
*Questions & answers on the use of cannabis sativa L. and
cannabinoids (such as cannabidiol)
as foodstuffs or within foodstuffs*

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1. Is there a difference between *Cannabis* and hemp?

It is the same plant, *Cannabis sativa* L. "Hemp" refers to varieties of *Cannabis sativa* with a low THC content (< 0.2%), i.e. non- hallucinogenic variants. While the total THC content of hemp does not exceed 0.2%, that of other cannabis varieties (weed, marijuana) varies between 3 and 15%.

2. What is THC?

THC is the abbreviation for tetrahydrocannabinol. This refers to the sum of delta-9-tetrahydrocannabinol (Δ^9 -THC) and its precursors. Δ^9 -THC is a psychoactive component of the plant *Cannabis sativa*. The psychoactive properties of THC imply that it has an effect on the psychological state and that it is likely to cause dependence.

3. Is cannabis cultivation allowed in Belgium?

No, except for cannabis with a THC content of 0.2% or less (hemp) under certain conditions provided for in the Ministerial Decree of 27 July 2011 on hemp cultivation. Regional authorities can therefore issue an authorisation to "identified" farmers who wish to grow hemp in the open (i.e. not in pots).

4. What is meant by CBD?

CBD (Cannabidiol) is one of the different cannabinoids found in cannabis plants. Unlike THC (tetrahydrocannabinol), CBD has no psychoactive properties and is not addictive.

5. Can cannabis-based foodstuffs be marketed?

Cannabis sativa L. is included in List 1 "Dangerous plants which cannot be used as or in foodstuffs" annexed to the Royal Decree of 29 August 1997 on the manufacture of and trade in foodstuffs composed of or containing plants or plant preparations. These provisions also apply to hemp with a THC content of 0.2% or less.

Article 2 shall read as follows:

"§ 1. It is prohibited to place plants included in List 1 of the dangerous plants in the Annex to this Decree on the market as foodstuffs or as components incorporated into foodstuffs.

§ 2. It is prohibited to manufacture and place on the market plant preparations obtained from plants mentioned in List 1 of the Annex to this Decree as or in components incorporated into foodstuffs.

This provision shall not apply to the manufacture of flavourings.

The Minister may:

(1) establish a list of plants that may or may not be used to produce flavourings;

(2) grant exemptions from the prohibition referred to in paragraph 1 where it can be proved by means of a toxicological and analytical file that the plant preparations no longer contain the toxic characteristics or substances of the plants from which the plant preparations are obtained.”

These provisions apply to all varieties of *Cannabis sativa*, and therefore also to hemp that contains less than 0.2% THC. Although products with a THC content of less than 0.2% do not fall under the law on narcotics, the limit for safe use in food is much lower.

In accordance with Article 2, § 2, 2nd point of this Decree, a derogation from the prohibition on the manufacture and marketing of these plants as foodstuffs or as components incorporated into foodstuffs may sometimes be requested. The assessment is made on a case-by-case basis, taking into account the THC content of each batch and the other characteristics of the product.

Derogation requests should be sent to apf.sup@health.fgov.be along with all information on the product, its composition, production method, labelling, batch number and corresponding certificate of analysis.

CAUTION:

Due to the health risks associated with the presence of other cannabinoids and possible abuses, no derogation can be granted for the consumption of *Cannabis sativa* leaves and flowers in the form of infusion or herbal tea, even when the THC content is very low.

On the other hand, foodstuffs based on CBD extracts (cannabidiol) are considered as novel foods and are not currently authorised (see question 6). No derogation may be granted for unauthorised novel foods.

6. Is CBD allowed as foodstuff or in foodstuffs if it comes from cannabis plants with a THC content not exceeding 0.2%?

No, CBD and CBD extracts cannot be marketed as food because they are considered as novel foods.

There is no evidence of significant consumption as a foodstuff/ingredient in the European Union before 15 May 1997.

Novel foods may not be placed on the market without prior authorisation under Regulation (EU) 2015/2283, which is not yet the case for CBD. The sale of foodstuffs containing CBD is therefore not allowed. You can find more information (in French) on novel foods at

<https://www.health.belgium.be/fr/alimentation/securite-alimentaire/nouveaux-aliments/quest-ce-quun-nouvel-aliment>.

This novel food status applies both to the extract itself and to the products to which it is added as an ingredient (such as hemp seed oil), and is independent of the type of extract (alcoholic extract, critical CO₂ extraction or via another process). Synthetic cannabidiol is also considered as a novel food. The degree of dilution in the final product (hemp oil with the addition of cannabidiol extract) does not influence the novel food status.

The novel food status applies to the whole of the European Union (see https://ec.europa.eu/food/safety/novel_food/catalogue_en).

In addition, some CBD-based products may be covered by drug legislation. The assessment of the drug status is based on the presentation and composition of the product, including its CBD content.

7. Do hemp seed oil and CBD oil mean the same thing?

No. Pure hemp seed oil produced by simply pressing the seeds is not considered novel food, but is prohibited by Belgian legislation, unless a derogation has been granted by the FPS Public Health. For more information about these Belgian restrictions, see question 5 "**Can cannabis-based foodstuffs be marketed?**").

"CBD oil" means an oil containing CBD. This is often oil (e. g. hemp seed) to which CBD has been added. CBD oil is considered an unauthorised novel food (see question 6) and therefore cannot be marketed in the European Union (nor via the Internet).

You can find more information (in French) on novel foods at the following link:

<https://www.health.belgium.be/fr/alimentation/securite-alimentaire/nouveaux-aliments/quest-ce-quun-nouvel-aliment>.

8. Can hemp seeds and "hemp milk" be marketed as foodstuffs or within foodstuffs?

No, hemp seeds and products based on them may not be marketed unless a derogation is obtained from the FPS Public Health. For more information on this matter, see question 5 "**Can cannabis-based foodstuffs be marketed?**"

9. Can we make herbal teas from flowers or cannabis leaves?

No. Due to the health risks associated with the presence of other cannabinoids and possible abuses, no derogation can be granted for the use of *Cannabis sativa* leaves and flowers in the form of infusion or tea, even when the THC content is very low. For more information on this subject, see question 5 "**Can cannabis-based foodstuffs be marketed?**"

10. Can *cannabis sativa* be used as source material for the production of a flavouring preparation (flavouring)?

No. There is no known history of use of *cannabis sativa* L. as source material for the production of a flavouring preparation as defined in the Flavouring regulation (EU) No 1334/2008. *Cannabis sativa* L. is not mentioned in any reference book on flavourings, such as Fenaroli's handbook on flavor ingredients (George A. Burdock) or the publications of the Council of Europe 'natural sources of flavourings' (3 volumes).

In case no evidence can be provided of a safe history of use as flavouring, a pre-market evaluation of the flavouring preparation by the European Food Safety Authority (EFSA) is required. Until proof of the contrary, flavourings based on *Cannabis sativa* L. are illegal.

On the basis of the Flavouring Regulation (EU) No 1334/2008 flavouring preparations may only be obtained by specific appropriate processes and/or from certain source materials and they may not raise safety concern for human health. The annex with source of materials of the legislation is not yet completed. In the meantime, reference books can be used as a basis or the food business operator should be able to provide other valid proofs of a history of use.

More information on flavouring and flavouring preparations can be found on following page:

<https://www.health.belgium.be/nl/voeding/specifieke-toegevoegde-stoffen/aromas/wat-een-aroma>

<https://www.health.belgium.be/fr/alimentation/substances-specifiques-ajoutees/aromes/quest-ce-quun-arome>

11. As a consumer, how do you know if a food based on *Cannabis sativa* has been granted a derogation?

The consumer may ask the seller to show him the derogation obtained for a given product. Derogations are granted by the FPS Public Health, Food Chain Safety and Environment and accurately describe the product and indicate the numbers of the batches for which the derogation has been granted. Batch numbers must be indicated on the product labelling, as well as the words "without THC/THC". There is no general derogation for a point of sale or a range of products.

12. What are the conditions for using cannabis in products other than foodstuffs?

For questions about medicines, you can contact: info.medicines@fagg.be.

A FAQ in French and Dutch) is available at the following link:

https://www.afmps.be/fr/humain/produits_particuliers/subst_specialement_reglementees/stupefiants_et_psychotropes/faq_cannabis.

For questions regarding cosmetics, you can contact: apf.cos@health.fgov.be.



For questions regarding e-cigarettes, you can contact:

apf.food@health.fgov.be

More information?

apf.food@health.fgov.be (Federal Public Service Health, Food Chain Safety and Environment)

S3.pccb@favv-afsca.be (Federal Agency for the Safety of the Food Chain)

Disclaimer

This FAQ is based on *Regulation (EU) No 2283/2015 on novel foods* and the Royal Decree of 29 August 1997 on the manufacture of and trade in foodstuffs composed of or containing plants or plant preparations.

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