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Italy's cannabis policy has become increasingly complex over the past two years. Rather than moving in a single direction, the country is simultaneously experiencing tighter regulation of hemp and CBD products, continuing judicial scrutiny of those restrictions, and renewed parliamentary discussion of limited personal and associative cannabis cultivation.

These developments make Italy a particularly interesting case, as the ongoing debate spans several legally distinct areas – cannabis for non-medical use, medical cannabis, industrial hemp and cannabidiol (CBD) – which are often conflated in political debate and media coverage, despite being governed by different legal principles.

At the centre of the recent debate is a fundamental policy question: how far may a state go in restricting cannabis-related products in the name of public health and safety, and how far may it move in the opposite direction without creating tensions with European and international drug-control law?

A traditionally restrictive framework with limited judicial flexibility

Italian drug legislation continues to be based primarily on Presidential Decree No. 309/1990, the country's consolidated drug control law. Possession of cannabis intended exclusively for personal use is not treated as a criminal drug offence in the same way as trafficking and other forms of illicit drug activity. It may, however, lead to administrative sanctions, including the suspension of a driving licence or restrictions on other authorisations. Cultivation, production and supply may, by contrast, result in criminal liability.

At the same time, Italian courts have created limited scope for small-scale cultivation at home. In a landmark 2019 decision, the Court of Cassation held that cultivation may not constitute a criminal offence when it involves a small number of plants grown at home using rudimentary methods, produces only a very small quantity of cannabis, and the circumstances clearly show that it is intended exclusively for the grower's own use and is not connected to the illicit market.

This does not mean that home cultivation is generally legal in Italy. Instead, case law has created very limited scope in which the circumstances of each individual case determine whether the cultivation is subject to criminal liability.

In parallel, cannabinoid-based medicines have been developed and have been available under regulated medical and pharmaceutical frameworks for many years. At the same time, there has been ongoing debate over policy decisions taken during the past decade concerning industrial hemp and so-called "cannabis light", particularly low-THC hemp flowers and products derived from them.

The 2025 shift towards stricter hemp regulation

The most significant recent policy change came in 2025.

The Italian Government adopted Decree-Law No. 48/2025, subsequently converted into Law No. 80/2025. Article 18 amended Italy's industrial hemp legislation, Law No. 242/2016, introducing broad restrictions on the handling of hemp inflorescences and products containing or derived from them.

The new rules prohibit, among other things, the import, processing, transfer, distribution, trade, transport and supply of hemp inflorescences, including in dried, processed or ground form, as well as products containing or consisting of them. The prohibition also covers extracts, resins and oils derived from the inflorescences. A limited exception applies to the processing of inflorescences for the production of seeds for permitted purposes. Violations are subject to sanctions under Italy's narcotics legislation.

The Government justified the measure primarily on public safety and health grounds. It argued that products consisting of or containing hemp inflorescences could affect consumers' mental and physical condition and pose risks to road safety and public security.

The reform has, however, faced legal challenges. EU law permits the cultivation of certain low-THC hemp varieties, and the Court of Justice of the European Union has ruled that CBD without psychoactive effects cannot be regarded as a narcotic drug. Such products are therefore, in principle, covered by EU rules on the free movement of goods. Restrictions may be justified on grounds such as the protection of public health, but they must be proportionate. The compatibility of the Italian rules with these and other requirements under EU law is now part of ongoing legal proceedings.

The regulation of industrial hemp is also being discussed in other EU countries. One of the challenges is that rules designed to allow hemp cultivation for agricultural and industrial purposes can also be used for other purposes. This may include cultivation where the flowers and other parts of the plant are harvested and sold as cannabis-like products, rather than the hemp being used primarily for traditional purposes such as fibre and seed production.

This has created difficulties in drawing a clear line between the lawful cultivation of industrial hemp and the regulation of cannabis and other cannabinoid-containing products. A key question is therefore how the cultivation and subsequent handling of industrial hemp can be regulated in a way that limits opportunities to circumvent narcotics legislation while remaining consistent with EU rules on agriculture and the internal market.

Constitutional and EU-law scrutiny

During 2025 and 2026, several Italian courts referred questions concerning the new hemp restrictions to the Constitutional Court. The challenges concerned, among other issues, proportionality, the use of emergency decree legislation and whether criminal or quasi-criminal restrictions are justified for products that, according to the challenges, do not demonstrate any meaningful psychotropic effects.

Some of the most significant questions concern European Union law.

Articles 34 and 36 of the Treaty on the Functioning of the European Union protect the free movement of goods while allowing Member States to impose restrictions justified by objectives such as the protection of health and public safety. Such restrictions must nevertheless be proportionate and supported by an adequate factual basis.

The European Commission acknowledged in 2025 that it had received multiple complaints alleging that Italy's restrictions on hemp inflorescences could conflict with EU law.

As of September 2026, these proceedings have not resulted in a final ruling invalidating the Italian legislation. The restrictions therefore remain in force.

This also shows that the regulation of cannabis and industrial hemp must take into account both national public health and safety concerns and EU rules on agriculture and the free movement of goods.

CBD: a separate but related legal dispute

Italy's approach to cannabidiol (CBD) has created another area of legal uncertainty.

The Italian authorities – like those in several other EU countries, including Sweden – have placed certain oral CBD preparations derived from cannabis extracts within the pharmaceutical framework. In practice, this means that they are subject to medicinal product regulation.

In Italy, however, this has led to legal proceedings and complaints at EU level. In the Court of Justice's *Kanavape* judgment of 2020, the Court held that CBD without psychotropic effects could not automatically be treated as a narcotic drug under the international drug conventions. Restrictions on its sale must therefore comply with EU internal market rules and satisfy proportionality requirements.

This does not prevent Member States from regulating CBD on public health grounds. It does, however, require governments to demonstrate that restrictions are necessary, evidence-based and proportionate to the identified risk.

The Italian CBD dispute therefore differs fundamentally from the debate over high-THC cannabis for non-medical use and should be treated as a separate regulatory question.

A competing proposal for personal and associative cultivation

While the Government has tightened regulation in some areas, cannabis liberalisation has not disappeared from the political agenda. A legislative proposal submitted through a popular initiative in 2024 (Senate Bill S.1317) proposes the decriminalisation and regulation of cannabis cultivation for personal use and within associations.

The bill would create a legal framework not only for individual cultivation but also for non-profit cultivation associations, allowing members to collectively grow cannabis, based on defined quantities intended for personal consumption.

This would represent a much more significant policy change than the narrow judicial “tolerance” currently applied to very small-scale domestic cultivation. As of September 2026, however, the proposal remains under parliamentary consideration.

The proposal shows that there is organised political support in Italy for a more permissive cannabis framework, while the Government is pursuing a more restrictive approach in other areas of cannabis-related policy.

International drug control law remains relevant

If Italy were eventually to allow cultivation for personal use or within associations, questions would arise as to how such a system would relate to the United Nations drug control conventions.

The 1961 Single Convention on Narcotic Drugs requires controlled drugs, including cannabis, to be limited principally to medical and scientific purposes. The 1988 Convention against Illicit Traffic also requires States, subject to their constitutional principles and basic concepts of their legal systems, to establish criminal offences relating to possession, purchase and cultivation for personal consumption where those activities are contrary to the earlier conventions.

The International Narcotics Control Board (INCB) has consistently taken the position that explicit legalisation of cannabis for non-medical use is inconsistent with this interpretation of the UN drug control conventions. At the same time, the INCB has acknowledged considerably greater flexibility for decriminalisation, alternatives to punishment and treatment-oriented responses.

The distinction is therefore important. A State may reduce or remove penalties for personal use without necessarily creating a legally authorised system of cannabis production and supply. Allowing cultivation within associations, however, would move policy further towards affirmative legal authorisation, raising more substantial questions about how such a system relates to the UN drug control conventions.

EU and Schengen law: greater flexibility, but not unlimited

European Union law provides Member States with a certain degree of national discretion regarding conduct that relates exclusively to personal consumption.

Council Framework Decision 2004/757/JHA requires the criminalisation of, among other activities, the production, distribution, sale, supply and cultivation of illicit drugs. However, conduct covered by the Framework Decision falls outside its scope when committed exclusively for the offender’s own personal consumption, as defined by national law.

The Framework Decision therefore does not determine how Member States should address such cases under their national legislation. The Court of Justice of the European Union has also clarified that this exclusion should not be understood as indicating how Member States should regulate personal consumption.

The legal situation becomes more complex where regulation extends to organised cultivation and transfer between individuals. In the case of cannabis associations, for example, the question arises as to whether such activities can fall within the exclusion for conduct relating exclusively to personal consumption, since such a model may also involve organised cultivation and supply to others.

The Schengen Convention is also relevant. Participating States undertake to take the necessary measures to prevent and punish illicit drug trafficking, including the sale and possession of narcotic drugs for the purposes of sale or export. The Convention also contains provisions requiring measures to prevent and punish the illicit export, sale, supply and transfer of narcotic drugs.

A regulatory framework allowing collective cultivation therefore raises several legal questions under both EU law and the Schengen framework. Any future Italian system would need to be designed with these provisions in mind, including with regard to organised cultivation and supply, as well as measures to prevent cannabis from being transferred across national borders or diverted to the illicit market.

A public health debate that cannot be separated from youth exposure

Italy's cannabis policy debate also takes place against a background of relatively high levels of cannabis use among young people.

According to ESPAD 2024, Italy was among the European countries with relatively high cannabis use among 15- and 16-year-olds. Approximately 8.6% reported having used cannabis during the previous 30 days.

National surveys also show that cannabis remains the most commonly used illicit drug among young people in Italy, although use has fluctuated or declined slightly in some respects. These figures do not in themselves indicate what cannabis policy Italy should pursue, but they are important to consider when discussing future changes.

A policy evaluation should therefore examine not only the consequences for the criminal justice system, but also trends in cannabis use among young people: how many use cannabis, the age at which they start, how often and how much they use, and the prevalence of problematic use. Perceptions of the risks associated with cannabis, product potency, treatment demand and driving under the influence are also important to monitor.

This is particularly relevant because cannabis policy debates often focus on adult liberty, criminal justice and market regulation. Less attention is given to how changes in availability and social norms may affect young people.

What the Italian case really shows

Developments in Italy's cannabis policy are moving in different directions across different areas of cannabis regulation. The Government has introduced significant restrictions on hemp

and CBD-related products, while legal proceedings are under way to examine how parts of the regulatory framework relate to the Italian Constitution and EU law.

At the same time, a separate parliamentary initiative seeks to create a more permissive framework for personal and associative cannabis cultivation.

Intoxicating cannabis, medical cannabis, industrial hemp and non-intoxicating CBD are partly subject to different regulatory frameworks and differ in terms of their uses and risks. At the same time, the boundaries between these areas can be complex. Cannabis grown as industrial hemp can also be used for purposes other than those intended, raising questions about how its cultivation, processing and subsequent handling should be regulated.

Italy's current experience demonstrates how difficult it can be to draw clear and consistent boundaries between these different areas while at the same time developing a regulatory framework that takes into account public health and safety as well as the legal frameworks that apply at national and EU level and under international conventions.

Conclusion

The development of Italy's cannabis policy is still ongoing. The Government has moved towards stricter regulation of hemp inflorescences and CBD-related products, while parts of the regulatory framework are now being tested against constitutional principles and EU internal-market law.

At the same time, proposals to allow cannabis cultivation for personal use and within associations remain under discussion. If adopted, such proposals would raise a different set of legal questions, including how they relate to the UN drug control conventions, the Schengen framework and EU rules on the cultivation and supply of cannabis.

Italy's experience shows that cannabis policy involves a range of different legal and political questions. The consequences of regulation depend, among other things, on the type of cannabis or cannabis product concerned, whether the product has intoxicating effects, who may produce it and how it may be sold or distributed. They also depend on how the regulatory framework addresses the risk of cannabis being diverted to the illicit market or transferred across national borders.

The Italian debate is therefore likely to continue beyond 2026. How the policy and regulatory framework develop will depend not only on political decisions, but also on ongoing legal proceedings and on how national legislation relates to EU law and international drug control obligations. At the same time, public health and safety concerns, particularly the potential consequences for young people, will remain important in the continuing debate.

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References:

European Commission. (2025). *Multiple complaints concerning the Italian restrictions on hemp inflorescences*.

European Commission. (2026). *State of play of complaints concerning Italian regulation of cannabidiol*.

European Union Drugs Agency. (2025). *ESPAD 2024: Key findings*.

EUR-Lex. *Council framework decision 2004/757/JHA*

EUR-Lex. *Schengen Convention (1990). Convention implementing the Schengen Agreement of 14 June 1985, Article 71*. Italian Constitutional Court. (2026). *Constitutional referrals concerning Article 18 of Law No. 80/2025*.

Italian Government. (2025). *Law No. 80 of 9 June 2025, Article 18*.

Italian Senate. (2024–2026). *Senate Bill S.1317: Decriminalisation of cannabis cultivation for personal and associative use*.

Court of Justice of the European Union. (2020). *Case C-663/18, Kanavape*.