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COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.: C(2024) 821 final

Subject: COMMISSION IMPLEMENTING DECISION of 6.2.2024 on the request for registration, pursuant to Regulation (EU) 2019/788 of the European Parliament and of the Council, of the European citizens' initiative entitled 'European Cannabis Initiative'

Delegations will find attached document C(2024) 821 final.

Encl.: C(2024) 821 final



Strasbourg, 6.2.2024
C(2024) 821 final

COMMISSION IMPLEMENTING DECISION

of 6.2.2024

on the request for registration, pursuant to Regulation (EU) 2019/788 of the European Parliament and of the Council, of the European citizens' initiative entitled 'European Cannabis Initiative'

(Only the English text is authentic)

COMMISSION IMPLEMENTING DECISION

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on the request for registration, pursuant to Regulation (EU) 2019/788 of the European Parliament and of the Council, of the European citizens' initiative entitled 'European Cannabis Initiative'

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/788 of the European Parliament and of the Council of 17 April 2019 on the European citizens' initiative¹, and in particular Article 6(2) and (3) thereof,

Whereas:

- (1) A request for registration of a European citizens' initiative entitled 'European Cannabis Initiative' was submitted to the Commission on 12 January 2024.
- (2) That request follows the request for registration of a European citizens' initiative with the same title, which was submitted to the Commission on 6 November 2023.
- (3) By letter of 6 December 2023 (C(2023) 8548 final), pursuant to Article 6(4) of Regulation (EU) 2019/788, the Commission informed the group of organisers that as regards the request for registration submitted on 6 November 2023, the requirements for registration set out in Article 6(3), first subparagraph, points (a), (d) and (e), of that Regulation were fulfilled and that Article 6(3), first subparagraph, point (b), thereof was not applicable. However, the Commission also explained that the initiative did not fulfil the requirement set out in Article 6(3), first subparagraph, point (c), of Regulation (EU) 2019/788 as regards the first and second of the four objectives. The first objective calls on the Commission 'to invite Member States to promote human rights-centred cannabis policies that exclude the imposition of criminal and administrative sanctions for adult use, possession and cultivation of the plant and its derivatives for personal purposes'. While Article 83 of the Treaty on the Functioning of the European Union (TFEU) provides a legal basis for establishing minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension (including illicit drug trafficking), excluding certain conduct from criminalisation exceeds the establishment of minimum rules. Likewise, the Treaties do not provide for an adequate legal basis for the exclusion of administrative sanctions for such conduct. Similarly, the second objective, calling on the Commission 'not to interfere in Member States' choices to adopt regulations for a legal market for adult use of cannabis in response to their national situation', falls manifestly outside the Commission's powers to propose

¹ OJ L 130, 17.5.2019, p. 55, ELI: <http://data.europa.eu/eli/reg/2019/788/oj>

legislation, as that objective would not contribute to the establishment and functioning of the internal market, as required under Article 114 TFEU. As regards the third and fourth objectives, the Commission concluded that these do not manifestly fall outside its powers to propose a legal act for the purpose of implementing the Treaties.

- (4) The Commission therefore informed the organisers pursuant to Article 6(4), first subparagraph, of Regulation (EU) 2019/788 that they could either amend the initiative to take into account the Commission's assessment, or maintain, or withdraw, the initial initiative in accordance with Article 6(4), second subparagraph, of Regulation (EU) 2019/788.
- (5) On 12 January 2024, the group of organisers submitted an amended initiative.
- (6) The objectives of the amended initiative, as expressed by the organisers, are three-fold. First, the organisers call on the Commission to 'Convene a Transeuropean Citizens' Assembly about cannabis policies in a larger perspective on: a common scale of sanctions throughout the EU; the consistency of the Member States' policies; EU citizens' opportunity to discuss among themselves and with the Institutions on this sensitive subject'. Second, the organisers call on the Commission to 'foster access to medical cannabis based on scientific evidence and the experiences of patients, and to allow patients the transportation of cannabis and any of its derivatives prescribed for therapeutic uses throughout the EU in order to ensure the full enjoyment of the right to health'. Third, the organisers ask the Commission to 'allocate the necessary resources for researching cannabis – including in herbal and traditional medicine – for its therapeutic uses and to share them internationally'.
- (7) The second and third objectives are the same as the third and fourth objectives of the initiative submitted on 6 November 2023.
- (8) An annex to the amended initiative provides further details on the subject matter, objectives and background to the initiative. It states that the Union 'has progressively adopted common positions on innovative approaches to human right-centred drug policies' and that several Member States 'have pursued significant changes in their national policies that deal with non-medical and non-scientific use of cannabis'. It refers to Council Framework Decision 2004/757/JHA², stating that 'it is no longer in line with the latest developments in the field of drug control and does not reflect international and national recommendations' including those in a 2023 report of the United Nations High Commissioner for Human Rights. That annex also refers to the EU Strategy on Drugs and notes that the 'lack of significant progress in the containment of illicit narcotics around Europe imposes a radical rethinking of the approach that for decades has not reduced drug demand and supply'.
- (9) As regards the first objective of the amended initiative, the Commission understands that the group of organisers calls on it to convene a trans-European citizens' assembly or a similar forum to discuss cannabis policies in a broader perspective. The organisers are not calling for a Commission proposal for a legal act of the Union for the purpose of implementing the Treaties.

² Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking (OJ L33, 11.11.2004, p. 8, ELI: http://data.europa.eu/eli/dec_framw/2004/757/oj).

- (10) Article 11(4) of the Treaty on European Union and Article 1 of Regulation (EU) 2019/788 confer a right on citizens of the Union to invite the Commission, within the framework of its powers, to submit any appropriate proposal on matters where those citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties.
- (11) Article 6(3), first subparagraph, point (c), of Regulation (EU) 2019/788 states that the Commission shall register the initiative if ‘none of the parts of the initiative manifestly falls outside the framework of the Commission’s powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties’.
- (12) Insofar as the first objective of the amended initiative is concerned, the Commission concludes that it does not fulfil the legal requirement in Article 6(3), first subparagraph, point (c), of Regulation (EU) 2019/788, as it does not call on the Commission to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties.
- (13) As regards the second objective of the amended initiative, Article 168(6) TFEU would allow the Commission to propose a Council recommendation for the purposes set out in Article 168 TFEU on public health. Such a recommendation could invite Member States to: (a) ‘foster access to medical cannabis based on scientific evidence and the experiences of patients’ and (b) ‘allow patients the transportation of cannabis and any of its derivatives prescribed for therapeutic uses throughout the EU in order to ensure the full enjoyment of the right to health’, as long as in both cases the scope is limited to legal uses of cannabis. Article 168 TFEU does not however provide a legal basis for measures involving harmonisation of Member States’ legislation in this field.
- (14) As regards the third objective of the amended initiative, Articles 173(3), 182(1), 183 and the second paragraph of Article 188 TFEU would, in principle, allow the Commission to propose a legal act of the Union to allocate resources to research.
- (15) For those reasons, the proposed citizens' initiative should be partially registered, as regards the second and third objectives, in accordance with Article 6(4), third subparagraph, point (b), of Regulation (EU) 2019/788, as only those parts of the initiative do not manifestly fall outside the framework of the Commission’s powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties.
- (16) That conclusion does not affect the assessment of whether the concrete substantive conditions required for the Commission to act, including compliance with the principles of proportionality and subsidiarity and compatibility with fundamental rights, would be met in this case.
- (17) The group of organisers has provided appropriate evidence that it fulfils the requirements laid down in Article 5(1) and (2) of Regulation (EU) 2019/788 and has designated the contact persons in accordance with Article 5(3), first subparagraph, of that Regulation.
- (18) The initiative is not manifestly abusive, frivolous or vexatious, nor is it manifestly contrary to the values of the Union as set out in Article 2 of the Treaty on European Union or to the rights enshrined in the Charter of Fundamental Rights of the European Union.
- (19) The initiative entitled ‘European Cannabis Initiative’ should therefore be partially registered with respect to its second and third objectives. Statements of support for this

initiative can thus be collected inasmuch as the initiative concerns those two objectives.

- (20) The conclusion that the conditions for partial registration under Article 6(4), third subparagraph, point (b), of Regulation (EU) 2019/788 are fulfilled does not imply that the Commission in any way confirms the factual correctness of the content of the initiative as registered, which is the sole responsibility of the group of organisers of the initiative. The content of the initiative as registered only expresses the views of the group of organisers, and can in no way be taken to reflect the views of the Commission,

HAS ADOPTED THIS DECISION:

Article 1

1. The European citizens' initiative entitled 'European Cannabis Initiative' shall be partially registered.

2. Statements of support for that initiative may be collected, as regards its second and third objectives, based on the understanding that it aims at proposals from the Commission for legal acts of the Union for the purpose of implementing the Treaties to:

(a) foster access to medical cannabis based on scientific evidence and the experiences of patients, and to allow patients the transportation of cannabis and any of its derivatives prescribed for therapeutic uses throughout the Union in order to ensure the full enjoyment of the right to health;

(b) allocate the necessary resources for researching cannabis for its therapeutic uses.

Article 2

This Decision is addressed to the group of organisers of the citizens' initiative entitled 'European Cannabis Initiative', represented by Francesca CAPUOZZO and Georg WURTH acting as contact persons.

Done at Strasbourg, 6.2.2024

For the Commission

Věra JOUROVÁ

Vice-President

