

Life Sciences & Healthcare Update

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Ukraine Pivots In 2021 Offering Alternative Touch to Its Investment Profile. Part 1: Medical Cannabis Pending Legalisation



Exactly a year and a half ago, one of our large Middle Eastern clients in the beauty industry expressed interest in expanding internationally. The plan was to launch production in Ukraine. The trick was that the business, which historically had relied on the use of high-end natural ingredients available for extraction within the limited area, transformed and started using the cannabis extracts. Back then, Ukraine was not ready to consider any cannabis related topics and ventures, let alone secure specific legal framework favouring the use of marijuana for medical and business purposes. Quite to the contrary, it did not allow the use of cannabis and its extracts, regardless of the initial purpose, imposing liability on offenders, and continues to do so. Today, however, the state agenda has partly changed, and so has Ukraine's investment strategy, along with the national awareness of this niche's potential.

Serving our overseas clients from the healthcare industry, we are pleased to shed light on the relevant developments in the Ukrainian legal environment underpinning the use of cannabis and that is expected to undergo favourable transformation in the foreseeable future.

Progress made in Ukraine

The past year debate over the validation of medical cannabis and disruption of the healthcare industry in Ukraine has proved timely. With an increasing international approval of the use of cannabidiol for medical treatment, including as confirmed by the World's Healthcare Organisation, as well as through amended legislation in numerous developed markets, Ukraine has opted not to fall behind, too.

In fact, the discourse started long time ago. There followed the adoption of the Strategy of the State Drug Policy for the Period up to 2020 under the government decree No. 735-p dated 28 August 2013. In principle, the Strategy noted the overregulation of the access to and use of narcotic drugs and suggested some universal solutions. Those included enhancing the control procedures applicable to the use of drugs and seeking to lift excessive restrictions, and facilitating the business of production of cannabis without and with low quantities of tetrahydrocannabinol (the "THC").

In 2019, there was registered with the Ukrainian parliament a draft Law No. 10313 Seeking to Amend the Laws of Ukraine Securing the Person's Fundamental Right to Life. The draft law sought to soften the conservative legal landscape governing the healthcare. While a relevant e-petition promoting legalisation of cannabis was approved by then a parliamentary committee on Human Rights, National Minorities and Interethnic Relations, the draft law was later withdrawn.

In 2020, the momentum continued, followed with a set-up of a working group in the parliament engaged in drafting of a law legalising the use of medical cannabis in Ukraine.

Separately, on 29 December 2020, a brand-new pro-Western party registered with the Ukrainian parliament a draft Law No. 4553 Seeking to Amend the Laws of Ukraine Governing the Use of Cannabis for Medical Science and Industry (the "Cannabis Law" / "Draft Law 4553").

Applicable yet dated regulations

The Ukrainian healthcare laws that govern the use of medical drugs, including cannabis and its derivatives, are heavily obsolete and may be updated in conformity with international standards soon. This may cover, among others, the level of control exercised in respect of drugs with varying quantities of THC.

While the Single Convention on Narcotic Drugs, 1961, as adopted by Ukraine, provides for the limited use of narcotic drugs, psychotropic substances and precursors, particularly for medical science and industry, Ukraine seems to have deviated from this practice.

At present, the circulation of cannabis, cannabis resins, extracts, tinctures, THC is strictly prohibited under the law. The Law of Ukraine No. 60/95-BP dated 15 February 1995 On Narcotic Drugs, Psychotropic Substances and Precursors defines the above substances as particularly hazardous and exempt from use as per the List of Narcotic Drugs, Psychotropic Substances and Precursors adopted by the government decree No. 770 dated 6 May 2000.

Additionally, any use and production of cannabinoids, including for scientific purposes, would entail administrative and criminal liability under the Ukrainian Code on Administrative Offences and the Criminal Code.

Expected changes under Cannabis Law

Draft Law 4553 seeks to resolve the marijuana related issue and so introduces a comprehensive framework aiming at facilitating the legalised use of cannabis and its derivatives, for medical science and industry.

Among others, the Law proposes allowing the use of certain narcotic drugs and substances to secure patients' right to healthcare, and enabling the use of drugs for medical care to patients migrating to/from and transiting Ukraine.

It defines medical and industrial cannabis as herbs with THC exceeding 1 or up to 1 percent on a dry-weight basis, respectively. It also promotes, on a state level, the creation of a framework allowing cultivation and circulation of sorts and quantities of medical and industrial cannabis and derived drugs, for their use in the healthcare, science and industry.

In respect of control, Draft Law 4553 applies licensing to the cultivation of medical cannabis, proposing the issue of a single license per thousand herbs, unless increased. It clarifies the documents that need to be submitted and the review procedure to be conducted, upon which a permit is issued granting the use of facilities for the circulation of narcotic drugs, psychotropic substances and precursors. It further specifies the cases where no permit is required.

Additionally, the Law introduces technical and reporting requirements for the cultivation that need to be satisfied, as well as sets out conditions for production, storage, shipment, imports-exports of the above products subject to applicable restrictions. The use of the products in science and studies, subject to licensing and quantity limitations, is suggested being legalised, too.

The Draft Law sets an imports-exports-transit procedure for shipment of industrial hemp and its derivatives, as well as applies no quota to the cultivation and exports of industrial hemp, along with the exports of medical hemp and its processed and derived products for use in the healthcare and science practice.

Future opportunities

Notwithstanding the severity of the legal framework currently applicable to the use of cannabis in Ukraine, amidst the common understanding of the drug's favourable potential and its expanded acceptance overseas in the recent years, positive changes may be expected soon.

By legalising medical cannabis, Ukraine would not only help attract more domestic and foreign investment but also secure improvement of its healthcare system. This is certainly a win-win for all – the patients, the state, domestic and overseas businesses and commerce operators.

Key contact:

Should you be interested in pursuing investment or other opportunities in the area and require more details, to this end, or in case of any related or other queries, please reach out to Serhiy or your alternative contact at BOULDERS.



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