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**SCIENCE FOR  
DEMOCRACY**

# ITALY: THE LEGAL MAP ON DECRIMINALISATION POLICIES

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# THE LEGAL FRAMEWORK ON DRUG POLICIES IN ITALY

- **Legal framework**

Italy's model of decriminalisation is codified in the country's laws through statutory reforms, and was introduced in 1990, with the [Decree of the President of the Republic No 309 of 9 October 1990](#).

- **Decriminalised activities**

Possession of any drug, Cultivation of cannabis only, Social supply of cannabis only

- **Thresholds**

In Italy, police decide on whether possession is for personal use through the following considerations: the circumstances of the specific case, such as the act, possession of tools for packaging, different types of drugs possessed, the number of doses in excess of an average daily use, the means of organisation, etc.

- **Sanctions**

Confiscation of drugs, warning, fine, suspension of driver license or other privileges, voluntary referral to treatment.

# THE IMPLEMENTATION OF THE LAW

If you are caught in possession of a small quantity of any scheduled drug you risk confiscation of the drugs and face a fine of up to (specify amount) and/or other administrative penalties including suspension of driving licence or other privileges and/or voluntary referral to treatment and/or a warning.

Possession for personal use remains an offence, and the person caught with small quantities of drugs must prove that the drug was meant for personal use to avoid criminal sanctions. Since the implementation of Law 79 of 16 May 2014, a distinction is made between less dangerous drugs in Schedules II and IV and more dangerous drugs in Schedules I and III. Sanctions for personal possession offences of less dangerous drugs may be 1 to 3 months' loss of privilege, for example suspension of driving licence, whereas for more dangerous drugs it is 2-12 months' loss of privilege. A socio-rehabilitation and therapeutic programme may be offered in addition to sanctions.

In December 2019 Italy's Supreme Court, the Cassation Court, decided "at home, small-scale cultivation activities [of cannabis] are to be considered excluded from the application of the penal code."

# THE LEGAL TURNING POINTS

- In 1990, to implement the ratification of the [1988 UN Convention](#) and mimic the US War on Drugs, Italy adopted one of the most prohibitionist and punitive drug laws in Europe, known as *Jervolino-Vassalli*. Sentences for personal possession could range from seven to 20 years in prison.
- Then in 1993, after a referendum promoted by the Radical Party, personal drug use was substantially decriminalized. Despite the lack of structural application of the changes to the law, this less harsh situation [lasted until 2006](#), when a punitive law—dubbed *Fini-Giovanardi* after the two members of government who proposed it—introduced a series of new rules. These once again increased penalties, both criminal and administrative, for drug-related crimes—including possession. Most importantly, the law rescheduled cannabis, placing it in the “hard drugs” section.
- That situation lasted until 2014, when the *Fini-Giovanardi* was struck down by the Constitutional Court—not for the disproportionality of the law, but because of the way in which it was adopted. To fill the void left by the judges’ decision, parliament made cannabis a Schedule II drug and significantly reduced penalties—*de facto* decriminalizing personal use.

# THREE KEY ISSUES IN THE ITALIAN LEGISLATION

## A. Industrial Hemp

Was regulated in December 2016 without much specification on the final use of dried leaves of cannabis. The law spoke about collection purposes, a vague definition that created a grey area exploited by prohibitionist politicians that spoke about "the state has become a pusher". So any country that is undertaking the legal regulation of industrial hemp should be as specific as possible not only in the percentage of THC allowed (Italy's tolerates up to 0,5%) but also what can be done with the final products (of course one could also smoke a dried banana so there is no need to specify too much, but at least, in addition to edible and alimentary supplements, the possibility of producing inflorescences should be clarified.

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## B. Medical Cannabis

Was regulated in 2014, after a one-year pilot project and additional two-year test was organized. Italy produces CBD rich inflorescences at a military pharmaceutical facility and imports THC and THC/CBD rich products from the Netherlands and, since 2017 from Germany after a tender. Italy's experience tells us that, while it is necessary to cultivate clones to have stabilized percentages of active principles products in GMP (good manufacturing practice), setting a fixed price, applying taxes like commercial products and not medicines and restricting the possibility for pharmacies to advertise the products. Also, after an initial pilot projects produced by a state-owned and operated enterprise public/private partnerships should be established to meet demand (italy is systematically undersupplied). Crucial to carry out researches on the plants produced to better their quality or imply them in other

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## C. Penalties Proportionality

Over the last couple of years both the Constitutional Court and the Cassation Court have adopted sentences in which they clarify that penalties of possession of small quantities, or a very limited number of plants, should be treated with proportional penalties - that is none. Those decisions are at time the result of individual complaints, at times an general clarification needed after several sentences are adopted at the local level, some other time because, generally speaking, there is a growing philosophical movement towards lessening penalties for crimes without a victim. A similar movement is happening within the EU and that is why we believe and ECI could accompany those negotiation with a more direct public engagement.

Thank you for  
your  
attention!

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