

STAND UP

FOR YOUR RIGHT?

Iberian Lawyer contacted some of the most active Portuguese legal practitioners in this space, to hear and dissect their views and ask: Is Portugal ready for the legalised recreational use of cannabis?

by michael heron

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Nearly four years have passed since the approval of the Portuguese medical cannabis Law no. 33/2018, of 18 July. A lot has happened since then. There are now a significant number of businesses that have been awarded licences by Infarmed, the national authority for medical and health products. As with any new market with such big potential, it takes time for the serious players to emerge. One of the leading voices and advocates for this market from the legal sector, has been

João Taborda da Gama, founding partner at **Gama Glória**. He said: “We have witnessed the Cannabis market become more saturated since the first licenses were issued. The picture is complex: big established global companies and sophisticated smaller international and Portuguese players, coexist with some rogue cowboys. Licensed producers predominantly cultivate cannabis and produce extracts in Portugal to export to markets such as Germany.”

PLMJ is another law firm that has been very active in this space, taking the Life Sciences practice approach. **Ricardo Rocha**, who plays a significant role said: “Portugal continues to attract a lot of global players, which are maintaining and even increasing their investments in Portugal. We have the perfect conditions to cultivate cannabis and the regulatory framework is not too heavy.” **Ricardo Macedo**, partner at **Caiado Guerreiro**, adds, “We are coming at this topic from a Life Sciences practice perspective. Medicinal cannabis has been a new topic. The country positioned itself as a player. It's paying off. We see multinationals setting up their activities in Portugal. Local entrepreneurs and foreign investors teaming up too.”

Jane Kirkby, of counsel at **Antas da Cunha Eciija & Associados** said: “Currently, there are eighteen companies with the authorisation to exercise the cultivation activity, however, the introduction and placing on the market of medicines, preparations or substances based on it has not followed the same pace.”

Savitex is one of the only products now available in Portuguese pharmacies, on prescription. Taborda da Gama, Rocha and Kirkby all addressed the issue of the cost of this drug to patients, with Kirby reaffirming: “Although there have been some attempts to reverse the situation, namely by the Portuguese Observatory for Medicinal Cannabis (OPCM), until now, the prescription purchase of Savitex is not reimbursed, and there is no prospect that this will change in the near future.”

It would appear that there is still some work to be done in this area. Medical professionals, and often the patients' general practitioner, play a major role in implementing this. Many of them, however, perceive a lack of evidence-based knowledge and are not confident with providing patients with medical cannabis. Ricardo Rocha points out the importance of Pharmaceutical companies accelerating this process: “The role



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The question on everyone's lips is, will we see adult recreational use of cannabis being legalised in Portugal anytime soon? Jane Kirkby points out: "This issue has already been the subject of a vote in Parliament, namely in 2019 and in 2021, i.e., after the approval of the use of cannabis for medicinal purposes, however, both times the bill did not pass."

All eyes are now on António Costa, who recently won a majority in the General Election earlier this year. Interestingly perhaps, Costa was the Minister of Justice from 1999 to 2002, during the period when in 2001, Portugal took the radical step and became the first country in the world to decriminalise the consumption of all drugs. This was largely to combat the heroin crisis

in the 1990's.

Ricardo Macedo doesn't believe we are quite there yet: "Our advice is centred on medicinal use. We see a wave in the direction for recreational use. But there is still a discussion to be had on this topic. I'm not convinced we are there yet."

João Lemos Portugal from **CCSL** is in agreement: "It is still too soon to see it being used for recreational purposes. I think we are still in a preliminary stage of the legislation getting approved. We are still checking how the legislation we have implemented regarding cannabis for medical purposes is working. I think the next step in mid-term will be legalisation, as we are on the right track regarding medicinal use. Nevertheless, this takes time; everyone needs to feel assured of the process and Infarmed needs to feel comfortable with the processes and legislation that is still being adjusted."

João Taborda da Gama, however, is more optimistic: "I think we could see the legislation for adult use cannabis being approved by the end of 2022."

It remains to be seen what will happen in the future. The global legal cannabis market is expected to reach USD 70.6 billion by 2028, according to a new report by Grand View Research. It is arguably the commercial opportunity of a lifetime, and one which Portugal could be well placed to take advantage of. Bob would have been proud. 