

## GDPO Situation Analysis

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# Assessment of the first year of the legally regulated cannabis market in Uruguay

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### Subject

On December 23<sup>rd</sup>, 2013, President José ‘Pepe’ Mujica signed bill 19.172 into law. Thus, Uruguay became the first country in the world with a legally regulated recreational cannabis market.<sup>1</sup>

The drug policy reform process in Uruguay did not end with the passing of law 19.172. Rather, it entered a distinct phase marked by new endogenous and exogenous challenges. Regulation had to be written, a new regulatory body set up, an evaluation framework conceptualized, large-scale cannabis production organized and the effects of a national election weathered. All this occurred within the first year after the passage of the law.<sup>2</sup> Therefore, it is high time to take stock and assess the progress of drug policy reform in Uruguay.

As this analysis of the first year of legally regulated cannabis in Uruguay shows, as in other places, one does not simply ‘legalise’ cannabis.<sup>3</sup>

### Significance

Despite the Uruguayan government not wanting to serve as an example for other countries contemplating drug policy reform,<sup>4</sup> there are good reasons for paying close attention to Uruguay’s ‘noble experiment’.

A case of actual existing legalization of cannabis on the national level provides the kind of empirical evidence that has hitherto limited research on alternative forms of drug policy.<sup>5</sup> Already, Uruguay is influencing drug policy debates elsewhere.<sup>6</sup> The stakes, therefore, are high. Success or failure of Uruguay’s drug policy reform will likely reverberate beyond Uruguay’s borders.

How successful or unsuccessful Uruguay’s legally regulated cannabis market will be dependant not only on the letter of the law, but on how it is implemented and translated into practice.

## Analysis

Law 19.172 stipulates three distinct ways of accessing cannabis: home cultivation, cannabis social clubs and commercial sale. Growers and users have to register with the government in order to be allowed to grow or buy cannabis. Restrictions apply to where (pharmacies) and whom cannabis will be sold to (not minors or tourists) and for how much (price controls). Maximum quantities of 40g per month per person apply to both sale and cultivation. Advertisement is forbidden and authorities are planning to implement an accompanying prevention/education campaign. As set out in law 19.172, the Instituto de Regulación y Control del Cannabis (IRCCA), had to be created to be responsible for implementing, controlling and evaluating the new law.<sup>7</sup>

Under the current global drug control regime external challenges to Uruguayan style drug policy reforms are to be expected.<sup>8</sup> In its annual report the International Narcotics Control Board (INCB), noted that Uruguay was violating international drug control treaties.<sup>9</sup> In December 2013, INCB President Raymond Yans compared Uruguay to ‘pirates’.<sup>10</sup> However, others did not match his rhetoric or publicly share his concerns.<sup>11</sup> Instead of caving in to the pressure, Uruguayan authorities went on with the policy shift.<sup>12</sup> In March 2014, at the annual meeting of the UN’s Commission on Narcotic Drugs (CND) in Vienna, Uruguay defended its drug policy reform by invoking existing human rights treaties, its constitution and public health considerations.<sup>13</sup>

## Achievements: Regulatory Body, Registration, Autocultivo, Social Clubs

After their summer recess, Uruguayan authorities made substantial progress on drafting necessary regulation and addressing many of the details left to be specified.<sup>14</sup> In May 2013, the IRCCA was formed.<sup>15</sup> Crucial rules and regulations were promulgated.<sup>16</sup> With the IRCCA beginning to work and the final details of the legal framework hammered out, cannabis cultivators would soon be able to register.

It is estimated that between 5-10% of Uruguayan users or roughly 10 000 people grow their own cannabis.<sup>17</sup> Under the new law, “*autocultivo*” (or home-growing) of up to 6 plants is allowed, as long as users are registered with the IRCCA.<sup>18</sup> Limitations to the annual yield apply to home growing (480g).<sup>19</sup> The registration process for home cultivators began on August 27<sup>th</sup>, 2014.<sup>20</sup> Initially, the pace of registration was slow.<sup>21</sup> Growers’ suspicions towards actively disclosing their identity to a state agency,<sup>22</sup> lack of publicity of the registry’s opening,<sup>23</sup> and, the uncertainty about the outcome of the upcoming October elections (and what would happen with the information of the registry),<sup>24</sup> are among the reasons for the underwhelming registration turnout. Nevertheless, since the first round of elections, the pace of registration has picked up. By October 10<sup>th</sup>, 601 growers had registered.<sup>25</sup> This number increased to 1200 autocultivadores and 500 cannabis social clubs by the end of December.<sup>26</sup>

On October 30<sup>th</sup>, the IRCCA began registering cannabis social clubs.<sup>27</sup> Cannabis social clubs in Uruguay are restrictive in terms of their size, membership and location.<sup>28</sup> Between 15 and 45 members are allowed to grow a maximum of 99 plants, subject to the same constraints on their annual yield.<sup>29</sup> Some of the social movements and activists, heavily involved in the passing of the law,<sup>30</sup> have founded associated cannabis social clubs or are involved in facilitating their emergence.<sup>31</sup> The Federación de Cannabicultores del Uruguay grew out of the social movements and represents cannabis cultivators, clubs and their interests.<sup>32</sup>

## To be implemented: Commercial Sale in Pharmacies

The third leg of the tripartite access scheme for cannabis is its commercial sale in pharmacies. Practical difficulties have led to repeated delays in the sale of cannabis in pharmacies.<sup>33</sup> To this date cannabis cannot be bought in Uruguayan pharmacies, nor is it being cultivated for commercial sale.<sup>34</sup>

To many, the commercial production and sale of recreational cannabis in pharmacies is the most novel and important part of law 19.172. Its delayed implementation, limits drug policy reform in its scope and the number of people it directly affects.<sup>35</sup> Nonetheless, subsequent claims that Uruguay’s drug policy reform may go “up in smoke” have been exaggerated.<sup>36</sup> Despite repeated delays and the slow roll-out of the commercial cannabis market,<sup>37</sup> Uruguayan authorities maintain that they are on schedule to implement the sale of recreational cannabis in pharmacies by March 2015.<sup>38</sup>

The reasons for the repeated delays in the realization of commercial sales are multiple. On the one hand, this was the most controversial aspect of the unpopular law. Special interest groups, such as the association of pharmacists, have spoken out against it.<sup>39</sup> On the other hand, on practical grounds, the process has proved more difficult and challenging than was anticipated. A fitting locale for cultivation with proper security measures had to be found.<sup>40</sup> Varieties and potencies had to be selected. As the Uruguayan government is not growing cannabis directly, companies have to be licensed to do so.<sup>41</sup> This process is still ongoing. Once the three to five licenses have been awarded, the natural growth cycle of cannabis will delay eventual implementation further, most likely until newly-elected President Tabaré Vazquez assumes power.<sup>42</sup>

## **Exogenous Challenge: 2014 Elections**

The first year of legally regulated cannabis in Uruguay was overshadowed by the national elections to be held in October. Uncertainty over the electoral outcome and position on cannabis legalisation of the two contenders for the Presidency Tabaré Vazquez and Luis Lacalle Pou, complicated the implementation process and introduced perceived risks for the fate of cannabis legalisation.<sup>43</sup>

In general, despite overwhelming rejection by the electorate, drug policy reform did not become a major topic in the electoral campaign.<sup>44</sup> Other concerns, such as public security, dominated the agenda.<sup>45</sup>

Ex-President Vazquez's (2005-2010) stance on drug policy reform was the subject of much speculation. Initially opposed to cannabis legalisation,<sup>46</sup> by August 2013 Vazquez had changed his position to consider even the legalisation of cocaine.<sup>47</sup> His opponent, the National Party's candidate Lacalle Pou had sponsored an unsuccessful bill in 2010 that would have legalised autocultivo.<sup>48</sup> This earlier position made it more difficult for him to oppose credibly drug policy reform entirely.<sup>49</sup> Lacalle Pou staunchly rejected the sale of cannabis in pharmacies.<sup>50</sup>

With the race between the Frente Amplio and electoral collation of Partido Nacional and Colorado heating up in the second half of 2014,<sup>51</sup> greater attention was focused on the respective candidates' positions on cannabis.<sup>52</sup> Vazquez made some unexpected comments on the campaign trail about using the confidential and protected data from the registry for treatment purposes.<sup>53</sup> These comments on the sale of cannabis in pharmacies pitted him directly against President Mujica.<sup>54</sup> In the closing days of the campaign, Lacalle Pou raised the stakes and promised to repeal as much as possible of the drug policy reforms as one of his first acts as newly elected President.<sup>55</sup>

The close race between Vazquez and Lacalle Pou in the first round, as well as their isolated pronouncements on drug policy, fueled a perception that the fate of drug policy reform was in jeopardy.<sup>56</sup> In the end, such concerns proved unfounded as the Frente Amplio retained its majority in both houses of parliament in the first round and Tabaré Vazquez was elected with a comfortable majority in the second-round presidential elections on November 30<sup>th</sup>.<sup>57</sup>

## **Preliminary Assessment of Impact**

Because of the law's incomplete implementation and early stage, there are limitations to any assessment of its effects at this point.<sup>58</sup> Nonetheless, some preliminary evidence on the impact of law 19.172 is already available.

As has been noted in other contexts,<sup>59</sup> drug policy reforms do not seem to have significantly increased prevalence rates. Despite media reports that cannabis overtook tobacco consumption among youths,<sup>60</sup> Uruguayan authorities have pointed out that this increase is in line with the past trajectory and does not represent a marked increase.<sup>61</sup>

Cannabis and drug policy have become more visible in public life: a University diploma in drug policy is offered at the Universidad de la Republica,<sup>62</sup> a number of grow shops have opened in central locations in Montevideo,<sup>63</sup> an international exposition on industrial and psychoactive uses of cannabis was organized in December,<sup>64</sup> and, social movements remain active and are closely linked to the implementation and evaluation processes.<sup>65</sup> Despite this increased visibility and acceptance, reports of continuing police repression against registered growers exist and highlight the difficulties of de jure changes translating into practice.<sup>66</sup>

## Concerns

As this assessment shows, on the one hand, much has been achieved within the first year of legally regulated cannabis in Uruguay. On the other hand, much remains to be done. Moving forward, Uruguay has to show that it can successfully complete implementation of law 19.172, especially the sale of cannabis in pharmacies.

Certain problems are endogenous to the implementation of reforms and creating a regulatory framework and new institutions from scratch should have been expected. In 2014, in Uruguay these were compounded by exogenous factors. Principally, the election loomed large over the fate of the drug policy reform process.

Newly-elected President Vazquez inherits the drug policy reform measure despite his misgivings about it. While the law itself is safe, it remains to be seen how much the change of the presidency will influence Uruguay's drug policy and remaining implementation in the future.<sup>67</sup>

Law 19.172 and subsequent regulations did not provide specifics on two important areas of cannabis regulation: medicinal marijuana and industrial hemp. Already, in December 2014, President Mujica has enabled by decree the production of industrial hemp in Uruguay.<sup>68</sup> Medicinal marijuana is to be addressed soon.<sup>69</sup>

Rigorous evaluation will be key, first, so other countries can learn from Uruguay's "experiment", and, second, for Uruguay to be able to adjust its drug policy if necessary.<sup>70</sup> With the help of international experts, Uruguay is embarking on a thorough and comprehensive evaluation of its drug policy reforms.<sup>71</sup> Naturally, it will take time for results to materialise. Therefore, moving forward, Uruguay will require not only the same audacity it showed in pursuing drug policy reform in the first place, but patience.

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### About the Global Drug Policy Observatory

The Global Drug Policy Observatory aims to promote evidence and human rights based drug policy through the comprehensive and rigorous reporting, monitoring and analysis of policy developments at national and international levels. Acting as a platform from which to reach out to and engage with broad and diverse audiences, the initiative aims to help improve the sophistication and horizons of the current policy debate among the media and elite opinion formers as well as within law enforcement and policy making communities. The Observatory engages in a range of research activities that explore not only the dynamics and implications of existing and emerging policy issues, but also the processes behind policy shifts at various levels of governance.

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