

Product Regulation

# Marketing of CBD Products in Switzerland

## Overview of the Complex Regulatory Framework

---

### Marcel Boller

Dr. iur., Attorney at Law,  
Wenger & Vieli AG, Zurich

### Table of Contents

- I. Preliminary Remarks
- II. Import and Market of CBD Products
  - A. General Preconditions
  - B. Raw Material
  - C. Medicinal Products
  - D. Foodstuffs
- III. Conclusion

### I. Preliminary Remarks

In Switzerland, a liberal regulation applies to products with a low tetrahydrocannabinol (THC) content. Whereas cannabis products with 1% or more content of THC are considered as a controlled substance, cannabidiol (CBD) is generally marketable since it is not included in any narcotics regulation.<sup>1</sup> With a revision of the respective ordinance on 30 May 2011, the permissible THC content of cannabis products was increased from 0.3% to 1%.<sup>2</sup> This revision made it possible to cultivate and market products containing CBD. Flowers intended for smoking and containing a high proportion of CBD and less than 1% THC can be legally sold and purchased.<sup>3</sup> Compared to

other surrounding countries,<sup>4</sup> this is a very liberal regulation, which led to a lively trade in such products.<sup>5</sup>

Raw material or products with a THC of 1% or more are considered as a controlled substance in Switzerland.<sup>6</sup> This could change to some part in the near future: The Federal Council recently initiated a respective proposal.<sup>7</sup> The Federal Council's proposal stipulates that physicians should be able to prescribe cannabis which contains THC directly.<sup>8</sup> The Federal Council has submitted a corresponding amendment to the Narcotics Law for consultation. The implementation of this proposal would also mean that cannabis with a THC content of more than 1% would no longer be considered a controlled substance, which would make such products marketable in principle.<sup>9</sup> The planned amendment is intended to facilitate and expand the handling of medicinal products that are exempt from marketing authorisation. In particular, the ban on the marketing of narcotics of the cannabis

---

<sup>1</sup> The substance CBD is not included in the Schedules to the Single Convention on Narcotic Drugs of 1961. It is not included in the Federal Act on Narcotics and Psychotropic Substances of 3 October 1951 (BetmG; SR 812.121) and in the Narcotics List Ordinance of 30 May 2011 (BetmVV; SR 812.121.11).

<sup>2</sup> See Annex 1 BetmVV.

<sup>3</sup> According to Art. 2a BetmG, the Federal Department of Home Affairs maintains a register of controlled substances. The relevant BetmVV contains a list of controlled substances in Annex 1. The (translated) entry for cannabis has the following wording: "Hemp plants or parts thereof which have an average total THC content of at least 1.0 percent and all objects and preparations which have a total THC content of at least 1.0 percent or are produced from hemp with a total THC content of at least 1.0 percent." According to this entry, the THC content is decisive for classification as a controlled substance.

<sup>4</sup> E.g., according to the German narcotics law, the limit of the permissible THC content is 0.2%, see: [https://www.gesetze-im-internet.de/btmg\\_1981/](https://www.gesetze-im-internet.de/btmg_1981/).

<sup>5</sup> This status is expressly confirmed by several statements of the authorities. According to the relevant website of the Federal Office of Public Health (FOPH), CBD is not subject to the narcotics law. See: <https://www.bag.admin.ch/bag/de/home/gesund-leben/sucht-und-gesundheit/cannabis.html>.

<sup>6</sup> The import or export of prohibited narcotics always requires an exemption permit from the FOPH (Art. 8 para. 5 BetmG). An import licence from Swissmedic is also required. Swissmedic can grant the additionally required import or export licence for these substances on the basis of a corresponding exemption permit (cf. Art. 5 BetmG in conjunction with Art. 24 para. 1 lett. c BetmVV).

<sup>7</sup> The respective documents are available at: <https://www.bag.admin.ch/bag/de/home/medizin-und-forschung/heilmittel/med-anwend-cannabis/gesetzesaenderung-cannabisarzneimittel.html>.

<sup>8</sup> See the draft of the revised BetmG, available at: [https://www.bag.admin.ch/dam/bag/de/dokumente/npp/cannabis/cannabis-arzneimittel\\_vernehmlassung/aenderungserlass-cannabisarznei.pdf.download.pdf/03\\_%C3%84nderungserlass\\_BetmG\\_Cannabis-arzneimittel\\_KAV\\_d.pdf](https://www.bag.admin.ch/dam/bag/de/dokumente/npp/cannabis/cannabis-arzneimittel_vernehmlassung/aenderungserlass-cannabisarznei.pdf.download.pdf/03_%C3%84nderungserlass_BetmG_Cannabis-arzneimittel_KAV_d.pdf).

<sup>9</sup> Today, the import or export of THC products always requires an exemption permit from the FOPH (Art. 8 para. 5 BetmG). An import licence from Swissmedic is also required. Swissmedic can grant the additionally required import or export licence for these substances on the basis of a corresponding exemption permit (cf. Art. 5 BetmG in conjunction with Art. 24 para. 1 lett. c BetmKV).