

# GROWING TOWARDS REGULATION

CANNABIS: EXAMPLES OF PRACTICE AND POLICY FROM EUROPE AND NORTH AND SOUTH AMERICA





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# Preface

This publication has been made by the authority of the Dutch Cannabis Entrepreneurs Platform (PCN). As an association of cannabis-related businesses such as coffeeshops and growshops, we want to make a constructive contribution to Dutch soft drugs policy.

In this publication we will describe the international initiatives towards regulating, and even legalization of cannabis consumption and production; - a survey of the order of business in sixteen European countries, the United States, Canada, and four countries in South America.

The developments in this area are going so fast at the moment that undoubtedly, we could add more countries to this survey in the short term. More and more people are coming to the realization that the prohibition of cannabis is undesirable, unworkable and unsustainable, and stands in the way of progress. Cannabis is simply a plant with many worthy applications. Society benefits from a harmonious relationship between consumption and production.

We have gratefully made use of Sandra Woods work, author of "Cannabis Policy: Legislation and Practices in European Countries" (published by the Drug Policy Foundation/ENCOD). The chapter about South America is partly based on research by the Transnational Institute (TNI).

Finally, thanks to Deborah Bruin, Master of Law, and Dimitri Breeuwer for their contributions, and to Joep Oomen, coordinator of the European coalition for effective and just drug policy (ENCOD) for his worthwhile advice.

Wouter van Egmond, chairman of the Dutch Cannabis Entrepreneurs Platform  
November, 2013

# Introduction

In their “Evaluation of Dutch Drug Policy” (2009), the Scientific Research and Documentation Center (WODC), and the Trimbos Institute concluded:

*Ultimately, it can be established that by now, in practice, and also in policy in other countries, possession of cannabis for personal use is no longer being prosecuted, and harm-reduction policies have been introduced. The Netherlands is no longer an exception on these points.*

Four years later, decriminalization and even legalization of cannabis is a fact in a majority of countries inside and outside Europe. The trend is indisputable: the international prohibition of cannabis is on its last legs. Considering this global tendency, ‘international agreements’ can no longer hold back improvements in national drug policy.

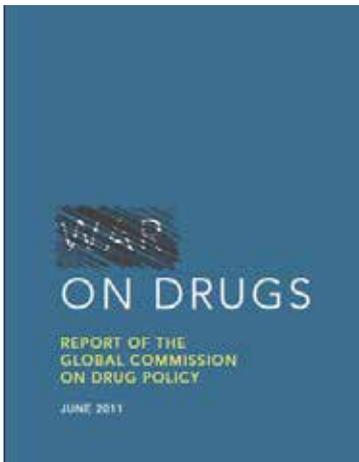
The time is ripe to look for solutions together with all those other countries. Now is the moment to work out the following steps in the Dutch drug policy, and give them a chance. Good solutions for the national “back door problem” are desirable and possible.

The debate over growing cannabis for the national market is receiving ample attention in current affairs. The logic is obvious: along with regulation of sale for consumption come proper regulations for production and wholesale purchase. Transparent regulation of the whole chain of production, distribution and consumption of cannabis is unavoidable, whether that happens now on local, national, European or international level.

Derrick Bergman

*Derrick Bergman (1971) is a journalist, publicist, and photographer. He has been writing about cannabis and drug policy since 1994. He has also been active with the Union for the Abolition of Cannabis Prohibition (VOC) since 2009.*

# 1. Cannabis, The United Nations, and the European Union



Cover of the report from the Global Commission on Drug Policy (2011)

The cleft between the official prohibition of cannabis, - as it ensues from United Nations treaties, - and the formal maintenance of that prohibition, has been growing in many countries since the nineties of the last century. For years, the Netherlands stood as a symbol for this rift. In our country, adults could acquire small quantities of cannabis in coffeeshops with no penalty.

It's taken awhile, but the idea that regulation of cannabis on all fronts produces better results than criminalization and repression is winning international terrain. With its hundreds of Cannabis Social Clubs, Spain has in fact surpassed our country. Not only is the sale in these clubs left undisturbed, growing the cannabis and delivering it to the proverbial "back door" is too.

The participation of the former UN Secretary Kofi Annan in the Global Commission on Drug Policy is of great historical and political significance.

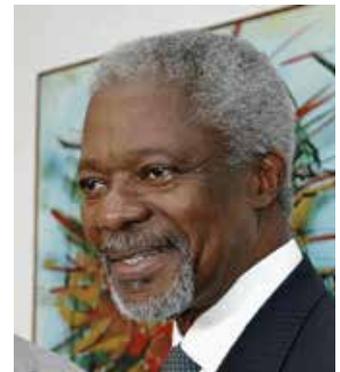
In one of the central recommendations of this commission, the growing international consensus is heard throughout: only criminal organizations profit from the prohibition of cannabis.

'Encourage experimentation by governments with models of legal regulation of drugs (especially cannabis) to undermine the power of organized crime and safeguard the health and security of their citizens.'

*Encourage experimentation by governments with models of legal regulation of drugs (especially cannabis) to undermine the power of organized crime and safeguard the health and security of their citizens.*

Since November 6th, 2012 the American states Washington and Colorado have been at the forefront internationally with the liberalization of cannabis policy. Both states voted for legalization of possession and growing for personal use. Future writers of history could point to the 6th of November as the beginning of the end of world-wide prohibition of the cannabis plant.

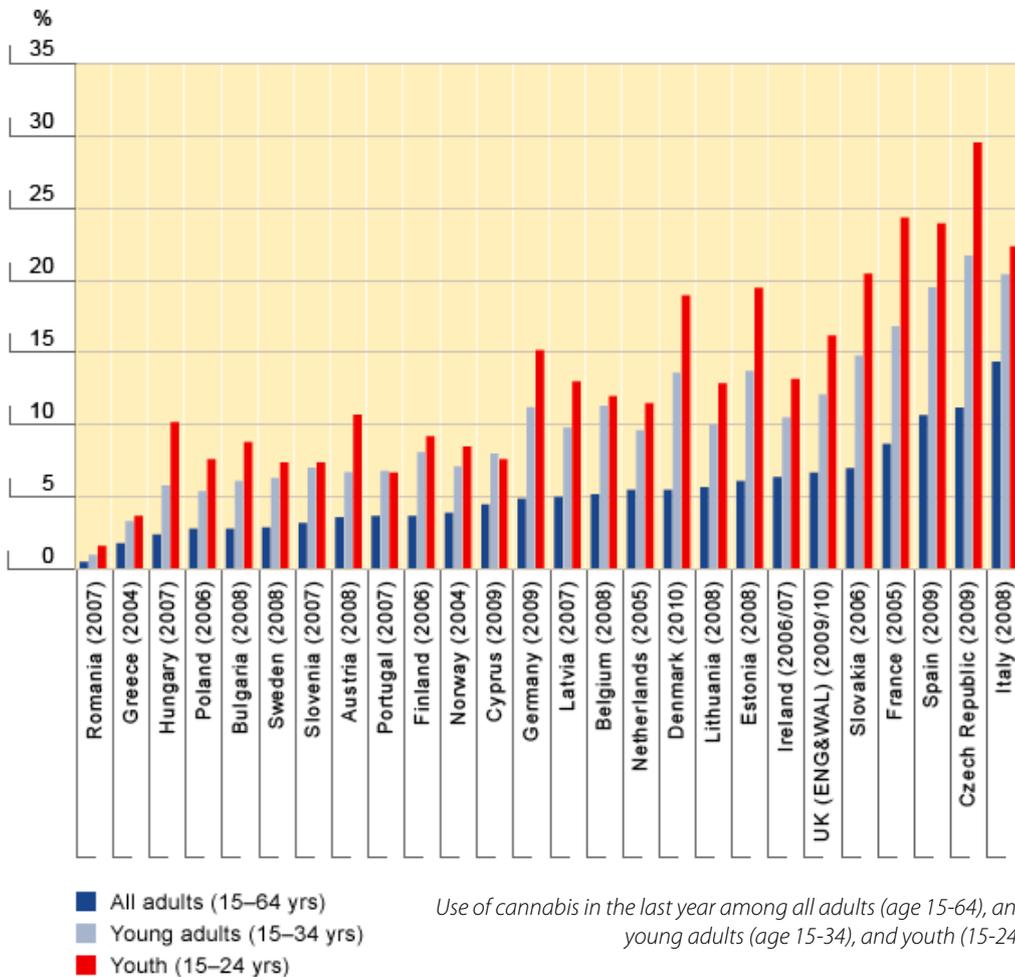
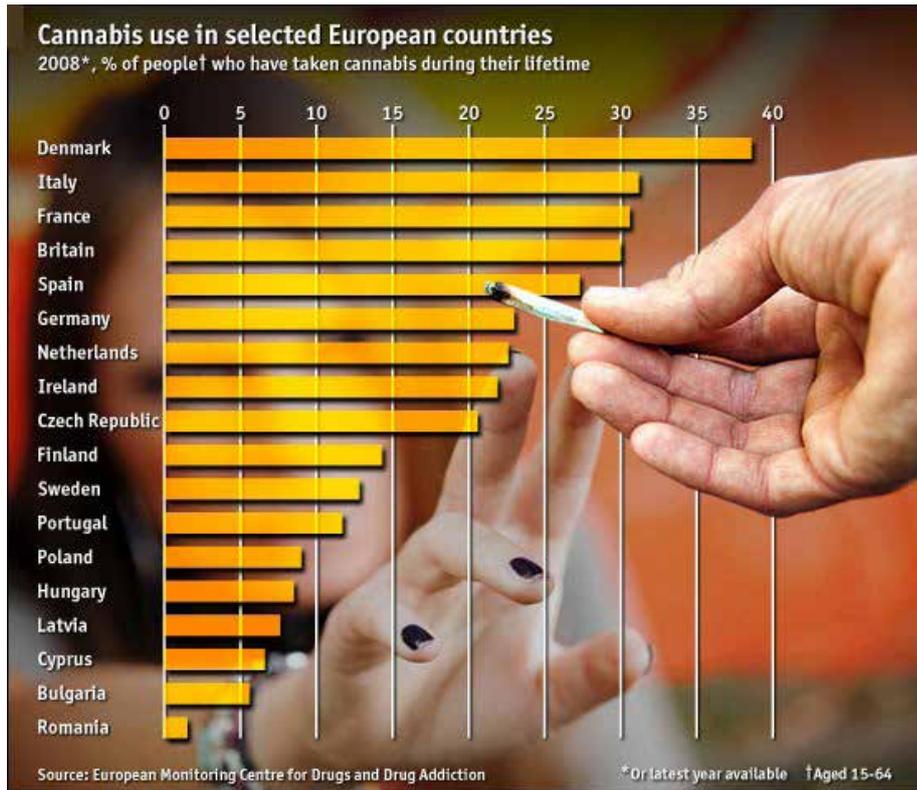
On December 8th, 2010, a special hearing about cannabis was held in the European Parliament in Brussels. Dana Spinnet, head of the Anti-Drug Policy Coordination Unit of the European Commission, declared up front that the responsibility for the regulation of the domestic cannabis market is totally the responsibility of the EU member states themselves. Former Euro-commissioner of Justice Frattini already offered the same kind of explanation in 2005.



Kofi Annan, seventh Secretary General of the UN, and member of the Global Commission on Drug Policy

Drug policy is a matter for the member state itself (. . .) every country is allowed to maintain its own drug policy, but must certainly combat cross-border effects, such as drug smuggling.

Thus, concerning the European Union, there is enough room for further regulation of the Dutch cannabis market. That's apparent from developments in EU countries such as Portugal, Spain, Belgium and the Czech Republic. (See Chapter 3. Cannabis policy in sixteen European countries.)



Source: European Monitoring Center for Drugs and Drug Addiction, Statistical Bulletin, 2011.

## 2. International judicial perspective

by Deborah Bruin, Master at Law

Drug policy comes into being on three levels: international, national, and local. This sequence reflects the hierarchy. Local policy should remain within the national law, and the national law should comply with international agreements.

The sequence also reflects the chronological course, however. The international drug policy was in advance of the national policy, and the national policy was before the local policy. International drug policy still determines the limits of the present national drug policy. A short, historical description of the creation of international drug policy follows below.

The first Opium Conference was held in Shanghai in 1909 on America's initiative. After conquering the Philippines from Spain in 1898, America had to make a decision about the many points of opium sales that the Spanish had set up there. In 1905, prohibition of opium was introduced for the Philippine population, with the exception of opium destined for medicinal purposes. Prohibition would also count for non-Philippine citizens within three years. Bishop Charles Brent pressed for the organization of an international conference because that would be the only way to effectively maintain opium prohibition in the Philippines. No binding agreements were formulated at this first Opium Conference in 1909.

Under pressure from America, the following conference was organized in The Hague on December 1st, 1911. In contrast to the conference in 1909, this conference wasn't only about opium, but also about morphine and cocaine, for example. The result of the Opium Conference in The Hague was the International Opium Treaty of January 23rd, 1912. With this, obligations were set down for the limitation of the trade and production of these substances to "medical and legal purposes". The states would "try" to uphold supervision.

The second International Opium Conference in The Hague began on July 31st, 1913, the third on June 15th, 1914. These conferences mainly had the goal of procuring the signing and ratification of the treaty. The broad commencement of the agreement did not occur until it became a part of the peace treaties after the First World War. After the World War I, the League of Nations was established at the Treaty of Versailles on January 25th, 1919, with the task of promoting peaceful cooperation between nations. The first Opium Conference began on November 3rd, 1924, and ultimately led to the treaty of February 11th, 1925. Shortly after, a second Opium Conference was held in Geneva. This one began on November 17th, 1924, and led to an agreement on February 19th, 1925. Indian hemp was also included in this last agreement.

Geneva is also the place where the ensuing 'opium agreements' were sealed, although we could better speak of 'drugs agreements'. They no longer counted for the limitation of the opium trade in particular, but for the trade in a whole list of substances. On July 13th, 1931, the "Treaty for the limitation of the production and for regulation of the distribution of drugs" was signed. This agreement was also called the "Limitation Accord". On June 26th, 1936, the "Treaty for the repression of the illicit drug trade" was sealed, also known as the Police Accord. After the Second World War, the League of Nations was disbanded in 1946, and the United Nations, still an important organization for drug policy, was established.

An important agreement in the development of international drug suppression is the 'Single Convention on Narcotic Drugs', sealed in New York on March 30th, 1954, and supplemented by protocol on March 25th, 1972. This Single Convention Treaty was the provisional end result of the development of the international drug policy that began in 1909. It's a recapitulation and completion of the previous treaties that were replaced by the Single Convention Treaty. The general obligations are found in article 4.

Starting point of the agreement is that the trade, production and possession of drugs must remain limited to serving medical or scientific purposes. Article 36 requires certain behaviors to be defined as punishable. Serious offences must be punished, preferably by prison sentences. However, in article 36, section 4 of that same treaty, it is established that this requirement can be carried out in accordance with national law.

With the Opium Law, we have complied with the obligation to penalize, and via the principal of discretionary powers included in our national legislation, the Public Ministry may decide whether or not to prosecute for an offence. Systematic non-prosecution is the basis of the Dutch policy of tolerance.

Since the Single Convention Treaty, two more agreements have come into being that provide a framework for national policy, and therefore should be mentioned for the sake of completeness. The first is the 'Convention on Psychotropic Substances' of February 21st, 1971. This agreement was deemed necessary because the Single Convention Treaty only oversees narcotics. It's a similar agreement, but then for psychoactive substances such as LSD. THC is also included, while cannabis is registered in the Single Convention Treaty.

In conclusion, I will point to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances agreement, adopted on December 19th, 1988 in Vienna. As the name suggests, this accord deals mainly with the limitation of the underground trade, or rather the illegal trade in prohibited drugs.

Under these agreements, the Single Convention Treaty is still the defining article in the choice of an appropriate drug policy. Cannabis has been placed on the list with the heaviest and most harmful narcotics; - List IV. Suggestions to move cannabis to another list have until now not been acted upon.

Deborah Bruin, Master at Law, is junior professor at the University of Amsterdam where she researches the exceptional aspects of the Opium Law. An extensive description of the history of international drug policy can be found in: *Onkruid Vergaat Niet (Weed Doesn't Perish)*, D. Bruin, Master at Law, Maastricht: Organic Press, 2011.



*'Onkruid vergaat niet', mr Deborah Bruin (2011).*

### 3. Cannabis policy in sixteen European countries

#### Belgium



Since February 2010, the non-profit 'Trekt Uw Plant' (Get Your Plant) grows for its members' personal use on the basis of one plant per member. This was made possible by a ministerial directive in January, 2005, signed by the Minister of Justice and all of the five Belgian procurers-general, that placed possession of maximum three grams of cannabis, or one cannabis plant per adult beyond prosecution.

'Get Your Plant' maintains ecological growing methods; contamination or strengthening of the end product is not possible. Along with their plant, members receive a grow coupon with detailed information about the composition and the expected effects, tips for responsible use, and an extensive questionnaire about their own experiences with the type of cannabis supplied. At this moment, 'Get Your Plant' has two departments with some 350 members in total.

The bond has been acquitted twice on appeal, and since then, can function in relative openness problem-free. Belgian television, newspapers and weeklies have portrayed 'Get Your Plant' extensively. In the Netherlands, the current events program "Een Vandaag"

devoted a report to 'Get Your Plant' in August, 2012. In addition to 'Get Your Plant', there are two other Cannabis Social Clubs active: Mambo Social Club in Hasselt, and Me Weed Perso in Luik. A fourth Cannabis Social Club is in the works in Namen.

#### Denmark



Use of cannabis in Denmark is punishable with a fine or imprisonment. In 2007, the fines were raised considerably. Jail time is possible with a second or third conviction. The penalty for hard drugs is higher than that for cannabis. Possession of cannabis seeds is legal in Denmark, but germinating them is a crime.

Christiana, an army complex in the capital city Copenhagen squatted in 1970, occupies a separate position. Cannabis was openly sold for dozens of years here. But in 2004, the police began a large-scale offensive against cannabis sales in Christiana. Five years later, police recognized that this approach had failed: dealing had spread out over the city, and violence accompanying the cannabis trade had strongly increased.

The city council of Copenhagen attracted the world press in November, 2011 with the decision to begin regulating cannabis sales in state stores. The national government vetoed this plan in May, 2012. From opinion polls, it appears that the majority of Danes is in favor of decriminalization or legalization. From the summer of 2012, the coffeeshop Smokenhagen functioned for several months long. Police closed the shop in January 2013.



*Cannabis plants grow freely and openly in Christiania in the Danish capital Copenhagen*

## Germany



Just as in the Netherlands, with our eastern neighbors, the use of cannabis is not prohibited, but possession, sale, and production is. Germany also has a variation of tolerance policy: the possibility exists to refrain from prosecution of consumers with a slight quantity of cannabis for personal use. Each state interprets the concept 'slight quantity' differently, from less than a gram in Beieren, to six grams in Brandenburg, to fifteen grams in Berlin. As far as penalties go, Beieren takes the cake: possession of a small quantity can be punished with a maximum five year prison sentence, or a fine.

Patients can procure legal, medicinal cannabis via their general practitioner from the Dutch producer Bedrocan. Meanwhile, in a small number of cases, judges have allowed medicinal cannabis users to grow and possess cannabis for personal use.

Cannabis seeds are prohibited, but everything needed for growing cannabis is freely for sale in hundreds of growshops throughout the whole country. Officially, it's not permitted for the growshop personnel to explain to the customers how they can grow cannabis. Next to the internet, various cannabis magazines, among them GROW! and Soft Secrets offer a way out for the German home-grower.

The cannabis debate got a strong impulse in May 2012 when Ralf Jäger, Minister of Internal Affairs in the state Noordrijn-Westfalen announced that the sixteen German states are actively working on harmonizing the cannabis policy. An important goal is the determination of the nationally recognized limit for the concept 'slight quantity'. For the rest, the German Supreme Court, the Bundesverfassungsgericht in Karlsruhe already called on the government to establish such a national applicable limit in 1994. Political opinions are divided; only the Greens, and the Pirate Party are proponents of total legalization. In any case, the Social Democratic Party (SDP) wants legalization of medicinal cannabis.

There is also plenty of movement at the local level. The mayor of Berlin's Kreuzberg district wants to set up a coffeeshop in Görlitzer Park. The Berliner Zeitung named the initiative the breaking of a taboo:

*"In order to combat the drug trade in the Görlitzer Park, the Greens are suggesting the legalized sale of cannabis by the government. In a transparent shop, a so-called coffeeshop, the drug will be sold, thus making the illegal trade redundant."*

The mayor, Monika Herrmann searches the judicial space in paragraph 3 of the German drug law. Here, an exception on drug prohibition is permitted if a 'scientific or other objective in the common interest exists'. On these grounds, Herrmann is going to apply for an exemption from the Bundesamt für Arzneimittel und Medizinprodukte.

**Schluss mit Krimi.**

**Cannabis normal.**



# France



In theory, France is one of the strictest European countries in the area of cannabis. French law recognizes no distinction between cannabis and other prohibited substances. Use of forbidden drugs does count as a small misdemeanor, but can be punished with a maximum of one year in prison.

With the suspicion of organized distribution, possession of a small amount can lead to four days in pre-arrest, without consultation with a lawyer. The European Court for Human Rights in Strasbourg recently condemned France due to this draconian threat of punishment for a relatively light offence.

In practice, the French police tolerate possession and use of small quantities of cannabis, certainly in the larger cities. How much times have changed is apparent from the report 'Drug war in Paris' from the television program *Brandpunt* (September 18th, 2011). In the report, two mayors of Parisian suburbs call for the legalization of cannabis in order to stop the violence in their districts. And they warn the Netherlands: if the hardening of our cannabis policy continues, we'll also get 'Parisian conditions' - gang wars, shootings, and mafia practices. Stéphan Gatignon, mayor of the notorious banlieue Sevran:

*Just make your politicians do an apprenticeship here. Then they'll see the consequences of prohibition policy, especially during an economic crises. Criminality and organized crime, and the accompanying dangers.*



Sticker from 'Les Amis du CSCF', friends of the French Cannabis Social Clubs

Daniel Vaillant, former Minister of Internal Affairs, and now mayor of the 18th District in Paris:

*Laws must be harmonized at the European level. A European debate is necessary, I'm convinced.*

In October, the Minister of Education Vincent Peillon called for a public debate about legalizing cannabis. After sharp criticism from the right-wing opposition, the Hollande government declared in a response that the policy won't change. French media have reported since 2012 about Cannabis Social Clubs in France that are going to grow in cooperation so their members can avoid the dangerous black market. At this moment, more than a hundred such clubs already exist in France.

A report in *Le Point* from January 6th, 2013 describes the Cannabis Social Club in the district of Touraine, the area around Tours. The club started in 2010, and harvests 23 kilos of cannabis per year for its members. Dominique Broc, national spokesperson for the French Social Clubs says in the report that the local police are aware of the activities: "Just like the police, we fight illegal trade, but in our own manner, and without using tax money".

On June 20th, 2013, the judge in Tours decided that the establishment of a Cannabis Social Club is not possible according to French law. Activists are still preparing themselves for the possibilities of challenging this verdict. For the time being, many French Cannabis Social Clubs remain operating underground.

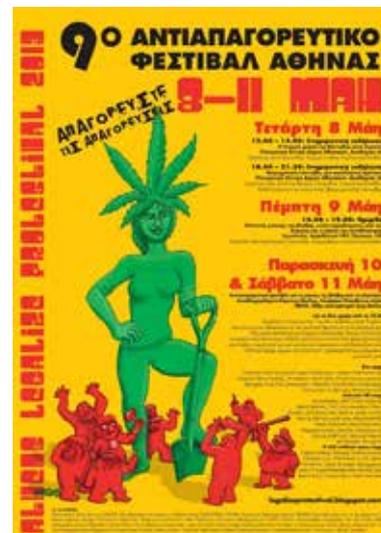


## Greece

Cannabis has a long history in Greece. The ancient Greeks used the plant for its fiber, and as a medicine. After the introduction of hash into Europe by Napoleon's soldiers, the Greeks quickly began to smuggle Egyptian hash to our regions. Since approximately a century, cannabis is again being commercially grown in Greece.

Just as in many European countries, there is a gaping cleft between the strict law, and pliable everyday practice. Possession of small quantities of cannabis and open use can still lead to arrest, but seldom to prosecution. The Greek president George Papandreou raised eyebrows as the only functioning head of state to take a seat in the Global Commission on Drug Policy.

Two months after the presentation of this commission's report, Greek Minister of Justice Miltiadis Papaioannou launched a proposal to decriminalize cannabis. At present, this project appears to be sitting on the back burner, even though it could lighten Greece's financial problems considerably.



Poster from the annual 'Athens Legalize Cannabis Protest Festival'. This 9th edition attracted some 30,000 visitors.



## Hungary

There is no statutory distinction made between cannabis and other illegal intoxicants. As of March 1st, 2003, the penal code has been readjusted so much that cannabis consumers can choose for therapy in place of jail.

The penalty is high: up to two years in detention, even for small quantities for personal use. Amounts of possession are measured in pure THC. The limit for a "small quantity" lies at one gram of pure THC. Thus, with a THC content of 1%, the limit would be up to 100 grams of cannabis.

In practice, police often maintain a limit of fifteen grams. Obligatory therapy is possible for a "slight quantity" too, but the police can also keep a closed eye.

A limit of five plants counts as the limit for growing. With greater numbers, the penalty is higher. For selling cannabis seed, Justice must prove the seller had criminal intentions. That has never happened, as far as is known. Hungary has hundreds of grow shops, and since 2008, a special magazine about cannabis culture, *Cannabis Kultusz*.

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## Italy



Cannabis is very popular in Italy. One third of all teens have smoked it on occasion, and ten percent of adults use cannabis daily. Use or possession of small quantities of cannabis is not a criminal offence, but a misdemeanor that can, at most, be punished with an administrative sanction; a fine, temporary suspension of a driver's license, withdrawal of a passport, et cetera.

The limit for a small quantity is 500 milligrams of pure THC. In practice, police maintain a limit of five grams of cannabis, and only intervene if people demonstrably use it in public.

In an historical verdict in 2011, the Italian Supreme Court ruled that Italians may be legally allowed to grow a small number of plants on their balcony or terrace.

On June 14th, 2013, Member of Parliament Daniele Farina turned in legal proposal #1203, meant to decriminalize the home-growing of cannabis for personal use. Part of that proposal is the reintroduction of a differentiation in the penalties for various sorts of drugs. The separation between cannabis and other drugs disappeared from the law after a very controversial procedure in 2006. In the course of 2013, three tribunals and the Court of Cassation declared that the present Italian drugs law is unconstitutional because of this reprehensible procedure.

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## The Netherlands



Until 1953, only import and export of cannabis was prohibited in the Netherlands. The government did not encroach upon the personal privacy of the citizen; use and possession were not prohibited. With changes to the Opium Law in 1953, use, possession, processing, and trading became punishable for the first time.

This criminalization led to increasing problems in the '60's. Large groups of primarily young people were left with a criminal record from simply smoking a joint, or possession of a very slight amount of cannabis. Insight grew that repression worked only counterproductively, and that drug use is a public health problem in the first place. Furthermore, the repressive approach towards cannabis consumers began to disrupt the judicial system.

The advisory commissions Huisman (1971), and Baan (1972) plead for decriminalization of use and possession of a small quantity of cannabis for personal use. This advice led to the historical changing of the Opium Law in 1976. (More about that later.) Youth centers were a new phenomenon in the '60's, with a 'house dealer' who sold only cannabis and no hard drugs. The police left the house dealers alone, on the basis of an unpublished official directive.

During this period, the coffeeshop, as we still know it today, made its entrance; - a place where consumers could buy and use small quantities of cannabis in safe surroundings. Later, the first rules for coffeeshops followed; - the criteria for tolerance, a tolerance policy of maximal thirty grams of cannabis for personal use, and home-growing of a small number of (up to five) plants. This decriminalization removed much stress from the consumer: no criminal record, only a fine, and confiscation.

The basis for permitting the coffeeshops under conditions is the change to the Opium Law in 1976. Since then,

a legal distinction exists between cannabis products (soft drugs, List II, allowable risks), and other prohibited substances like heroin, cocaine, and amphetamines (hard drugs, List I, inadvisable risks to public health).

The main principle behind Dutch drug policy is harm reduction, limiting the damage caused by drug use, with the emphasis on counseling and prevention. This principle is receiving wider acceptance internationally.

The results of our harm reduction policy are impressive: in 2013, there are still some six thousand primarily older heroin addicts, while there were still almost one hundred thousand in the '70's. In comparison to other countries, the tolerated sale of cannabis has not led to an appreciable increase in cannabis consumption. According to the latest figures, use lies precisely on the European average.



*Professor lawyer Louk Hulsman (1923 - 2009), intellectual father of the policy of toleration during the first Cannabis Tribunal of the Union for the abolition of cannabis prohibition (VOC), The Hague, December, 2008.*

The tolerance criteria for coffeeshops appeared in 1991. This so-called 'AHOJ' criteria prohibited advertizing, the sale of hard drugs, causing a nuisance, and sales to youths below 16. Other than the sale of cannabis in the coffeeshop, growing the plant and supplying the coffeeshops were not regulated.

Until the '80's, coffeeshops sold mostly foreign hash and weed. This changed dramatically with the emergence of Nederwiet - Dutch weed, in the 1990's. One positive effect of cannabis production in our own country was a drastic decline in the number of Dutch citizens in foreign detention, and strongly diminished profits for international organized crime.

In 1995, the first coalition government to consist of Labor, Liberals, and the independent D66 parties came out with the long-awaited drugs memorandum "Dutch Drug Policy: Continuation and Change". In this extension of the toleration criteria, coffeeshops could, from then on, sell only a maximum of five grams per transaction, and the minimum age was raised from 16 to 18.

Many Dutch expected that this first-of-its-kind government coalition would also take up the regulation of growing, and the back door to the coffeeshop. According to a poll taken at the time by Maurice de Hond, 68% of Dutch citizens were in favor of legalizing cannabis. Also, within the present principle of discretionary powers, the growth of cannabis could certainly be permitted under conditions, just like the sale in coffeeshops. The political reality appeared otherwise, however. Regulating growing remained politically taboo, in spite of a narrow majority in Parliament in favor of regulation (2000, motion by Apostolou).

With the rise of medicinal cannabis, the Netherlands still played a leading-edge role. Since 2003, cannabis is legally available as a medicine in the drug store, although patients are still prohibited from growing their own plants. Ten years later, cannabis for medicinal use is legally obtainable in dozens of countries worldwide, and in twenty American states.

In the last decade, the government has set its sights more and more on repression. The number of coffeeshops has been cut by more than half, and small-scale growers are adamantly being arrested and prosecuted. Penalties have been heightened, etc. The prosecutorial focus on growing has led to a harshening and hardening of the police apparatus, and a deterioration in the quality of the product (unsafe growing methods, and the use of more, and more harmful pesticides).

In 2012, the letters 'I' and 'B' were added to the toleration criteria. In Dutch, the 'I' stands for people legally living in the Netherlands, and denies non-residents entry to a coffeeshop. The letter 'B' stands for 'closed club', and has been done away with by now.

Additionally, the second government coalition led by Mark Rutte is planning to declare cannabis with a THC content of more than 15% a "hard drug". This intention has led to much criticism from the authorities and experts involved. The most important points of criticism are: the scientific basis for the assumption that a higher THC percentage leads to greater risk of harm is lacking, and the 15% limit is completely arbitrary.

The harm reduction policy that Holland has carried on for forty years, acclaimed and followed world-wide, is slowly but surely being replaced by a repressive, zero-tolerance approach. This is even more striking considering developments abroad, where the opposite movement is unmistakably taking place.

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## Norway



Possession of up to 15 grams of cannabis in Norway is looked upon as an amount for personal use. For the first offence, at the most, a fine of 1500 to 5000 Crowns (200 to 700 Euros) is imposed. With recidivism, a jail term between six months and two years can be handed down, and for sale, that can rise to 21 years.

As in many European countries, the home growing of cannabis has taken a great flight away from Norway in recent years. The heavy punishments for people who have been convicted for the second time for possession of a small quantity of cannabis has accelerated this process. Medicinal cannabis users can import cannabis legally via Dutch pharmacies.

One of the most powerful voices in the debate over drug policy is that from Thorvald Stoltenberg, former Minister of Foreign Affairs, and father of Jens Stoltenberg, premier from 2000 to 2001, and from 2005 to 2013. The Stoltenberg Commission, named for the senior, published an advisory in the summer of 2011 to refrain from imposing fines for possession of small quantities of drugs, but instead to offer the person in question "intervention", with counseling about drugs.

The reactions to Stoltenberg's advice were positive, also from the side of the government. Minister of Public Health Strøm-Erichsen: "Attitudes toward this subject have shifted from the prosecutorial side to the public health aspect".



# Austria



Poster from the annual 'Hanfwandertag' in Vienna, a demonstration for the legalization of cannabis.

The use of cannabis is not prohibited in Austria, but everything else, such as growing, possession and export still is. The police are required to report offences to the Officer of Justice. This officer can then decide not to prosecute as long as the suspect is invited to have a conversation with a doctor about possible therapy. A monetary fine is imposed if the suspect refuses. The Austrian judge at administrative law has determined that consumption of cannabis can only lead to cancellation of a drivers license if someone has actually been driving under the influence.

Since 2008, there has been a legal basis for permitting small-scale cannabis growing. The limit is the production of twenty grams of pure THC, some 200 grams with a THC content of ten percent. Twenty grams of THC is also the limit for distribution and sale. Unconditional prison terms can be imposed only for above two to three kilos of THC.

Judges have a lot of room to deviate from the official penalties. For jail terms up to three years for people who use cannabis themselves, therapy can be required in place of prison time. As a rule, growshops are not harassed by Justice and the police; they openly sell cuttings and clones, just like other shops in the capital. According to Austrian law, a cannabis plant is not forbidden until it's in bloom.



# Portugal

In the year 2000, the Portuguese government instituted a radical reform of its drug policy which went into effect in 2001. Possession of a ten-days' user quantity is no longer a crime, only an administrative violation. Concretely, that means twenty-five grams of cannabis, or five grams of hash, one gram of heroin, or two grams of cocaine and one gram of MDMA (ecstasy).

Critics screamed bloody murder as the century began. The drug trade, and the number of users would explode, and junkies from all over the world would flock to Portugal. Nothing of the sort has happened; - the number of hard drug users with HIV dropped spectacularly, as did the crime rate.

Whoever is caught in possession of a user's quantity of drugs has to appear before a panel of experts. This panel can impose a fine, or direct the person in question to addiction care. But in most cases, no action is taken.

Part of the decriminalization policy in Portugal is a reorientation of drug policy on the basis of public health concerns. Money is made available for the treatment of hard drug addicts, and a range of harm-reduction regulations.

# Spain



*A Cannabis Social Club's grow room in the Basque country*



*Dinner during a club day at the Basque Cannabis Social Club Urjogaberdea*

Of all the European countries, Spain has gone the furthest with the regulation of consumption, distribution and growth of cannabis. Use of prohibited drugs was already decriminalized in 1974 with a ruling by the High Court. Twenty years later, cannabis activists started the first collective planting in Spain; - two hundred plants for a hundred people, with the full knowledge of the authorities. In the 90's, the same kind of communal plantations were established throughout the country.

Provincial courts have acquitted suspects since 1997 if the cannabis is destined for shared use in a closed circle; - the Cannabis Social Club. This decision has been ratified up to the Supreme Court. In a research report to the High Court, the authors concluded in 2000 that Cannabis Social Clubs are permissible under Spanish law.

In 2013, hundreds of Cannabis Social Clubs are active throughout the country, with concentrations in the Basque countries, and in Catalonia. The biggest clubs in Barcelona have up to ten thousand members. Non-residents may also become members, and purchase and use cannabis.

There is an active Federation of Cannabis Associations (FAC), directed by Martin Barriuso, former chairman of the cannabis social club Pannagh in Bilbao.

In December 2010, Barriuso gave a presentation in the European Parliament in Brussels. At this occasion, Dana Spinant, head of the *Anti-Drug Policy Coordination Unit of the European Commission* declared that the responsibility for regulation of internal cannabis markets lies completely with EU member states themselves.

The government of the Basque country has established a commission in order to bring the years-long practice of the *Cannabis Social Clubs* under a new legal framework. Such a 'cannabis law' could be something new for Europe. In March 2012, Martin Barriuso declared in the newspaper *El Pais*:

*"Cannabis use is an established and in an increasing measure accepted reality in our society. Instead of turning our backs to this reality we believe it's reasonable to look for a way to regulate cannabis, encourage responsible use, and make it difficult for adolescents to get it."*

## The Czech Republic



As of January 1st, 2010, drug law in the Czech Republic has been fundamentally changed. Since then, possession of small quantities of all illegal drugs is a misdemeanor for which a fine of 15,000 Crowns (600 Euros) at the most can be imposed. A separate maximum counts for each forbidden intoxicant:

Cannabis (weed):	15 grams, or 5 plants
Cannabis (hash):	5 grams
Hallucinatory mushrooms:	40
Peyote cactus:	5 pieces
LSD:	5 tablets
Ecstasy:	4 tablets
Amphetamine:	2 grams
Methamphetamine:	2 grams
Heroin:	1.5 grams
Coca:	5 plants
Cocaine:	1 gram



*Growshops are spread all over the country in the Czech Republic.*

Sale of these substances is still prohibited, but in practice, that has a low priority for police and Justice. Growshops can be found all over the Czech Republic where everything necessary for growing cannabis, including the seeds, is sold freely. The third edition of the cannabis exhibition Cannafest in the capital Prague attracted more than 20,000 visitors from all of Europe, and even beyond in November 2012

In December 2012, the Czech Lower House voted for a bill by the government to legalize the medicinal use of cannabis. According to the bill, the cannabis will apparently be imported from the Netherlands, but in time, local growers will get permits to grow cannabis in the Czech Republic themselves. The cannabis will be sold in pharmacies. After parliamentary approval in both chambers in February 2013, president Vaclav Klaus ratified the law, which has been in effect since April 1st, 2013.

## United Kingdom



Developments in British cannabis policy in the last years have been far from consistent. The policy, and even the classification of cannabis go up and down like a yo-yo. Until 2004, cannabis was a *Class B* drug. Between 2004 and 2009, a *Class C* drug, and since 2009 again a *class B* drug. The difference is crucial; - arrest is not a possibility for possession for drugs in *Class C*.

The lower classification of cannabis led to political battles in the years after 2004. A deep point was the firing of the respected drug expert professor David Nutt as top advisor to the British government. Nutt pleaded for years for regulation as an alternative to criminalization. He was one of the speakers at a roundtable discussion in the Dutch 2nd Chamber on October 3rd, 2011. In a protest against Nutt's politically motivated dismissal, five members of the British government's advisory commission for drugs resigned.



Poster for the Global Cannabis March - Cardiff

For the time being, heavy punishments remain in England for sale and transportation of cannabis: up to fifteen years in prison, and an unlimited monetary fine. The maximum penalty for possession is five years in jail. In daily practice, it's quite different. A so-called *presumption against arrest* (comparable to our principle of discretionary powers) applies for adults who are caught in possession of cannabis. With the violation of five conditions, among others, use in public, or by minors, arrest can result. For small-scale home growing, a de facto tolerance policy is the standard; certainly for medicinal use. However, enforcement varies strongly per region.

The debate over the regulation of cannabis gained momentum in December 2012 after the publication of the final report of a parliamentary research commission into drug policy. After one year of research, they called on the government to fundamentally revise the policy, and to establish a *Royal Commission* that would look into "all options". Specifically included were '*the overall costs and benefits of cannabis legalization*'.



Logo for Cannabis Social Clubs, UK

Premier David Cameron reacted with a repudiation, in contrast to his coalition partner Nick Clegg, leader of the *Liberal Democrats*. Clegg declared that the British government is losing the War on Drugs 'on an industrial scale', and stood behind the proposal for a *Royal Commission*.

In the meantime, top entrepreneur Sir Richard Branson regularly stirs up the debate about ending the War on Drugs. The latest example is the documentary *Breaking the Taboo* (2012) which concerns the work of *the Global Commission on Drug Policy*, of which Branson is a member, next to Kofi Annan and the former presidents of Brazil, Mexico and Columbia, among others. In the documentary, Bill Clinton and Jimmy Carter also speak out for the legalization of cannabis.

The pronouncements of Dame Sally Davies, since 2010 *Chief Medical Officer* to the British government, stirred up a fuss. In an interview on the BBC on August 17th, 2013, she not only declared that she herself has experience with cannabis, but also that addiction is 'naturally' a medical problem:

*Of course it's a medical problem. Addiction is a medical problem and it becomes a public health problem and then our society is choosing to treat that as a criminal justice issue.*



## Sweden

Swedish drug policy is the odd one out in Europe. Zero tolerance and the utopia of a “drug-free society” are still the guiding principles here. Since 1988, the use of all prohibited substances, including cannabis, is a crime. Even making the contact between seller and consumer is legally forbidden. Small offenses can yield up to six months in jail. Sweden also has the strictest alcohol policy in Europe, with a state monopoly on sales (*'System Bolaget'*), and sky-high excise taxes.

When it comes to cannabis, the extreme repression has led to an explosion of home growing. In November 2012, the Swedish police announced that the country is totally self-sustaining, and barely still imports it. Reports of home growing have quadrupled in the last ten years.

Medicinal cannabis use is very carefully getting its foot on the ground. In February 2012, the state bureau for medicines recognized the British cannabis spray *Sativex* as a medicine for the treatment of multiple sclerosis.

According to the European Monitoring Center for Drugs and Drug Addiction (EMCDDA) in Lisbon, drug-related deaths in Sweden in 2005 were twice as high as in the Netherlands, and the country counted more hard drug addicts than other European countries.



## Switzerland

The fact is that all 26 Swiss cantons follow their own cannabis policy. According to national law, all cannabis with a THC content above 1% is prohibited. In 2004, a bill to fully decriminalize possession and use of cannabis came extremely close to getting a majority in parliament. Since a change in the law on September 28th, 2012, possession of up to ten grams of cannabis is no longer a crime, but a *flat fee* fine of one hundred Swiss francs (80 Euros) is possible.

Professional trade and possession of a quantity that “can influence the health of a large number of people” (above four kilos, according to a federal ruling) can be punished with a prison sentence of one to three years. Although the cantons have ample freedom, the judges continue to follow the guidelines from 2007:

Possession up to 10 grams cannabis:	100 Swiss francs fine
Use under normal circumstances:	100 Swiss francs or higher, depending on the financial situation
Repeated use misdemeanors:	Fine from 1 to 5 times the 'daily tariff'*
Selling up to 100 grams of cannabis:	Fine from 1 to 5 times the 'daily tariff'
Selling 100 grams to 1 kilo of cannabis:	Fine from 5 to 30 times the 'daily tariff'
Selling more than 1 kilo of cannabis:	Fine more than 30 times the 'daily tariff'
Selling more than 4 kilos of cannabis:	One to three years in prison

\*approximately 1/13th of the suspect's monthly income

## 4. Cannabis policy in the United States and Canada

### The United States



In the country that started the War on Drugs, the prohibition on cannabis is under pressure like never before. At this moment, twenty American states and the District of Columbia have legally regulated medicinal cannabis.

On November 6th, 2012 the inhabitants of Colorado and Washington state wrote history by voting for the legalization of cannabis, also for non-medical use. Since December 2012, citizens from 21 years old may possess one ounce (approximately 28 grams) in both states, and grow a limited number of plants for personal use. Six plants is the maximum number in both states. In Washington, no more than three of those six plants are allowed to be in bloom.

#### Medicinal cannabis

In 1996, California became the first state to legalize medicinal cannabis after a majority of the voters voted for *Proposition 215*, also known as *the Compassionate Use Act*. The law protects patients and care-takers who grow, possess and use cannabis for previously-approved medicinal purposes from prosecution by the state. An important facet of the law is the broad formulation of illnesses and disorders for which cannabis may be used: "cancer, anorexia, AIDS, chronic pain, spasticity, cataracts, rheumatism, migraine, or any other sickness that cannabis can relieve".



*Food products with cannabis, nicknamed 'edibles', are very popular in American dispensaries.*

Proposition 215 caused a chain reaction that is still continuing. In twenty American states, adults can buy, possess and use cannabis legally: Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Massachusetts, Michigan, Montana, Nevada, New Hampshire, New Jersey, New Mexico, Oregon, Rhode Island, Vermont and Washington. Nineteen of these states provide identity cards to patients who can show a doctor's recommendation. The list of states that are changing their laws according to the medical model keeps growing. Presently, six states are working on this: Iowa, Kansas, Kentucky, Maryland, New York and Oklahoma.



*A cannabis 'dispensary' in Denver, Colorado*



Picture from "Too High to Fail": Sheriff Tom Allman and cannabis grower Tomas Balough

Rules differ from state to state, but the concept *care-giver* always recurs. This is the person who grows or buys cannabis on behalf of the patient. In an increasing number of states, the definition of these *care-givers* has extended to specialized businesses; *the dispensaries*. The word *dispensary* literally means *apothecary*, but most dispensaries bring more of a modern Dutch coffeeshop to mind than a drug store as we know it.

Getting the necessary doctor's prescription is very simple in most states, and costs between 100 and 350 dollars per year. Estimates of the total number of *dispensaries* is difficult to make, but it runs into thousands of small and large shops. The biggest and best-known *dispensary* is the Harborside Health Center in Oakland, California, that serves more than one hundred thousand people, and has a turnover of twenty million dollars a year. Television broadcaster *The Discovery Channel* devoted a series in 2011 to this blooming business, which stands as a model for the *post-drug-war economy*.

### **Groene revolutie**

This term is also central to *Too High to Fail: Cannabis and the new green economic revolution* (2012) by the American author Doug Fine. This excellently-documented book offers unique insight into the world of regulated cannabis growing in Northern California, and the potential of legal cannabis for the American economy, health care, and energy- and environmental policy. A fragment of illustration:

*Beyond its proven effectiveness as a palliative medicinal treatment for ailments ranging from MS to PTSD to cancer, cannabis's wider uses (from industrial to social) have the capacity to immediately play a significant role in remedying the US economy while striking a crippling blow at drug cartels. Legalized and taxed like alcohol, cannabis could introduce a quick half-trillion dollars into the legitimate American economy within a decade, help resolve the United States' overcrowded prison crisis, and ultimately jump-start an American agricultural and manufacturing revival.*

It should be obvious that the developments in Colorado and Washington in particular are totally in conflict with the United Nation's drug treaties, and with Federal American legislation. The legislation of medicinal cannabis is in conflict with America's national laws, also. Raids of the dispensaries by the nationally operating Drug Enforcement Administration (DEA) take place with some regularity. In Obama's first term, this line of action was continued. There is no talk of large-scale raids; they're merely pin-pricks, or individual actions by zealous officials.

## Obama

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It's known that the American president smoked cannabis multiple times in his youth, and he understands that prohibition is only advantageous for criminals. Back in January 2004 Obama said:

*I think that the war on drugs has been an utter failure. And I think that we need to rethink and decriminalize our marijuana laws.*

For the first time, on a television interview with ABC on December 14th, 2012, Obama comments on the historical developments in Colorado and Washington:

*We've got bigger fish to fry. It would not make sense for us to see a top priority as going after recreational users in states that have determined that it's legal. (...) And so what we're going to need to have is a conversation about, How do you reconcile a federal law that still says marijuana is a federal offense and state laws that say that it's legal?*



Barack Obama, 44th President of the United States

### The marijuana memo of August 29th, 2013

Obama's pronouncements appeared to be a cautious signal of the historical breakthrough on August 29th, 2013, the date of the so-called "marijuana memorandum" by the American Ministry of Justice regarding the new cannabis laws in Colorado and Washington state. The memorandum, sent to all the officers of justice, spells out in four pages that states that have regulated cannabis will, in principle, be left at peace by the national government.

It comes as no surprise that the wording chosen is cautious. There's no talk of complete legalization. For the time being, cannabis still falls under Schedule I of the Controlled Substances Act, but it's clear that, from now on, states will get room to experiment with the regulation of cannabis, also for recreational use. A crucial passage from the memo reads:

*The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems ...*

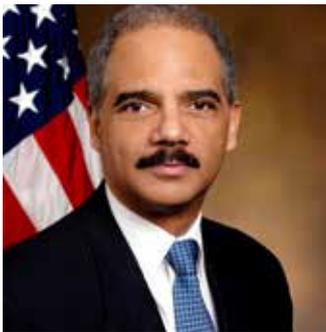
The importance of this decision is underscored by the telephone conversations that Eric Holder, the Minister of Justice had with the governors of Colorado and the state of Washington. Holder explicitly let it be known that his ministry will not block the implementation of the new cannabis laws.

Generally, it's expected that this decision will lead to a stream of bills in other states. The reaction of Eric E. Sterling, who advised the American government between 1979 and 1989 about anti-drug legislation, and is now the chairman of *the Criminal Justice Policy Foundation* is significant. On the *Huffington Post* website on August 29th, 2013, he wrote :

*This is a tremendous political victory for the millions of Americans who have been working to end marijuana prohibition. (...) This decision will unleash enormous energy to adopt marijuana legalization programs in other states. In almost every state legislature bills will be introduced. In many states, citizens will begin to gather signatures to put marijuana legalization on the ballot. While some of these measures will be unsuccessful initially, in the next decade, those in most of America and many parts of the world are going to be living with legal marijuana. Today's announcement accelerates the entire timetable for marijuana law reform.*

**Law Enforcement Against Prohibition (LEAP)**

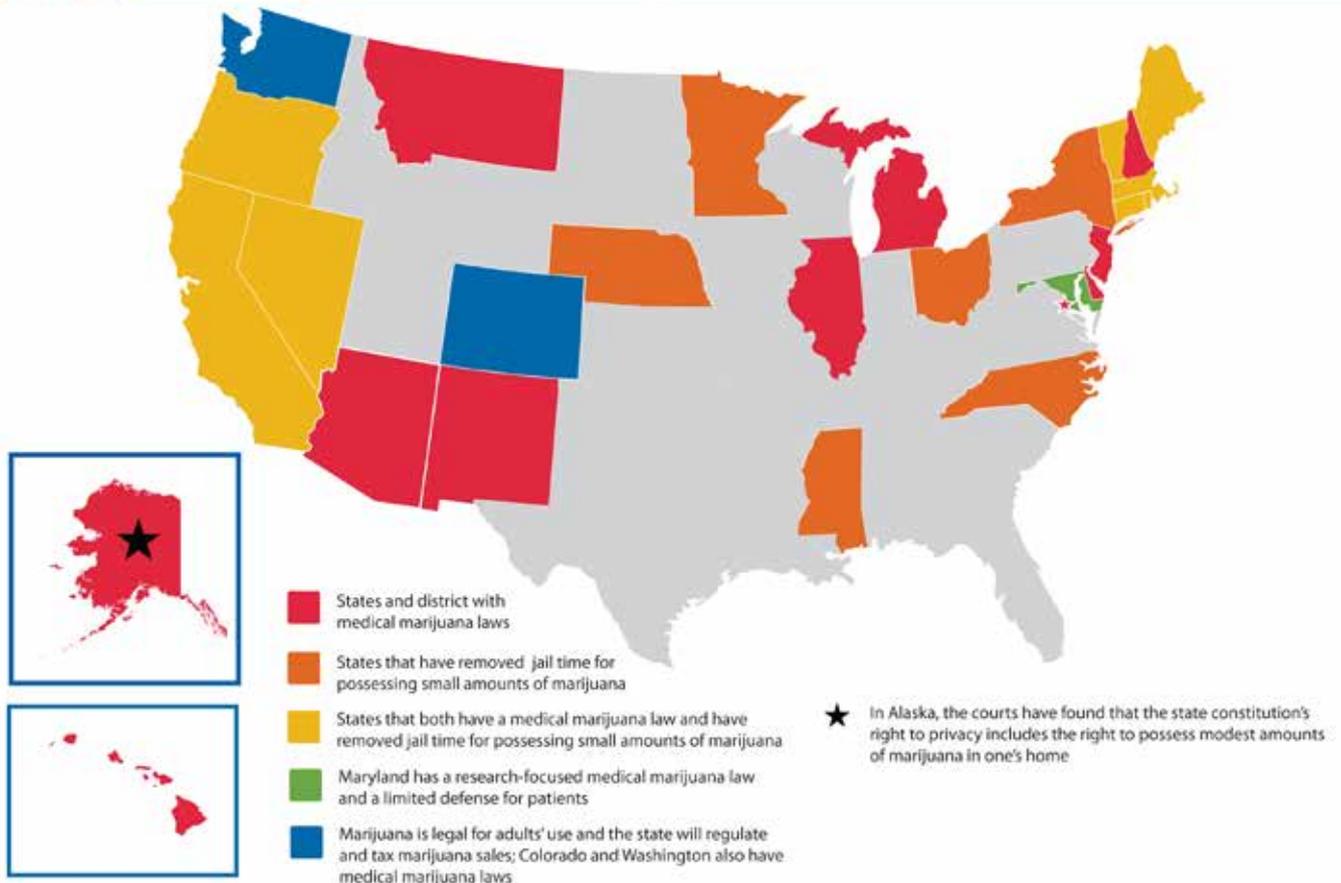
A notable and influential voice in the American debate over legalizing cannabis is the organization *Law Enforcement Against Prohibition (LEAP)*, to which more than ten thousand former, and still active police and justice professionals are affiliated. Their *vision statement* indicates in no uncertain terms why legalizing and regulating cannabis is unavoidable:



The American Minister of Justice  
Eric Holder

*LEAP envisions a world in which drug policies work for the benefit of society and keep our communities safer. A system of legalization and regulation will end the violence, better protect human rights, safeguard our children, reduce crime and disease, treat drug abusers as patients, reduce addiction, use tax dollars more efficiently, and restore the public's respect and trust in law enforcement.*

**MPP Marijuana Policy in the States**





The legal status of cannabis is unclear. Various courts in the state of Ontario have declared the national cannabis legislation in conflict with the constitution, and therefore 'of no force and effect'. Till today, however, the federal law; - *the Criminal Code of Canada, and the Controlled Drugs and Substances Act*, has not yet changed.

Growing cannabis is prohibited, unless it's for medicinal use. The Canadians themselves are in favor of legalization, or at least decriminalization of cannabis use, also for recreational purposes. In the most recent poll (Forum Research, August 2013), 69 percent spoke out for legalization or decriminalization. Only 20 percent want to maintain the present laws.

Canada is a pioneer in the area of medicinal cannabis. The first government program was already begun in 2001, and in 2003, Canada, practically at the same time as the Netherlands, became the first country where cannabis was made available in the drug store since the word-wide cannabis prohibition of the '20's.

In 2002, Jean Chrétien's Liberal government proposed legislation to decriminalize possession of up to 15 grams of cannabis, and growing up to eight plants. Under pressure from the American DEA, the proposal disappeared in a bureau drawer. A second attempt, with a virtually identical proposal, died at the end of 2004. Attempts by the conservative government of Stephen Harper to make the cannabis laws more repressive floundered just as well.



Meanwhile, the jurisprudence of judges who acquit people in criminal cases involving possession and growing is increasing. Canada leads the way in the area of industrial hemp. After sixty years, prohibition was annulled in 1998. At present, the total area of industrial hemp amounts to sixty thousand hectares.

## 5. Cannabis policy in four Latin American countries

### Argentina



Since the decision by the Supreme Court in 2009, known as the 'Arriola ruling', the political debate about decriminalizing cannabis and other prohibited substances in Argentina is gaining momentum. The Supreme Court judged that it is unconstitutional to penalize possession of prohibited substances when it concerns a limited quantity that is unquestionably intended for personal use. That judgment created a grey area for both police and cannabis consumers. Arbitrariness is the result.

At this moment, not less than eight proposals are lying in the Argentinean parliament to change the present drug laws from 1989. These plans have one thing in common: the possession and growing of cannabis for personal use should be decriminalized. According to the authoritative *Transnational Institute (TNI)*, changes to the drug laws will probably be postponed until after the reform of the whole criminal justice law (*Codigo Penal*) is finished.

At the yearly meeting of the UN Office for Drugs and Crime (*UNODC*), Argentina has made it clear in the last few years that its attitude towards drugs and drug policy has changed. During the 55th UNODC session in March 2012, the Argentine Minister of Public Health had this to say about the international drug treaties:

*We should perhaps analyze if, after decades and considering the results achieved so far, time has not arrived to start an open debate on the consistency and effectiveness of some of the provisions contained in those treaties.*



*Around 100.000 people demonstrate in Buenos Aires for the legalization of cannabis during the Global Marijuana March, May 4th, 2013*



*Bolivian President Evo Morales shows the United Nations a coca leaf, Vienna, March 11th, 2009*

Before he went into politics, Evo Morales, the sitting president of Bolivia, was a coca farmer. The coca leaf has been used for thousands of years in the Andes region. Since his inauguration, Morales has fought for international recognition of the traditional use of coca.

After fruitless attempts inside the UN to organize support for reforming the Single Convention Treaty on this point, Bolivia decided on a unique procedure. On January 1st, 2012, the Morales government cancelled the Single Convention Treaty in order to again become a member with conditions with regards to the stipulations over traditional use of the coca leaf.

In spite of negative votes from fifteen, mostly Western member states, Morales achieved his symbolic victory on January 11th, 2013: Bolivia may again become a member of the *Single Convention Treaty*. The importance of this victory is evident: The Bolivian case proves that deviations from the UN drugs treaties are possible for individual member states. In the British newspaper *The Guardian* Danny Kushlick of the *Transform Drug Policy Foundation* declared:

*The Bolivian move is inspirational and ground-breaking. It shows that any country that has had enough of the war on drugs can change the terms of its engagement with the UN conventions.'*

Remarkably, the Netherlands belonged to the group of fifteen countries that voted against the readmission of Bolivia,... an absolutely foolish position, contend Tom Blickman and Martin Jelsma of the Transnational Institute in an article in the [Dutch newspaper] *NRC Handelsblad* of January 17th, 2013:

*"The International Narcotics Control Board (INCB) supervises compliance with the UN drug treaties, and condemns the Netherlands every year with the same terminology they've condemned Bolivia. Our coffeeshops are not a school example of 'exclusive limitation to medical and scientific purposes'. Moreover, the Netherlands has itself attached a condition as regards to the underground trade in drugs and psychotropic substances. This was necessary to maintain the coffeshop policy. Why should Bolivia - that for the rest, promises to comply with international obligations to suppress the illegal cocaine market - not be allowed to do the same thing?"*

The Netherlands is also shooting itself in the foot. After the weed pass fiasco, there are more and more cities that finally want to regulate the backdoor to the coffeshop in order to combat the criminality involved in illegal growing. If the Second Chamber decides to permit a legal weed supply, adaptations are also necessary to the Dutch treaty obligations. A change in the agreements with an amendment is easy to block by a few countries, and is practically impossible in the short run. The procedure for a new condition is perhaps necessary in order to solve our own judicial problems. Then the government will regret its objection."



Mexico's President Enrique Peña Nieto

In few countries has the War on Drugs cost as many human lives as in Mexico. More than 60,000 victims died under the 2006-2012 regime of president Felipe Calderón's "war on organized crime". As a reaction to the excessive violence, the call to decriminalize drugs is increasing strongly. All the more because Calderón's "war on organized crime" led primarily to the arrest of citizens with small quantities of drugs - mostly cannabis - and not the powerful criminals in the big drug cartels.

In August 2009, the "law concerning the small-scale sale of drugs" went into effect, in which all penalties for possession for personal use lapsed. The maximum quantities for personal use are: five grams of cannabis, two grams of opium, half a gram of cocaine, fifty milligrams of heroin or methamphetamine. After a third arrest, obligatory treatment for hard drug users is possible. This regulation has led to an increased criminalization of dealers.

In addition to the violence and corruption, the overcrowded prisons contribute to the necessity of a new approach. A new approach is what's called for by Ernesto Zedillo, president of Mexico from 1994 to 2000, as co-founder of *the Latin American Commission on Drugs and Democracy*. The other co-founders are the former presidents Fernando Cardoso of Brazil, and César Gaviria of Colombia. In a groundbreaking report in February 2009, they advocate reforming the international drug laws, and an end to the destructive *War on Drugs*.

In December 2012, Mexico got a new, young president, Enrique Peña Nieto (47). He propagates a different course than his predecessor Calderón. His first priority is reducing the violence in Mexico, not the pursuit of the drug cartels. But one year after his inaugural, none of the demilitarization in his campaign promise has been kept.

Personally, Nieto is no proponent of legalizing drugs, but a new strategy is necessary in his view. More and more Mexicans are wondering why their country has to pay the price for American drug consumption, a question that the whole continent is asking more often.

During the sixth *Summit of the Americas* in April 2012, a discussion about alternative models, among them the regulation of drugs, stood on the agenda. There was much criticism on drug policy, and a broad consensus on the failure of the present approach. Guatemala and Colombia in particular presented themselves as proponents of a debate about legalization. Mexico didn't go as far, but urged a fundamental debate at least. The American president Obama, who had his re-election in front of him at that time, reacted notably constructive:

*I don't mind a debate around issues like decriminalisation. I personally don't agree that's a solution to the problem. But I think that given the pressures that a lot of governments are under here, under-resourced, overwhelmed by violence, it's completely understandable that they would look for new approaches, and we want to cooperate with them.*

The legalization of cannabis in the American states of Colorado and Washington has not gone unnoticed in Mexico. The progressive politician Fernando Belauzaran submitted a motion in November 2012 to regulate cannabis in a similar manner as Colorado. Belauzaran declared to the BBC:

*What has happened in the US has moved things forward, because this debate is crucial. We need to ask if it makes sense to carry on with this full-frontal military campaign which has generated so much destruction and death in our country in order to impede the entrance into the United States of a substance which is now permitted and regulated.*

Also, it appears that President Nieto considers the legalization of cannabis in Colorado and Washington as a game-changer. His top advisor Luis Videgaray had this to say to journalists at the end of November 2012:

*Obviously, we can't handle a product that is illegal in Mexico, trying to stop its transfer to the United States, when in the United States - at least in part of the United States - it now has a different status.*

The conservative Vicente Fox, president of Mexico from 2000 to 2006, is a convert when it comes to the War on Drugs. For several years, he has sided with the most outspoken proponents of the legalization of cannabis in Mexico. In an interview with *the Los Angeles Times*, Fox declared in July 2013:

*This prohibition is the last frontier of prohibitions. The issue of abortion. The issue of same-sex marriage. The issue of gays. The issue of alcohol. These arbitrarily imposed prohibitions have ended. And they have ended because they don't work.*

The latest news out of Mexico: the administration in the capital, Mexico City, wants to begin quickly with regulation of 'la mota' (cannabis). The proposal encompasses legalizing the growing of three plants per person, and making 'non-commercial private clubs' legally possible.

Writer Jorge Castañeda, Minister of Foreign Affairs under Vicente Fox, sees good chances for the motion. In an interview with press bureau *Inter Press Service* (August 6th, 2013), Castañeda compared the situation in Mexico with that in the U.S.:

*In Mexico, intermediate steps (on drug decriminalisation) may be taken without neighbouring countries necessarily having to follow suit. It is far more viable in the capital. For example, in the United States some states have taken decisions of this kind.*

# Uruguay



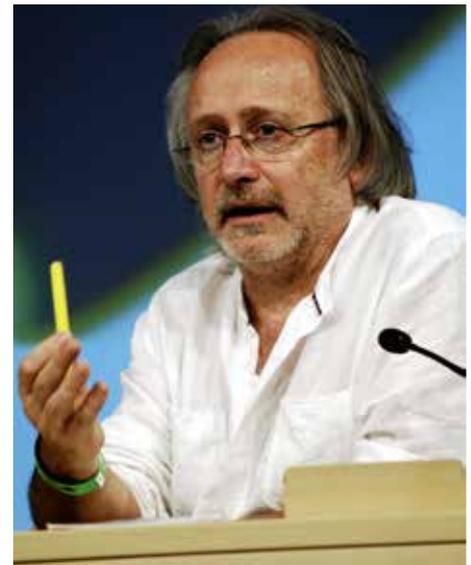
In Uruguay, possession and use of small quantities of drugs for personal use was never criminalized. The most recent drug laws from 1998 give the judge broad discretionary powers to determine whether or not a quantity is destined for personal use, or actual dealing.

Article 31 of the law states: 'Whoever is found in possession of a reasonable quantity of drugs that is exclusively intended for personal consumption, established in good faith by a judge, will not be prosecuted. The judge must explain his decision, and the reasoning behind the foundation on which it is based.'

President José Mujica announced a new law in October 2012 to legalize the production and sale of cannabis under a state monopoly. His center-left government appears determined to get down to brass tacks. This statement by Minister of Internal Affairs Eduardo Bonomi is characteristic:

*We have a progressive tradition. At the beginning of the 20th century our country ended the prohibition of alcohol, prostitution and gambling. Our approach to marijuana is equally pragmatic. The negative effects of consuming marijuana are far less harmful than the outbreak of violence associated with the black market.*

Originally, the law would be sent to the parliament in December 2012, but president Mujica turned back the tempo somewhat in order to offer space for a broad societal and political discussion about the project. On August 1st, 2013, a slim majority of the Lower House voted in favor of the new law. Because Mujica's party has a majority in the Senate, the law is factually through the parliament.



*Julio Calzada, head of the national drugs commission of Uruguay speaks at the cannabis fair Expogrow in Irun, Spain, September 2013.*

If the law goes into effect, three kinds of cannabis growing will be legally permitted from now on:

1. Adult citizens may grow a maximum of six plants for personal use
2. Cooperatives of maximal 45 members can grow up to 99 plants per year
3. The state will issue permits to companies to grow cannabis on a commercial basis

To date, the government will be the sole purchaser from the commercial growers from the third category. With this construction, drug stores in Uruguay will be supplied with legal cannabis. In October 2013, Julio Calzada, head of the national drugs commission made it known that the government is aiming for a price of one dollar per gram for regulated cannabis:

## 6. The Dutch consumer speaks

by **Dimitri Breeuwer, WeSmoke Foundation ([www.wesmoke.nl](http://www.wesmoke.nl))**

The WeSmoke Foundation is a consumers' organization that serves the interests of the Dutch cannabis enthusiast. We want to influence national cannabis policy in the interests of the recreational, medicinal and therapeutic cannabis consumer in a positive manner by participating in the social debate among other things.

Our foundation has national coverage and a following of thousands of sympathizers. The information from these sympathizers, and the signals from the country give us an actual image of the bottlenecks in policy for the consumer. By giving advice to national and local governments, and to politics, WeSmoke is dedicated to the health and safety of the cannabis consumer.



*Dimitri Breeuwer, woordvoerder van de stichting WeSmoke.*

Since the '70's, public health is at the center of Dutch drug policy, with, as an important element, the healthy idea of separating hard drugs from soft drugs. In the past four decades, the Dutch coffeeshops have proved their worth to consumer and society by keeping the soft- and hard drug markets apart. The existence of coffeeshops has not led to more use of cannabis in comparison to other countries where no coffeeshops exist. The coffeeshop offers the consumer a safe, reliable and cozy surrounding to consume and buy cannabis; - in all aspects, a better alternative to the illegal market. In the last ten years, the consumer has had to deal with more and more repressive, stigmatizing and discriminating regulations. In this context, the adoption of the resident- and the closed club criteria was one of the deepest points. Fortunately, the regulation that obligates registration with a coffeshop has been dropped, but the rule that you must prove you're a resident with every visit to a coffeeshop has remained intact.

The government's plan to define weed with more than fifteen percent THC as a hard drug has very serious consequences for the consumer. Some weed can be a hard drug without you knowing it, or being able to control it. Not only is fifteen percent a completely arbitrary number, the entire regulation is unnecessary and undesirable, as appears from strong criticism on this proposal by concerned organizations and experts.

The freedom, and the right to self-determination of the cannabis consumer are coming increasingly under pressure. Not only due to the stricter rules for coffeeshops, but also by the tighter laws over growing. For years, small home-growers with a limited number of plants for personal use had nothing to fear. But those days are over. Also, eviction and prosecution, sometimes with sky-high costs threatens for a closet under the stairs with a lamp, or for four plants in the garden. No single form of hobby growing still appears to be tolerated.

The present guidelines make it extremely easy for Justice to label and prosecute small homegrowers as industrial-scale growers, regardless of the number of plants. And since 2006, industrial-scale growing can be punished with a maximum of six years in prison, and a monetary fine in the fifth category (maximum 78,000 Euros).

In practice, there is no clear unity in the observance of the guidelines, and the homegrower is relegated to arbitrariness. Homegrower Piet is left unbothered while homegrower Sophie loses home and hearth for a comparable number of plants. Through covenants between the housing corporations, energy providers and municipalities, in addition to prosecution by Justice, families have to deal with eviction from their

homes, and all the grim financial and emotional consequences that come with it. It often involves people who want to provide for themselves, and don't want to, or are unable to go to a coffeeshop or to the illegal circuit.

Another negative development is the relevant-or-not confiscation of user quantities of cannabis (maximum five grams). While this doesn't result in a fine, it naturally costs the consumer money; you lose the value of your purchase. Reports come from the whole country that police at the entrance to festivals confiscate any quantity of cannabis that is discovered after frisking by the security. Festivals that won't cooperate with this zero-tolerance policy have little chance of getting a permit.

WeSmoke hopes that the senseless War on Drugs stops as quickly as possible in the Netherlands and in the rest of the world. We call for a return to the basis of Dutch cannabis policy; - public health. Adult citizens must get the right to possess a users' quantity of cannabis and to grow a limited number of plants for personal use in their gardens, on their balconies, or indoors. For forty years long, Dutch citizens have been allowed to legally use cannabis, but not legally possess or grow cannabis. It's high time that an end comes to this schizophrenic situation.

### Factors defining professionalism of business-level dealing with respect to growing cannabis

Professionalism:	Low	Average	High
<b>Indicator:</b>			
Lighting	daylight		artificial light on time clocks
Feeding	watering can		centrally controlled irrigation system, or drip system
Space	balcony, garden	separate room in house	hothouse or large divided and screened-off space inside or outside
Screening	none		insulated with regards to daylight and temperature
Ventilation	none		exhaust to the outside
Heating	none	present	thermostat or computer-controlled
Soil	dirt, potting soil		specially enriched earth and potting soil, rock wool, hydro-culture
Disease prevention	none	present	disease prevention, also biological
Processing	small-scale	under own control	contracted to trimming company
Plant material	unknown seeds	selected seeds	cuttings and clones from own plants, and externally purchased
CO2 supplementation	none	present	controlled installation

Note: this list with indicators is not limiting. The same counts for the interpretation of the installation discovered, and the preparations used for production.

## 7. Viewpoint of the Dutch Cannabis Entrepreneurs Platform (PCN)

Cannabis is a common plant world-wide with an exceptional number of useful applications; from building material to food, fuel and medicine. The world-wide prohibition of the cannabis plant, originating from the U.N. Single Convention Treaty of 1961, is an historical mistake that, hopefully, will be quickly corrected.

By now, inside and outside our country, it is clear that cannabis is not the “killer drug” that people had previously feared. Also, the long-held prejudice that cannabis is a ‘gateway’ to hard drugs appears to be unfounded. Today, our country counts about six thousand hard drug addicts, while at least 650,000 cannabis consumers have not taken any hard drugs on a daily basis for the past 37 years. . .

The Netherlands have been a model for many countries with the decriminalization of use, possession and small-time trade in cannabis. Our ideas and pragmatic approach attract a following far beyond the country’s borders. From Uruguay to Spain, and from Colorado to the Czech Republic, the Dutch line of decriminalization and *harm reduction* has been adopted over the years. Meanwhile, the call for legal regulation of cannabis is increasing world-wide.

Real progress in this area can only be made if the Single Convention Treaty (1961) is annulled. This agreement has already been replaced, in fact, by the treaties in Vienna (1971 and 1988), that are more flexible, and also offer space to include chemical drugs that don’t appear in the Single Convention Treaty. No drugs may be added, and no drugs may be removed under the Single Convention Treaty. This is the stumbling block in coming to real and sorely needed changes.

Also, the Netherlands can at this moment take steps towards regulating the growing and delivery of cannabis to coffeeshops. The unique Dutch principle of discretionary powers offers this opportunity, as has been explained several times in this brochure.

The Netherlands should make use of the international momentum to call for a fundamental change to the international drugs treaties. International support for this has never been so great. The late professor Louk Hulsman rightly criticized the attitude of the Dutch delegations that remained silent for years in international forums, and didn’t come up with any leading suggestions. The Dutch Cannabis Entrepreneurs Platform [PCN in Dutch] hopes that this will change.

In May 2010, an urgent appeal to the government then in power appeared in the newspaper NRC Handelsblad, signed by ex-ministers Frits Bolkenstein (VVD), Els Borst (D66), Hedy D’Ancona (PvdA) and other prominent politicians and scientists. The PCN is in total agreement with their conclusions and recommendations:

“The thirty-year experiment with the sale of cannabis via coffeeshops is unique. Regulation of this drug has not lead to greater use, neither of cannabis nor of other drugs. Use and addiction of soft- and hard drugs in the Netherlands lies on, or under the European average; a good deal lower than more repressive countries such as France, England and the U.S. Also, having coffeeshops means that hundreds of thousands of cannabis consumers have no criminal record, no cancellation of their driver’s licenses or worse, such as elsewhere. Prohibition doesn’t seem necessary. We can do away with this particular rule designed to protect citizens against themselves. Regulation works.

“In order to remove the coffeeshops completely from the criminal circuit, the growing of cannabis must be regulated. Municipalities are standing in line for this. A motion to that effect has already been taken up twice in the 2nd House of Parliament.

“Are drug treaties standing in the way? No. A good judicial argument can be made that they permit regulation. But the simplest is to introduce regulation via the principle of discretionary powers, just as with the coffeeshops: no prosecution as long as specific stipulations are adhered to. Our country has always reserved that right.”



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# Colophon

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