

## Legal status of Cannabidiol

**Blebea Nicoleta Mirela<sup>1 2</sup>**

<sup>1</sup>Resident year III, specialty Clinical Pharmacy, Ovidius University of Constanța, Faculty of Pharmacy, <sup>2</sup>Assistance Prof. Dr., Ovidius University of Constanța, Faculty of Pharmacy, Discipline Pharmacology and Pharmacotherapy

[nicoleta.blebea@gmail.com](mailto:nicoleta.blebea@gmail.com)

**Abstract.** The plant *Cannabis sativa* L., is a dioecious species belonging to the familie *Cannabaceae*, nated to Central Asia, with a long history. The first data on the use of this plant date from 2500 BC [1]. In Europe, the plant began to be cultivated between the 14th and 15th centuries, during which time it played an important role in agriculture, helping economic growth. In the Western world, it was increasingly used in nineteenth-century medicine [2]. It was cultivated worldwide in the 18th and 19th centuries as a source of fiber, food and oil. The main ingredients of hemp oils are phytocannabinoids such as cannabidiol (CBD) and terpenoids. The main active compound in the plant is  $\Delta$ -9-tetrahydrocannabinol ( $\Delta$ -9-THC), which is largely responsible for the psychoactive effects that made Indian hemp famous. While  $\Delta$ 9-THC has returned to the attention of researchers, other constituents of cannabis, such as CBD, have been studied in recent years for its therapeutic uses [3]. Hemp has gained substantial attention in recent years due to the fact that an increasing number of countries legalized *Cannabis* for medicinal and recreational use. Taking into account the current legislation, there are small differences in the amounts of THC allowed in hemp preparations, ranging from 0.05 to 0.6%. As a result, if the plant contains THC it has a high illicit use and interest, therefore its cultivation is prohibited by national laws [4]. Among the illicit cannabis preparations, we can mention the following: marijuana (a mixture of leaves, flowers and seeds of the hemp plant), hashish (obtained from unfertilized buds) and also oils that can be easily prepared [5]. Globally, the use of cannabis-derived preparations in the medical field has a long history. In the twentieth century, consumption became limited until March 30, 1961, when the *Cannabis* plant and cannabinoids were classified in the Single UN Convention as non-medical substances. In recent years, however, patients' interest in the use of cannabinoids has increased [6]. CBD, the main phytocannabinoid obtained from *Cannabis sativa*, brings new hope to patients suffering from a wide range of conditions: pain, inflammation, epilepsy, sleep disorders, multiple sclerosis, anorexia, schizophrenia, cancer.

**Keywords.** cannabidiol, legal status, cannabis, medicinal purposes, recreational purposes

### Introduction

The plant *Cannabis sativa* L., is a dioecious species belonging to the familie *Cannabaceae*, nated to Central Asia, with a long history. The first data on the use of this plant date from 2500 BC [1]. In Europe, the plant began to be cultivated between the 14th and 15th centuries, during which time it played an important role in agriculture, helping economic growth. In the Western world, it was increasingly used in nineteenth-century medicine [2]. It

was cultivated worldwide in the 18th and 19th centuries as a source of fiber, food and oil. The main ingredients of hemp oils are phytocannabinoids such as cannabidiol (CBD) and terpenoids. The main active compound in the plant is  $\Delta$ -9-tetrahydrocannabinol ( $\Delta$ -9-THC), which is largely responsible for the psychoactive effects that made Indian hemp famous. While  $\Delta$ -9-THC has returned to the attention of researchers, other constituents of cannabis, such as CBD, have been studied in recent years for its therapeutic uses [3].

Hemp has gained substantial attention in recent years due to the fact that an increasing number of countries legalized *Cannabis* for medicinal and recreational use. Taking into account the current legislation, there are small differences in the amounts of THC allowed in hemp preparations, ranging from 0.05 to 0.6%. As a result, if the plant contains THC it has a high illicit use and interest, therefore its cultivation is prohibited by national laws [4]. Among the illicit cannabis preparations, we can mention the following: marijuana (a mixture of leaves, flowers and seeds of the hemp plant), hashish (obtained from unfertilized buds) and also oils that can be easily prepared [5].

Globally, the use of cannabis-derived preparations in the medical field has a long history. In the twentieth century, consumption became limited until March 30, 1961, when the *Cannabis* plant and cannabinoids were classified in the Single UN Convention as non-medical substances. In recent years, however, patients' interest in the use of cannabinoids has increased [6].

CBD, the main phytocannabinoid obtained from *Cannabis sativa*, brings new hope to patients suffering from a wide range of conditions: pain, inflammation, epilepsy, sleep disorders, multiple sclerosis, anorexia, schizophrenia, cancer.

### **Legislative and practical aspects**

In Romania, cannabis is regulated by two laws: Law 143 of July 26, 2000, on preventing and combating illicit drug trafficking and consumption, republished in the Official Gazette no. 163 of March 6, 2014 and Law 339 of November 29, 2005, on the legal regime of narcotic and psychotropic plants, substances and preparations published in the Official Gazette no. 1095 of December 5, 2005.

However, according to the interpretation of the legislation currently in force in our country, *Cannabis sativa* species and those that are cultivated for medicinal purposes remain unregulated [7]. Nationally, THC and 5 other isomers can be found in Table I of the drug class. This table made in 2005 and updated in 2018 contains plants and substances banned without a therapeutic effect, but CBD is not included in this list. *Cannabis plant*, cannabis resins, tinctures, extracts and Dronabinol® can be found in Table II which includes plants and narcotic substances with an interest in medicine, but which are subject to strict control [8].

Due to the high popularity, we can find a lot of CBD dietary supplements sold on the Internet or in the ceiling, but their concentration in active principle could be very low [7] or different from that stated on the label. Currently, in Romania, there is no pharmaceutical formulation that contains CBD and is approved by the National Agency for Medicines and Medical Devices (ANMDM). Many CBD-containing products are marketed due to the fact that CBD is not on the banned list, so CBD is considered legal [9].

In my opinion, these principles should also apply to cannabis-based foods, CBD oils, when they are illegally marketed as food supplements, unless the THC or even the extract is used of CBD, in combination with THC - in the latter case, the classification will be that of high-risk drug trafficking; if only the vegetal parts of the plant are used as raw material in the production process, then the classification will be that of high-risk drug trafficking [10].

I specify that, within the meaning of the Regulation, it refers to the plant *Cannabis sativa* L., as a species that includes the two varieties, respectively *sativa* and *indica*. As can be seen, in the matter of preventing and combating illicit drug trafficking, the legislator does not distinguish between the two varieties of cannabis, both being incriminated to the same extent, regardless of concentration or part of the plant, except for seeds [10].

In the judicial practice it was considered that the *Cannabis* plant with a maximum concentration of 0.2% THC and the processed parts of the plant fall under the incidence of Law no. 339/2005, and the cultivation, production or commercialization of these vegetal products, with the non-observance of the regime imposed by law, meets the constitutive elements of the crime of high-risk drug trafficking, provided by art. 2 para. (1) of Law 143/2000.

In our case, cannabis products with low THC (below 0.2%) have scientifically proven therapeutic and nutritional properties, being consumed safely in the European Union since 1995. The principles and legal provisions mentioned above also apply to products industrial hemp food (including food supplements). In addition, the normative acts regarding their commercialization and safety are also applicable. Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No. 764/2008 [10].

I emphasize that the legal limit of 0.2% THC refers only to raw hemp, as a raw material, and not the finished product - in the latter case, the actual concentration of the finished product is calculated separately and consumption limits are set.

### **Existing regulations at European Union level**

From the perspective of European regulations, the European Parliament is the institution that expresses its interest in the legislative framework in 2018, through the documents addressed to the Commission asking for clarifications. On 13 February 2019, the European Parliament adopted a resolution on the use of cannabis plant extracts for medical purposes, referring to several cannabinoids and their uses, precisely because of the need for a concrete legal status that can distinguish between the use of cannabis for medicinal purposes versus recreational purposes [11].

Although medical cannabis is legalized in some European Union (EU) member states, there are misinterpretations of international and European legislation regarding the legalization of cannabis for recreational purposes and the need for legal regulations for medical purposes.

In the medical field, the European Parliament, through the above-mentioned Resolution, warns of the need to establish a uniform standardization system for the marking, labeling of medicines containing THC, CBD and other cannabinoids from the *Cannabis* plant, which circulate and are used in the internal market as and the importance of the legal framework for the marketing of cannabis-based medicines. The legal status of cannabinoids differs from country to country, as there are countries where both THC and CBD fall into the same class of banned substances, while in other states CBD-containing products are legalized [12]. For this reason I consider this article of the legal status of CBD, worldwide is an interesting topic for pharmaceutical professionals.

The benefits of using cannabinoids for medical purposes are already known, but due to their pharmacotoxicological profile, it is important to place them in an appropriate legislative framework.

Cannabis smoking for medical purposes has not been allowed in any of the EU countries. To date, Sativex® and Epidiolex® are cannabis-based drugs that contain CBD and can be prescribed to patients [13].

In 2001, the Netherlands was the first European country to legalize medical cannabis. This was done through the Office of Medicinal Cannabis (WTO), an agency of the Dutch government, which has a monopoly on the market for the supply of medical cannabis to pharmacies and doctors, according to the UN Convention of 1961. In 2003, the Netherlands is the first European country to cannabinoids have been available in pharmacies [13].

### **Existing regulations worldwide**

Many CBD-containing supplements are marketed worldwide and none of the manufacturers have been banned. In the US, the FDA does not recommend the use of CBD supplements due to the unknown concentration of CBD.

In the coming years, the business of CBD food supplements is expected to reach billions of euros worldwide. Supplements are defined as nutritional products whose purpose is to supplement a normal diet. They are concentrated sources of nutrients or other substances marketed with nutritional effects in the form of capsules, tablets, pills, ampoules of liquid or powder. Nutrients are defined as vitamins and minerals. Because CBD is an active pharmaceutical ingredient that cannot be included in the vitamin class and has no physiological effects, the use of CBD in dietary supplements is not legal in all countries [8].

However, since 2012, the medical use of cannabis, including CBD, has been a reality in some US states, and the law includes the "recreational" use of cannabis. California was the first state to legalize medical cannabis in 1996.

In the US, CBD is listed as a controlled substance in Annex I of the Code of Federal Regulations, described as a "derivative" or "component" of marijuana [14]. To be FDA approved, the CBD-containing product must contain less than 0.1% THC. Even though hemp cultivation has become legal in the United States, the FDA maintains its authority in checking products that contain hemp or hemp-derived compounds. Given that many dietary supplements containing CBD are sold in the United States, the FDA said that in addition to Epidiolex®, there are no other pharmaceuticals with accepted formulations that contain only CBD and do not recommend the use of supplements found on the market because CBD is a substance with restricted use and cannot be legally marketed in supplements. There are a lot of CBD-containing supplements in the US that have been banned due to differences in the declared concentrations of CBD on the label [15].

However, by accepting the Epidiolex® solution, the FDA recognizes the benefit and therapeutic effect of CBD. In Canada, cannabis and its products remain Annex II substances under the Drugs and Controlled Substances Act. Its production and distribution for medical purposes are regulated, the medical use of CBD is allowed only on prescription [16].

Laws governing the medical use of CBD in Brazil have been amended in recent years. In January 2015, the Brazilian Regulatory Agency ANVISA decided to reclassify CBD from Regulation I (banned substances, such as THC) into a controlled substance, in the same category as antidepressants [16].

Since 2015, Australia has regulated CBD in therapeutic preparations containing 2% or less of other cannabinoids in Annex 4 as "a prescription-only medicinal product or as a prescription animal remedy". Prior to that, it was listed in Annex 9 as a banned substance [17].

In New Zealand, CBD was a controlled substance, but many of the restrictions were removed at the end of 2017. The changes meant that products with CBD, where the level of other natural CBs is less than 2% of the content, are easier to access for medical use [18].

Globally, cannabis-based medical programs have been approved in more than 40 countries. The legality of CBD is not a clear global notion. Canada's measure to legalize

cannabis in October 2018 further highlights the need for a speedy solution to the legal status of cannabinoids [19], which differs from country to country because there are countries where THC and CBD are classified in the same class of banned substances, while in other countries products containing CBD are legal [20].

Practically the use of cannabis for medical use is legal in many countries, including Greece, Italy, the Netherlands, Poland, the United Kingdom and Germany; Australia, Canada, Chile, Columbia, Israel, Italy, Peru. CBD is legal in Austria, Belgium, Bulgaria, Cyprus, Estonia, Finland (by prescription), France, Ireland, Latvia, Lithuania, Luxembourg, Malta (by prescription), Portugal and Slovenia provided that it has a THC content below 0.2%. CBD is illegal in Slovakia and banned in Croatia. Topically administered CBD products are legal in Denmark, the condition being less than 0.2% THC and they are available on prescription. In Sweden, CBD-based products have not been legalized so far.

### Conclusions

The interpretable nature of the legislation on drug operations, as well as its lack of concordance with medical and social reality, require regulations from the legislator, in order to update the legislative framework, either by adopting new laws or by amending or supplementing existing ones.

In this regard, the draft *Victoria* normative act was submitted to the parliament, which aims to establish a necessary legislative framework to regulate the operations of cultivation of the *Cannabis* plant, as well as those of production, manufacture, storage, trade, distribution, transport, possession, intermediation, acquisition, use and transit on the Romanian territory, for medical purposes of preparations containing cannabis in accordance with the European regulations regarding them.

In order to harmonize the legislation with the new evolutions of the legal status at European and global level, I consider that the most appropriate solution would be the elaboration of a distinct draft law on the legal regime and the modification of the related normative acts.

### References

- [1] Abrams, D.; Guzman, M. Cannabis in cancer care. *Clin. Pharmacol. Ther.* 2015, 97, 575–586, doi:10.1002/cpt.108.
- [2] Zuardi, A.W. History of cannabis as a medicine: a review. *Rev. Bras. Psiquiatr.* 2006, 28, 153–157, doi:10.1590/S1516-44462006000200015.
- [3] Ibarra-Lecue, I.; Pilar-Cuéllar, F.; Muguruza, C.; Florensa-Zanuy, E.; Díaz, Á.; Urigüen, L.; Castro, E.; Pazos, A.; Callado, L.F. The endocannabinoid system in mental disorders: Evidence from human brain studies. *Biochem. Pharmacol.* 2018, 157, 97–107, doi:10.1016/j.bcp.2018.07.009.
- [4] Wilkinson, S.T.; Radhakrishnan, R.; D'Souza, D.C. A Systematic Review of the Evidence for Medical Marijuana in Psychiatric Indications. *J. Clin. Psychiatry* 2016, 77, 1050–1064, doi:10.4088/JCP.15r10036.
- [5] Ashton, C.H. Pharmacology and effects of cannabis: A brief review. *Br. J. Psychiatry* 2001, 178, 101–106, doi:10.1192/bjp.178.2.101.
- [6] Home | National Academies Available online: <https://www.nationalacademies.org/> (accessed on Oct 28, 2021).
- [7] Parlamentul României Legea nr 339/29.11.2005 privind regimul juridic al plantelor, substanțelor și preparatelor psihotrope, Monitorul Oficial al României, nr. 1095/05.12.2005.
- [8] Vlad, R.A.; Hancu, G.; Ciurba, A.; Antonoaea, P.; Rédei, E.M.; Todoran, N.; Silasi, O.;

- Muntean, D.L. Cannabidiol - therapeutic and legal aspects. *Pharmazie* 2020, 75, 463–469, doi:10.1691/ph.2020.0076.
- [9] ANM Lista medicamentelor din Nomenclator - ANMDM - Nomenclatorul medicamentelor pentru uz uman Available online: <https://www.anm.ro/nomenclator/medicamente> (accessed on Oct 28, 2021).
- [10] Constantin, E.; Câteva considerații referitoare la relevanța penală a concentrației de THC în cazul traficului ilicit de canabis, *Universul Juridic Premium* nr. 3/2021.
- [11] Motion for a resolution on use of cannabis for medicinal purposes - B8-0071/2019.
- [12] Corroon, J.; Kight, R. Regulatory Status of Cannabidiol in the United States: A Perspective. *Cannabis Cannabinoid Res.* 2018, 3, 190–194, doi:10.1089/can.2018.0030.
- [13] Biryukov, P.N. The European Monitoring Centre for Drugs and Drug Addiction. *Drug Control* 2020, 1, 38–41, doi:10.18572/2072-4160-2020-1-38-41.
- [14] Mead, A. The legal status of cannabis (marijuana) and cannabidiol (CBD) under U.S. law. *Epilepsy Behav.* 2017, 70, 288–291, doi:10.1016/j.yebeh.2016.11.021.
- [15] Title 21 United States Code (USC) Controlled Substances Act. *DEA Off. Divers. Control*.
- [16] Crippa, J.A.; Guimarães, F.S.; Campos, A.C.; Zuardi, A.W. Translational Investigation of the Therapeutic Potential of Cannabidiol (CBD): Toward a New Age. *Front. Immunol.* 2018, 9, 2009, doi:10.3389/fimmu.2018.02009. Government, A.
- [17] Australian Government Department of Health Available online: <https://www.health.gov.au/resources/pregnancy-care-guidelines/part-g-targeted-maternal-health-tests/vitamin-d-status%0Ahttps://www.health.gov.au/health-topics/medicare%0Ahttps://www.health.gov.au/health-topics/mental-health%0Ahttp://www.health.gov.au/inte> (accessed on Oct 28, 2021).
- [18] Ministry of Health Ministry of Health NZ Available online: <https://www.health.govt.nz/our-work/populations/maori-health/tatau-kahukura-maori-health-statistics/nga-mana-hauora-tutohu-health-status-indicators/cardiovascular-disease> (accessed on Oct 28, 2021).
- [19] Shannon, S. Cannabidiol in Anxiety and Sleep: A Large Case Series. *Perm. J.* 2019, 23, 18–041, doi:10.7812/TPP/18-041.
- [20] Lafaye, G.; Karila, L.; Blecha, L.; Benyamina, A. Cannabis, cannabinoids, and health. *Dialogues Clin. Neurosci.* 2017, 19, 309–316, doi:10.31887/DCNS.2017.19.3/glafaye