general.

Criminal law has experienced a few revisions since 2001 over the course of the past ten years. Criminal offenses involving drugs governed Albania's Criminal Code at these times. Law No. 8733, issued March 26, 2001, added to, and amended Law No. 8750, issued January 24, 2001, which brought about major modifications in the provisions of this code that dealt with drug-related crimes (see Albanian Criminal Code; Law 8750/2001). Law No. 8733, enacted on January 24, 2001, was utilized to achieve this goal. This was done by incorporating certain amendments and additions from Law No. 7/8/9 of the Criminal Code of the Republic of Albania, issued on 27.1.1995 (see Albanian Criminal Code; Law 8733/2001).

With all the modifications of 2011 (see Albanian Criminal Code; Law No.10375/2011) and 2016 (see Albanian Criminal Code; Law No.88/2016), the existing Criminal Code covers each of these aspects of this unlawful activity separately. Additional types of criminal offenses are outlined in the Code, such as establishing facilities for acquiring narcotics (Article 283/b), organizing and managing criminal enterprises (Article 284/a), aiding in the resolution of crimes (Article 284/b), producing, trafficking, and unlawfully utilizing precursors (Article 284/c), possessing equipment for narcotics production (Article 285), adapting premises for drug consumption (Article 285/a), disposing of abandoned needles (Article 285/h), inciting drug usage (Article 286), employing advanced technology (Article 286/a), laundering illicit proceeds (Article 287/294), and closing anonymous accounts (Article 287/a).

Their common purpose is the legal connections established by the state to guarantee the legality and supervision of the production, trade, distribution, and utilization of drugs and psychotropic substances because of the significant danger they pose to public health and the essential need for their use in medicine. However, prolonged, and excessive use results in the physical and mental deterioration of the individual, leading to their demise and significant health hazards as users become dependent and unable to function without drugs. Another purpose is the legal connections established to safeguard human life and well-being from the abusive utilization of drugs and mind-altering substances. However, the purpose of the proceeding is specified based on its content. When dealing with the cultivation of drug plants, the purpose of the Law is to the legal connections established to protect the legality of cultivating these plants. The goal of addressing manufacturing and production is to safeguard the established legal links that ensure that delivering and manufacturing drugs is legal. Examining the specific provisions, we find that the purpose of certain unique categories is not directly linked to narcotics and other similar categories involve adapting locations for drug use, employing advanced technology, and so on. From an objective viewpoint, drug-related criminal offenses are committed through actions or inactions as outlined in each



specific provision, ranging from cultivating narcotic plants to producing, trafficking, and distributing narcotic and psychotropic substances, among other specified acts. Through inaction, individuals enable the use of plant flats, apartments, and motor vehicles for drug consumption, and establish facilities for drug use. The perpetrators of these offenses can be any individuals who have reached the age of criminal responsibility and are legally accountable. Therefore, we are dealing with individuals in general, except for Article 283/b, which pertains to the establishment of facilities for acquiring and using drugs by individuals who, due to their profession, administer them. In this case, the law deals with specialized individuals such as doctors, pharmacists, dentists, gym coaches, etc. From a subjective perspective, deliberate drug-related crimes are committed purposefully in both direct and indirect ways. The indirect intention only applies when these actions are carried out in collaboration, with a specific focus on the assisting party. The reason and objective are not relevant. The underlying objective of all these illegal activities is to achieve financial gain or any other form of profit. However, these factors are not essential components of the criminal offense itself. They are merely significant in determining the appropriate sentence for the specific perpetrator. Treatment of criminal offenses of farming of narcotic plants and manufacturing and fabrication of narcotic and mind-altering substances a) Cultivations of narcotic plants.

Due to the necessity to utilize certain drugs in medicine, Albanian legislation, through the Law "On narcotic drugs and psychotropic substances"(Law No.88/2016), regulates the lawful way these activities should be conducted. Individuals intending to cultivate narcotic plants or manufacture narcotic, or mind-altering substances must obtain a license from specific government entities that oversee every aspect of their operations, and these individuals are required to provide these entities with any relevant information regarding their activities. Farming and manufacturing drugs outside the conditions are considered criminal offenses. Article 284 of the Criminal Code stipulates that: "*Farming of plants that are used or known to be used for the production and extraction of narcotic and mind-altering substances without permission and authorization in accordance with the law is punishable by imprisonment for a period of 3 to 7 years.*" This offense, when committed in collaboration or on multiple occasions, is punishable by imprisonment for a period of 5 to 10 years. This activity's organization, administration, or funding is subject to imprisonment ranging from 7 to 15 years." The subject of this illegal act is the legal relationships established by the state to ensure the lawfulness of the cultivation of illegal plants. Referring to Article 9 of Law No.88/2016, it is evident that the cultivation of the three plant families, namely cannabis, cocaine, and Indian hemp, is prohibited in Albania unless authorized for medical treatment. Therefore, Article 284 pertains to these plants. From an objective standpoint, this criminal act is committed through the cultivation of said plants. It should be noted here that the cultivation crime persists until the cultivated plant is harvested, uprooted, or removed from the ground. After this point, cultivation ceases, and the crime of narcotics possession comes into play if the uprooted plants are classified under categories I, II, or III of the law. In our case, the cannabis plant falls under these categories. The fact that the perpetrator, through his or her actions, has fully

completed the elements of the crime of cultivation also means that, now they are apprehended by the police, they have also fulfilled the elements of the crime of narcotics possession. Doubts arise regarding the overlap of these two criminal offenses. When the plants are grown for consecutive years, the violation will be considered committed twice or for as many years as the illicit plant has been cultivated. The extended duration and complete depletion of the elements of the criminal act after each year of cultivation indicate multiple criminal offenses rather than a continuous crime. The third paragraph criminalizes narcotic plant cultivation's organization, supervision, or funding. This specific unlawful activity will be assessed in accordance with this provision, pending proof of the existence of a criminal group engaged in the cultivation of narcotic plants. Any individual who cultivates these plants without the necessary authorization from the appropriate authority may be subject to this criminal offense. Article 284/c states that: "*the creation, construction, extraction, purification, or preparation of narcotics and psychotropic substances without permission or in excess of their content is penalized with imprisonment from 5 to 10 years.*" When committed in collaboration or multiple times, this offense is penalized with imprisonment ranging from 7 to 15 years. The organization, administration, or funding of this practice is subject to imprisonment from 10 to 20 years. Regarding narcotics and psychotropic substances, and for the production and creation of drugs and mind-altering substances, the law establishes the regulations and the legal process for how they are carried out. The competent state authority responsible for this is the Minister of Health. Article 284/c of the Criminal Code specifically safeguards this lawful activity by criminalizing any individual who undertakes such activities without authorization. These substances, also forbidden for medical purposes, often result in fatal consequences for their users. In addition to the investigative measures, the opinion of a technological expert is also required to address the objective aspect of the criminal offense. The second paragraph of Article 284/c stipulates that this criminal offense can be committed in collaboration and on multiple occasions. Doing it on multiple occasions means performing any of the actions after having already done one or more of those actions in the past. It is sufficient to be proven as separate incidents with all the elements of a criminal offense and to be in competition with the new criminal offense. In the third paragraph, Article 284/c provides for the organization, management, or financing of the activities. Due to the significant social risk posed by these types of criminal activities, the law punishes them with severe penalties. Before convicting these subjects of criminal activity, it must be thoroughly investigated whether they are part of a criminal organization. Only when such a fact is not proven will their actions be classified according to Article 284/c/3. The subject matter of this criminal offense is any individual who has reached the age of criminal responsibility and bears responsibility. As a distinct subject of this criminal offense, the partner, manager, or any other person associated with a legal or physical entity engaged in the licensed production or manufacturing of prohibited substances beyond the scope of their license may also be held liable under the law. From a subjective standpoint, the crime is committed with deliberate intent and with the objective of producing and manufacturing psychotropics. The motive, timing, and location of the commission of the offense are not significant for its legal classification but rather for the individualization of the sentence. Articles 284/c and 285 of the Criminal Code define as a criminal

offense the production, trading, and unlawful use of precursors, narcotics, and psychotropic substances with a low percentage of active drugs. It is considered a violation of the law, as well as the production, storage, and transportation of chemical substances, equipment, and materials that have been or will be used for drug production. Article 284/c stipulates that "*production, import, transition, trading, and possession, contrary to the relevant legal provisions, of precursors specified by law in the relevant tables shall be punishable by imprisonment for up to 5 years.*" This offense, when carried out in collaboration or on multiple occasions, is penalized with incarceration ranging from 3 to 7 years. The establishment, supervision, or funding of this undertaking is subject to imprisonment ranging from 5 to 15 years.

**Draft Law regarding the cultivation of plants containing psychoactive substances in Albania.**

Some measures on the juridical features in the cultivation of cannabis (*Papaver somniferum*) and hemp for industrial purposes for the production of fibers and seeds were stated in LAW No. 9271, issued September 9, 2004 "*On Additions and Amendment to Law.NO.7959*", issued 26.7.1995, Regarding Narcotics and Psychotropic substances. In its revision of Article 9 of the 1995 Law, the new Law permitted varieties containing no more than 0.1 percent tetrahydrocannabinol (THC) to be regarded as illegal"(see Law 9271/2004). Later, in accordance with the directive of the Prime Minister, No. 79, issued on 17.06.2020, "*Regarding the formation of the inter-institutional task force for the formulation of the proposed legislation and in relation to the regulation of the growth of plants containing mind-altering and mood-altering substances for medical, scientific, and industrial use*", amended, experts at the Ministry of Health and Social Welfare, the Ministry of Agriculture and Rural Development, and the Ministry of the Interior have developed the Draft Legislation on the authorization of psychotropic substances for medical use (see Assembly of Albania; Decree-Law,2023). Considering the measures taken to establish legal guidelines, and enhance supervision and oversight of the growth, processing, manufacturing, distribution, and export of the marijuana plant in Albania, a dedicated Commission for Legal Matters, Public Administration, and Human Rights has been formed within the Albanian Parliament. During the sessions held on July 12th and July 13th, 2023, the Albanian Assembly examined the Draft Law "*Regarding the regulation of the growth and processing of the marijuana plant and the creation of its derivatives for medicinal and industrial use*", held on July 14th, 2023, with the intention of granting approval. The Draft Law has defined the role and duties of the institutions, ensuring the establishment of a legal framework for the formation, arrangement, and operation of the National Control Agency for Cannabis. This agency will include the License Commission and the Specialized Surveillance Unit, which will be responsible for overseeing and examining the cultivation, production, and distribution of cannabis for medical and industrial purposes. The proposed legislation, by implementing specific regulations and procedures, as well as relevant administrative violations, aims to ensure the efficient functioning of new economic activity in Albania. It also emphasizes the need to clearly outline the permitted methods of development through reporting, supervision, and regular inspections of licensed or authorized entities. Furthermore, by means of the proposed legislation, the aim is to enhance the competitiveness of

the Albanian economy by promoting higher levels of employment and the establishment of fresh economic initiatives, which will consequently boost the nation's exports, thereby generating supplementary revenue for the economy, society, and the government.

In an objective view, this legislation seeks to:

- Ensuring supervision and surveillance of the growth, manufacturing, and distribution of the plant and cannabis derivatives, for medical and industrial purposes.
- Formation of the National Authority for the Regulation of Cannabis for medical and industrial use and the manufacturing of its derivatives by 2023.
- Setting up guidelines and commencing inspections for all cultivation procedures of the cannabis plant during each phase of planting, harvesting, drying, storage, and preservation, as well as the production of plant raw materials, starting from 2024.
- Establishment of the nationwide registry of authorized and licensed entities within the year 2023.
- Ensuring inter-institutional collaboration for the effective implementation of the monitoring and oversight process of cannabis cultivation for medical and industrial purposes, by adhering to clearly defined institutional responsibilities and establishing systems/databases.
- Ensuring licensed entities have the right to utilize and cultivate seeds and seedlings that are either imported or produced within the Republic of Albania, in compliance with the current legislation.

In its structural form, this Draft Law is divided **into 10 sections and 44 clauses**, which include provisions for restrictions such as:

1. Cultivation of the medicinal cannabis plant and the production of its derivatives and final products beyond the limits set by this legislation.
2. The cultivation of the cannabis plant and the production of its derivatives and final products for medical purposes; their trade and possession if they are not labeled and traceable, in accordance with the provisions of this legislation.
3. Possession of tools, equipment, and instruments to produce the medicinal cannabis plant and its derivatives and final products, except in cases stated by the authorized entity with a license, as specified in this legislation.
4. The use of derivatives and final products of the cannabis plant, except in cases provided for in this legislation and the current special laws.
5. Retail or wholesale sale and distribution, acquisition, or consumption within the territory of the Republic of Albania of derivatives or final products for medical purposes.
6. Promotion conducted directly or indirectly or through any other means, regardless of the medium of publication, of the activity of importing cannabis seeds or seedlings and the

cultivation, production, sale, possession, and use of the cannabis plant for medical purposes.

7. Processing and production, transportation, marketing, and export of derivatives and final products of medical cannabis. Section II of this Draft Law is dedicated to the establishment, organization, operation, and specification of the powers of the National Cannabis Control Agency, which will be a public-budget legal entity under the authority of the minister in charge of health, whose mission is supervision, control, and inspection of the cultivation and processing of the cannabis plant and the production of its derivatives for medical and industrial purposes, as well as monitoring the implementation of this Draft-Law.

Chapter III of this Draft Law includes provisions concerning the process of acquiring a license for engaging in activities associated with the manufacturing of cannabis for medical purposes. The agency manages the National Register of Authorized and Licensed Entities and supervises the application of distinct symbols for identification and tracking at every step of cultivation, production, promotion, distribution, and transportation of the cannabis plant, derivatives, and end-product for the ultimate consumer. The application of symbols is accomplished through a unique representation in the form of a code, seal, sticker, or any other form of identification and is obligatory at all stages, including importation, cultivation, production, processing, storage, storage of medical and industrial cannabis plants, derivatives, and its final products as well as the export and use of derivatives or final products of the medical and industrial cannabis plant in order to streamline tracking.

Additionally, an extremely significant procedure is tracing, which constitutes an identification technique for determining the precise whereabouts of the medicinal and industrial cannabis plant, its derivatives, and end products throughout all stages from cultivation to final utilization, as well as its proprietor at every stage. Tracing does not apply to industrial cannabis intended for sale to the end consumer. The proposed legislation includes special provisions for the seizure and destruction of the cannabis plant and the imposition of administrative offenses. This Draft Law does not aim to conform with any regulations of the European Union, although it refrains from the EU legislation. This proposed Law will be implemented in terms of licensed activities in four primary areas: firstly, in terms of levies on seeds or their reproduction; secondly, in terms of regulated cultivation of the medicinal and industrial cannabis plant, production of derivatives or final products; circulation of the plant, its derivatives or final products; and even exportation. As for the derivatives from all the stages that will be authorized by this law, they will be exclusively for export, specifically for medicinal purposes, but for exportation and not for domestic use. Therefore, at this juncture, this proposed Law will not permit the use of cannabis derivatives or products for medicinal purposes in Albania.

## CONCLUSIONS

Illegal substances must be combated from the outset to halt their manufacturing, smuggling, and usage. Various nations, including Albania, are taking every possible measure to prevent it by allocating significant financial resources and providing numerous tools to combat drug addiction, apprehend offenders, and hold them accountable (Jojarth,2009). Criminal offenses associated with narcotics are among the most severe, as these types of crimes, along with drug consumption, directly impact human well-being and survival (Zaami et al.,2018; McGettingan,2018; Havemann-Reinecke et al.,2016; van Ours,2007). To combat this issue, the enforcement of laws in this domain, including criminal legislation, must be strengthened, imposing strict penalties on all individuals involved in these illicit activities. This necessitates an increase in both the quantity and expertise of law enforcement agencies, customs officials, and other relevant entities (di Luca et al.,2020; Vyshka,2019). The government should take additional policies to combat the cultivation of narcotic plants and the production, trafficking, and distribution of narcotic and psychotropic substances (Vyshka,2019). Although the country has already proposed a Draft to recognize and legalize the cultivation, production, and export of Cannabis for medical use, more should be done in terms of a National Master-Plan in combating the illegal activity of drug trafficking (). Through educational initiatives, the public, particularly the youth, must be informed about the hazards associated with drug consumption. Through healthcare programs, the use of drugs by individuals should be halted, preventing further pollution of the environment (Bewley-Taylor,2003). Additionally, policies and programs should also address the root causes of drug abuse, namely poverty, unemployment, and illiteracy. By examining and comparing international standards and legal frameworks in the present work, we found that the provisions outlined in Article 287 of the Criminal Code for the Cleansing of Criminal Products should be enhanced to maximize the effectiveness of the fight against narcotics. The Ministry of the Interior's reports poses challenges in terms of facilitating comprehensive studies on these types of crimes, as they are often not made public, or the data provided is unclear and unidentifiable. According to the Ministry of Justice's reports, data is not available for all criminal offenses specified in the Criminal Code. Nor researchers can consult a kind of national narcotic and psychotropic consumption register for their study purposes. A propose would be therefore enhancing the gathering and contemplation of the information of the courts of the Republic of Albania in accordance with the specific provisions of the Criminal Code. Regarding law enforcement units, it is essential to conduct ongoing training on anti-trafficking matters for judges, prosecutors, and judicial police officers (Sim,2003). The illegal immigration of citizens should be brought under control, as a significant portion of them engage in drug trafficking, as supported by studies (Basu & Pearlman,2017; Friman,2001). Evaluating the protection of fundamental rights and freedoms, we believe that the law for the reintegration and assistance of victims after they leave the shelters should be enhanced. To enhance identification, protection, and specialized services for children of trafficking victims. Another highly important action that we must undertake is to raise awareness about this issue. First, raising awareness among

potential victims, particularly in areas where drug traffickers are active. Second, raising awareness among the police, social policy workers, and law enforcement officers to train them to address the problem appropriately. Another significant suggestion would be the inclusion of a fresh stipulation concerning the inebriation of another individual as a novel illegal act in the Albanian Criminal Code.

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