

# COLOMBIA

## I. Introduction

### **1. Identify the geographic scope and limits of your answers to the questions below.**

The following information is applicable and limited to the territory of Colombia.

## II. Legislation

### **2. Please provide links to applicable statutes and regulations.**

In the following link you can find the applicable regulation for cannabis in Colombia: <https://www.minjusticia.gov.co/Cannabis-Con-Fines-Medicinales-y-Cientificos/Normatividad-Cannabis>.

#### **A. Is there any pending legislation that could materially alter applicable statutes or regulations?**

N/A

#### **B. Is there any proposed legislation that could materially alter applicable statutes or regulations?**

Yes. There is a Decree project that might alter enforcement and current applicable regulation regarding the actual enforcement of non-psychoactive cannabis and its derivatives.

It is important to point out that by means of Decree 2106 of 2019 all the faculties that the Ministry of Health had related to the Cannabis Transformation License ("*Licencia de Fabricación de Derivados de Cannabis*") were transferred to the Colombian Health Registration Institute (INVIMA) -Article 85-.

In the following link you may access to the mentioned Decree: <https://dapre.presidencia.gov.co/normativa/normativa/DECRETO%202106%20DEL%2022%20DE%20NOVIEMBRE%20DE%202019.pdf>

### **3. Are cannabis laws in your jurisdiction pretty well settled or are they constantly changing in material ways?**

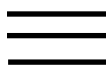
Colombia has a well settled cannabis regulation in the types of licenses, permitted uses of the cannabis seeds, plants and derivatives. Notwithstanding, and as a result of a developing industry such regulation might suffer changes specially as to the import/export process, obtention of quotas for sowing psychoactive cannabis, finished product regulation and response times from the governing bodies.

## III. General information (e.g. governing bodies, licenses, import/export)

### **4. What governing body regulates/licenses or enforces activities that are allowed in your jurisdiction?**

The following governing bodies regulates the activities related to cannabis industry:

- **Ministry of Justice:** issuance, vigilance and administration of cannabis -psychoactive and no psychoactive- cultivation licenses;
- **Ministry of Health:** issuance, vigilance and administration of the quotas for the cannabis transformation license;
- **INVIMA (National Institute for the Vigilance of Medicines and Foodstuff):** issuance, vigilance and administration of cannabis transformation licenses; and,
- **Agronomical Colombian Institute ("ICA"):** issuance, vigilance and administration of registrations as a seed producer, importer and the corresponding Agricultural Evaluation Tests ("*PEA: pruebas de Evaluación Agronómica*").



## **5. What cannabis functions are allowed in your jurisdiction? E.g., growing, processing, retailing.**

By means of Decree 613 of 2017 the Government enacted the current regulation for growing/harvesting, processing/transferring, internal commercialization and import/export of cannabis for medical and investigation purposes. Recreational purposes are not allowed.

## **6. What sales or use is allowed in your jurisdiction? E.g., edibles, vaping, tinctures, food additives, etc.**

### **A. Are the rules different for medical vs. adult recreational use?**

Recreational use is not allowed in Colombia.

### **B. Are retail sales of any cannabis products restricted to specific retail channels? E.g., medical dispensaries, government-owned stores, etc.**

For finished products with a composition of more than 1% of THC, the product should be commercialized by an authorized and registered entity. Such registration is granted by INVIMA. Moreover, such entity must be a titleholder of a cannabis transformation license and should be registered before the Nacional Narcotics Found (hereinafter, "*Fondo Nacional de Estupefacientes – FNE*").

For CBD dominant products, the commercialization is not restrained for any specific entities, but the product should hold the corresponding health registration before INVIMA. (example: facial creams made from CBD extracts)

### **C. Are there zoning restrictions on where medical, wellness, or adult-use (recreational) outlets can be located? Applicable to all cannabis products?**

There are no zoning restrictions in place.

## **7. What import and export is allowed in your jurisdiction?**

Decree 613 of 2017 regulates the import and export conditions for cannabis seeds, plants, flower or any derivate product (hereinafter, "Cannabis").

To import psychoactive Cannabis to the Colombian territory the company should obtain the corresponding import license before VUCE ("*Ventana Única de Comercio Exterior*") and should be registered before the FNE ("*Fondo Nacional de Estupefacientes*") and ICA. No license or authorization is required to import CBD predominant cannabis products (non-psychoactive).

To export cannabis from the Colombian territory, the corresponding company should obtain an authorization from the Ministry of Justice (cannabis seeds and/or plants) or FNE (finished products and/or cannabis derivatives products).

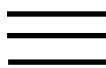
The authorization for cannabis export should be requested through the Window of Foreign Trade ("*Ventanilla Única de Comercio Exterior*" – VUCE). The applicant must hold the corresponding cannabis seeds license and the registration before ICA as a cannabis seeds exporter.

The authorization for the export of cannabis seeds and/or plants is only granted for scientific and investigation purposes.

### **A. Are there restrictions in relation to the countries of origin, i.e. which countries of origin are permitted?**

As to the date of, there is no enacted restriction of the countries of origin as long as the provider company complies with the Colombian cannabis regulation and the specifications of the seeds and/or plants required by ICA.

Notwithstanding, due to an internal decision by ICA, imports are only being allowed from BULGARIA and CANADA.



**B. Please describe restrictions on the import of cannabis seeds.**

As mentioned in point A., no restriction of the countries of origin has been enacted as long as the importer complies with the Colombian cannabis regulation and the specifications of the seeds and/or plants required by ICA.

Notwithstanding, due to an internal decision by ICA, imports are only being allowed from BULGARIA and CANADA.

**8. Does your region distinguish between different types of cannabis products? (E.g., high or low concentrations of THC.)**

Yes.

**A. If so, what distinctions exist?**

Psychoactive Cannabis and Non-psychoactive Cannabis.

**B. If so, briefly describe the differences.**

- Psychoactive Cannabis: more than 1% of THC in the flower – in dry weight; and,
- Non-psychoactive Cannabis: less than 1% of THC in the flower – in dry weight.

**C. Identify any related laws that should be considered when answering this question.**

The distinction between psychoactive and non-psychoactive cannabis is defined by means of article No. 2.8.11.1.3 of Decree 613 of 2017.

**9. Are there legal requirements on Cannabidiol (CBD) products (without THC)?**

As stated under article 2.8.11.3.2 of Decree 613 of 2017 if the final product holds the corresponding health registration (issued by INVIMA) there are no further legal requirements for the commercialization of CBD predominant product within the Colombian territory.

## IV. Patients and prescriptions

**10. What specific medical conditions, if any, are recognized for treatment with cannabis?**

There is no specific regulation for medical treatments with cannabis.

**11. Is there licensed practitioner requirement in order to prescribe cannabis for medical purposes?**

No. As long as the practitioner holds a registered degree as a doctor, the person is able to prescribe cannabis for medical purposes.

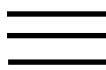
**12. Are there patient registration or cardholder requirements?**

No.

## V. Special requirements

**13. Does your jurisdiction require any recordkeeping from seed planting to the time of end user sale? For all cannabis products?**

Yes. As stated under article 2.8.11.1.2 of Decree 613 of 2017 cannabis license holders must record all the activities related to the seed sowing, growing, cultivation and commercialization of cannabis within the Colombian territory. This rule is applicable for both psychoactive and non-psychoactive cannabis.



#### **14. Are special taxes imposed? On what and when?**

There is no specific tax imposed for cannabis companies.

#### **15. Are there any special rules or limitations that apply to the industry? E.g., banking, patent or trademark protection, labeling requirements.**

In terms of special rules or limitations, it is important to mention that the general applicable rules to cannabis industry are restricted considering real estate. If the holder of a cannabis license is interested in cultivating in a different location to the location associated to the cannabis license, it will require to complete a process that can take more than a month, since it is considered as an amendment to the license. This situation is common with owned and leased real estate.

In regard to banking issues, the industry is facing a vast contingency since national banks are not opening bank accounts and/or lending money to companies whose primary activity is related to the cannabis business.

There is no limitation in regards to patent or trademark protection.

#### **16. What is the legal status of access to financial services, including banking, merchant services, and cash handling?**

The access to financial services for cannabis industry is not limited by law. However, in practice the access has been limited, specially to foreign investors seeking to initiate cannabis operations in Colombia. The financial institutions are still reluctant to receive funds for this industry, but progressively foreign banks with presence in Colombia are starting to become more flexible. No regulation has been enacted considering this practical limitation to the industry.

#### **17. Is data collected to determine the social or health impact of the rules in your jurisdictions? E.g.,**

**A. Impact on use by under age/minors.**

**B. Impact on beer, wine and spirit sales.**

**C. Tax revenue.**

**D. Impact on crime, including drug and alcohol addiction.**

As of the cut-off date, no access has been granted and/or no information has been published in regard to data collection to determine the social or health impact of the cannabis rules in Colombia. However, data protection legislation applies for any sector and/or companies which process personal data which include sensitive data as clinic history, underage-related information, etc.

## **VI. Risks and enforcement**

#### **18. What are the most critical issues currently facing the industry in your jurisdiction?**

- (i) Huge backlog within the governing bodies in the issuance of cannabis licenses;
- (ii) Huge backlog in the issuance of quotas for sowing psychoactive cannabis; and,
- (iii) Financial institutions are reluctant to open bank accounts and receiving resources from abroad destined for the cannabis industry.

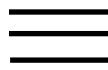
#### **19. What is the current enforcement landscape with respect to cannabis? E.g., strict enforcement, low-enforcement, decriminalization, legalization**

**A. Does enforcement differ based on quantity?**

The enforcement does not differ based on quantity.

**B. Does enforcement differ based on product type?**

The enforcement does differ based on product type. As mentioned, the regulation for psychoactive (+1% of THC) and non-psychoactive (-1% of THC) cannabis differs due to the psychoactivity and control of the predominant cannabidiol of the plant/flower.



## VII. Your practice and useful links

**20. Tell us a little about your cannabis practice and how it interacts with other practices at your firm. Remember to include any recognition awards your firm has received in this practice area. How much experience does your firm have providing services to cannabis companies and how much interest does your firm have to grow its cannabis practice?**

Our Firm has grown significantly in the Cannabis practice and started to gain more experience since 2018. We initiated by representing companies in the process of obtaining cannabis licenses and then advised companies and banks on corporate and M&A aspects. In addition, our environmental and real estate practices gained ground to provide a more comprehensive advice to our clients.

We offer a new perspective to the way legal counsels operates. We act as a strategic advisor so that our clients get to become the go-to company for the government in helping develop the cannabis industry in Colombia, Chile, Peru and Spain (hereinafter, "Target Countries"). For such purpose, our Firm offers the following services:

- (i) A specialized interdisciplinary team (Corporate, Regulatory, M&A, Intellectual Property, Tax, Real Estate, Environmental, among others), to advice a Cannabis company day to day operations in the Target Countries;
- (ii) We have very strong relations with the different authorities that interact in the Cannabis industry in the Target Countries and are building the bridges toward the interaction between these authorities (Ministry of Health, Ministry of Justice, ICA, INVIMA, DIAN, among others);
- (iii) We are very well-known for providing a very practical approach to the Cannabis industry, which developing requires an out of the box thinking;
- (iv) Our PPU brand means transparency, excellence and the very best legal service. Those elements are key on a growing Cannabis industry with a difficult history in Colombia;
- (v) Our offices in Peru, Colombia, Chile and Spain hold more than 1000 lawyers at your disposal. That means we are a one-stop shop to handle all your legal needs in the Target Countries; and,
- (vi) Our Firm has always been a pioneer in research and promotion of new legislation for new and attractive topics for the Market, such as the Cannabis industry.

Despite being a fresh and developing industry, our Firm has been able to accumulate the following relevant experience on the Cannabis sector:

**CONSORCIO DE BANCOS:** Counsel to a consortium of banks in the issuance of shares of a company that supplies medical marijuana.

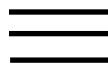
**TERRAGRANDE S.A.S.:** Counsel to Terragrande S.A.S in obtaining licenses for the cultivation of cannabis. Our advisory included meetings with the Ministries involved, the preparation of the legal documentation required to request the licenses, and general assistance in additional requirements.

**PROMOTORA TRIPLE A S.A.S.:** Counsel to Promotora Triple A S.A.S. in relation to the contracts for the investigation and the granting of legal opinions to investors.

**INVERSIONISTAS EXTRANJEROS:** Counsel to foreign investors in the acquisition of 51% of a Colombian company specialized in the production of medicinal cannabis and extracts of cannabidiol. This company produces and manufactures cannabis on a large scale, including THC, CBD, CBG, among others.

**FCM GLOBAL S.A.S:** Counsel to FCM Global SAS with the contracts required for the hiring of the scientist in charge of agronomy matters and the research of the cultivation areas.

Counsel to **FCM Global SAS** with the legal opinions regarding the potential financiers interested in investing in the medicinal cannabis cultivation project in Colombia and manufacturing derivatives, in relation to the legality of the business.



Counsel to FCM Global SAS in the intellectual property and patents matters associated to the manufacture of medicinal cannabis derivatives.

**INMOBILIARIA BONDUE S.A.:** Counsel to Inmobiliaria Bondue S.A.S. for entering into a joint investment project with the Canadian company Avicanna Inc. for strengthening and growth of the cultivation of 100% sun grown cannabis.

**ECONNNABIS S.A.S – PLENA GLOBAL HOLDINGS:** Counsel to ECONNABIS S.A.S (Plena Global Holdings) in the intellectual property and regulatory matters associated to the medicinal cannabis business in Colombia.

**CONFIDENTIAL:** Counsel to several companies in relation to the analysis and application of the standards that regulate the medicinal and therapeutic use of cannabis and its derivatives for the development of its operations in the field for production, importation, research and marketing.

We have also advised a multinational company in the process of designing the strategy for the launch and subsequent commercialization of a CBD (Cannabidiol) based investigational product, including, particularly (i) the possibility of the product being classified (scheduled) as a narcotic substance and, therefore, being subject to the relevant controlled drug restrictions in Spain; (ii) the procedure for establishing such controlled drug status and how the company may participate in the process; and (iii) the impact of such potential controlled drug status on movement of product (import/export). We have also advised on the availability of compassionate use / named patient programs for CBD based products in Spain and on possible distribution models in cooperation with third parties.

**21. Please provide links to any firm website, blogs, reputable trade publications, or attorneys that would help others understand the state of the law in your jurisdictions.**

The official website of our Firm is <https://www.ppulegal.com/>. The following attorneys have the necessary expertise to provide any advice related to the cannabis industry:

**Mauricio Patiño** – Partner (IP & Regulatory Practice);  
**Hernando Padilla** – Partner (M&A Practice);  
**Nicolás Tirado** – Partner (M&A Practice);  
**Gerardo Flórez** – Principal Associate (IP & Regulatory Area);  
**Paula Buriticá** - Principal Associate (M&A Practice) ;  
**Alexander Acosta** - Principal Associate (Environmental Area);  
**Laura Grisales** – Senior Associate (M&A Area); and  
**Diego Quintero** - Junior Associate (IP & Regulatory Area).

**A. Are there any relevant trade organizations?**

N/A

**B. Are there any relevant lobbying organizations?**

ASOCOLCANNA is one of the most reputable organizations of the cannabis industry with more than 20 active members. Its website is the following: <http://asocolcanna.org>.

RED DE EMPRENDEDORES CANNÁBICOS is one organization focused on entrepreneurship companies within the cannabis industry. Its website is the following: <https://redcannabicos.org>.

## Contributors

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