



By ICEERS

AYAHUASCA DEFENSE FUND **ANNUAL REPORT**

SEPTEMBER 2017 - SEPTEMBER 2019



A program by ICEERS

ADF

The Ayahuasca Defense Fund (ADF) is a program of ICEERS initiated in response to the growing criminalization of ayahuasca and other psychoactive plants worldwide.

Mission

The ADF is dedicated to shaping a world in which these plants can be used legally and safely.

Our approach

The ADF unites state-of-the-art legal, scientific, community, and public policy expertise.

Through the ADF we serve the community by working with defendants worldwide, providing reliable expert information and promoting sensible public policy.



Message from the ADF team

Two years have passed since we launched the Ayahuasca Defense Fund, thanks to financial support from the community. Since then, we've doubled our efforts to respond to the growing prosecution of ayahuasca practices worldwide, as well as engaging on other legal and policy issues related to traditionally-used plants such as peyote, San Pedro, coca leaf, and others.

Thank you to our community – for believing in us and pulling together to enable this important work. It is an honor to report that we have had a tremendous impact on the lives of dozens of people.

“The ADF Team provided me with invaluable legal advice and healing on every level. They were the light in the darkness and the loving angels who held my hand and walked me through and out of the world of criminal injustice and governmental ignorance.” ~ Defendant, USA

Our promise was to educate the community about the legality of these plants and to be there for people prosecuted for practices with ayahuasca and other plants. And that's what we did. We committed ourselves to turning legal challenges into opportunities, educating judges, public health officials, and the community. We have created a legal resource with country-by-country information based on careful research and a suite of educational resources, including webinars. And importantly, we have been supporting people – offering moral, technical, and other support to defendants in 56 cases (mostly ayahuasca, but also a few for San Pedro, peyote, iboga, coca leaf, and Psilo-

cybin mushrooms. Our support has impacted the lives of defendants such as the US, Canada, Israel, across Europe, in a few Latin American countries, and South Africa.

We are seeing progress. In several court sentences, judges have concluded that ayahuasca is not illegal – or that its legal status is unclear. Notably, a few judges credited their decisions to the scientific evidence presented showing that ayahuasca is not toxic, nor addictive, and that it does not pose a threat to public health. In one case, a judge took it a step further and recognized that ayahuasca had, in fact, been beneficial for ceremony participants who testified.

Despite this progress, as governments and border and customs agencies become more aware of these globalizing practices with traditionally-used psychoactive plants, we foresee that there could continue to be an increase in the number of arrests and legal incidents. In the last year, as you'll find described in this report, we have noted new trends in countries like the United States, Russia, and Chile.

We hope we can count on the continued support and solidarity of the community as we tackle these legal challenges and build a world where psychoactive plant practices are valued and integrated parts of society.

**Benjamin De Loenen, Constanza Sanchez, Andrea Langlois,
José Carlos Bouso and Natalia Rebollo**

ICEERS

Strategic Considerations





Strategic Considerations

An important part of our strategic approach is to consider that each legal incident, while unfortunate, presents an opportunity to educate lawmakers and other officials about ayahuasca or other plant practices. In each case we look for unique opportunities for engagement – with ambassadors, judges, academics, public health officials, journalists and other stakeholders engaged in drug policy work. For example, when a non-citizen of a given country is facing prosecution, we’ve found it to be beneficial to reach out and build relationships with ambassadors, consulates, and other diplomats from their country of origin. This has become a critical strategy in guaranteeing the right to due process and procedural rights of the defendants.


The criminalization of practices relating to psychoactive plants is not only a drug policy issue, it’s also about culture, human rights, public health, and religious freedom. Our multidisciplinary and integrated approach to addressing the outcomes of drug policies has led us to carry out with high-level and proactive advocacy at the United Nations level including at the Human Rights Council, the Economic, Social and Cultural Rights Council and the Drug Control agencies in Vienna. We’re grateful to all of our partners their contributions to our collective efforts to raise awareness about these important issues, particularly the impact on indigenous peoples and their right to access optimal health with traditional animals, plants, and minerals.

Legal trends



Number of Legal Cases





Trends: What We're Seeing

▶ **Ayahuasca and religious freedom:
from tolerance to intolerance**

▶ **New legal incident epicenters: United States**

▶ **Russia: new hub for legal risk**

▶ **New cases in other teacher plants**

▶ **New incidents in Argentina**



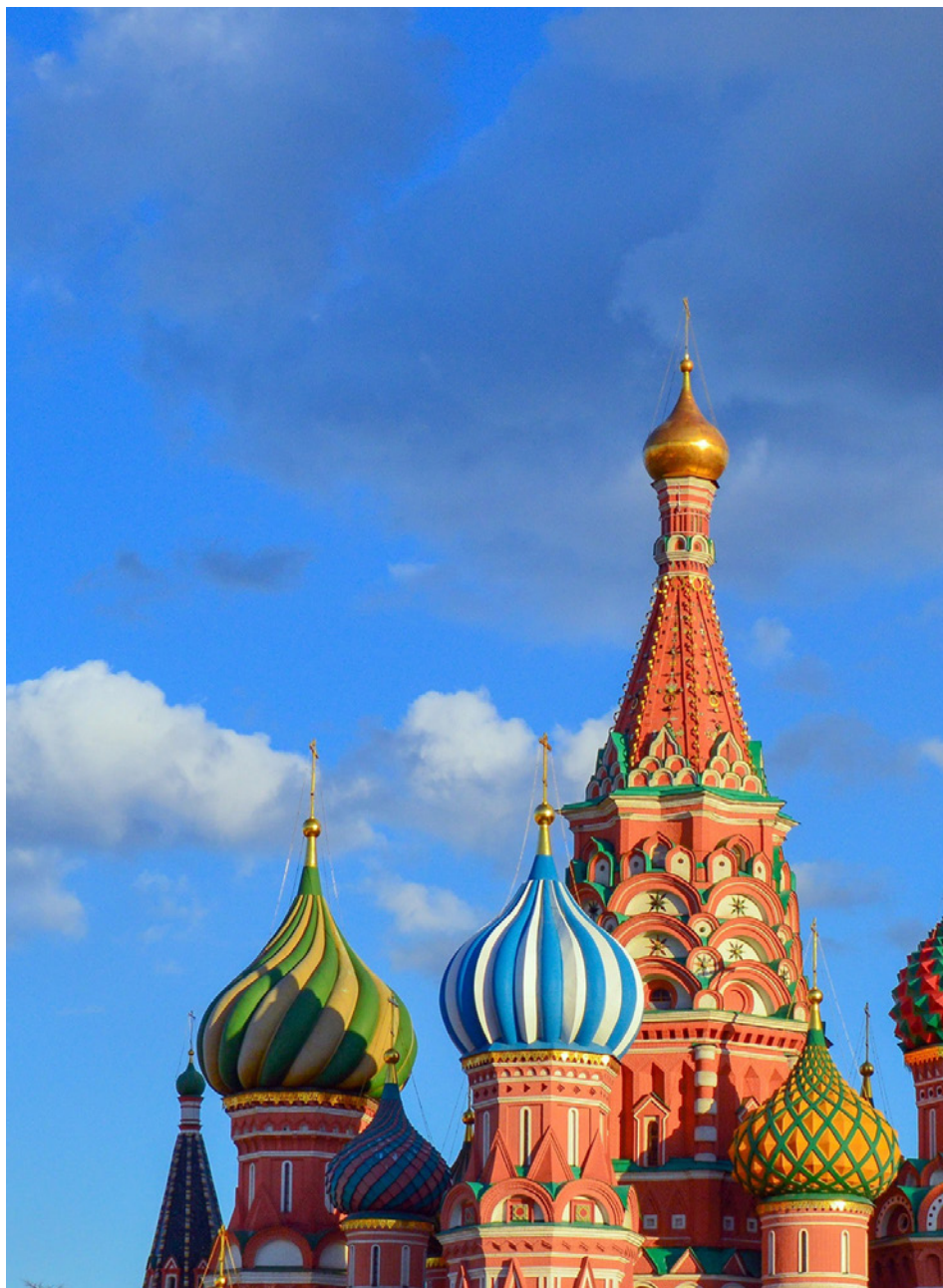
Ayahuasca and religious freedom: from tolerance to intolerance

In early 2018, a Dutch Court ruled on whether applying the drug laws that prohibit DMT to the ayahuasca use of the Santo Daime church amounted to an unjustifiable breach of their right to religious freedom, as protected by the European Convention on Human Rights. The Court established that prohibiting the church from drinking ayahuasca was a breach their religious freedom but further stated that this breach was justified on the grounds of protecting public health. The Supreme Court of Denmark used the same legal reasoning and based on the Dutch Court precedent. [Read more here on the ADF blog.](#)

New legal incident epicenters: United States

The ADF has learned of an unprecedented increase in law enforcement actions and related events involving ayahuasca in the United States over the course of the last year. At least four incidents have occurred so far in 2018 (see Pg 19 for more details). Throughout this wave of new incidents and arrests, the ADF team supported the defendants with legal advice and moral support, and we're pleased to report that they are all now free after long, drawn out processes. [Read more here on the ADF blog.](#)





Russia: new hub for legal risk

The ADF is aware of three current legal cases in Russia. Two of them were detained while traveling from Peru and Brazil to Moscow. Another person who received a package from Peru containing San Pedro, Ayahuasca and Coca leaf has been accused of smuggling psychotropic substances (contraband) into Russia. Due to the recently increased law enforcement actions in Russia, the ADF remains attentive of this legal trend and has advised the community to minimize their legal risks.

New cases in other teacher plants

As time goes on, more cases about legal incidents with other psychoactive plants are coming to our attention. In 2017-2019, we intervened in legal cases related to iboga, psilocybin mushrooms, San Pedro, peyote, coca leaf, and truffles.



New incidents in Argentina

Several raids during ceremonies in Argentina have been reported recently in news media. In the last one, three people were arrested.



Our accomplishments



Preventing arrests, raising awareness, and promoting best practices

The ADF's education work aims at preventing legal incidents before they occur. Because the legal landscape for ayahuasca and other traditional plants is highly complex and confusing and there is substantial misinformation online, efforts to educate and inform are priorities.

Education and information

▶ **Accessible and reliable information**

The ADF engages in educational initiatives that include information sharing through various channels. In June 2019 we incorporated the ADF website into ICEERS.org. It serves as a central hub for information about the legal status of ayahuasca in different states, including an extensive "myths and realities" resource, and a blog with up-to-date information on legal incidents and ADF events. In 2020, we'll be adding more testimonials and in-depth content.

▶ **Country-by-country legal map**

Many queries that we receive via our email consultation service are from people requesting information on the legal status of ayahuasca in various countries. Our legal map provides information on the legal status of ayahuasca in different countries and is based on extensive research, for which we engage regional experts for information and review. In the coming year, we'll be adding new countries and providing more up-to-date information as it emerges.

Education and information

< See previous page



Training workshops

Those involved in organizing ayahuasca ceremonies or sessions have a collective responsibility both of ensuring the well-being of participants, and of contributing to the ways in which the authorities view ayahuasca practices. ICEERS organized workshops in Spain, Portugal, The Netherlands, and Israel to create space for dialogue on ethics, safety, best practices and building strong local communities as a form of legal harm reduction, noting that adverse incidents in any context can have consequences for the community as a whole. The expertise gathered through the ADF informs these community-building activities.

Countering legal prosecution

The ADF offers legal advice and works with defendants and their legal counsel worldwide on cases related to ayahuasca and other traditional psychoactive plants.

Countering legal prosecution

Legal support work

During this period we engaged with over 40 in-depth legal queries. Our team also worked with 20 criminal cases in 11 countries. For these cases we offered moral and strategic support to the defendants or their family, and their legal representation. We provided scientific evidence, technical reports and expert witness testimonies to several of these cases. The outcomes depended on the legislation in the country of each case, the cooperativeness of the legal representation with our team and the judges handling the case. In this sense different levels of success were achieved, with several very favorable outcomes. In cases where the ADF was allowed to play a leading advisory role in assisting the defense, and where our Technical Report and best practice advice were drawn on, there have not been any criminal convictions. In the following pages we outline some examples of key cases that we've been involved in.

Expanding our network

The strength of the ADF increases as we establish a solid network of lawyers who are sensible to this cause. We continue to increase our lawyer's network and continue to make connections to new attorneys internationally.

Cases



Ayahuasca cases USA

Three new cases in the USA required strategic and moral support, with all cases ending favorably.

New York State: In early January 2018, a Canadian citizen crossed the border into New York state with a bottle of ayahuasca that was seized by customs. After being detained for three days, the Customs and Border Protection found, on grounds of the Criminal Statutes of the State of New York, that bringing ayahuasca into the US constituted a felony. The defendant was detained without any communication for three days and was charged with “criminal possession of a controlled substance” (DMT). Although the felony was later reduced to a misdemeanor, the defendant was banned from entering the US and fined 1200 US dollars.

Illinois: An individual received a package containing ayahuasca that law enforcement used as grounds to raid and search their home. The material was seized and allegedly submitted for analysis by a Forensic Laboratory, after which a formal indictment was delivered by a grand jury in the State of Illinois. The individual who was initially charged with “possession of a controlled substance (DMT) with “intent to deliver” spent almost four months under house arrest. Our team worked closely with the lawyers acting at the domestic level providing legal advice. After a very challenging process, the prosecutor dropped the charges.

Florida: An individual was apprehended while traveling to Miami from Colombia with ayahuasca. After six months of Court hearings and wearing a monitoring bracelet, he was offered the option to plead guilty with the possibility of the felony being reduced to a minor offence. After pleading guilty, the judge sentenced him to 100 hours of community service and one-year probation.

Ayahuascaca Cases Spain

Spain continues to set important legal precedents and in 2017-2019 there were several importation cases.

One case – involving the arrest of Israeli woman travelling through the Madrid airport with seven liters of ayahuasca from Peru – was dismissed and filed after several stressful weeks for the defendant during which our team offered ongoing moral and strategic support. The judge determined that even though the liquid was shown to contain DMT, it was not possible to determine the strength of the concoction nor whether it was destined for personal use or distribution.

A second case, which also included the seizing of several bottles of ayahuasca that were tested and found to contain harmaline and DMT, provided another precedent in jurisprudence that may help shift the way ayahuasca is viewed by judges and policy makers. The judge drew on the arguments and ruling of a successful 2016 case the ADF was involved with – stating that possession of ayahuasca is not a criminal offence since it does not qualify as a “toxic drug, narcotic or psychotropic substance” under article 368 of the Spanish Criminal Code. Furthermore, the judge considered that the process of making a “decoction” was clearly not included under national or international legislation, nor under the Convention on Psychotropic Substances of 1971. The legal arguments leading to the dismissal of this case illustrate that even when DMT is listed under international treaties, the vegetal presentation (or the plants from where these substances are obtained) or ayahuasca per sé is not an object of international conventions.

Coca leaf Cases Spain

Lastly, our team was highly involved in a case where the defendant (a Bolivian citizen) travelled to Spain with eleven bags containing coca leaf. The prosecutor firmly asked for four years of prison and a 2,000 euro fine. After our team provided a pharmacological and legal expert report and testified in court, the final sentence concluded – based on prior jurisprudence – that even though the coca leaves did not pose a serious harm to public health, the importation of the leaves remained a crime under international and domestic legislation. The court ordered 6 months of prison and a 30 euro fine.

Ayahuasca case Russia

In August 2016, Eduardo Chianca, a Brazilian professor, was arrested in Russia with four bottles of ayahuasca in his luggage. He was detained in prison for nine months before his case was heard in May 2017.

This case brought Article 229.1 of the Criminal Code of Russia to our attention, which states that activities related to “plants containing narcotic agents, psychotropic substances or their precursors, or parts thereof” are punishable by law. Our team worked closely with the defense, providing scientific opinions about the average amount of DMT usually found in ayahuasca samples, and providing strategic information learned from other international cases. This provided a solid basis for us being able to offer support to two subsequent, which are on-going, cases in Russia. Read more here.

Testimonials

“

I fully and completely trusted them with my Life and Freedom. And I was right.” //

“


Ayahuasca Defense Fund is a group of global experts in the Ayahuasca field. Their work is the key to taking Ayahuasca out of prison and giving Master Teacher Plants the true status they deserve //

“

“The ADF Team educated me how to protect my religious civil rights and walked these steps with me with great dedication and full commitment. They were the wealth of advice and the guiding force to my legal defense attorney..” //

Looking
ahead





Looking ahead

Over the coming year, we will continue with our legal expertise supporting the global community in the highly-complex challenges that surround practices related to teacher plants.

Our approach is global and takes into account that sacred plants must be seen and understood within their bio-cultural context, one that takes sustainability into account, along with indigenous and human rights. We will build on the strong foundation that we've established to continue our efforts to defend ayahuasca-related practices and to promote sustainability and legal protection at domestic and international levels, all while promoting best practices, legal harm reduction, and supporting. With the intention to continue with our constant work towards the defense of teacher plants, their sustainability and legal protection, we will continue to advocate at the domestic and international levels, to promote best practices and legal harm reduction, and offer moral and strategic support to those who face severe punishments for practices with psychoactive plants.

Acknowledgements



Acknowledgements

Our second program year – from September 2017 to September 2019 – was a great success due to the efforts and support of many individuals. Thank you to all of our collaborators, funders and supporters. We couldn't do this without you!

ADF Team

Benjamin De Loenen
Constanza Sanchez, Ph.D.
José Carlos Bouso, Ph.D.
Ben Christie
Andrea Langlois
Natalia Rebollo

ADF Steering Committee

Benjamin De Loenen
Constanza Sanchez, Ph.D.
Ben Christie
Jeffrey Bronfman
Charlotte Walsh, M.Phil.
Ismail Ali
Andrea Langlois

Collaborators

Robert Heffernan
David Rance
Ben Meeus
Carlos Suárez Álvarez
Rini Hartman
Ismael Apud
Juan Scuro
Pierre Tchaikowski
Guillaume Krief

Legal advisory committee:

Aleix Vila Maria
Alexis Kaiser
Alexis Wilson Briggs, J.D.
Diego de las Casas
Farrah Al-jarrah

Héctor Brotons
Javier Esteban, Ph.D.
Pedro Caldentey Marí
Roberto Castro
Rodrigo González

Drug Policy Advisors

Amanda Feilding
Ethan Nadelmann, J.D., Ph.D.
Kasia Malinowska, Dr. P.H.
Pien Metaal, M.A.
Rick Doblin, Ph.D.

Scientific Advisors

Charles Grob, M.D.
Dennis McKenna, Ph.D.
Draulio de Araujo, Ph.D.
Luís Fernando Tófoli, M.D., Ph.D.
Rafael G. Dos Santos, Ph.D.

Key Donors

Bertha Foundation
Anton Bilton
Jeffrey Bronfman
Clemens Schletweinn



ICEERS

INTERNATIONAL CENTER FOR
ETHNOBOTANICAL EDUCATION
RESEARCH & SERVICE

CONTACT

Constanza Sánchez | law@iceers.org | +34-931 882 099 | c/Sepúlveda 65, baix 2 08015 Barcelona, Spain

www.iceers.org | ayahuascadefense.com