

COUNTRY REPORT | February 2019



# Cannabis Regulation in Europe: Country Report Belgium

*Tom Decorte*

*Ghent University, Department of Criminology, Criminal Law, and Social Law*



ideas into movement

## Policy analysis: the Belgian cannabis policy

### Belgium within an international and European context

Due to globalisation, drug policy is largely viewed as essentially an international matter. International treaties formulated in the United Nations (UN), the European Union (EU) and European Council (EC) do not allow for the large-scale production, distribution or trade of cannabis for recreational or medicinal purposes (Fijnaut & de Ruyver, 2014). Throughout the development of its drug policy, Belgium has always operated within the frameworks of international and European policy. The country does, however, have its own nuances in its drug policy, making the illegal traffic and distribution of psychotropic substances of any kind (including cannabis) illegal. Furthermore, Belgium is bound to the Schengen Agreement and should thus act as a 'good neighbour' to other Schengen countries.

Within these bodies, there have been attempts to discuss the question of legalising cannabis, although most individual member states are still opposed to such a reform – which impedes the discussion as such – whereas international and European bodies have few tools to impose a new overarching drug policy. The support of these individual member states is essential if there are to be any changes put in motion at these levels. The standpoint of Belgium's current federal government is clear on this matter and there is no domestic support for such an international or European endeavour. This does not necessarily mean that it is impossible for Belgium to organise a different model of regulation in its own right. In policy terms, however, this is not under current consideration. Local and national elections will be held in 2018 and 2019 respectively. Changes (or their absence) in our domestic drug policy will depend on the outcome of these elections.

### A brief history of Belgian drug policy

#### **From 1921 until 1975: early developments**

The Belgian law concerning the traffic in toxic substances, hypnotics, narcotics, disinfectants and antiseptics dates back to 24 February 1921. The criminalisation of drugs and their possession was largely influenced by international developments (Guillain 2003), the Belgian anti-alcoholic movement supported by Minister of Justice Emile Vandervelde and the social defence framework (De Ruyver, 1988).

At the end of the nineteenth and the beginning of the twentieth century, policy-makers started to believe in scientific rationality as a key to solving problems (Hoppe, 1999). The positivist school (e.g. Lombroso), which adopted a more empirical, scientific approach, claimed to have discovered the existence of criminal types whose behaviour was determined by their biological, psychological, and social environment rather than on a rational calculus (individual responsibility). Positivists concentrated on the criminal rather than the crime. The criminal justice system had to determine whether the offender was the perpetrator of an act and then to apply measures to protect society from dangerous and habitual criminals (social defence).

The Belgian criminal justice system owes much to the influence of Adolphe Prins. The doctrine of social defence focused on crime as a human (individual) as well as social problem, is not easily addressed by legal regulation. Punishment should not only deter criminal offences but should also aim for the offender's re-socialisation (and re-education) (Christiaensen, 1993). This doctrine influenced several Belgian ministers and was at the origin of the first Belgian drug law.

Within the framework of the state's responsibility to protect society, at the end of the nineteenth century, as an elected Member of Parliament, Vandervelde believed that alcoholism perpetuated the social misery of the working classes and immobilised social and economic relations. This prepared the ground for future legislation (De Ruyver, 1988). The Law of 29 August 1919 (also known as the Vandervelde Law) prohibited the sale and consumption of alcohol in public houses, while domestic consumption was allowed (under certain circumstances). Concerns were soon raised that this prohibition had led to a shift to using other drugs like cocaine and morphine even though studies showed that the increase in drug-taking was rather a consequence of World War I and appeared among the higher classes (De Ruyver, 1988; Fijnaut and De Ruyver, 2014). Nevertheless, Vandervelde also supported a strong response to the use of other drugs than alcohol, which directly led to the realisation of the new Belgian Law of 24 February 1921 (De Ruyver, 1988; Fijnaut and De Ruyver, 2014).

In the same period, international attention focused on the drug phenomenon at the Opium Conferences in Shanghai and The Hague (De Ruyver, 1988). Like several other countries, Belgium ratified the International Opium Convention in 1912 because of the moral value inherent in this international commitment and the importance of being associated with it. Although there was little anxiety about any problem of drug use at the time of the International Opium Convention in 1912, some concerns were raised at the time of the ratification (De Ruyver, 1988; Todts, 2004). For instance, some registrations showed that 2-3 per cent of Belgian prisoners (in some prisons up to 6 per cent) were addicted to cocaine. As a result, for the first time emotions ran high in the parliamentary debate: *'The Government is almost completely disarmed by the fatal drug abuse that occurs in all classes of our population'* (Hand. Kamer 1920-1921, 21 December 1920, 108/1). Ratification required Belgium to act, which it did with the Law of 24 February 1921 and the Royal Decree of 31 December 1930 (Cesoni, 2008; Fijnaut and De Ruyver, 2014).

For several years, the Law of 24 February 1921 was an instrument against drug trafficking and drug addiction, but more than alcohol use, the drug phenomenon is a complex, international phenomenon. The internationalisation of the production of drugs continued to grow and there was an increasing demand (De Ruyver, Vermeulen and Vander Beken, 2002). During the following period, influenced by the strong prohibitive advocacy by the United States, several multilateral drug-control treaties were established. The United Nations Single Convention on Narcotic Drugs (New York, 1961) was an important consolidation of these multilateral drug-control treaties and the prohibitionist international drug-control system. In other words, this Convention streamlined and tightened the controls on the production, use and distribution of illicit narcotics (De Ruyver, Vermeulen and Vander Beken, 2002). In particular, possession of cannabis was placed under the strictest control regime in the Convention (similar to cocaine and heroin), on the basis that it was widely abused. The 1961 treaty also created the International Narcotics Control Board (INCB) to collate the parties' legal drug requirements and to monitor legitimate trade.

In the 1960s, drug use exploded around the world, most notably in developed Western nations. As the increase was closely related to the pervasive use and availability of synthetic, psychotropic substances such as amphetamines, barbiturates, and LSD, the United Nations Convention on Psychotropic Substances (Vienna 1971) was established. Dealing with psychotropic substances next to narcotics, it formed a companion instrument of the 1961 Convention (De Ruyver, Vermeulen and Vander Beken, 2002).

In Belgium, media increasingly reported on the surprising rise in drug use among the population (De Ruyver, 2005). In his analysis of the criminal policy of Socialist Minister of Justice Alfons Vranckx (SP, Flemish Socialists), De Ruyver (1988) showed that drug policy-making was primarily based on emotional and political motivations inspired and stimulated by the media. Scientific input into the policy-making process received less attention mainly because, in this period of social and economic reconstruction

(after two World Wars and an economic crisis), it was argued that scientific knowledge was fallible (De Ruyver 1988). For instance, the stepping-stone theory (Cohen and Sas, 1997), which argues that people who use alcohol or marijuana will probably go on to use drugs such as cocaine or heroin, was the basis of the framework regarding drugs. Although this theory was widely rejected by scientists because of the lack of evidence supporting any causality claim, it won considerable support among policy-makers, the media and public opinion (De Ruyver, 1988; 2005). Furthermore, other initiatives taken by criminologists to discuss and improve the relationship between science and policy were largely ignored. For instance, a Dutch working group, under the leadership of Professor Louk Hulsman, discussed the direction of the drug policy in 1971. The working group expressed its concerns about the misinformation generated by the selective attention presented by the media, public opinion and policy-makers (De Ruyver, 1988). As a second example, in 1978, a conference entitled 'Criminal law and scientific research' was organised by several scientists in order to get a view of and to improve the existing cooperation between science and police, justice and the prison system (Geeroms, 1978). Another important initiative was the publication of the book *Drugs: Substances, people and society* during the emotional polemic about drug use in the 1960-1970s. Casselman, De Schepper and Nuyens (1971) strongly believed in the relevance, usefulness and application of academic knowledge. The authors provided an innovative, multidisciplinary policy perspective on drugs that took into account: the drug, set and setting (instead of a purely repressive approach) (Zinberg, 1984; Goethals, Hutsebaut and Vervaeke, 2005). Nevertheless, during the 1960s and 1970s, the problem of drug use in Belgium was mainly created and maintained by the media and policy-makers as well as inspired by the *War on Drugs* framework of the United States (De Ruyver, 1988). Panicked reactions had no profound scientific base, except for some official statistics which simply represented the ability of the criminal justice system to detect, define and process criminal activity (Fijnaut and De Ruyver, 2014).

Except for some small modifications (i.e. penalising some new products like LSD or amphetamines), there were few changes to the Belgian legislative, prosecution or policy framework between 1921 and 1975. However, due to an increasing fear of an uncontrollable drug epidemic at the international level and Belgium's ratification of the 1961 United Nations Single Convention on Narcotic Drugs as well as the 1971 United Nations Convention on Psychotropic Substances, Belgian policy-makers decided to adopt a stricter legislative framework in the 1970s (Todts, 2004), but there was little discussion about the idea that all illegal drugs had to be treated in the same way (Fijnaut and De Ruyver, 2014).

The basic Belgian law of 1921 was modified by the Law of 9 July 1975 due to a growing concern by the judicial authorities about drug use and its punishment. Possession of drugs remained prohibited; the concept of aggravating circumstances (e.g. drug use by minors or in groups) was implemented; a denunciation clause was included; cannabis was classified like other illicit drugs; and a strong enforcement to stop drug trafficking was the main focus (De Ruyver, 1988). Minister of Justice Alfons Vranckx (SP, Flemish Socialists), who submitted the original proposition together with Minister of Public Health Louis Namche (PS, French-speaking Socialists), did question the point of punishing drug use, looking into the underlying socio-cultural factors and advocating treatment for users. In particular, by introducing some amendments, he sought the adoption of a compulsory treatment strategy for drug users in the criminal justice system (De Ruyver, 1988). Eventually, the amendment establishing compulsory treatment was rejected and replaced by an extension of the modalities of the Law of 29 June 1964 regarding probation for drug users. As a result, the Law of 9 July 1975 was caught between two stools: a stronger enforcement agenda, and a desire for a different approach – that of treatment for and rehabilitation of drug users (Cesoni, 2008).

Despite international and national efforts, drug problems seemed to increase around the world during the 1980s. In Belgium, a growing fear of the rising drug problem was caused by an enormous increase in

prosecutions across several jurisdictions, the fast spread of infectious diseases (HIV and hepatitis B and C) among intravenous drug users, increasing feelings of insecurity regarding the criminal consequences of drug use and a declining belief in justice (e.g. because of the lack of police and judicial actions towards the *Gang of Nijvel*) (Todts, 2004). In other words, drug use was increasingly considered as a major cause of crime and social infectious diseases and a source of fear in some neighbourhoods (Cartuyvels and Hebberecht, 2002).

In this context, in 1988, the United Nations Convention against Illegal traffic in Narcotic drugs and Psychotropic Substances was established (Vienna, 1988), which provided additional comprehensive measures against drug trafficking, including provisions against money laundering and the diversion of precursor chemicals. In addition, in 1985, the Schengen Agreement governing the free movement of persons, goods and services, was established. One of its goals was to improve cooperation between judicial and police services across the EU. Some elements focused specifically on the drug issue (Guillain and Marchand, 1998). In particular, the 1985 Schengen Agreement stipulated that the five original Schengen countries (Belgium, Luxembourg, the Netherlands, Germany and France) had to target illegal drug traffic vigorously as well as to coordinate their actions efficiently.

In this context, the Agreement also aimed to harmonise the legislation on drugs among the Schengen countries. However, this original compromise proved inadequate: the harmonisation of legislation on drugs appeared to be a stumbling block as it was not clear which national legislation or practice should be adopted as the standard (e.g. the liberal policy of the Netherlands or the stricter policy of France). Ongoing debate, with France taking the lead, speculated on the negative consequences of Dutch drug policy (Fijnaut and De Ruyver, 2008; De Ruyver et al., 2010). As a compromise, the 1990 Schengen Convention, applying the 1985 Schengen Agreement, adopted some new stipulations (Articles 70-76). For instance, a permanent working group was set up to monitor the situation in the Schengen area, and a political solution to the harmonisation issue was found by invoking the former UN drugs conventions. In particular, member states were expected to take criminal and/or administrative measures to tackle illegal production and trafficking of drugs (including cannabis) as well as possession for the purpose of illegal sale or export. At the same time, a general agreement was included stating that if a country's drugs policy deviates from that of others, all parties must take measures to limit the impact of this discrepancy on those other countries.<sup>4</sup> Here, only an implicit link was made to the Dutch *coffee-shop* model. Nevertheless, until the Schengen Convention was formally ratified in 1995, the discussions continued, especially regarding the (negative consequences of the) divergent policy of the Netherlands and its formal recognition by the other Schengen countries.

### **Beginning of the 1990s: focus on insecurity**

The report of the Parliamentary Inquiry Commission on the struggle against banditism and terrorism<sup>5</sup> had prompted the Federal Government Martens VIII (1988-1991), a coalition of CVP/PSC, SP/PS, VU (i.e. Coalition of Flemish and French-speaking Christian Democrats, Flemish and French-speaking Socialists and Flemish Nationalists), to take action. In 1990, the programme for maintaining order, the citizens' security and curbing crime (i.e. Pinksterplan or Whitsuntide Plan) was announced. Within this framework, the Federal Minister for Internal Affairs, Louis Tobback (SP, Flemish Socialists), outlined a *prevention* policy under which the local administrative authorities were held responsible for the expansion and implementation of an integrated, local prevention policy (Beyens et al., 2001; Cartuyvels and Hebberecht, 2002).

The implementation of the Pinksterplan was facilitated by the Federal elections of 24 November 1991 (so-called black Sunday). The rise of the extreme right parties (Vlaams Blok (Flemish extreme right party),

Front National (French-speaking extreme right party)) in the large and middle-sized cities was a tangible illustration of the growing political legitimacy problem. As a result, the 1992 Federal Government Policy Statement, put forward by the new Prime Minister Jean-Luc Dehaene (CVP, Flemish Christian Democrats) in the House of Representatives, emphasised the importance of guaranteeing citizens' security (Federal Government, 1992). An improvement in community relations with the police was seen as one of the major means to restore confidence.

Shortly thereafter, *security contracts* (hinged on both a prevention section and a police section) were drawn up with the country's five largest cities (i.e. Antwerp, Brussels, Charleroi, Liège, Ghent) and *prevention contracts* (only a prevention section) were implemented in 23 towns that were less problematic in terms of security. By means of subsidising projects, the Federal Government (i.e. Ministry of Internal Affairs) aimed to help the cities fight insecurity and to improve local living conditions. Within this framework, the Permanent Secretariat for Prevention Policy was established in 1994, in charge of supporting, coordinating and evaluating these **security and prevention contracts** (Cartuyvels and Hebberecht, 2002). These contracts were renewed and their number grew during the following years.

Interest in the use of illegal substances was one key element of the security policy as envisaged by the 1992 Government Agreement put forward by the new Prime Minister, Jean-Luc Dehaene (CVP, Flemish Christian Democrats), which stated that *'Drug use causes an increasing amount of criminality. The struggle against drug traffic must be oriented towards the supply and demand of drugs and must contain a better prevention, a more efficient repression and a better medical treatment in prisons'* (p.8). Some large cities (especially in the French-speaking part of Belgium: Liège, Charleroi, Mons) were confronted with a steep rise in frequently recurrent crime, seriously affecting the quality of life in a number of neighbourhoods (Guillain, 2003). Even though this was not backed up by scientific data, police officers supported the idea that problematic drug users were responsible for the increase in crime and public nuisance.

At the same time, drug use (especially *new* drugs like XTC) became more visible in certain (youth) cultures (BIRN 2000). Accordingly, **media attention** focused on drug use in mega-clubs as well as on the link between drug use and crime due to the high political attention to crime and insecurity at that time (Guillain, 2003).

There was an increasing pressure for a comprehensive drug policy caused by the intensification of the supply of both legal and illegal drugs (in quantity and variety), increasing demand, and the supposed increase in drug-related property crimes. This particular pressure, together with the availability of government funds, inspired the formalisation of drug-prevention and security contracts between the Federal Government and the cities. Accordingly, in a new development localities could request additional subsidies to finance new projects linked to the *security contract*, such as support for alternative criminal sentences (section justice) or the prevention of drug addiction (section drugs) (Hebberecht, 2004). In particular, the municipalities were allowed to establish projects with regard to drug prevention, drug treatment and local drug coordination (Verslag namens de Parlementaire Werkgroep belast met het bestuderen van de drugproblematiek, *Parl.St. Kamer*, 1996-1997, 1062/1-3; De Ruyver et al., 2004). For instance, the emergence of local medical-social treatment centres (MSOCs) for drug users, mobile drug-treatment centres and outreach projects were financed through contracts with the Ministries of Interior and Social Affairs. Also (smaller) municipalities without a security (or prevention) contract had the opportunity to implement projects related to drug prevention or drug treatment and to recruit staff like outreach workers or prevention workers (these contracts were called **drug plans** or **drug plan contracts**) (Hebberecht, 2009). The government began to fund more services in response to research findings related to, for instance, the efficiency of the distribution of methadone to heroin addicts (De Ruyver, Van Bouchatte and Reisinger, 1993) or the link between poverty, drug use and criminality (De

Ruyver et al., 1992). While these contracts were financed by the Belgian Federal Public Service Home Affairs as responses to crime and delinquency, drug treatment and prevention logically became part of the security discourse used by the Federal Government.

Generally, for the first time, attention was paid to the **problem of drugs as a social and health problem**. Due to the increase in problematic drug use in major cities (often linked with intravenous use, HIV, and mortality), political interest raised in low-threshold harm-reduction initiatives like MSOCs for drug users (BIRN, 2002; Todts, 2004), needle-exchange projects (e.g. a pilot project was set up in 1993 in Antwerp (Kinable et al., 1994))<sup>7</sup> and maintenance therapy for drug addicts (i.e. methadone).

Exemplary too is the initiative of senators Lallemand and Erdman. They proposed a bill in 1991 altering Article 3 of the drug law to state explicitly that substitution treatment prescribed by a physician cannot be punished.<sup>9</sup> Likewise, a conference was set up in 1994 by the Minister of Public Health, Jacques Santkin (PS, French-speaking Socialists), together with the medical and academic world, in order to reach a consensus about methadone maintenance. According to conditions included in the *Consensus Document*, substitution treatments had to be perceived as a responsible and effective approach to opiate dependence. In particular, the conference agreed on what should be expected during treatment: a reduction in the consumption of drugs and the use of needles; an improvement in therapeutic 'compliance'; and an improvement in the socio-professional skills of drug users and a decline in delinquent activities (Hoge Gezondheidsraad, 2000). Furthermore, a reduction in HIV-transmission risks as well as a drop in overdoses, hepatitis, complications and mortality were expected. This conference played an important role in opening up the discussion about the organisation of legal substitution treatments. The actors involved turned progressively towards a more positive approach of this kind of treatment, but it was only in 2002-2003, with the Law of 22 August 2002 and a Royal Decree of 28 March 2003, that a definition and practice of substitution treatments as well as the goals they should pursue were formalised.

Another initiative also illustrated that drugs gradually became a topic on the policy agenda. In 1993, Minister of Justice Melchior Wathelet (PSC, French-speaking Christian Democrats) took a more severe approach, pointing to increasing drug use, fear of the escalation of *soft* to *hard* drugs (Guillain, 2003) and feelings of insecurity. He issued guidelines pertaining to a common prosecution policy with regard to narcotic substances (De Ruyver et al., 2004). By means of the **Ministerial Circular Letter of 5 May 1993**, he instructed public prosecutors to respond to every instance of (problematic) use regardless of the type of drugs. Although Belgian law had not penalised the *use* of drugs as such, the public prosecutors had to proceed on the assumption that *possession* is the prerequisite for use, and possession of drugs (irrespective of type and quantity) is in itself an offence constituting valid grounds for prosecuting the assumed user (Vander Laenen, 2001). Increasing workloads and the creation of an increasing number of conscientious objectors (i.e. social workers, prosecutors), the implementation of these guidelines appeared unsuccessful (Dienst Strafrechtelijk Beleid, 1996). Moreover, many cannabis users ended up in prison, and there was no uniformity in the application of the prosecution policy.

The legitimacy of the criminalisation of drugs gradually entered the **parliamentary debate** (Chamber of Representatives and Senate) too (Kaminski, 2003b). From the beginning of the 1990s there had been an increasingly widespread international clamour for a change in the laws controlling drugs, with cannabis the most plausible candidate for reform (MacCoun and Reuter, 2001). In the Belgian context, two MPs, Frans Lozie and Michiel Maertens (AGALEV-Ecolo, Flemish and French-speaking Greens), launched a parliamentary bill in 1993 concerning the revision of the Drug Law of 1921 and the decriminalisation of cannabis possession (*Hand. Senaat 1993-1994*, 30 November 1995, 871/1). Similarly, another MP, Johan Van Hecke (CVP, Flemish Christian Democrats), submitted a proposal

to establish a parliamentary working group charged with studying the drug problem in Belgium and developing an appropriate and coordinated drug policy (*Hand. Kamer* 1992-1993, 30 April 1993, 989/1).

### **Federal Action Plan Toxicomania-Drugs (1995)**

On 3 February 1995, the government approved the **Federal Action Plan Toxicomania-Drugs (ten-point plan)** in order to respond to the complex and changing drug phenomenon. This ten-point plan was intended to define action priorities on drugs, which could then serve as a starting point for the establishment of concrete initiatives (Kabinet van de Eerste Minister, 1995). Surprisingly, however, the plan did not propose an integrated or global perspective.

The ten action points were (1) to allocate to social security the material benefits that were confiscated in the fight against drug trafficking; (2) to improve the training of prison personnel with regard to the problem of drug addiction; (3) to develop needle-exchange programmes; (4) to extend the power to close down establishments where drug-related crimes are committed; (5) to establish MSOCs;<sup>13</sup> (6) to combat recreational drug use; (7) to extend scientific research (e.g. epidemiological research and the scientific evaluation of the MOSCs for drug users); (8) to optimise the treatment of drug users; (9) to extend the measures to reduce the supply of drugs; and (10) to establish research into the consequences of drug use for road safety.

Only **six of these action points were realised, with differing success** (De Ruyver et al., 2004). The training of prison personnel was financially supported in 1995 and 1996 and was afterwards rather ad hoc (caused by a lack of continuity in funding). Applying the harm-reduction approach, an exchange programme for syringes was formally organised in November 1998. Furthermore, the programme to combat recreational drug use was not fully developed. Some local projects focusing on the prevention of nightlife experimental and recreational use among youth were established in 1998, but not continued. Research into the consequences of drug use for road safety was developed in 1995 with the Belgian Toxicology and Trauma study (Charlier and Plomteux, 1998), and in 1999, a study on the consequences of drug use for road safety (ROSITA) was conducted. A law (9 April 1999) regarding drug use by vehicle drivers was implemented as a result of both studies. The Belgian Institute for Road Safety also started to organise *prevention campaigns* about the consequences of drug use (especially alcohol) in road traffic (e.g. BOB – Wodca).

In addition, some MSOCs to treat problematic drug users were established in 1997. The Federal Action Plan Toxicomania-Drugs (1995) advocated a sharp increase in public expenditures for drug-treatment centres (within the framework of social security standards) (De Ruyver et al., 2004). After funding for residential care, more diversity was stimulated by supporting day centres, crisis centres and low-threshold services, which were initially located in Antwerp, Brussels, Charleroi, Genk, Ghent, Liège, Mons and Ostend.<sup>14</sup> The establishment of the MSOCs for drug users can be seen as one of the most important policy engagements in the development of Belgian drug policy between 1996 and 2003.

Finally, greater credence was given to scientific knowledge in developing drug policy. While drug research became internationalised (EMCDDA was established in 1993 and began operations in 1995),<sup>15</sup> the importance of a scientific base was explicitly underlined in the Federal Action Plan Toxicomania-Drugs. Soon, this action point resulted in policy-funded research (i.e. useful inventory of drug research in Belgium and its neighbouring countries; Van Daele et al., 1996). An evaluation of the activities of MSOCs followed: research teams from the universities of Ghent and Liège prepared a manual with a uniform methodology and evaluation criteria for an assessment, on the basis of which, in 1998, the assessment

took place (Pelc et al., 2001). The plan can be seen as one of the first explicit steps in the development of an interest in (and influence of) policy-funded research and evaluative research on drugs in particular.

The realisation of those six action-points was stimulated by the 1995 Federal Government Policy Statement (Vander Laenen, 2001). The same centre-left Coalition of Flemish and French-speaking Christian Democrats and Socialists (CVP/PSC, SP/PS) was re-installed in June 1995 and, in correspondence with the 1992 Federal Agreement, Prime Minister Jean-Luc Dehaene (CVP, Flemish Christian Democrats) re-emphasised the need for a comprehensive national drug policy in Belgium in his 1995 Federal Government Policy Statement. In particular, the increasing effort to prevent drug use among youth, the extension of treatment for drug users (e.g. MSOCs), the increased measures against drug trafficking and the development of a scientific base for drug policy were stressed as important elements. Anticipating the media focus on cannabis policy (and on the value of criminalising drugs in particular), the 1995 Federal Government Policy Statement explicitly emphasised that the legalisation of drugs was not an acceptable solution and that a legal framework for the medical prescription of methadone had to be developed.

### **Scientific knowledge: still lacking but on the increase during the 1990s**

For many years, drug use was confined to a limited place on the policy agenda (Gusfield, 1975). During the 1990s, throughout Europe (and the rest of the world) ever more initiatives were taken to identify gaps in knowledge and to strengthen the research base (Stimson, 1997; Hartnoll, 2004). In Belgium, the Federal Action plan Toxicomania-Drugs (1995) gave the first important impulse to the extension of the scientific research base, although studies about drug use in Belgium remained rather scarce and fragmented (Van Daele et al., 1996).

To date, existing Belgian studies describe (some aspects of) the drug situation in Belgium, mainly focusing on etiological and epidemiological questions (Kaminski, 2003a). Worth mentioning are several school population surveys at the regional and local level (e.g. Casselman et al., 1984; Goyvaerts, Van Hal and Teugels, 1992; De Ruyver, Van Daele and Coolsaet, 1991) as well as the official statistics (e.g. number of drug overdoses, number of confiscations, number of people serving prison sentences for drug-related crimes) and some uptake (registration) studies (e.g. Bijnens, Nielandt and Hauglustaine, 1985; Vandenbroele et al., 1989). In particular, the reported growth of cannabis (and ecstasy) use among youth and adolescents,<sup>16</sup> and the observed increase in the demand for treatment of problematic cannabis use, increased the interest in epidemiological studies and risk-factor research focusing on cannabis initiation and its intensive use (VAD, 2000; BIRN, 2000). Several risk factors were identified: parent-child relationship, peer influence, academic integration, etc. Following the increasing number of youth population surveys, information on the situation of drug use in the general adult population started to develop in 1995, especially after a CATI health monitoring survey was conducted in Flanders (in 1996 the survey started in the French-speaking community).<sup>17</sup> Ethnographic studies were limited in Belgium.

Another stream of (often policy-funded) research included studies focusing on the trajectories of drug users within the criminal justice system or on the state of the art and the efficiency of distribution of methadone to heroin addicts (De Ruyver, Van Bouchatte and Reisinger, 1993).<sup>18</sup> Other important initiatives included a study of the link between poverty, drug use and criminality (De Ruyver et al., 1992); a study of the goals and mission of street work (De Ruyver et al., 1996); a study focusing on discotheques, house music and public nuisance (Vercaigne and Walgrave, 1995); and (qualitative and quantitative) studies of the judicial actions towards drug users (or secondary criminalisation) (De Pauw and Lempereur, 1990; Christiaensen and Goethals, 1994).

A very important initiative came from a scientist in his capacity as a *policy advisor* (Minstrom, 1997; Loader and Sparks, 2011).<sup>19</sup> Professor Dr Brice De Ruyver picked up on the growing need to establish a comprehensive national drug policy in Belgium. From 1993, an annual conference 'Drug policy 2000' was organised in order to develop and stimulate the interaction between practice, science and policy (De Ruyver et al., 1995). The scientific organisation committee was composed of several scientists, practitioners and a government representative. During these national conferences several drug-related topics were discussed. The topics addressed clearly followed the main interests of the media and policy-makers.

Because of the importance of the international framework, comparisons with Dutch drug policy were frequently made (De Ruyver et al., 1996). The first conference was organised in 1993 and stimulated discussions on epidemiology, prevention, justice and treatment from a variety of perspectives. In 1994, the central themes included: integrated drug policy, recreational drug use, international struggle against drug trafficking, development policy and drug production, drug treatment, police and justice. The third conference 'Drug Policy 2000' (held in October 1995) was mainly devoted to the action points of the Plan Toxicomania-Drugs: outreach work; recreational drug use; drug tourism and nuisance; harm-reduction initiatives (which was also linked with the 1994 Consensus Conference); driving under the influence of medication and illegal drugs; registration and monitoring; drug treatment during detention; the development of an integrated and integral drug policy; and the difficulties with regard to cooperation between the criminal justice system and treatment services (De Ruyver et al., 1996). The problems with the application of the 1993 Ministerial Circular were also addressed for the first time.

Such conferences encouraged a greater role of scientific knowledge in the policy-making process. On the one hand, the conferences were attended by several actors (policy-makers, scientists, practitioners, journalists) which made it possible to stimulate debate on (different) ideas as well as cooperation between (Dutch-speaking and French-speaking) practitioners, scientists, policy-makers and journalists. These important and well-attended conferences set and kept this particular issue high on the political and public/media agenda and can be perceived as one of the *incremental* steps opening a *policy window* (Kingdon, 2002). They led to the widespread attention and shared concern that some type of action was required. On the other hand, these conferences provided interesting multidisciplinary input for the Parliamentary Working Group on drugs (1996-1997).

In addition, some scientists acted as *policy advisors* by attending study groups from political parties. From the early 1990s, when interest in the drug issue gradually increased, several study groups from political parties invited scientists (and practitioners) to develop a party policy on drug policy (which was then integrated in parliamentary and government actions). Such engagement of scientists goes on behind the public gaze but can be seen as another (successful) route to bringing scientific knowledge to the policy-making process and to establish an interaction between science (and practice) and policy.

Even though the technical skills and know-how of scientists were brought into the debate, this engagement was also influenced by the political context. For instance, a scientist who participated in the study group from two majority parties simultaneously, ended his engagement when one of them became part of the opposition. Likewise, due to their link with the Catholic 'Brothers of Charity', members of the organisation 'De Sleutel' tended to engage the study group from the Flemish Christian-Democratic party (CVP).

### **1996–2003: the foundations of the current Belgian drug policy**

The foundations of the current Belgian drug policy were established between 1996 and 2003. In 1996, a Parliamentary Working Group (PWG) was appointed to investigate all aspects of the drug

phenomenon. The working group's report was based on several national and international expert hearings. The participating experts worked across all areas of drug policy and for the first time in the Belgian policy debate it was recognised that the drug problem is a multidisciplinary and complex phenomenon (including health, prevention, social and security elements), which requires an integrated and integral approach. In 2001, the key points recommended by the PWG were explicitly included in an official document: the Federal Drug Policy Note. Since then, the drug phenomenon has been officially recognised as an ongoing social reality and a matter of public health, a 'normalisation policy'. The third milestone (2003) concerns the adoption of these viewpoints within Belgian legislation through the implementation of two new laws modifying the original but outdated drug law of 24 February 1921.<sup>1</sup> The Federal Drug Policy Note of 2001 – which was largely based on the recommendations of the Parliamentary Commission on Drugs (1997) – provided a framework for the juridical-technical debates and reforms of Belgian drug law. The Federal Drug Policy Note (2001) takes a 'normalising' stance and considers drug use to be a social reality – primarily as a problem of public health rather than belonging merely to the criminal sphere.

The Federal Drug Policy Note (2001) created the framework of an *integral and integrated drug policy*. This means that drug use is a multidimensional problem (socio-economic, health, crime) which accordingly requires a multidimensional approach in which all relevant sectors (prevention, repression, treatment, harm-reduction) should play their part. Due to the complex state structure of Belgium, it consequently implied that all policy levels (federal, regional, local) and sectors are involved within their particular competence (Vander Laenen, Vandam, Colman, & De Ruyver, 2010). The main priorities of the Federal Government were to reduce the number of drug users, the physical and mental effects related to drug use, and the effects of the drug phenomenon in society (Tieberghien, 2015). Accordingly, its three pillars were: (1) prevention of drug consumption; (2) harm reduction, treatment and re-integration; and (3) repression as a last-resort option (Federal Government, 2001).

With the translation of this Federal Note into law, cannabis received a separate 'status' from other illegal drugs (such as cocaine, heroin, ecstasy, speed, etc). Furthermore, the law provides a distinction between (1) minors;<sup>2</sup> (2) adults who use and/or possess illegal drugs; and (3) adults who use and/or possess cannabis. For minors, the possession and use of any illegal drug is prohibited without exception. For adults, the possession of a small amount of cannabis (i.e. maximum three grams or one female plant) for personal use has the 'lowest prosecution priority'. In practice, this means that law enforcement will draft a simplified police report. However, this applies only when there are no aggravating circumstances – such as the involvement of minors, being part of an organisation linked to drug-trafficking, problematic use, causing physical injuries to others or causing a public nuisance. If so, police will make a standard report and inform the public prosecutor. These cases are punishable by a fine or incarceration. Lastly, the possession of other illegal drugs remains prohibited even for adults. More recently, the Communal Declaration of 2010<sup>3</sup> confirms this drug policy.

Thus, cannabis remains an illegal substance and its possession, use, distribution and trafficking can lead to criminal or administrative sanctions. Since the 2014 national elections, the new government 'Michel I' agreed to follow the existing drug laws, which technically prohibit all substances, cannabis included. The government disputed the existing tolerance of cannabis and stated that *'the possession of drugs is forbidden. The use of drugs in public space cannot be the subject of any tolerance policy'* (Federal Government, 2014: 92). In this government coalition agreement, the political parties in power outlined a zero-tolerance drug policy.

## Belgian framework for medicinal cannabis

In Belgium, the supply and possession of herbal cannabis for medicinal purposes remains prohibited, and non-pharmaceutical products based on cannabis and cannabis derivatives (e.g. cannabis oil, tincture) are not allowed. Only licensed pharmaceutical medicines based on cannabis were recently made available in Belgium.<sup>4</sup>

In June 2015 a Royal Decree came into force that regulates products containing tetrahydrocannabinol (THC).<sup>5</sup> The decree formally prohibits the distribution of the cannabis plant for medicinal use (FAGG, 2017). Until now the only cannabinoid-based medicine that is licensed to be sold in Belgium is Sativex®. In 2012 the medicine was authorised in Belgium through the mutual recognition procedure with the United Kingdom as reference member state. Sativex® is supposed to be used as a treatment for spasms caused by multiple sclerosis (MS) and solely by patients for whom other treatments proved ineffective. In addition, there has to be a significant clinical improvement regarding spasticity in a first test phase (FAGG, 2017). The only way for the patient to receive reimbursement is when the medicine is prescribed by a neurologist and obtained from a hospital pharmacy. Since Belgian physicians hold 'therapy freedom', all doctors are allowed to prescribe Sativex® (FAGG, 2017). However, when doctors other than neurologists prescribe the medicine for patients who do not suffer spasms due to MS (e.g. chronic pain), the treatment will not be reimbursed. Only in 2017 was Sativex® introduced on the Belgian commercial market.

Cannabis products containing solely cannabidiol (CBD) and no THC are not allowed to be sold in Belgium as therapeutic agents. Currently, no CBD products have obtained a license from the Federal Agency for Medicines and Health products (FAMPH) to be sold as regulated medicines (FAGG, 2017).

Belgian patients who do not suffer from MS are obliged to rely on other, mainly illegal, sources of cannabis, including home cultivation, webstores, street circuits, social supply, Dutch coffee shops and Dutch pharmacies. The cultivation of cannabis in Belgium is formally prohibited, which also applies to cannabis cultivated for medicinal or scientific purposes. Belgium is a member state of the UN Single Convention on Narcotic Drugs (1961). This implies that countries who are willing to regulate cannabis cultivation have to establish a special office that is responsible for the production of cannabis for medical or scientific purposes (FAGG, 2017).<sup>6</sup> To date, no such office has been established in Belgium nor are there legal initiatives for doing so in the near future.

Belgian patients do have one option to obtain medicinal quality cannabis plants, but this still involves breaking the law. Since doctors in Belgium have 'therapy freedom', they may prescribe unlicensed medicines for their patients, such as medicinal cannabis. The legal basis for this is in article 31 of the 2015 law concerning the exercise of health professions. This article indicates that practitioners cannot be subject to regulatory limitations in the choice of the means used, either for making a diagnosis, for setting up treatment and its execution, or for the execution of magisterial preparations.<sup>7</sup> This means that all physicians in Belgium may prescribe medicinal cannabis for any condition on their own responsibility and with the patient's consent (FAGG, 2017). With this prescription patients can visit Dutch pharmacies that provide medicinal cannabis produced by Bedrocan® and can also consult a Dutch doctor in order to obtain a valid prescription.

Buying cannabis in a Dutch pharmacy is the only way that customers are guaranteed safe and standardised cannabis. Furthermore, in this way patients' treatments are supervised by a physician. Still, transporting medicinal cannabis from the Netherlands to Belgium remains an illegal activity, which means that there is a chance of prosecution when crossing the border. People who obtain cannabis

in the Netherlands, whether they go to official pharmacies or to coffee shops, have to deal with the stress of breaking the law. In addition, not everyone in Belgium lives close to the Dutch border, which may mean a long journey to the Netherlands. Those people may choose to buy more cannabis to have enough for a longer period, but at the same risk a more severe punishment if they are caught. Or they can buy only a small amount, but then inevitably have to go to the Netherlands more frequently. For those who are (severely) ill neither option is ideal.

As stated by the FAMPH it is only possible to transport unlicensed medicines (e.g. medicinal cannabis) from a foreign pharmacy, obtained with a valid prescription, when the patient has a personal Schengen agreement. The FAMPH is responsible for providing these agreements. Since the distribution of cannabis is formally prohibited in Belgium, the FAMPH declared it will not issue any Schengen agreements for medicinal cannabis (FAGG, 2017).

In one publication the FAMPH says that one of its commissions is looking into the possibility of supplying medicinal cannabis through pharmacies. This expert working group was set up to provide advice on the use of medicinal cannabis, based on objective data. The FAMPH declared it is important to study all the risks and benefits thoroughly before accepting it as a medicine (FAGG, 2017). The *commission for medicines for human use* published its advice in 2014 (FAGG, 2014).

The working group's view is that preference should be given to other medicines available in Belgium instead of cannabis, because their effectiveness and side-effects are well-documented and their quality and safety have been established. The working group advised on the correct indications for the use of medicinal cannabis (e.g. CINV and neuropathic pain) and which are not acceptable (e.g. epilepsy, glaucoma). In addition, the experts recommend that cannabis could be used when other treatments provide insufficient relief. The working group is convinced that general practitioners as well as specialists should be able to prescribe cannabis. Finally, the working group agreed that the proposed measures would not lead to the misuse of cannabis, for example for recreational purposes (FAGG, 2014). The advice did not lead to the legalisation of herbal medicinal cannabis, and only Sativex© was legally approved during this period.

To date, there have been very few legal initiatives to change the Belgian legislation on cannabis. In 2001 and 2005 legislative proposals were submitted in the Belgian senate to change the drug law of 1921 and to add a chapter on medicinal cannabis use. These proposals did not result in a reform of the law. In 2017 a legislative proposal was presented in the chamber of representatives to regulate the cannabis market, but did not cover cannabis for medicinal purposes. The only legal change regarding the use of cannabis products for medical ends is the 2015 Royal Decree that regulates products that contain THC, which replaces the 2001 Royal Decree.<sup>8</sup>

The debate on medicinal cannabis still flares up from time to time. In March 2018 Belgian newspapers reported on a US company Kannaway, which sells cannabidiol-based products via a pyramid scheme model. Both the [FAMHP](#) (the agency that oversees the sale of medicines) and the [FASFC](#) (the food safety agency) warned potential sellers and customers that the sale and consumption of these products are illegal in Belgium and that whoever sells them risks a hefty fine or even imprisonment.. They contested the therapeutic claims made on Kannaway's website, and pointed out that the company did not obtain a European permit to sell these products, not even as 'food supplements' or 'novel foods'. At the same time, the case of Sofie Voncken, a nine-year-old epilepsy patient, is raising awareness of the topic. The girl, who suffers from an extreme form of epilepsy, and has been unsuccessfully treated with traditional medication, was the focus of a heated debate in April 2018. While her father, Jean-Pierre Voncken, has become an activist for a more lenient medical cannabis framework in Belgium, her CBD-oil was

confiscated. If the Minister of Health took no action, he threatened to sue the Belgian government for not granting access to medicines for people suffering from serious medical conditions. Patrick Vankrunkelsven, a well-known former liberal politician, and general practitioner, has also voiced the need for a clear and better regulation of medical cannabis. He has been prescribing medical cannabis products to a number of patients for years, but they need to pick up these medicines in Dutch pharmacies. Oddly enough, a company called Rendocan publicly announced in May 2018 that it had concrete plans to build the largest medical cannabis research facility in Europe in Kinrooi (Belgium), and is in the process of negotiating a permit with the Minister of Health. If this goes ahead, it would mean that Belgium allows companies to produce medical cannabis products for foreign markets (such as the emerging German market), while access to medical cannabis products for Belgian patients would remain very limited.

A final observation relates to *medicinal cannabis social clubs*. Cannabis social clubs (CSCs) have existed in Belgium since 2006, but are not operating under a clear legal framework and have often been criminalised (see below). In Belgium two CSCs have established formal arrangements adapted to medicinal cannabis users' needs. One has a separate sub-unit for medicinal users, the other serves exclusively medicinal users. Standard CSCs in Belgium also allow medicinal cannabis users although they do not provide particular services for them. These structural arrangements for medicinal users include reduced prices of cannabis strains as well as flexibility in relation to frequency and quantity distributed to them (Pardal and Bawin, 2018). The clubs have strict membership criteria – users who wish to enrol at the medical unit or at the medical CSC need to present a medical certificate or prescription. This is not a requirement in other CSCs (Pardal and Bawin, 2018).

## **A particular phenomenon: Cannabis Social Clubs in Belgium**

The Cannabis Social Club (CSC or Club) model has existed in Belgium for over a decade, as the first CSC or Club was established in 2006 (Decorte, 2015; Pardal, 2018). Its emergence follows the issue of the 2005 Ministerial Guidelines, which attributed the lowest priority to the prosecution of instances concerning the possession of one cannabis plant or three grams of cannabis – in the absence of aggravating circumstances or public disorder. Those behind that first CSC initiative argued that by imposing a limit of one plant per member the organisation would respect the threshold established by the Ministerial Guidelines and thus should also be considered as 'low priority' for law enforcement (Decorte, 2015; Kilmer et al., Kruithof et al., 2013; Pardal, 2016a). Subsequent CSCs have followed that reasoning, and thus the principle of 'one plant per member' became central to the functioning of Belgian CSCs (as described below).

No significant legislative changes have taken place since then, leaving the CSCs in a rather vulnerable position. Many CSCs have been subject to police interventions and their crops confiscated, and faced criminal proceedings. To some extent this explains the volatility which has characterised the model since 2006, with CSCs closing down and new ones appearing. In around February 2014, Decorte (2015) identified five active CSCs, represented in both Flanders and Wallonia. A more recent study by Pardal (2018) offers an overview of the changes in the Belgian CSC landscape since its inception and found that only two of the previously active CSCs remain operational today. A total of seven active CSCs, and five inactive CSCs were identified by the author (Pardal, 2018). In comparison to other settings where the model is active (notably, Uruguay and Spain), the number of Belgian CSCs remains relatively small (Decorte et al., 2017; Pardal, 2018).

The Belgian CSCs are still the result of grassroots efforts within the drug-user movement (Pardal, 2016b). Some CSC activists have also been involved in other local drug-user groups and organisations, and

closely followed the earlier emergence and development of the CSC model in Spain (Decorte, 2015; Decorte and Pardal, 2017; Pardal, 2018). The relations among the Belgian CSC activists are not always characterised by collaboration, and there seem to be factions or cliques among them (Decorte, 2015; Pardal, 2018). Perhaps in part due to that lack of trust among the various CSC representatives, no supra-level organisation such as a CSC Federation (which exists, for instance in Spain or the UK) have been created (Decorte, 2015; Decorte et al., 2017; Pardal, 2018).

Beyond that, Belgian CSCs have also engaged with other organisations in the broader cannabis movement, including grow-shops and seed banks in Belgium and abroad, as well as cannabis-testing labs or providers of such testing kits. The Belgian CSCs have contacts with CSCs in other countries, and have also enrolled in national, regional or European lobbying or advocacy organisations, such as the European Coalition for Just and Effective Drug Policies (ENCOD) or the Alliance for the Abolition of Cannabis Prohibition (Pardal, 2018).

The emergence and development of the CSC model (and movement) in Belgium has attracted some media attention (Pardal and Tieberghien, 2017). The CSCs have communicated their goals and activities through that channel, thus reaching a broader audience. However, the coverage of the CSC model in the domestic print media has tended to focus primarily on criminal justice issues affecting it, which could result in negative representation. Pardal and Tieberghien (2017) noted also that the media analysis revealed a limited involvement of policy-makers in discussing the model (at least in the media), which may suggest that a debate about this supply model has not yet been fully initiated.

Most Belgian CSCs have typically been formalised as non-profit organisations in the national registry for this type of association (Decorte, 2015; Decorte et al., 2017). In their bylaws, the CSCs have explicitly introduced the supply of cannabis as a goal, often with reference to the principle of one plant per member (Pardal and Tieberghien, 2017). Access to these organisations and thus access to the cannabis they produce is open only to members, who must also fulfil specific requirements. Candidates typically must be 18 or 21 years old, Belgian residents or nationals, and declare having used cannabis before joining the CSC (Decorte, 2015; Decorte et al., 2017; Pardal and Tieberghien, 2017). Different criteria may apply for individuals using cannabis for medical reasons seeking to join a CSC (for instance, they may be asked to produce a medical prescription or recommendation letter).

The cannabis supplied by the Belgian CSCs is produced by some of the members of each of the organisations, for which they generally receive compensation. The cannabis is then delivered by the CSCs either at so-called 'exchange fairs', i.e. collective gatherings where the CSC members who have previously placed orders come together to collect it; or directly at the CSC, at the member's home or in a previously agreed location. Regular and independent toxicological testing of the cannabis produced by the Belgian CSCs – a weak point as identified in previous research (Decorte, 2015) – remains challenging (Decorte et al., 2017).

While these constitute typical practices of the Belgian CSCs, there is certainly diversity in terms of their functioning, and that multiple variants of a CSC model may actually co-exist in the country.

Most Belgian CSCs have at some point experienced legal issues following police interventions. Some cases are still under investigation or the courts have yet to issue a verdict. However, some of the concluded cases have had important implications for the further development of the model (Pardal, 2018). Two cases involving the first Belgian CSC, which resulted in a favourable result for that CSC, may have had a positive impact on the emergence of new CSCs in the country. The charges brought in the first related to possession of cannabis and participation in a criminal organisation (Pardal, 2016a;

Kilmer et al., 2013). While initially condemned, Court of Appeal was unable to pass judgement as the criminal prosecution had exceeded the statute of limitation (Decorte, 2015; Kilmer et al., 2013; Pardal, 2016a). The second case came about following two public demonstrations it organised (during which some CSC representatives planted up pots of cannabis seeds), but the defendants were acquitted (Decorte, 2015; Kilmer et al., 2013; Pardal, 2016a). This CSC is currently subject to a new police intervention, with some of its representatives held in custody for a few weeks. So far, there has also been one documented case of a 'shadow CSC' in Belgium (Decorte, 2015), which was also brought to court. In that case, the 'CSC' was found to have many more plants than the number of members, and the operation was described as a *fa ade* for selling cannabis (Pardal and Tieberghien, 2017; Decorte, 2015). Another CSC has been charged for both possession of cannabis and for facilitating its use – the Court of Appeal convicting the CSC representatives on the first offence, but acquitting them on the second. In another process involving this CSC the public prosecutor asked for the formal dissolution of the organisation as its bylaws explicitly mentioned a goal (and activities) which constituted a criminal act (i.e. the cultivation and distribution of cannabis). This was, to our knowledge, the first case where the issue was raised, and may have implications for the future of the model in the country (Pardal, 2018). That CSC has since changed its bylaws, removing the controversial paragraphs, and has suspended the cultivation and distribution of cannabis among its members. A recent press release by the Belgian College of Public Prosecutors refuted the interpretation of the 2005 Ministerial Guidelines often presented by the CSCs and activists to justify the legitimacy (and legality) of their activities, clarifying the stance of that body – and which could represent a more repressive approach towards the remaining CSCs active in the country.

## Recent debates on cannabis regulation

Support in systematic opinion polls or referenda for the regulation of the cannabis market are an indicator of acceptability, but none has been organised in Belgium. While the local and federal governments defend their policy, several scientists, politicians and actors from civil society question the current repressive approach. On the political front, the current right-oriented government – i.e. N-VA (Flemish nationalist party), CD&V (Flemish Christian-democratic party), MR and Open VLD (Walloon and Flemish liberal parties) – currently oppose the legalisation of cannabis. The government advocates the prohibition of all drugs and a zero-tolerance policy. As stated earlier, there will be federal elections in 2019, but at the time of writing, not all parties have yet launched their campaigns or clearly communicated their standpoints. The following political positions should thus be viewed within the current policy and opposition lines of this legislature and may change as the elections approach.

On the Flemish side, N-VA (nationalist party), CD&V (Christian Democrat party) and Vlaams Belang (Flemish extreme right party) still oppose drugs while the electoral programme of Open VLD (Flemish liberal party) is still unknown. However, in 2014 the then minister of public health (Maggie De Block of Open VLD) seemed open to investigating the possibilities of medicinal cannabis. However, the N-VA rapidly crushed this by stating that such regulation will not take place. The liberals affirmed the current drug policy, while the green (Groen), socialist (SP.A) and communist (PVDA) Flemish parties endorse the idea of a non-criminal-oriented drug policy and the legalisation of cannabis. On the French-speaking side of the country, MR (liberal party) and CDH (Christian Democrat party) are against the regulation of cannabis because they fear increased health risks. The Walloon Parti Socialiste (PS) advocates cannabis regulation and even aspires to organise a pilot project concerning CSCs in Mons (described below). The green (Ecolo), communist (PTB) and democratic (DéFI) parties are also in favour of cannabis legalisation and regulation.

The youth wings of certain political parties – which can proclaim and communicate their own political agenda towards the party – explicitly call for the legalisation and regulation of cannabis. In the Walloon and Flemish part of Belgium, this concerns the youth sections of the socialist parties (PS and SP.A), the green parties (Groen and Ecolo), the liberal parties (OpenVld and MR), the PTB Jeunes and DéFI Jeunes. The youth wing of the Christian party in Wallonia also advocates for legalising cannabis while the Flemish section rejects this idea. The more right-oriented parties such as N-VA, Vlaams Belang likewise reject the concept. Clearly, the youth wings are more openly progressive than the political parties as organisations.

A call for a change in the current drug policy also circulates within academia and (civil) society. In 2013, three academics questioned the country's drug policy – more specifically concerning cannabis – and gathered the support of several stakeholders (Decorte, De Grauwe, & Tytgat, 2013). A year later, other academics published *The Third Way*, which argues that a strict, controlled and limited form of cannabis regulation can be incorporated within a (possibly reformed) framework of UN and European legislation. In this matter, the book touches upon the possibilities of limited personal cultivation, CSCs and the distribution of medicinal cannabis to severely ill patients (Fijnaut & De Ruyver, 2014). More recently, *'Cannabis under control: how?'* describes concrete scenarios for the legalisation and regulation of small-scale cannabis cultivation and CSCs for personal recreational or medicinal use (Decorte, De Grauwe, & Tytgat, 2016). Lastly, in 2017 a police commissioner wrote a book that illustrates the counterproductive effects of a repressive approach towards drugs and advocates the legalisation and regulation of all illegal drugs (Muysshondt, 2017). All these publications are based on scientific research, and have been embraced in civil society.

Within the state structure of Belgium, a Flemish, Walloon and Brussels coordinating network brings together organisations that work on issues of alcohol and illegal drugs. All three bodies advocate for a reformed drug policy where public health (rather than repression) is the primary rationale. In 2014, the Flemish organisation VAD said in its vision statement that a new approach in cannabis policy is desirable, whereby an effective reduction of health risks is realised. VAD argues that the current criminalising drug policy stigmatises cannabis users and impairs their wellbeing. Within the scope of enhancing public health, cannabis use should be decriminalised and subject to a controlled model (VAD, 2014). In their policy documents, Fedito Wallonne and Fedito Bruxelles boldly call for the regulation of cannabis and encourage the authorities to consult experts in order to develop a form of concrete regulation. Cannabis should be decriminalised and the conditions and objectives of the drug policy should be clear. Lastly, the prevention and the reduction of health risks is essential (Fedito Wallonne, 2014; Fedito Bruxelles, 2014).

New movements within (civil) society are also engaging in reforming the Belgian drug policy. In 2017, STOP 1921 was founded in Wallonia as a citizens' initiative to campaign on and inform about the importance of questioning and reorganising drug prohibition. Fedito Bruxelles and Fedito Wallonne are also part of this movement. In 2018, a Flemish sister organisation, SMART ON DRUGS, was founded. This group of citizens and drug experts has launched its campaign in November 2018 (see <http://www.smartondrugs.be> for a detailed description of the mission, objectives and actions of this movement). SMART ON DRUGS representatives have been cited frequently in the media since the launch of their campaign. Both movements (STOP1921 and SMART ON DRUGS) want to create support among the general population and politicians for a radical reform of Belgium's drug policy, and both advocate for its bottom-up-driven modernisation.

Over the years journalists have reported in national newspapers about the need to reform Belgium's drug policy. The articles criticise the repressive anti-drug measures regarding the use of cannabis and

argue that it is relatively harmless. The ‘war on drugs’ policy of certain large cities, such as Antwerp, is also being questioned.<sup>9</sup> In recent years, occasional interviews articles with opinion leaders (e.g. academics, politicians) are published in which they call for the legalisation of cannabis or to reform the drug legislation in general.<sup>10</sup>

A remarkable new voice in the cannabis debate is the former chief marketing officer for Anheuser-Busch InBev NV, the brewer of Budweiser beer, Chris Burggraeve, who is moving from barley and hops to cannabis as the alcohol industry casts its sights on the burgeoning market for state-sanctioned marijuana. Burggraeve has made two such investments. Most recently, he joined the advisory board of GreenRush Group. The San Francisco-based start-up, which says it aims to be the Amazon of weed, closed its USD 3.6 million Series A fundraising round in the spring of 2018. Burggraeve, a Belgian with a master’s degree in economics, also co-founded Toast, which makes dosed, pre-rolled joints. The former beer executive is one of many entrepreneurs and investors flocking to the cannabis industry from the traditional business world. Big Beer took its first step in the same year when Constellation Brands Inc., which sells Corona in the US, announced its investment in Canopy Growth Corp., a Canadian seller of medicinal-marijuana products. In Burggraeve’s view, this is just the beginning. In May 2018, an interview with him was published in the Belgian media, in which he stated that Belgium will legalise cannabis, as this is an unstoppable international trend. As an influential and well-respected entrepreneur, his message to Belgian politicians was that they should regulate cannabis and act now, otherwise they will ‘miss the boat’. He supported his claims with a survey he set up with market research bureau InSites Consulting, among 1,001 Belgians over 15 years of age – 17 per cent admitted having used cannabis, 38 per cent think the government should treat cannabis like alcohol and tobacco, and even more think that cannabis is less harmful for health than alcohol.

On a final note, the Federal Public Planning Service Science Policy (Belspo) has organised a programme dedicated to funding research in the field of drugs since 2001: the Federal Research Programme on Drugs. The research programme fully subscribes to the Belgian Strategy and funds research on demand and supply, on illicit and licit drugs. Each year, a call for proposals is launched to the Belgian scientific community on topics designed in close cooperation with the General Drugs Policy Cell. In 2018 it called for an evaluation of the Belgian drug policy. The commissioners of the study are seeking evidence-based views on the *effectiveness* (achievement of objectives, as these are set out in 2002), the *efficiency* (relating resources to outcomes), the *coherence* (internal and in relation to external policy interventions), the *relevance* (to both needs and policy objectives) the *added value* (has the existence of the policy improved the outcomes over what might have been achieved anyway?) and the *equity* (the capacity to fairly distribute the effect of the policy across stakeholders and incorporate their views in the implementation of the policy)? What factors acted as *barriers or facilitators* to implementation? What lessons can policy-makers draw? This study should generate good insights and solid evidence on the way the drugs policy is framed, conducted and implemented at different levels, and how this can be improved. Belspo stated that a set of policy recommendations are expected. and ‘some form of valuable information to the relevant governmental authorities that will be appointed after the May 2019 elections’.

To conclude, there is an increasing interest for reforming the current drug policy. However the debate about drug policy is held – especially in relation to to cannabis – the status quo remains the key line of argument. Current official policy declarations such as ‘*we merely apply the law and principles as described in our governmental agreement*’ account for the current situation (Federal Government, 2014). In the absence of actual reforms, these debates establish the existing equilibrium between change and stability within the Belgian drug policy.

## The role(s) of local authorities with regard to cannabis (regulation) policy

As mentioned above, technically, cannabis remains an illegal substance and its possession, use, distribution and trafficking can be followed by criminal or administrative sanctions. Moreover, within the scope of Belgian national drug laws and Ministerial Circular Letters, judicial districts and local governments can customise their drug policy. With regard to the judicial districts, it remains the public prosecutor who makes a case by assessing and deciding on the specific case. Some judicial districts are 'tougher' on 'drug crimes' than others. With regard to the local policy level – where the mayor is the head of the local police service – a form of 'criminal' policy can be established via Community Regulations and the instrument of administrative sanctions (GAS), i.e. a maximum fine of EUR 350 for adults.<sup>11</sup> Consequently, Belgium has several drug policies which can differ from judicial districts to local communities. This leads to unequal judicial or sanctioning practices and to the uncertainty of citizens' rights. If someone drives through Belgium with some cannabis in the car, depending on the location, this person can face different consequences when they are caught.

After approximately 80 years of socialist local governments, in 2013 the Flemish Nationalists (N-VA) took control of Antwerp's city hall. The city's drug policy is often referred to as a renewed 'war on drugs'. The mayor – and leader of the Flemish Nationalists (N-VA) – is an avid ideological opponent of the legalisation and regulation of cannabis or illegal drugs in general. A criminal and prohibitionist policy towards dealers, producers and users of illegal drugs sends a clear and right-wing message: illegal drugs are dangerous and criminal. We have to acknowledge, however, that this policy towards drug users is not solely based on repression – i.e. prevention and care are still available in Antwerp, albeit with diminished financial means – the repressive approach and discourse are the main features of Antwerp's local drug policy.

The city of Antwerp considers all illegal drug use or possession (including cannabis and regardless of the amount) in public as a possible case of nuisance and applicable for a police report or an administrative sanction.<sup>12</sup> Since 2013, Antwerp installed the possibility of an 'immediate financial settlement' (OMS) for the possession of illegal drugs where a 'caught' person has to pay on the spot. For the possession of soft drugs – i.e. cannabis – the amount is EUR 75 and for hard drugs EUR 150 (Prosecution Office Antwerp, 2017). Those who are not able to pay are referred to care, and if they do not successfully follow the required therapy, they face prosecution. Payment or not, the advice is always to follow therapy. Other cities – for instance Aalst and nearby cities and police zones of Antwerp – wish to copy the Antwerp drug policy while N-VA aspires to introduce this approach at the Flemish and national scale.

In a review of its general policy in Antwerp, N-VA states that crime rates have significantly dropped as a result of its actions. It proclaims that *'our war on drugs is at full speed. During this legislature, we arrested 2,200 dealers and closed down 75 drug bars, absolute record numbers'* (N-VA, 2016: 4). In the first six months of 2013, 1,580 persons received fines while 864 persons received an OMS: 90 per cent of these cases concerned the possession of cannabis (Thijs, 2014). In 2016, the police confiscated 30 tons of cocaine in the port of Antwerp (Prosecution Office Antwerp, 2017). Police capacity in drug teams increased, mainly focused on money laundering from drug trafficking (De Wever, 2017), but these 'extra' forces are police officers redeployed from other departments. In its party policy note on drugs, N-VA states that illegal drug use cannot be tolerated and is a source of trouble, nuisance, addiction, social and health-related costs (N-VA, 2016). Drug policy should pursue a 'drug-free existence'. Consequently, the legalisation or regulation of any drug is out of the question. The previously sketched Antwerp drug policy model is proclaimed as a promising and just strategy for the future.

A 2017 documentary concerning cocaine trafficking and organised crime in Antwerp (Pano, 2017) – as well as fairly recent violent shooting incidents in the drug milieu in Antwerp – again fuelled the debate about

the 'war on drugs' and its (in)sensibility. While critics argued that the increased drug-related violence is due to the war on drugs (Decorte, 2017), the mayor of Antwerp sees it as an indicator of success because the repressive approach creates economic strain on the illegal drug market (Het Nieuwblad, 2017). In the same Pano documentary, the mayor of Antwerp stated that in order to control the drug problem, youngsters need to be protected from their own social environment and education. Making the link between drug trafficking, related crimes and 'non-Belgian' communities, he declared that the problem lies within certain families and society should be able to take minors out of these situations and inculcate our values (Pano, 2017). In an interview later that week, he defended this invasive model and explained that it is necessary to prevent future frequent offenders from an early age (De Wever, 2017).

In the recent discourse by the Flemish nationalists (often echoed by other parties in the government) a series of arguments are repeated over and over again. The Antwerp mayor and leader of the Flemish nationalists stated that the cocaine problem has shifted from the Rotterdam to the Antwerp port, and he claims the Dutch policy is to be blamed for this trend. The Dutch tolerance policy was the breeding ground for organised crime, and over the years groups of professional criminals became deeply entrenched into the fabric of Dutch society. According to this politician, currently the most popular in Flanders, Belgium now shares the negative consequences of this policy. Another series of arguments is related to an ethnic framing of illegal drug economies, in the sense that drug trafficking is often associated with the Moroccan community.

As a consequence of drug-related incidents, the debate about drug policy, the war on drugs and the question of legalisation and regulation comes to the foreground now and then. While the drug policy has become more repressive in certain areas, it does not mirror US policies where cannabis users suffer mass incarceration and punishment. In the Belgian context, the 'war on drugs' represents the particular situation where repression is not just the last resort in drug policy and repressive and invasive measures are increasingly valued.

## The latest regulation initiatives or proposals

### A blueprint for regulation of cannabis, by the CSCs

In June 2016, the two oldest Belgian CSCs joined efforts in developing a 'Blueprint for the regulation of cannabis in Belgium' (*Blauwdruk voor wettelijke regulering van cannabis in België*). The proposal included three different models for the supply of cannabis: home growing, CSCs, and supply via a pharmacy for medical reasons. In relation to home growing, the blueprint suggested a maximum of five plants for outdoor cultivation. For indoor growers the threshold was placed at 2m<sup>2</sup> (and one lamp). With regard to the CSC model, the two clubs recommended that all the steps and procedures should be well-documented, subject to regulation, and available for inspection by the competent authorities. For instance, the proposal referred to the development of protocols for bio-cultivation, the introduction of rules concerning the set-up of the growing sites, for the transport of cannabis, etc. The admission process and register of members would also, according to the blueprint, be kept up to date and remain available for external scrutiny. Finally, the plan foresaw also a specific supply alternative for patients using cannabis for medical reasons. Overall oversight would be granted to a federal agency (FAGG), cultivation would be done by individual growers (preferably local), which would then be bought and distributed by another government body created for that purpose (a national medical cannabis agency) among Belgian pharmacies. The CSCs argue that the government should not develop pre-defined

conditions for which cannabis might be used for medical ailments, but that the decision should lie with doctors, in consultation with the patient. Finally, the document suggests that the possession of cannabis should be allowed up to a threshold of 25 grams – with possible exceptions for medical users who have been granted a specific certificate to that effect.

## **An academic blueprint for regulation of cannabis**

In November 2013, three academics (a criminologist, a toxicologist and an economist) published an academic vision statement in which they – almost 20 years after the report and the recommendations of the parliamentary working group (1997) and more than ten years after the publication of the Federal Policy Note on Drug Policy (2001) – presented a critical evaluation of the Belgian cannabis policy (Decorte, De Grauwe and Tytgat, 2013). The policy is based on honourable objectives, but it did not succeed in realising its major goals – a decline in the number of dependent citizens, a decrease in the physical and psychosocial damage caused by abuse of cannabis, and a drop in the number of negative consequences of the cannabis phenomenon for society (public nuisance among other things) – over the past decades. The authors argued that the substantial government expenditure goes hand in hand with fruitless strategies that aim to reduce supply, and with the confinement policy. This expenditure displaces more cost-efficient investments based on scientific evidence on effective prevention, the reduction of demand and harm reduction. The policy option for a regulated cannabis market is a serious one that has to be studied with as much care as the continuation or intensification of the current policy.

In their vision statement of November 2013, these three academics not only called for a critical evaluation of the Belgian cannabis policy that has been pursued during the past decades, but also to end the criminalisation, marginalisation and stigmatisation of people who use cannabis without harming others. They also stated that the budgetary means, which would be made available by reducing the repressive approach, should be used to fund a range of measures that discourage demand. Finally, they recommended that the politicians in charge seriously and carefully study the policy options of a regulated cannabis market, and experiment with models for legal regulation of cannabis.

In 2017 the three professors (Decorte, De Grauwe and Tytgat) published a book in which they presented a concrete scenario for a regulated cannabis market in Belgium. In this book (published in Dutch and in French) they argue for a cautious approach that avoids the trivialisation (and unrestrained commercialisation) of cannabis. For that reason, they opt for a cautious scenario, in two phases. Three legally regulated channels would be created in a first phase: home growing for strict personal use (maximum six plants per adult citizen), CSCs (with a maximum of 250 members), and distribution of medicinal cannabis. In a second phase, after a serious evaluation of the implementation of the model and its effects on the quality and the potency of cannabis products, on the role of the so-called black market and criminal entrepreneurs, and on the prevalence of cannabis use and consumption patterns – and possible other relevant parameters – the model can be adjusted if necessary. It is thus possible to assess which areas of the current regulations need to become less or more rigid, and whether additional channels for cannabis production and distribution can be created. In their book, the three scholars present the basic principles of a regulated model, its concrete modalities and a number of preconditions.

It is important to note that the proposal put forward (nowhere near being an implemented policy) is a clear choice for a very regulated market: *The government must deliberately opt for a restrictive model, with a far-reaching form of government control and strict regulation. This kind of model is adaptable: when serious*

*and careful evaluations are positive, it can be adapted in a later phase to a less restrictive and interventionistic model (if new social norms and social control mechanisms will be developed around the legal cannabis market). From a pragmatic and a policy perspective, this is a better scenario than the opposite scenario in which one has to retroactively introduce more restrictive controls because the market was not regulated enough. Our experience with the retroactive regulation of the tobacco and alcohol markets also taught us a lot, for that matter’.*

## **The Metaforum report on cannabis policy (2018)**

In March 2018 another report was published by the Metaforum working group on Cannabis Policy, which built on prior debate and in particular on the work of Decorte, Tytgat and De Grauwe (2013). To this end it has benefited from the multidisciplinary expertise of its 15 members who are active in a variety of social and natural science disciplines, including criminology, economics, psychology, politics, hepato-gastroenterology, psychiatry and toxicology.

The report concluded that the Belgian drug policy is based on worthy objectives, but it has failed to achieve its main goals over some decades – as stated above, a decline in the number of dependent citizens, a decrease of the physical and psychosocial damage which can be caused by drug abuse and a drop in the negative consequences of the drug phenomenon for society (including social disruption). The particularly large government expenses linked to the incarceration policy and to fruitless attempts to curtail the supply, supersede more cost-effective investments based on scientific proof concerning the reduction of demand and the limitation of harm. The frequent use of cannabis is harmful, but no more so than the frequent use of alcohol or tobacco. Although there is no specific legal right to use cannabis, the criminalisation of adults who take drugs of their own free will does violate a whole array of internationally acknowledged legal rights, including the right to privacy, health, culture and religious freedom. The risks for users are large when cannabis is produced and distributed by criminal elements and those just seeking their fortune via large profit margins. Prohibition pushes the market into the direction of riskier, stronger (and hence more profitable) drugs, it results in cannabis of an unknown strength and purity, encourages risky use, stimulates use in unsafe settings and forces cannabis users to contact a possibly violent criminal underworld. Criminal production and supply increase the dangers related to cannabis use, because young people are encouraged to consume risky products. Repressive measures push the production of cannabis and its trade into the hands of criminals who take advantage of the prohibition regime and who, if necessary, use force to solve their mutual conflicts. Whenever there is a greater demand for cannabis, prohibition only creates an opportunity for criminal profits. Each disruption of the production and trade in cannabis simply leads to price increases, which attracts even more criminals to the market. Hence, no matter how many crops are destroyed and how many smuggling networks are nabbed, they will always be replaced by others.

Criminalisation and mass arrests offer only false sense of security. They ensure that politicians can be perceived as people ‘who do something about it’, but rather than tackling the problem, they waste scarce resources and promote the marginalisation of sensitive at-risk groups and vulnerable communities, such as small-scale cultivators, members of CSCs or people who use cannabis for medical reasons.

A successful policy would succeed in controlling the risks of drug use as much as possible, in a rational manner, and simultaneously strongly dissuade the use of psychoactive substances. Establishing a cannabis policy which is healthy, just and humane, is the most ethical response to the cannabis question – and this implies strict legal regulation. Although regulation of cannabis is often presented as a ‘liberalisation’ or ‘dilution’ of the legislation, it can and should be the opposite: it concerns locating the

trade in cannabis in a legal framework, hence enabling strict control – which is impossible under a total ban. Regulation enables the government to control which cannabis can be sold, to whom and where. Under a ban, it is criminals who are deciding this. In the system of regulation, which the Metaforum group advocates, many specific activities can and should remain illegal or subject to sanctions (e.g. the sale to minors, sale without a license, participating in trafficking cannabis use).

According to the Metaforum group, the cannabis policy in Belgium should be aimed at controlling all aspects of the production of cannabis: the way in which cannabis products are available; the price of cannabis products; the sales outlets of cannabis; increasing controls on users and where cannabis can be consumed; providing legal supply channels, so the cannabis user does not have to deal with criminal environments; curtailing the illicit channels, weakening and eventually eliminating the black market in cannabis, as well as depriving organised crime of its main source of income and hence economic power; controlling the composition, purity, strength and quality of cannabis, to protect public health; controlling the marketing strategies of cannabis producers, as is attempted with legal intoxicants; reducing the overload on the criminal justice system by reducing the number of cannabis-related cases which need to be tracked and ruled by a judge; reducing the prison population by reducing the number of people incarcerated for cannabis-related crimes; reducing the selectivity in intervening in cases of public nuisance while tracing cannabis-related facts; stopping pollution resulting from large-scale illicit cannabis production (cannabis plantations); stimulating a more cost-effective and scientifically based investment in effective prevention, in the reduction of the demand and damage restriction; simplifying the task of prevention and counselling, by making their target audience more accessible, and allocating more resources for dissuasion, damage limitation and counselling; ensuring a closed system which does not affect the demand and supply of cannabis in neighbouring countries, hence not affecting their drug policy.

There is a large spectrum of legal or political models to regulate the production, supply and use of cannabis (or other intoxicants). At one end of the spectrum is the criminal market which is created by an absolute prohibition. At the other end, we find the legal, commercially free market. Each extreme of the spectrum is a completely unregulated market, and are connected to unacceptably high social and health costs, because those controlling the market (whether legal or illegal) are almost exclusively driven by profit.

None of these two options is therefore desirable, according to the Metaforum group. Initially, the Belgian government should opt for a very restrictive model, with a far-reaching form of control and strict regulation. From a pragmatic and policy perspective, that would be a better scenario than the opposite, where more restrictive controls have to be introduced retroactively because the market has been insufficiently regulated. These are lessons drawn from the retroactive regulation of the tobacco and alcohol market. A restrictive model seems to be the most appropriate to guarantee that the other EU member states will not experience any negative impact from the new Belgian cannabis policy. A restrictive model would also be more compliant with the UN conventions and the drug-related EU legislation and would probably create less resistance among the INCB, other UN institutions and the Council of Europe. Finally, the Metaforum group stated that it is important that Belgian government place its priority on the protection of public health and eliminate the stimuli for profit as much as possible. Cannabis markets do not need to be based on commercial principles. Other options exist, where government institutions or non-profit organisations manage the cannabis trade, in ways which out rule the financial incentives to initiate or encourage use.

The Metaforum workgroup did not define a concrete and very detailed regulation model, but referred to scenario for a regulated cannabis market elaborated by Decorte, Tytgat and De Grauwe (2017), which can serve as basis or inspiration for a scientific, social and political debate.

## **A legal proposal for the regulation of cannabis, by the Walloon socialist party**

In 2017, the Walloon Parti Socialiste (PS) presented a bill on establishing a regulated cannabis market. The authors believe that the current prohibition of the use of cannabis has too many disadvantages in terms of health and safety. For this reason, the bill aims to regulate the entire production and distribution network, as well as the use of cannabis. Taking over the cannabis market takes place through distribution and production. First, the authors suggest allowing individual home production for strictly personal use. Second, the bill includes the creation of 'Cannabis Social Clubs'. These non-profit organisations must be licensed and their main activity must be the cultivation and preparation of cannabis on behalf of and for the sole use of their affiliates.<sup>13</sup> However, given that the bill was proposed by a political party that is not part of the current government (opposition), and that no previous agreement was reached with other parties, this proposal went largely unnoticed.

## **A social-scientific experiment with a CSC in Mons?**

Another relevant development pertains to the creation of a scientific experiment in the city of Mons. In April 2017 the city council discussed the possibility of creating a cannabis social club; the mayor – Elio di Rupo (who was the prime minister of Belgium from December 2011 to October 2014, and is the president of the Parti Socialiste in the Walloon region) – personally engaged in supporting this idea. A working group has been set up to prepare the protocol for a scientific experiment, which will encompass an group of experienced cannabis users (n=100) who will have access to cannabis produced by the CSC, and a control group of cannabis users who will have access to cannabis only through the traditional illegal supply channels. The idea is to study the feasibility of a social club as a legal cannabis supply model and its effects on patterns of consumption, users' health, and public nuisance etc. The protocol is being developed at the time of writing and the details are not yet known. After the municipal elections in October 2018, Elio di Rupo stepped down as mayor, and a new coalition of greens (Ecolo) and socialists (Parti Socialiste) was formed. The new mayor, Nicolas Martin (Part Socialiste) has not yet, at time of writing, made any public statements about his predecessor's plan to create a cannabis social club in Mons. It seems the idea of a local experiment has been put on hold. It is important to note that federal elections will be held in May 2019.

## References

- Decorte, T. (2015) 'Cannabis social clubs in Belgium: organizational strengths and weaknesses, and threats to the model'. [Y]. *International Journal of Drug Policy* 26: 122-130.
- Decorte, T., & Pardal, M. (2017) 'Cannabis Social Clubs in Europe: Prospects and Limits', in R. Colson & H. Bergeron (Eds.), *European Drug Policies: the ways of reform* (pp. 285-299). New York: Routledge.
- Decorte, T., Pardal, M., Queirolo, R., Boidi, M. F., Sanchez, C., & Pares, O. (2017) Regulating Cannabis Social Clubs: A comparative analysis of legal and self-regulatory practices in Spain, Belgium and Uruguay. *International Journal of Drug Policy* 43: 44-56.
- Decorte, T., De Grauwe, P., & Tytgat, J. (2013) *Cannabis: bis? Pleidooi voor een kritische evaluatie van het Belgische cannabisbeleid*.
- Decorte, T., De Grauwe, P., & Tytgat, J. (2016) *Cannabis onder controle: Hoe?* Tielt: Lannoo Campus.
- FAGG (2017) FAQ Cannabis. Retrieved 7 December from [https://www.fagg-afmps.be/nl/MENSELIJK\\_gebruik/bijzondere\\_producten/speciaal\\_gereguleerde\\_stoffen/verdovende\\_middelen/faq\\_cannabis](https://www.fagg-afmps.be/nl/MENSELIJK_gebruik/bijzondere_producten/speciaal_gereguleerde_stoffen/verdovende_middelen/faq_cannabis)
- FAGG (2014) Advies van de werkgroep over het gebruik van medicinale cannabis. Commissie voor geneesmiddelen voor menselijk gebruik. Commissie voor kruidengeneesmiddelen voor menselijk gebruik.
- Federal Government (2001) *Beleidsnota van de Federale Regering in verband met de drugproblematiek [Federal Drug Policy Note]*. Brussels: Federale Regering.
- Federal Government (2014) *Federaal regeerakkoord*. Brussels: Federale Regreing.
- Fijnaut, C., & De Ruyver, B. (2014) *De derde weg: een pleidooi voor een evenwichtig cannabisbeleid*. Antwerp: Intersentia.
- Kilmer, B., Kruihof, K., Pardal, M., Caulkins, J. P., & Rubin, J. (2013) *Multinational overview of cannabis production regimes*. Rand Europe
- Muysshondt, P. (2017) *Beleid op speed: hoe de drugoorlog alle zin voor rede versmoort*. Antwerp: Uitgeverij Vrijdag.
- Pano (2017, 13 December) Drugsmafia in Antwerpen: het sociale drama achter de coke. VRT. Opgehaald van <https://www.vrt.be/vrtnu/a-z/pano/2017/pano-s2017a20/>
- Pardal, M. (2016a) Cannabis Social Clubs in Belgium: growing in a legal haze? In J. d. Maillard, A. Groenmeyer, P. Ponsaers, J. Shapland, & F. Viannello (Eds.), *GERN Research Paper Series* (Vol. 4, pp. 13-29). Antwerp: Maklu.
- Pardal, M. (2016b) Cannabis Social Clubs through the lens of the drug user movement. *Tijdschrift over Cultuur & Criminaliteit*, 6(2): 47-58.
- Pardal, M. (2018) The Belgian Cannabis Social Club landscape. *Drugs & Alcohol Today*.
- Pardal, M., & Tieberghien, J. (2017). An analysis of media framing of and by Cannabis Social Clubs in Belgium: making the news?. *Drugs: Education, Prevention and Policy*, 24(4), 348-358
- Pardal, M., & Bawin, F. (2018). The supply of cannabis for medical use through Cannabis Social Clubs in Belgium. *Contemporary Drug Problems*.
- Tieberghien, J. (2015) The intersection between science and policy: the case of the development of Belgian drug policy between 1996-2003. Ghent: Faculty of Law, Ghent University.
- VAD. (2014) *Probleemverkennde nota cannabisbeleid VAD*. Brussels: VAD.
- Vander Laenen, F., Vandam, L., Colman, C., & De Ruyver, B. (2010) 'Do's en don'ts van een integraal en geïntegreerd drugbeleid', in L. Pauwels & G. Vermeulen (Eds.), *Actualia strafrecht en criminologie: update in de criminologie V* (Vol. 5, pp. 247-264). Antwerp: Maklu

## Endnotes

1. Wet van 24 februari 1921 betreffende het verhandelen van giftstoffen, slaapmiddelen en verdovende middelen etc., *Belgisch Staatsblad*, 6 maart 1921.
2. Below 18 years of age according to Belgian civil law.
3. Gemeenschappelijke Verklaring van de Interministeriële Conferentie Drugs van 25 januari 2010 betreffende een globaal en geïntegreerd drugsbeleid voor België, *Belgisch Staatsblad*, 15 april 2010.
4. Koninklijk besluit van 2015 tot het reglementeren van producten die één of meer tetrahydrocannabinolen bevatten, *Belgisch Staatsblad*, 25/06/2015, 36784.
5. Ibid.
6. The Dutch Office of Medicinal Cannabis (OMC) is an example of such a government office.
7. Koninklijk besluit van 2015 houdende coördinatie van het koninklijk besluit nr. 78 van 10 november 1967 betreffende de uitoefening van de gezondheidszorgberoepen, *Belgisch Staatsblad*, 18/06/2015, 2015/A24141.
8. Koninklijk besluit van 2001 tot bepaling van de voorwaarden voor het afleveren van geneesmiddelen die één of meer tetrahydrocannabinolen bevatten, *Belgisch Staatsblad*, 19/07/2001, 24598.
9. Camps, H., Antwerpen, waar niets meer mag, niets meer kan (2014, January, 06), *De Morgen*, Retrieved from <https://www.demorgen.be/nieuws/antwerpen-waar-niets-meer-mag-niets-meer-kan-bb1278e6/>; Bart Dobbelaere, *De Standaard*, 19/11/2000 pp 4; Verschelden, W., Standpunt hoofdredacteur: Buurman (2012, May, 02). *De Morgen*, pp 2.
10. Remy A., Paul De Grauwe: "Legaliseer alle drugs en hef accijnzen" (2014, March 14), *De Morgen*, pp2; Van Scharen, H., 'Zolang er niet te veel doden vallen, sluit men de ogen' (1998, June, 06), *De Morgen*, pp 35; Decorte, T., Wietbeleid zonder 'hit-and-run'. (2011, August 08), *De Standaard*, pp21; Oeyen, M., 'Overheid moet zelf cannabis kweken en verkopen' (2013, April 30). *De Morgen*, Retrieved from <https://www.demorgen.be/plus/-overheid-moet-zelf-cannabis-kweken-en-verkopen-b-1412189858019/>; Verschelden, W., PS: „Vijf gram cannabis moet kunnen" (2006, Februari, 14), *De Standaard*, Retrieved from <http://www.standaard.be/cnt/gp1o73g3>; De Gendt, T., 'Dubbelzinnige wetgeving leidt tot problematisch cannabisgebruik', (2007, May, 15). *De Morgen*, pp 10; Delepeleire Y. & Ghijs I., 'Je kan moeilijk doen alsof thuiesteelt en cannabisclubs niet bestaan', (2014, October, 31) *De Standaard*, pp17-18; Delrue, E., Wereldwijde strijd tegen drugs is verloren (2014, May, 12), *De Morgen*, Retrieved from <https://www.demorgen.be/plus/-wereldwijde-strijd-tegen-drugs-is-verloren-b-1412190608787/>; Eckert M. & Goethals M., Experts: 'Legaliseer cannabis nu' De Wever: 'Niet deze regeerperiode' (2014, November 04), *De Standaard*, Retrieved from [http://www.standaard.be/cnt/dmf20141103\\_01357121](http://www.standaard.be/cnt/dmf20141103_01357121).
11. Wet van 24 JUNI 2013 betreffende de gemeentelijke administratieve sancties, *Belgisch Staatsblad*, 01 Juli 2013.
12. Art. 665 en 666, Code van politiereglement, Stad Antwerpen, laatst gewijzigd tijdens de gemeenteraad van 16 oktober 2017.
13. Voorstel van kaderwet van 13 september 2017 tot instelling van een gereguleerde cannabismarkt. De Kamer van volkstegenwoordigers, 54, 2660/001.

This project has been funded with support from the European Commission. This publication reflects the views only of the author, and the European Commission cannot be held responsible for any use which may be made of the information contained therein.

## NEW APPROACHES ON HARM REDUCTION POLICIES AND PRACTICES

---

The NAHRPP project (New Approaches in Harm Reduction Policies and Practices) is a joint project of the Transnational Institute (TNI), based in the Netherlands, ICEERS (Spain), Forum Droghe (Italy) and Diogenis (Greece), supported by the European Union. The project addresses recent drug policy developments in Europe.

One section of this project, led by TNI, is focused on the role of local authorities in cannabis regulation. Local and regional authorities across Europe are confronted with the negative consequences of a persisting illicit cannabis market. Increasingly, local and regional authorities, non-governmental pressure groups and grassroots movements are advocating for regulation of the recreational cannabis market, rather than prohibition. This project analyses the possibility of cannabis market regulation models, alongside political, policy, and legal steps under exploration by local authorities in Belgium, Spain, Switzerland, Germany, Denmark and the Netherlands. It is hoped that the information collected through this initiative will help to improve the understanding of regulating drug markets as a means to reduce the negative consequences of illicit drug markets on individuals and society.

In order to better understand the situation around, and possibilities for, local and regional cannabis regulation, a series of six country reports were developed, providing background for an overarching analytical report. The country reports provide detailed information about the state of cannabis policy, and the possibilities for change, within each country. This report addresses the past, present, and future of cannabis policy in Belgium.

## PUBLICATION DETAILS

---

Contents of this draft report may be quoted or reproduced for non-commercial purposes, provided that the source of information is properly cited <http://www.tni.org/copyright>

## TRANSNATIONAL INSTITUTE (TNI)

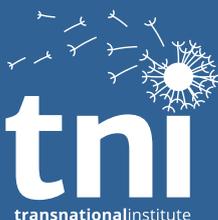
---

De Wittenstraat 25, 1052 AK Amsterdam, The Netherlands  
Tel: +31-20-6626608, Fax: +31-20-6757176  
E-mail: [drugs@tni.org](mailto:drugs@tni.org)  
[www.tni.org/drugs](http://www.tni.org/drugs)



@DrugLawReform

Drugsanddemocracy



The Transnational Institute (TNI) is an international research and advocacy institute committed to building a just, democratic and sustainable world. For more than 40 years, TNI has served as a unique nexus between social movements, engaged scholars and policy makers.

[www.TNI.org](http://www.TNI.org)