

Cannabis regulation in Europe

Steve Rolles

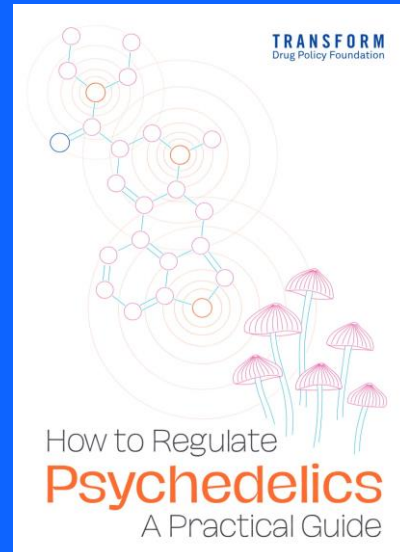
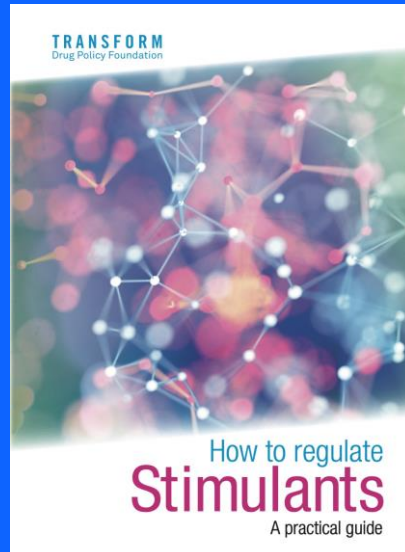
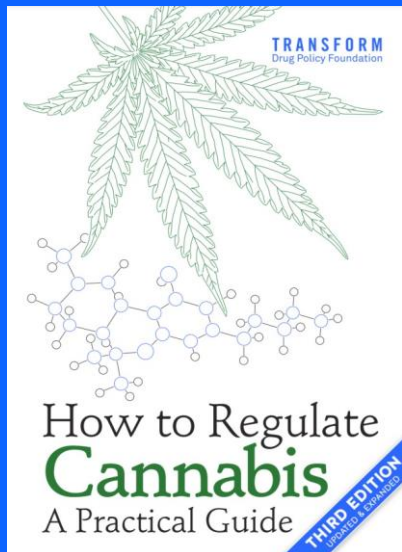
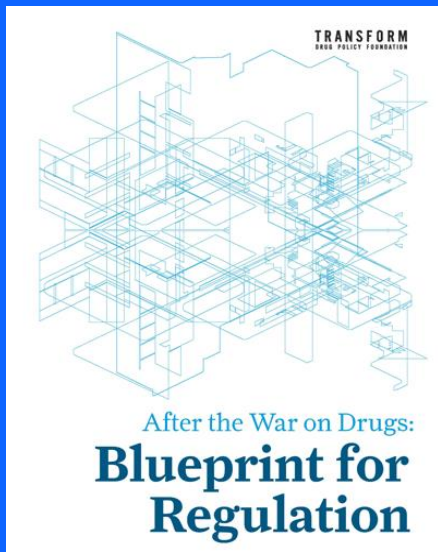
Senior Policy Analyst


Transform Drug Policy Foundation

Steve@transformdrugs.org

[@SteveTransform](https://twitter.com/SteveTransform)

OUR PUBLICATIONS





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KEY THEMES IN EUROPEAN REFORM



- Wave of reforms towards regulation for non-medical use in Europe in past 5 years
- Different political and legal dynamics in Europe leading to different regulation models than in North America
- An Emerging 'European model'?
- Key concerns with health, commercialisation, the environment, & international trade.....

EUROPEAN POLITICAL & LEGAL CONTEXT



- **UN conventions** do not allow regulated retail markets for non medical/scientific use
- **EU Shengen agreement** - requires (71.1, 71.2) requires adherence to the UN conventions.....But some ambiguities tensions (around borders/trade - similar to US) allow different approaches to medical cannabis
- **EU Framework Decision 2004/757/JHA** prohibits cannabis production/trade - but again some ambiguities
- Decriminalization is allowed - and now 'creatively' interpreted

THE NETHERLANDS



- Use and small scale sales (from coffee shops) formally tolerated but technically illegal - since 1976
- Paradoxical system: the 'back door problem' (legal front door, illegal back door) an attempt to negotiate UN treaties
- Long running attempts to regulate the supply chain - politically difficult
- Finally an 'experiment' began to supply in 6 cities in December 2023
- *Still* technically not legal - only tolerated

MALTA



- **2021** Malta becomes first EU country to formally regulate adult access cannabis
- Small island: 600k, 20km across!
- Fully decriminalised possession <7g
- Allows private adult cultivation up to 4 plants non-profit membership based associations for production supply (similar to models in
- Regulated/licensed by ARUC.mt
- Up to 500 adult members (malta resident), 50g per month, regulated products
- No retail / no consumption spaces (yet)

LUXEMBOURG



- Very small but very rich country
- 2018 - Govt coalition announced is would legalise cannabis
- Original published plan was for regulated retail market
- EU political/legal issues meant that the original plan was scaled back
- June 2023 new law passed to decriminalise use and personal cultivation of up to 4 plants
- Plans for a 'phase 2' rollout of regulated market still in place but no timetable for implementation

Switzerland



- 2004 Parliamentary attempt to legalise cannabis narrowly failed
- 2008 referendum to legalise fails (37% support)
- Possession decriminalised in 2012 (<10g) - no fine or confiscation unless being used
- 2017 - low THC cannabis (<1%) widely available for legal sale
- 2020 law allows retail city based 'experiments' with retail sales
- 2022 city of Basel becomes the first city to receive a license for an 'experiment'
- 5 more cities opening 'experiments'
- Separate political process for legalisation

CZECHIA



- Possession of <10g or 5 plants is decriminalised (civil offence)
- 2022 plan announced to allow homegrowing, non profit associations and a regulated retail market
- 2024 draft of 'compromise plan' announced - without the retail market
- Details of new law still being discussed - timeline unclear
- Plan is still for retail market; discussions also for starting an 'experiment' with retail sales
- New law regulating 'psychomodulatory substances' passed in May 2024

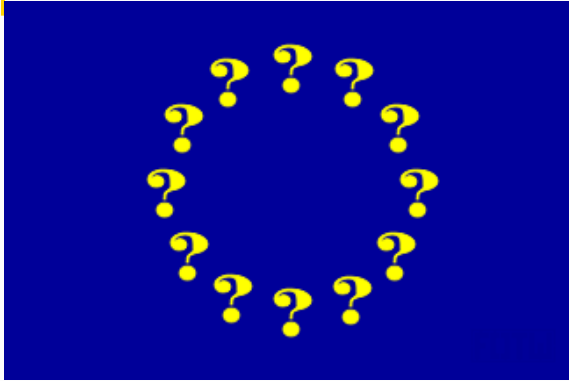


GERMANY



- March 2024 law passed decriminalising up to 25g for personal use (50g at home)
- cultivation of 3 plants for personal use
- Framework for non-profit associations (up to 500 members)- like Malta
- Expungement of previous criminal records
- Original plan for regulated retail market rolled back under EU pressure
- New plan for retail 'experiment' in cities (no timeline yet)
- Politically important - 80 million people, at the heart of EU politics

WHAT NEXT?



- Cannabis legalization initiatives progressing in other countries including Portugal, Denmark, Italy & elsewhere
- Spain now has 1000+ cannabis clubs and a parliamentary majority for reform
- As more countries legalise some kind of EU level reform becomes inevitable - but pathway is unclear
- Difficult political/legal challenges - especially around trade/borders
- Regular ministerial level forums now taking place to resolve issues
- Can EU resist corporate commercialisation - do things differently and better?



Lessons from European reform?

- Opportunity to embed and prioritise principles of social justice, equity and environmentally sustainable development - too often absent or actively undermined in both unregulated illegal markets, as well as inadequately regulated legal markets
- A chance to be innovative and ambitious, to do things differently and better - (but only if we seize the opportunity)
-not only by creating a more equitable and just policy and market landscape, but also to help repair the harms of past policy failings

What is corporate capture?

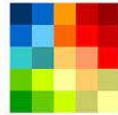
The concept of 'corporate capture' or 'regulatory capture' refers to the means by which corporate entities pursue profit and power by 'exerting undue influence over domestic and international decision-makers and public institutions'

Such 'corporate capture' may weaken regulatory powers, and undermine the realisation of our shared goals in public health, social justice, and in sustainable development

Corporate capture: mechanisms of influence

- Conventional lobbying, and 'soft' lobbying (including provision of hospitality)
- Direct / indirect funding of politicians or political parties
- Influencing provision of expertise through funding of think tanks, civil society organisations and academia
- Membership of government committees or task forces
- 'Revolving doors' movement of staff between corporate and government posts

Corporate capture: risks



Altria



DIAGEO



BACARDI

- Problems most obviously witnessed with alcohol and tobacco - where a small group of powerful corporate entities dominate global markets
- *“Both the alcohol and tobacco industries have much more experience opposing sensible regulations than they do recommending them.”*



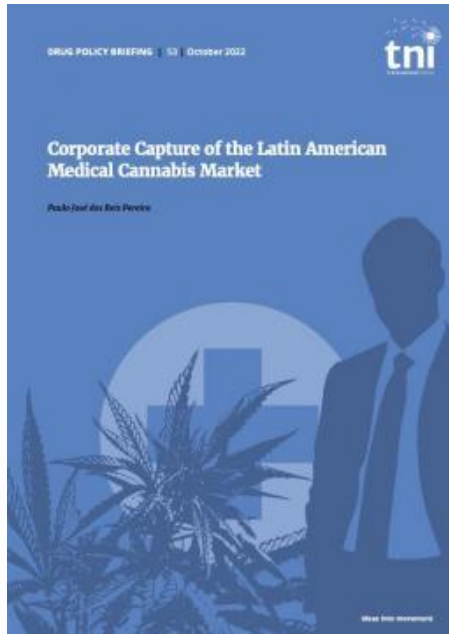
BUSINESS PUBLIC

Curaleaf Chairman: Cannabis Could Emulate Tobacco Oligopoly

“This industry has to consolidate. There’s no way there’s going to be 35 or 40 or 50 or 100 cannabis companies 10 years from now,”

“It’s probably going to be three to four large operators, all of whom are probably going to be closely doing what the tobacco industry has done, in terms of their supply chain and their costs, in order to be able to earn a very healthy margin.”

Corporate capture: international dimension



- Medical cannabis used to establish market presence - (in development context: often for-profit extractive industries, with questionable local benefits).
- Canopy Growth has established a medical presence in Australia, Europe, Africa & South America, Cronos Group similarly operates across five continents
- Medicinal cannabis companies in Colombia are nearly 75% owned by foreign investors. Over \$600 million was invested in the Colombian market between January 2018 and June 2019, mainly by Canadian companies

Preventing domestic monopolies / oligopolies?



- Allow home growing for personal use
- Allow non-profit membership associations
- Explore other not for profit retail models including state monopolies (e.g. Quebec)
- Limit number of licenses or % of market any one person or entity may control
- Create equity programs that use preferential licensing to incentivise participation of small or disadvantaged businesses
- Restrict license availability to alcohol, tobacco, existing medical cannabis companies
- In Europe happening (by accident of law) for non medical, but not for medical

Preventing transnational monopolies/oligopolies?



- National non-medical industries can currently be protected to some extent, but...
- Unless specifically legislated, company ownership is not protected and capital investment unconstrained
- Will be vulnerable when markets opening up in future when international law allows trade (WTO etc)
- Corporate capture can also take place in non production/supply market sectors such as technical innovation, intellectual property, and other forms of expertise
- Role for multilateral entities?

Corporate capture key points

- Corporate capture and monopolies already evident in N.America
- Particular concern re alcohol tobacco industries
- It's not inevitable: emerging good practice in equity programmes & not for profit models shows another way is possible
- Particular attention needed regarding Global North / Global South dimension - and role of of multilateral trade bodies and UN.
- 'Blank slate' gives us a unique opportunity - key window of opportunity at early stages of policy development (now)

12 RESPONSIBLE
CONSUMPTION
AND PRODUCTION



10 REDUCED
INEQUALITIES



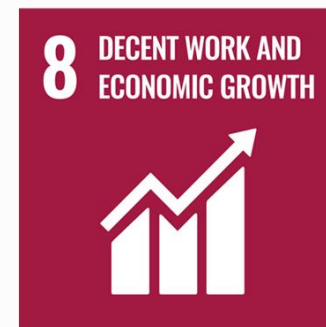
Equity programmes

- Now in place in most US legal retail markets. (But not EU)
- Overlaps with corporate capture risk mitigation; seeking a diverse market for small and medium sized businesses
- proactively support participation in emerging markets of marginalised & disproportionately impacted communities
- Also includes a reparative dimension - repairing harms of the past
 - Reducing financial barriers for equity applicants
 - Preferential licensing access - quotas, exclusivity
 - Technical support and training to 'level the playing field'
 - Redirection of some tax revenues into social programmes
 - Expungement of criminal records (and resentencing)



International cannabis markets & sustainable development

- Equity has an international dimension also
- Legalisation in EU will have profound impacts on traditional producers in Morocco and elsewhere (including Lebanon and Afghanistan)
- Morocco is the biggest producer of hashish - supplying maybe 20% of EU markets
- Regulated trade with Morocco could have positive development implications for vulnerable populations traditional in the Rif and also meet demand in EU
- Similar scenario regards Mexico / US cannabis trade
- Raises difficult questions regards international law



Cannabis and environmental sustainability

- The carbon footprint of producing 1 kg of cannabis indoors up to 5,200 kg CO₂, equivalent to burning 2,000 litres of gasoline
- Germany, indoor production of 400 tons for compares to the total household electricity use of Cologne
- Dangerous myth that quality controlled cannabis cannot be grown outdoors in EU
- *If* problematic, then better to import
- Opportunity to do things better - only license carbon neutral production
- See TNI 'cannabis and climate' briefing

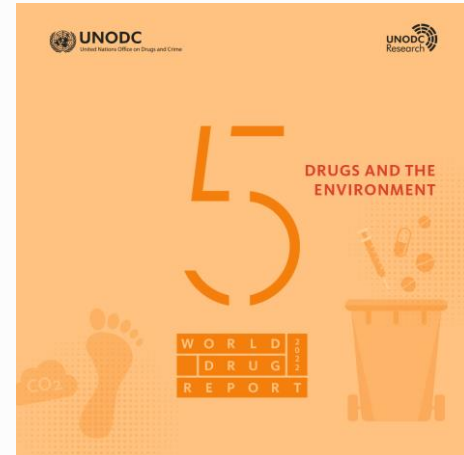
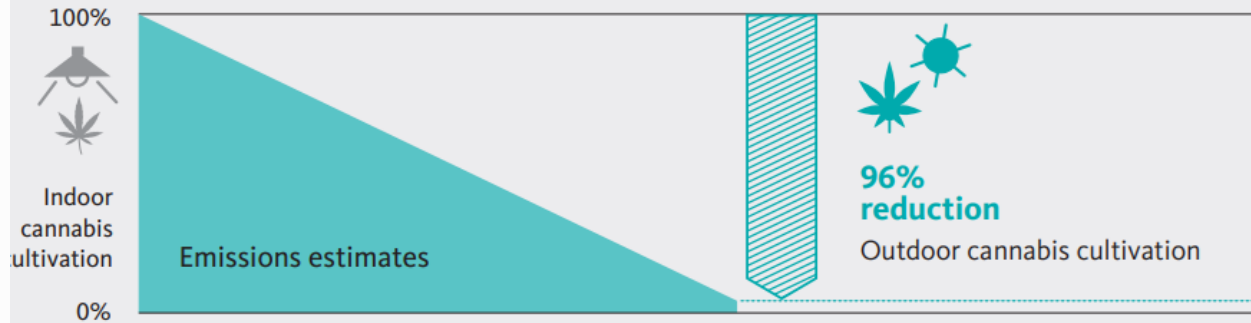
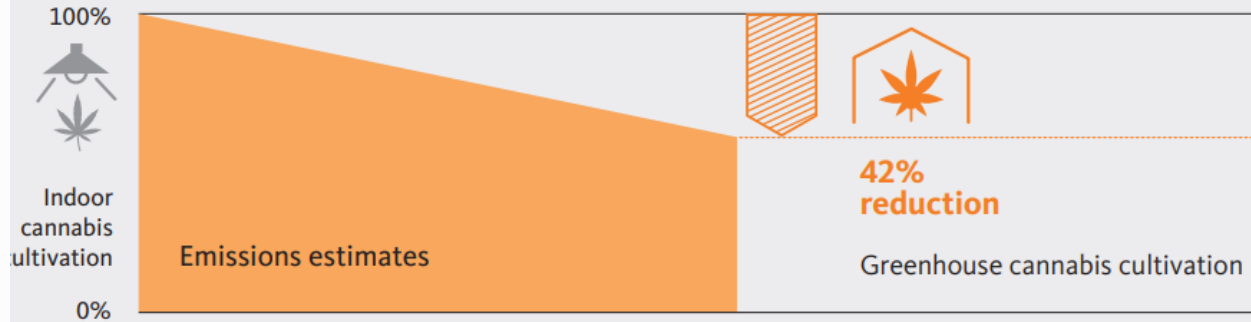
13 CLIMATE ACTION



7 AFFORDABLE AND CLEAN ENERGY



ESTIMATED EMISSION REDUCTIONS FROM CHANGES IN CANNABIS CULTIVATION METHODS





THANK YOU

Steve Rolles
Senior Policy Analyst
Transform Drug Policy Foundation