LEGALIZATION OF CANNABIS PRODUCTION FOR MEDICAL PURPOSES IN MACEDONIA - IMPLICATION FOR LEGAL AMENDMENTS (POSITIVE VS NEGATIVE EFFECTS)

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Abstract

In March 2016, the Assembly of the Republic of North Macedonia amended the Law on Control of Narcotic Drugs and Psychotropic Substances, giving the possibility for North Macedonia to join a growing number of countries that allow for the cultivation and exportation of medical cannabis. As a result, for the past five years it has been legal to grow cannabis for medical purposes, and to refine, extract and produce hemp seed and cannabis oil. Given the current economic unprofitability of cannabis production, primarily due to high production costs and uncertain marketing, many companies are idle, i.e., waiting for legal changes that will make it possible for them to export dried cannabis flowers. The purpose of this paper is to answer the following hypotheses:

(1) Does the inability to achieve the required quality of cannabis imply a new draft Law on Control of Narcotic Drugs and Psychotropic Substances?

(2) Which are the positive versus the negative implications regarding the legal changes?

(3) Determining the security implications, given that Macedonia is a transit point on the marijuana smuggling route from Albania and Kosovo to Turkey, where it is replaced by heroin, which is later sold to the Balkans and Western Europe.

(4) Can the Government establish an effective system of control? For the purposes of this paper, a desk analysis of primary and secondary literature will be conducted as well as interviews with the relevant stakeholders.

Key words: cannabis, heroin, Law, smuggling, routes, seizure

1. INTRODUCTION

Through the adoption of conventions, strategies, international forums and conferences, the international community is in a continuous struggle for control of narcotic drugs and psychotropic substances on a normative-legal basis. The legal mechanisms that enable the control of narcotic drugs and psychotropic substances require harmonization of the national legislation, which will facilitate mutual cooperation at national and international level, enabling rapid exchange of information and joint action in the field of control, detection and suppression of this kind of crime.

The Republic of North Macedonia (hereinafter North Macedonia) is an active participant in this field. Applying positive experiences and good practices from developed
countries is the primary focus of the country. Thus, the state strives to be in step with the modern trends and achievements, which will provide a significant contribution to the effective use of available instruments and mechanisms to strengthen the control of narcotic drugs and psychotropic substances. Analyzing the available legislation which regulates the criminal matter for an effective fight against the illegal production and distribution of narcotic drugs and other psychotropic substances as well as for confiscation of illegal proceeds generated by this type of crime, it is largely in line with the European law. However, the analysis of statistical data on confiscation of illegal property generated by illicit drug trafficking indicates the need for a greater efficiency of criminal and financial investigations that should detect and locate such property.

The report on the risk assessment of organized and serious crime indicates that cannabis is the most produced, consumed and smuggled drug in the Balkan region (Ministry of Interior, SOCTA Report, 2017-2019). Furthermore, North Macedonia is a major transit hub for the trafficking of cannabis produced in Albania. The drugs are smuggled across the border by foot, using horses or donkeys and trucks or even boats across the Lake Ohrid. Some of it passes north through Kosovo or Serbia to central and Western Europe, while some goes through Bulgaria and Greece. Cannabis is also smuggled from Albania via North Macedonia to Turkey. There, it is often exchanged for heroin, which is brought back through North Macedonia, with the final destination being Albania. It would be quite easy to insert cannabis produced in North Macedonia into these well-established illicit flows (Ministry of Interior, Annual Report, 2019).

The reports from the conducted National Risk Assessments for the periods 2010-2015 (Financial Intelligence Office, 2016) and 2016-2018 (FIO, 2019), also indicate that the crime of illicit trafficking in drugs and psychotropic substances is a crime defined by the high level of money laundering threat in North Macedonia.

The purpose of this paper is to answer the following hypotheses: (1) Does the inability to achieve the required quality of cannabis imply a new draft Law on Control of Narcotic Drugs and Psychotropic Substances? (2) What are the positive versus the negative implications regarding the legal changes? (3) Determining the security implications, given that Macedonia is a transit point on the marijuana smuggling route from Albania and Kosovo to Turkey, where it is replaced by heroin, which is later sold to the Balkans and Western Europe. (4) Can the Government establish an effective system of control? For the purposes of this paper, a desk analysis of primary and secondary literature will be conducted as well as interviews with relevant stakeholders.

2. POSITIVE EFFECTS FROM CANNABIS LEGALIZATION

In March 2016, North Macedonia amended its Law on Control of Narcotic Drugs and Psychotropic Substances (Ministry of Health, The Law on Control of Narcotic Drugs and Psychotropic Substances, 2016). As a result, it became legal to grow cannabis for medical purposes and to refine, extract and produce hemp seed and cannabis oil. North Macedonia thus joined a growing number of countries (36 including Croatia since 2019 and Greece since 2018) that allows for the cultivation and export of medical cannabis (Pierre-Arnaud, 2019).¹ This legal solution has opened the door for entrepreneurs and investors who want to invest their capital.

¹Medical cannabis has been partially or fully legalized (with or without prescription) in 36 countries: Argentina, Australia, Canada, Chile, Colombia, Croatia, Cyprus, Czech Republic, Denmark, Finland, Georgia,
The positive effects of medical cannabis production have a direct impact on the development of the economy, contributing to the reduction of unemployment as well as strengthening the industry at the local level and the expected annual inflow into the state budget.

The positive effects will be reflected for the citizens by improving their health. Namely, cannabis drugs that have a THC content of less than 0.2% are now available and can be purchased in pharmacies in Northern Macedonia. Currently, the drug is available only on prescription, and doctors can prescribe a drug for specific diseases such as cancer, epilepsy, multiple sclerosis and HIV. Cannabis oil with a THC content above 0.2% is only available by prescription.

2.1. Industrial growth

From May 2016 to May 2018, the Ministry of Health and the Ministry of Agriculture, Forestry and Water Economy issued a total of five licenses for the production of cannabis for medical purposes, and two licenses for extraction. Since then, according to government data, a total of 55 companies have received licenses to grow cannabis for medicinal purposes; another 17 companies are awaiting approval (Emagazin, 2020). A number of these companies are said to be linked to the prime minister and his friends and family (Deutsche Welle, 2020). Even the KOVID-19 pandemic did not stop companies from investing in this business. In 2020, a total of 9 companies have received licenses to produce cannabis for medical purposes.
Given the current situation of economic unprofitability for cannabis production, primarily due to the high production costs and uncertain marketing, many companies are idle, i.e., waiting for legal changes that will allow them to export dried cannabis flowers. Despite the strict legal provisions for physical and technical security, companies face security risks. This is one of the main reasons for amending the Law on Control of Narcotic Drugs and Psychotropic Substances. The changes should allow the export of dried flowers obtained by producing cannabis for medical purposes. The emergence of new psychoactive substances that are widely available to consumers due to lack of legal control also imposes the need for legal changes.

2.2. ** Supervision and control over cannabis production**

Before starting cannabis cultivation, the legal entity must submit a request for sowing and / or planting cannabis to the Ministry of Agriculture, Forestry and Water Economy (MAFWE). The permit is issued by the MAFWE within 15 days from the day of receipt of the full application. After receiving the permit from MAFWE, the legal entity-applicant is obliged to inform the Ministry of Health (MOH), MAFWE, the Agency for Drugs and Medical Devices (ALMP) and the special commission. This procedure is performed before sowing and / or planting of hemp seeds begins. The law stipulates that in the period between sowing / planting and harvesting, the special commission will conduct at least two inspections of cannabis cultivation (Ministry of Health, Law on control of Narcotic Drugs and Psychotropic Substances, 2016).

The legal entity is obliged to keep records of the grown cannabis (sowing, seeding, production, transplantation and number of stems). For any change or deviation during the production, the legal entity is obliged to inform the MOH and MAFWE.

Before harvesting the product, the legal entity is obliged to inform the MOH. After the hemp harvest, the special commission examines the collected items in order to determine the number of collected stems and the wet mass. The form, content and manner of keeping records for all stages of cultivation are prescribed by the Ministry of Health.

Legal provisions allow the export of cannabis oil after its extraction. Hence, licensed companies face the problem of product placement. Hyper-production of issued cannabis cultivation licenses can reduce the quality of oversight by the 5-member Special Commission. In the absence of effective control by the competent institutions, there is a possibility for the produced cannabis to be placed on the black market in the country or to be smuggled to third countries, whereby the illegal profit through various financial activities will be integrated in the financial system. From the analysis, the special commission does not have official own premises where they would hold their meetings. They meet ad-hoc.

Furthermore, transparency is one of the main problems of this commission. Namely, the commission does not have an official website where it will publish the official statistical data for performed controls, ascertained findings and publication of measures as well as publication of annual reports in order to determine the factual situation.

Due to this shortcoming, data on the exact quantities of cannabis produced, cannabis oil produced, and data on destroyed cannabis stems are not publicly available and transparent.

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2According to article 29-b, paragraph 5, the commission is formed by the health minister. It is composed of two representatives from the health ministry, one representative from the agricultural ministry, one representative from the Agency for Medicines and Medicinal Products and one specialist in the field of medicinal plants.
3. BALKAN ROUTE – NORTH MACEDONIA AS A TRANSIT POINT

According to the Organized and Serious Crime Risk Assessment Report, marijuana is the most common drug in the region, in terms of production, trade and use, due to its geographical location, favorable climatic conditions and low price. Although the Republic of Albania has significantly reduced marijuana production, it still remains a leading country in the region in terms of production.

The geographical location of North Macedonia with the Republic of Albania results in the illegal import of large quantities of illegally produced marijuana\(^3\), which continues to transit through the territory of the country, and there are cases where limited quantities remain for the domestic drug market, where the price of marijuana reaches 2000 EUR per kilogram.

Cannabis is also smuggled from Albania via North Macedonia to Turkey. There, it is often exchanged for heroin, which is brought back through North Macedonia, with the final destination being Albania. It would be quite easy to insert cannabis produced in North Macedonia into these well-established illicit flows (Ministry of Interior, SOCTA Report, 2017-2019).

![Map of the Balkans showing the route from Albania to North Macedonia](image)

**Picture 1: Marijuana transit routes through North Macedonia**

As part of the detected crimes of illicit drug trafficking at the Ministry of Interior in the period from 2017 to 2020, a trend of increasing seized marijuana was observed.

<table>
<thead>
<tr>
<th>Year</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seized marijuana (kg)</td>
<td>510kg</td>
<td>1532kg</td>
<td>977kg</td>
<td>1890kg</td>
</tr>
</tbody>
</table>

The risk is real: at the beginning of December 2020, two tonnes of cannabis were stolen from the warehouse of a licensed company in the village of Josifovo, in Valandovo.

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\(^3\)The import of marijuana from Albania to Macedonia is done through illegal crossings along the western border. Generally, the transport is done with specially made bunkers installed in vessels across Lake Ohrid, or with vehicles in specially made bunkers that legally cross the state border and on foot through illegal crossings along the western border.
municipality (Ministry of Interior, Privedeni lica, se rascistuva slucajot so ukradenata marihuana od Josifovo, 2020). Allegedly, some of the cannabis ended up in Kosovo (Hristina Belovska, 2020). In a separate case, 60 kilograms of marijuana were stolen from the warehouse of a licensed cannabis producer in the region of Krusevo by four men (two from Skopje, one from Albania and one from Kosovo) (Ministry of Interior, Izvršen pretres, zapleneti 60kg droga, 2020).

At the Novo Selo border crossing, at the exit from the Republic of North Macedonia to Bulgaria, 102 packages (about 100 kg) of narcotic drug marijuana hidden in a specially made bunker in the upper part of the MAN truck with Bulgarian plates were found by police officers from the Criminal Police Department, in cooperation with members of the Customs Administration (Objektivno24, 2020).

4. DRAFT LAW ON THE CONTROL OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

The subject of passing a new Law on the Control of Narcotic Drugs and Psychotropic Substances is: (Draft Law on the Control of Narcotic Drugs and Psychotropic Substances, 2020)

- Regulation of the competencies of the state bodies responsible for the control of production and trade of narcotic drugs and psychotropic substances;
- Introduction of measures for prevention of the use and abuse of narcotic drugs, psychotropic substances, treatment, rehabilitation, and social reintegration of persons addicted to narcotic drugs and psychotropic substances;
- Classification of substances and plants as narcotic drugs and psychotropic substances, and the plants from which narcotic drugs and psychotropic substances can be obtained, according to the prohibition or control regime, and based on the species and their properties;
- Determining the purpose and conditions for legal cultivation of plants from which narcotic drugs can be obtained, i.e., conditions for production and trade with narcotic drugs, psychotropic substances, and plants from which narcotic drugs and psychotropic substances can be obtained;
- Providing export of dried cannabis flower;
- Supervision of the cultivation of plants from which narcotic drugs can be obtained, as well as the production, trade and possession of narcotic drugs, psychotropic substances, plants from which narcotic drugs can be obtained, and measures for suppression of abuse of narcotic drugs and psychotropic substances.

The new Law on the Control of Narcotic Drugs and Psychotropic Substances envisages achieving the following goals: prevention and suppression of the abuse of narcotic drugs and psychotropic substances; prevention of illicit production and trafficking of narcotic drugs, psychotropic substances and plants from which narcotic drugs can be obtained, and substances that can be used for the production of narcotic drugs or psychotropic substances, and protection of human life and health, as well as control of the use and quality of narcotics and psychotropic substances.

Through this law, the state will fulfill its obligation to regulate the presence of these substances in accordance with its legal, political, health and moral principles, thus providing conditions under which the country’s population will be protected from abuse and addiction.
to such substances available for medical purposes. The promotion of the legal norms of this law should enhance reduction of their abuse, while maximizing the access to rational medical use of these substances, which is a major challenge for the competent authorities in the country. This means that the control of psychotropic substances is not an end in itself; it should serve as a means of optimizing public health by creating conditions for the proper use of these substances for medical purposes.

5. POSITIVE VS NEGATIVE IMPLICATIONS

The adoption of the new Law on the Control of Narcotic Drugs and Psychotropic Substances will have positive effects on the development of the economy, effective control and reduction of the security risk of theft of stored cannabis.

The possibility of exporting dried flower obtained through growing cannabis for medical purposes will increase the interest for investing in Macedonia into growing cannabis for medical purposes, due to the favorable business climate, as well as the cheap labor force on the labor market. It will attract many foreign investors, and new jobs will be created. In addition, the revenues of the state budget will increase because the legal entities licensed to cultivate cannabis are obliged to pay 20% of their net profit realized in the current year to the account of the Budget of the Republic of North Macedonia.

The draft of the new Law on the Control of Narcotic Drugs and Psychotropic Substances places a special emphasis on controlling the process of cultivation and production of cannabis for medical and scientific purposes and envisages the establishment of an Agency for Control of Cultivation and Production of Cannabis and cannabis products for medical and scientific purposes. With the establishment of this Agency as an independent body, new jobs will be created and greater control will be established over the process of cultivation and production of cannabis for medical and scientific purposes. The guaranteed sale of the produced cannabis for medical purposes will result into reduction of the amount of stored cannabis in the warehouses of the legal entities that have a license for its production. This in turn will reduce the risk of potential thefts and security implications.

Non-compliance with the provisions of the proposed law may lead to many negative consequences from a security point of view, primarily because the violations aim at obtaining illegal property gain while committing numerous crimes. The most common offenses are the misuse of cannabis production licenses, and there has been a history of cases of production of larger quantities of vegetative plants than those provided in the cultivation report. If this is neglected, it could end up on the drug market in our country or be part of drug trafficking on the international criminal scene. Should the vegetative cannabis plants fail to meet the quality requirements, i.e., the required concentration of THC, the plants cannot be exported. In such cases it is very likely that the cannabis will be distributed on our drug market or exported illegally abroad. Violation of this law, including abuse of licenses for production, processing, import, export, etc. goes hand in hand with committing numerous crimes (corruption, money laundering, abuse of work position, unauthorized production and distribution of narcotic drugs, psychotropic substances and precursors, enabling the use of narcotic drugs and psychotropic substances.

If we take into account the geo-strategic position of Macedonia and the fact that Macedonia is a transit country for the Balkan route, there is still a significant amount that remains in our area. This does not exclude the possibility of involvement in cannabis smuggling on the international criminal scene. We have witnessed thefts of stored cannabis from warehouses, despite the fact that 24-hour physical and technical security is required, as
well as strict conditions for the storage space, fencing, etc. Where did that large amount of cannabis end up? There are two possibilities: it was either placed on the domestic drug market, or smuggled out of our country. This is an indication for a well-organized criminal group, which skillfully uses the high rate of corruption in our country and achieves its goals. This means that our problem is systemic, i.e., there is top-down involvement. The main route of cannabis is from Albania through its north-western and south-eastern part towards Greece and Bulgaria. (Bogdanova-Smilevska, 2017) Albanians organize and control the smuggling process, whereas Macedonians act as couriers. (Batkoski, 2002) Drug groups use our emigrants in Turkey and Western Europe in order to maintain the connection between Macedonia and these countries. Cannabis is typically exchanged for heroin by recruiting our citizens in Turkey, who repackage or transport heroin from Afghanistan to Macedonia or help in any other way. Couriers are generally used only once and are then replaced with new ones. The second option is for our citizens to bring drugs from Turkey directly into the Czech Republic, Germany, Sweden or other countries, where they visit their relatives. (Todorovski, 2012) Drug crime in Macedonia exists on the criminal scene and being a transit country we are exposed to the security risks of the legally produced cannabis being used in illicit trade, or Macedonian companies that produce cannabis to be involved in legalization of smuggled cannabis from Albania and Kosovo in order to further export it legally to Turkey.

What this law may pose as the greatest security threat is the announced legalization of marijuana for recreational purposes. When something is allowed, it becomes decriminalized and very difficult to control. The decriminalization and full legalization of marijuana, which has been announced to be conducted by the current government after the adoption of the proposed law, has caused commotion in Macedonia. Economic benefits and the development of tourism and catering, is the priority, and not human health. Hypothetically, if marijuana is first legalized in tourist places in the country, it will mean open borders of marijuana. If we assume that legalizing marijuana in tourist places attracts foreign tourists, we may as well expect it will attract domestic tourists. This implies over crowdedness and a burden for our tourist centers, which complicates the control and endangers the safety of the citizens. Marijuana may well be the only reason to visit our tourist centers. It will be an incentive for unauthorized production, processing and distribution of marijuana inside and outside our borders. Moreover, it is an exceptional opportunity for the development of cross-border crime, a favorable ground for organized criminal groups and associations to act on the international criminal scene. Drug abuse-related crime rates would be rising, and it would be difficult to establish control due to cross-border prevalence. The proximity of our tourist centers to the neighboring countries is an exceptional opportunity for criminal groups to improve the methods of transport by land and water, and the high rate of corruption in our country makes it easier for them to achieve their goals. The legalization of marijuana in our country would be a time bomb for the whole Balkans. Furthermore, if marijuana is legalized, a large amount will be distributed on the black market in our country and will end up in the hands of the young people. The commercial use of marijuana would primarily affect our youngsters. It is extremely difficult to protect them from something that is allowed. The legalization of marijuana would stimulate their curiosity, and popular social networks would make it easily accessible to them. That would lead to an increase in the number of marijuana addicts. The higher the number of consumers, the greater the demand for marijuana. This raises other questions about primary and secondary prevention. What preventive measures would be effective and how could they be implemented? How much can the overall situation be put under control and what strategy will be adopted? Protecting citizens’ health and their safety should be a priority of every country. Regarding the
development of tourism and service activities, we have many natural resources, and special emphasis should be placed on their promotion and projects that could contribute to their economic growth.

6. CONCLUSION

The above analysis indicates the need to amend the existing Law on the Control of Narcotic Drugs due to achieving the following goals: prevention and suppression of the abuse of narcotic drugs and psychotropic substances; prevention of illicit production and trafficking of narcotic drugs, psychotropic substances and plants from which narcotic drugs can be obtained, and substances that can be used for the production of narcotic drugs or psychotropic substances, and protection of human life and health, as well as control of the use and quality of narcotics and psychotropic substances. Also, the adoption of the new Law on the Control of Narcotic Drugs and Psychotropic Substances will have positive effects on the development of the economy, effective control and reduction of the security risk of theft of stored cannabis.

The draft of the new Law on the Control of Narcotic Drugs and Psychotropic Substances places special emphasis on controlling the process of cultivation and production of cannabis for medical and scientific purposes and envisages the establishment of an Agency for Control of Cultivation and Production of Cannabis and cannabis products for medical and scientific purposes. With the establishment of this Agency as an independent body, new jobs will be created and greater control will be established over the process of cultivation and production of cannabis for medical and scientific purposes.

The guaranteed sale of the produced cannabis for medical purposes will result into reduction of the amount of the stored cannabis in the warehouses of the legal entities that have a license for its production. This in turn will reduce the risk of potential thefts and security implications.

Last but not least is what this law may pose as the greatest security threat is the announced legalization of marijuana for recreational purposes. When something is allowed, it becomes decriminalized and very difficult to control. This implies over crowdedness and a burden for our tourist centers, which complicates the control and endangers the safety of the citizens.

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