ENHANCING POLICE SKILLS ON NOVEL PSYCHOACTIVE SUBSTANCES

Legal and Forensic analysis. Intermediate Research Report

SZCZECIN UNIVERSITY - MAY 2016
ENHANCING POLICE SKILLS ON NOVEL PSYCHOACTIVE SUBSTANCES

The Project EPS/NPS - Enhancing Police Skills on Novel Psychoactive Substances is coordinated by RISSC and developed in cooperation with University of Hertfordshire Higher Education Institution (UH) (UK), University of Szczecin (US) (PL), Eotvos University (ELTE) (HU) and INTERPOL (associate partner), with the financial support of the EU Commission - Targeted call on cross border law enforcement cooperation in the field of drug trafficking - DG Justice/DG Migrations and Home Affairs (JUST/2013/ISEC/DRUGS/AG/6429). The Advisory Board is composed by experts from Arma dei Carabinieri, EUROPOL, INTERPOL, Swiss Federal Police, UNODC and US Drug Enforcement Administration. The overall objective of the Project is to contribute at enhancing a knowledge-based joint EU approach to effectively addressing the rapid spread of NPS, by promoting in particular the generation of data/knowledge, information-sharing, and cooperation.

Project duration: 2015-2017
Project manager: Valentina Scioneri
www.npsproject.eu
Szczecin University has a significant expertise in the field of interdisciplinary studies. It has been developing in the years 2006-2014, the first and so far the sole European Master with a joint diploma in Law, given together with the Autonomous University of Barcelona, the State University of Milan and the University of Montpellier.

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This publication has been produced with the financial support of the Drug Prevention and Information Programme of the European Union. The contents of this publication are the sole responsibility of the authors, and can in no way be taken to reflect the views of the European Commission.
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INTRODUCTION

PRESENTATION OF THE SZCZECIN UNIVERSITY ACTIVITY

The research team developed the legal and forensic analysis basing on five sections. The **first section** has been centered on the consideration of the context of European integration and the role that the legal and forensic aspects of the activities developed by EU and the Member States towards NPS play into it. The result of this activity has been to highlight the level of dangers, which is manifested by NPS and are reflected in the dichotomy between reduction of the demand of NPS, and reduction of supply of NPS. These two policies are joined, in the drug strategy of EU by institutional aspects, concerning coordination, international cooperation, as well as information, research, monitoring and information. The **second section** of our research has been based on an evaluation on whether such mechanisms of institutional cooperation put in place by European Union, are sufficient to deal with the legal and forensic problems highlighted in the first part of the analysis. In this section we have been taking into account the variety of legal solutions adopted by the Member States. To this respect, the relation between European drug strategy and the national strategies show significant signs of convergence. This convergence does not however truly appear at the level of the legal goods protected and the normative solutions adopted by the national legislations. Furthermore, national legislations do not equally envisage issues concerning transnational and international cooperation. This is probably due to the difference existing between the different administrative cultures. However, evidence coming from data demands to intensify the extent and the quality of coordination. For this reason the result of the second section of our work is the need to make use of European directive for what concerns the harmonization of the principles concerning drug counteraction and NPS.

The **third section** of our research has been addressed to a brief comparative analysis concerning the legal framework on drugs and NPS on the other countries, which, apart from Poland, are the main object of our research, and namely United Kingdom, Italy and Hungary. In the **fourth section** we have been concentrating in particular on the evolution of Polish legislation and on the recent debate. The study of the Polish case, which we provided in the context of the need to institutionalize the legal difference between policy affecting the offer and policy affecting the demand of NPS permitted to draw significant remarks. As a result of this section we have been observing that the quick multiplication of NPS impairs the model of assessment of danger by each substance. As a policy to control the offer of NPS. For this reason there is a call to legally consolidate the control of the offer of drugs, and in particular of NPS, from the point of view of the control of the demand. For the control of the offer we need instead a general criminal law discipline, based upon clear objective and subjective elements: namely “any dangerous substance” from one side and “a fraudulent or culpable aim” from the other side. The **fifth section** includes our policy of law approach for NPS: that is a regional expert system to study the trends of the consumption of NPS. The Platform (PENSIERO) is a theoretical study of Szczecin University, which concentrates on demand issues. Its regional approach permits to differentiate between substances and patterns of consumption, and furthermore, permits to create an approach specifically oriented to demand.
2. THE APPROACH OF EU TO NPS: THE LEGAL ACTS AND EU DRUGS STRATEGY


The EU Drugs Strategy declares that it is based upon the fundamental principles of EU law, as well as the fundamental values of EU. Even though the Strategy does not specify the first, among we find among them the conferment of competences and the loyal cooperation. The strategy instead, refers expressly to the second group, where we find the respect of dignity, liberty and the rule of law. The aims of the Strategy, therefore, connect such principles and values with the policy area of EU. Among them we find: the well being of the society and the individual, as in art. 3 TEU; its cross-cutting policy aim of attaining a high level of health protection, as in art. 9 TFEU; the specific policy aim to offer a high level of security for the general public (see at least art 67 TFEU – area of freedom, security and justice); to take a balanced, integrated approach to the drugs phenomenon, with respect to which we shall consider at least art. 168 TFEU, related to the complementing the Member State’s action in reducing drugs-related damage, including information and prevention. We should mention to this regard also art. 83 TFEU according with which The European Parliament and the Council may, by means of directives establish minimum rules for serious crime with a cross border dimension, such as drug trafficking.

The duality prevention-repression, which is intrinsic to all drug approaches, requires a special attention in EU law, since its implementation is related to policies, characterized by a different model of conferment of competences. EU, as we can see starting from the analysis of this strategy, shall still take adequate policy decisions in this field. However, the Strategy underlines that the “drug phenomenon is a national and international issue that needs to be addressed in a global context”. Therefore, EU calls for a coordinated action. The strategy takes well into account the
new tendencies, related to poly-substance use. Among such tendencies, the Council underlines the combination of licit substances and illicit substances. Licit substances may include also alcohol and prescribed medications. The Council underlines also the spread of NPS, among some of the most relevant challenges of the present day. The Council takes into account that the number of deaths for drugs, is remaining high within EU. It notices that new communication technologies facilitate the distribution of illicit drugs and NPS, providing also to a shift in the trans-border characteristics of the organized crime and of the drug routes. It also drives the attention to prevent diversion of precursors and other chemicals from the illegal trade to the illicit market. For these reason the objectives of the EU Strategy are formulated as: reduction of demand, dependence, health and social risk, disruption of the market. For what concerns the institutional aspects the strategy envisages coordination through discourse, dialogue and cooperation. Furthermore, it addresses the issue of a better dissemination of monitoring, research and evaluation results. To this extent, the assessment of the current situation, through the support of the EMCDDA, has a special meaning. The EU drug strategy is articulated around two main policies, which are drug demand and drug supply reduction. The cross-cutting themes are: coordination, international cooperation and information research, monitoring and evaluation.

3. EU ACTION PLAN FOR DRUGS 2013-2016

Following the enactment of the strategy, EU has been producing the EU Action Plan for drugs 2013-2016. Another plan shall be enacted for the period 2017-2020. The plan of action concentrates on the two policy priorities, and namely: demand reduction and supply reduction. Furthermore, it deals with the cross-cutting themes, and namely coordination, international cooperation, information research, monitoring and application. The policies are then expressed with respect to overarching indication, which concern the impact on the reality.

We observe that, for what concerns the reduction of drug demand, the objectives pursued, which are the legal values protected, concern mainly: prevention, effectiveness and drug treatment. They concentrate on quality approaches in drug demand reduction. With respect to this, we have to take primarily into account the kind of competence concerned and the extent in which it has been conferred to EU. Concerning the objectives of the action plan of EU in the field of the reduction of drug demand, they are mostly concerned with the competences conferred to EU in the field of public health. Here we have the superposition of two kinds of competence: a) a shared competence between EU and the Member States, entailing harmonization [art. 4.2 (k) TFEU], and b) a competence of support, coordination and supplement of the action of the Member States not entailing harmonization. [art. 6 (a) TFEU]. So far, for what concerns the demand reduction, EU policy appears still centered on a competence, which does not entail harmonization. The reflex of this is a legislation of the Member States, which is not sufficiently coherent to support the achievement of the policy aim of reduction of the demand. For this reason in this section of our work, we posed ourselves the question to consider the EU policy with respect to the reduction of the demand of NPS, within the framework of the relevance of health protection in the European Union treaties.

The promotion of the protection of human being is first of all a cross-cutting principle, which shall be taken into account in all the policies of European Union (art. 9 TFUE). Furthermore, the fundamental European freedoms may be restricted with regard to the freedom of movement of goods, and with regard to the freedom of movement of persons. Indeed, restriction on import and export of goods in transit may be justified on the ground of the protection of life and health of humans (art. 36 TFEU). Also free movement of workers may be limited on the ground of public health (art. 45 TFEU). Freedom of establishment may also be limited, allowing a special treatment of foreign nationals on the ground of public health (art. 52.1).
Concerning approximation of laws, the Commission, in its proposals to achieve its objectives in the field of internal market but related to health protection, shall take into account a high level of protection basing upon scientific facts (art. 114.1). Health is also a fact, which renders the need to harmonize more cogent (see art. 114.6 TFEU). For what concerns the process of harmonization, public health demands for specific attention, care and cooperation between national and European authorities (art. 114.8 TFEU). In the field of social policy, improvement of workers’ health and safety are of special importance [art. 153.1 (a)].

The competences mentioned so far entail harmonization. This is especially clear when we deal with internal market competences. It is only the Title XIV of the Treaty, which deals with “Public Health”, where from one side there it is confirmed the principle that “high level of protection of health shall be assured in the definition and implementation of all Union policies and activities”, whilst from the other side, it is prescribed that “The Union shall complement the action of the Members States in reducing drug-related health damage, including information and prevention” (art. 168). In article 168.1 we see enshrined three principles: a) the cross-cutting principle of ensuring a high level of health protection in the definition and implementation of all Union’s policies and activities (art. 168.1 first sentence); b) monitoring, early-warning and combating serious cross-border threats to health (art. 168.2 second sentence); c) complementing the Members States’ action in reducing drug related health damage, including information and prevention (art. 168.1 3rd sentence). However, it is with reference to the competence enshrined in the second sentence of art. 168.1 that art 168.5 refers, when it prescribes to adopt incentives measures, in particular addressed to combat serious threats, excluding harmonization. This paragraph, however, refers mostly to alcohol and tobacco, and does not mention drugs. The responsibility of the state for health services remains a characteristic of this policy. However, taking into account the declaration on art. 168.4 (appendix to TFEU), we can see that the aim of attaining health services may not permit to maintain national standards. And this also with respect to medicines, which is an issue regulated by art. 168.4.¹

These reasons permit us to conclude that for what concerns health protection and the reduction of drug demand, the specific characteristics of the early warning procedures remain something that does not entail harmonization. However, the complexity of health protection in the process of European integration may very well require processes of harmonization. Indeed, the reduction of the drug demand, in the measure in which the related health protection is connected to the free circulation of goods and persons, as well as to issues related to the circulation of medicinal issues, may require processes of harmonization. For this reason the recent project to issue a regulation and a directive in this field have been seen with interest. However, according with the analysis carried so far, we do not consider this process of harmonization suitable to the needs.

## 4. Drug Supply Reduction Aim in the Action Plan

For what concerns drug supply reduction the objective pursued by the Action Plan (2013-2016) concern enhancing: a) enforcement; b) effective judicial cooperation and legislation within EU; c) effective responses to current and emerging trends in illicit drug activities. Among the activities related to such objectives we shall especially notice the ones under the objective of enhancing effective judicial cooperation and legislation within EU. It is connected to action of strengthening judicial cooperation concerning among others drug trafficking. To the achievement of such an objective, the Plan envisages introducing and adopting new legal measures to address emergence and spread of NPS combating the use of pharmacological substances, defined in the directive 2011/62 as cutting agents. Furthermore, the Action Plan asks Member States to provide where appropriate and in accordance with their legal framework, alternatives to coercive sanctions.

¹ We shall remember, for the sake of completeness, that health is mentioned in the TFEU also with respect to environment (art. 191.1), overseas territories (art. 202) and commercial policy [art 2017.4 (b)].
The Policy area concerning drug supply reduction is clearly referred to the space of freedom, security and justice. The characteristic of this competence conferred in this ambit permits without doubt the enactment of directives. As, the section of this analysis concerning national experiences will clearly show, the differences, which characterize the national approaches, put at risk, especially for what concern NPS, the pursuit of legal aims such as enforcement in a coherent way. For this reason the national responses, even though attentive and often severe, do not reach the aims of individual and social protection they are addressed to.

5. NEEDS OF PROMOTING HARMONIZATION IN EUROPEAN LEGISLATION

Another reason for which we postulate the necessity to enact directives follows from the analysis of other significant legal documents related specifically to NPS. This is the Council decision 2005/387/JHA of May 10th 2005 on information exchange, risk assessment and control of NPS. This decision underlines first of all that NPS may be harmful to health and they present other inherent dangers. Therefore, they require a continued action by the Member States. Such action may reinforce the previous mechanisms of early warning. To pursue this aim, objectives, transparency and scope of the procedures had in particular to be redefined. A quick response to the threats of NPS, as it has been stated, needed the work of an extended Scientific Committee. This body would include experts of EMCDDA, form the Commission, Europol and EMEA. The procedure envisaged should start from Member States within the Reitox Network. It would start from any information on substances, their manufacture, traffic and use including possible medical use provided by a Member State.

When EU authorities such as EUROPOL, EMCDDA or the Council deem necessary that an NPS merits the collection of new information they prepare a joint report. After that the Council requests the assessment of the risk including health and social risk stemming from its use, manufacturing and trafficking. The assessment may concern also the involvement of organized crime and the possible consequence of control measures.

Risk assessment shall not in principle be carried out only in special circumstances that include that such an assessment is already carried out in the UNO system, or the case in which the substance is used for the production of a medicinal product, which is authorized, which authorization has been asked, or which authorization has been suspended.

The Council then decides (art. 8.3) by qualified majority whether to submit the substance to control measures. In this case Member States shall take, in a delay no longer then one year, the necessary measures of control according with their national legislation.

6. NEEDS OF PROMOTING HARMONIZATION IN EUROPEAN LEGISLATION

The procedure under the Council decision 2005/387/JHA of May 10th 2005, has the characteristic of an administrative European procedure aiming to put in evidence a danger or a risk, demanding at the same time to the Member State to take appropriate action. Such characteristic emerges from the analysis of the executive decision taken on the base of the said act and of their projects. The analysis shows that the aim of the procedure under the said decision is to drive away from the possible legal market uses such a substance, or at least to make difficult its access. This is an action taken 'a posteriori', after that a significant time has been passing from the detection of the substance. In this case significant damage has been occurring and fatalities taking place. For this reason the recommended control and criminal sanctions with respect to the substance have a special nature, which is connected to the limitation of the circulation of that substance. And therefore, also in the case of criminal sanction, we have that the their rationale is grounded in the administrative law nature of the
legal procedure in question. Therefore the procedure in itself may not permit to pursue general aims of criminal policy, and namely guaranteeing through criminal sanctions, generally important legal goods such as health and public security.

We can give evidence of our statements considering in some detail the structure of these decisions.

After an analysis of:

COM (2013) 039 final - 2013/0021 (NLE): Proposal for a COUNCIL DECISION on subjecting 4-methylmethcathinone (mephedrone) to control measures and the related 2013/129/EU: Council Decision of 7 March 2013 on subjecting 4-methylmethcathinone to control measures [later annulled by the Judgment of the Court (Fourth Chamber) of 16 April 2015, European Parliament v Council of the European Union, C-317/13 and C-679/13 for a lack of consultation with the Parliament, see p. 63, p. 70]. See also the subsequent COUNCIL IMPLEMENTING DECISION (EU) 2015/1876 of 8 October 2015 on subjecting 5-(2-aminopropylindole to control measures - which replaced the annulled decision.

COM/2013/0436 final - 2013/0207 (NLE): Proposal for a COUNCIL DECISION on subjecting 4-iodo-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine (25i-NBOMe), 3,4-dichloro-N-[1-(dimethylamino) cyclohexyl][methyl]benzamide (AH-7921), 3,4-methylenedioxyxypyrvalerone (MDPV) and 2-(3-methoxyphenyl)-2-(ethylamino)cyclohexanone (methoxetamine) to control measures, and the related 32014D0688: 2014/688/EU: Council Implementing Decision of 25 September 2014 on subjecting 4-iodo-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine (25i-NBOMe), 3,4-dichloro-N-[1-(dimethylamino) cyclohexyl][methyl]benzamide (AH-7921), 3,4-methylenedioxyxypyrvalerone (MDPV) and 2-(3-methoxyphenyl)-2-(ethylamino)cyclohexanone (methoxetamine) to control measures. This decision has been later annulled by the Judgment of the Court of Justice (Third Chamber) 23 December 2015  C-595/14 see p. 41-43. COUNCIL IMPLEMENTING DECISION (EU) 2015/1873 of 8 October 2015 on subjecting 4-methyl-5-(4-methylphenyl)-4,5-dihydrooxazol-2-amine (4,4′-DMAR) and 1-cyclohexyl-4-(1,2-diphenylethylpiperazine (MT-45) to control measures. COM/2015/0674 final - 2015/0309 (CNS): Proposal for a COUNCIL DECISION on subjecting the new psychoactive substance 1-phenyl-2-(1-pyrrolidin-1-yl) pentan-1-one (α-pyrrolidinovalerophenone, α-PVP) to control measures.
7. THE STRUCTURE OF THE DECISIONS OF THE COUNCIL IN THE FIELD OF NPS

The structure of such decisions is articulated on a number of steps, which, starting from the Proposal of the Council [COM (2007) final], present more or less the following elements: an explanatory and procedural note and then providing an analysis of the process of risk assessment. Within such an analysis we may observe (1) a statement that a Risk Assessment has been drawn and subsequently submitted to the competent European institutions. Then (2) there is presented a description of the substance, including the time in which it has been reported for the first time in EU. A further step (3), concerns the legal availability of the substance in the Member States, as well as the availability for recreational purposes, via Internet or in other sources of supply. The supply here is considered also with respect to the possibility of the substance to be sold in different aspects, or in which way it may serve as an analogue. Other important elements of the assessment, include the damages and the reported fatalities (4), as well as eventual considerations concerning large scale processing, and in some cases the possible involvement of organized crime in its trafficking (5). Following these elements it is given a brief appraisal concerning the possible medical value of the substance (6). Furthermore, a decision includes the indication (7) if the substance is under UN assessment, as well as if the substance is subject to control measures and criminal penalties in the Member States. The decision adds (8) whether there is a conclusive of the overall risk and the issue of the opportunity to place the substance under control (9), eventually adding the reasons, such as the attractiveness of the substance, the risk for the health and the lack of medical benefits, which justify placing the substance under control.

The decisions reflect the proposals of the Commission. However the latter have explanatory and procedural notes, which do not appear in the final decision. In some cases, especially when the decision shall include placing several substances under control, the quantity of forensic elements, as well as of the elements concerning the supply side, which are included in the decision are quite remarkable. For this reason we can derive the importance of these procedures for the determination of the impact assessment of specific substances. Such assessments are a fundamental element in the process of European legislation. For this reason it is useful to take into account, what are the steps that have been taken addressed to develop more relevant legislation in the field of NPS.


Concerning the Report of the Commission on the Assessment of the Council Decision 2005/387/JHA on the information exchange, risk assessment and control of new NPS, it starts from the consideration that the procedure set by the Council aims to reproduce at the European level the drug protection system as foreseen in the UN Convention on drugs. Namely, when there appear substances, which may pose a comparable damage with respect to the substance included in the UN Conventions, the relevant procedure shall apply. The procedure does not cover drug precursors. The Commission in its report deems the application of the Council Decision in question as useful, but not sufficient to the need. The reason is first of all related to the time that the procedure takes to be completed. Secondly, the procedure did not show to be very useful to apply. Indeed, as the report of the Commission pointed out, we have two kinds of regulatory approaches in the Member States. One is based upon the introduction of the control of one substance at time. A second one is based upon simultaneous drug measures adopted by groups of substances. Following the reasoning presented in the Communication, we have that Member States appear often concerned by the fact that, controlling one substance at a time is not
able to cope with the quick multiplications of the available substances. Furthermore, this approach makes difficult to take action on drugs, which are composed of several substances, in various combinations. The Commission stresses at this point that this is the reason why “no action has been taken at European level on Spice”. However, the Commission adds that the approach adopted by some States and consisting in addressing a group of substances at the same time, does not appear easier then the former to be put into practice. It is also less scientifically reliable. The reason given is that the effects and potential harm vary very widely between substances included in any generic group. The Commission points out also that this instrument has been applied mainly as a public health tool. Its use as a tool of criminal justice appears practically much more limited. And for this reason, the opinion that we can derive from the Communication, taking into account the perspective presented by some of the Member States is that we need a certain specialization between instruments that work well in the field of food and product safety and the instruments, which are suitable for enacting criminal sanctions. Nevertheless some sort of connection between these tools may be developed.

The Commission, however, points out the need to develop more efficient tools since the presented procedure is not able to deal with the quick multiplication and the quick replacement of the substances on the market. Furthermore, it lacks options for control measures.


Concerning the Council Framework decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, we shall first of all remember that it was taken within a different institutional model of European Integration. This model was based on a pillar structure, where the pillar of Justice and Home Affairs and the pillar of Common Foreign and Security Policy were based on an integration approach, separated with respect to the Community pillar.

For this reason, the attention to adopt minimum rules and the application of the principle of subsidiarity, according with which EU action should focus only on the most serious types of drug offenses, has been producing an obstacle for the adequate legal protection of NPS. The fact that these minimum rules seem to be addressed only to the most serious crimes, results also from the principle that Member States should be allowed to make provisions for reducing the penalties when the offender has supplied valuable information. Indeed, this is an approach, which is mostly applied for tackling organized crime.

The basic principle of the decision is the duty to properly punish intentional conducts related with the production, the possession and the exchange of drugs, unless related only to personal consumption (art. 1). The penalties should be effective, proportionate and dissuasive.


Concerning the Report of the Commission on the implementation of the Framework Decision 2004/757/JHA the Commission based it on the report of 21 Member States. Reading the report one has an immediate feeling of the fact that the Decision in itself appears difficult to match with the national systems of the different Member States. Indeed the fact that Cyprus, Greece, Italy, Malta, Spain and UK did not send the information requested by the Commission may only be red in the perspective of a mutual lack of compliance between EU and the Member States in the field of criminal drug policy. The report seems to confirm this point when it states that, the interpretation of the Framework Decision
is made difficult by the difference in the wording to consider the drug related criminal offences in the different Member States. Such differences are the reflex to the mutual differences in the criminal policy perspectives. Further elements of difference also in the approach to precursors. The most evident dissimilarities are related with the penalty, which, in many cases, are much higher then the minimum standard.

Another implementation problem appears with respect to the lack of requirements, as an aggravating element, of the involvement of large quantities of drugs, or of drugs that cause most harm to the health. Concerning offences involving precursors, the role of the organized crime is taken into account. However, there are wider variations then in the case of drug trafficking. The liability of legal persons presents also some significant differences. The mentioning in the report of "passive liability" is, however, one of the symptoms of the general difficulty, to deal with the liability of legal persons. Concerning the control of the implementation of the Framework Decision, the Commission mentions also the problems posed by the collection of data at national level. It adds, then, basing on the opinion of the experts, that the Framework decision had a minor importance in the legal reality of the Member States and it did not lead to major changes in national legislation.

The Commission concludes the presented document saying that the implementation of the decision has not been satisfactory. In our opinion the information and the reflection presented by the Commission highlight the difficulty of the coexistence of different policy approaches to criminal issues in the field of drugs within a single framework of reference. This aspect makes the prosecution of the drug crimes more difficult in general, if we take into account the phenomenon in an overall European perspective. Furthermore, the difference between such policy, manifests the existence of a non favorable environment for what concerns NPS related offences and a general contrast to this phenomenon.

11. THE PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL ON NEW PSYCHOACTIVE SUBSTANCES OF 2013

The Proposal for a Regulation of the European Parliament and the Council on New Psychoactive Substances [COM (2013) 0619 final] tries to improve the model of putting new psychoactive substances under control in European Union. It has been presented together with a directive that aims at adjusting to this need the Framework Decision 2004/757/JHA. Notwithstanding this basic perspective, the regulation presents is characterized by a legal basis, which influences the overall European approach to NPS. The main object of the proposed regulation is indeed to improve the functioning of the common market for what concerns licit substances. At the same time, the project of the regulation aims at limiting the availability of substances that pose risk. For this reason, together with the project of regulation there has been presented a project of directive, which aims at laying minimum provisions concerning criminal acts for illicit drug trafficking. In this way the criminal treatment of NPS appears at a first glance internalized within the criminal drug policy.

However, if we look at the main normative aim of the project of regulation, it is to allow the circulation of NPS for licit use. The punishment for new psychoactive substances, which are assessed one. These difficulties, are by one, to be risky and dangerous, shall be seen as the direct consequence of the approach of the proposed regulation. Indeed, the project of regulation aims at providing gradual restriction for the substances. Such restrictions are established for the use of the substances outside their licit scope, and are proportional to the level of risk. From the points of view of the rights directly concerned, we have that the regulation sets a balance between right to health and economic rights, such as the right to conduct a business and the right to property.
Therefore, the main normative objective of the regulation is the restriction of the free movement of NPS in the internal market. To reach it, the regulation makes use of a system of information exchange, risk assessment and submission to market restrictions (art. 1). The Member States may adopt technical regulations concerning NPS to the moment in which EU has not adopted relevant measures (art. 4).

The procedure of risk assessment included in the regulation resembles the one developed on the base of the decision of 2005. However, timing is strict and the Commission may, in the moment in which it requests a risk assessment on a NPS, prohibit making the substance available to the consumers. The Commission may adopt such decision in the form of implementing acts, where it results from the existing information, that the substance poses immediate risk to public health (art. 9). On the base of the risk assessment, the level of danger of the substance is then determined (art. 10). The Commission will not adopt restriction in the case in which the level of risk is low (art. 11). Instead, substances of moderate risk may be excluded from the market and all production and exchange to the forbidden (art. 12-13). Concerning the legislative process, we shall take into account the critical opinion issued by the Economic and Social Committee. In particular, the said Committee has been pointing out that NPS is a global problem and therefore also the solution proposed should be global. Therefore, it underlines that wider range of opinions shall be considered (the report is dated 21 January 2014). The opinion of the economic and social Committee extends also to some extent to the directive. In particular, the EESC stresses that to concentrate on the offer appears a poor approach. Instead one should try to concentrate on the demand (p. 4.7). Furthermore, it stresses that penalties should concentrate only on people that make gains out of the NPS (p. 4.8). It seems that the Economic and Social Committee appears concentrated on the protection of European economic freedoms first of all. This attitude appears to be shared at least to some extent for the other European institutions, since the step forward made from the regulation is in our perspective not yet sufficient. Concerning the further steps of the process of approval of the regulation, the European Parliament has been approving the project in the first reading with some amendments (17/04/2014 – TA/2014/453/P7). The Commission referred to the opinions of the Parliament with a partial agreement.

12. THE PROPOSAL OF A DIRECTIVE OF 2013

The proposed directive is amending the Council Framework Decision 2004/757/JHA of 25 October 2004. The proposal of the directive is based upon art. 83(1) TFEU. This article empowers the EU Parliament and the Council to establish minimum rules to deal with cross-border crime. Among such crimes we have illicit drug trafficking. According with the said article (§ 2) if there proves to essential, “directives may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned”. Now, if the impact assessment show the true danger of NPS, which is not, as the Economic and Social Committee stated, a matter of emotions produced by “unexpected personal tragedies and tend to receive considerable attention in the media” [Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on new psychoactive substances’ (2014/C 177/10) p. 2.9], then consequent legislative steps shall be taken. “Minimum rules” in EU shall however be such to be effective.

The directive proposed aims at amending the Framework Decision 2004/757/JHA changing first of all the definition of drugs, including also any new psychoactive substances posing severe health, social and safety risk, and have been subjected to the permanent restrictions according with the proposed regulation.

When a substance is the object of such restriction, Member States shall adopt a criminal sanction (art. 1), referring to the directive. The directive has an annex including the substances, which have already been subjected to a European restriction. We have then a plurality of lists, at international level, at European level and at the level of the Member State, with marketed products that differ by names and mixtures.
13. THE LIST OF SUBSTANCES SUBJECTED TO A EUROPEAN RESTRICTION

Here you find the list of substances

(A) P-Methylthioamphetamine or 4-Methylthioamphetamine, as referred to in Council Decision 1999/615/JHA of 13 September 1999 defining 4-MTA as a new synthetic drug which is to be made subject to control measures and criminal penalties[10].

(B) Paramethoxymethylamphetamine or N-methyl-1-(4-methoxyphenyl)-2-aminopropane, as referred to in Council Decision 2002/188/JHA of 28 February 2002 concerning control measures and criminal sanctions in respect of the new synthetic drug PMMA[11].

(C) 2,5-dimethoxy-4-iodophenethylamine, 2,5-dimethoxy-4-ethylthiophenethylamine, 2,5-dimethoxy-4-(n)-propylthiophenethylamine and 2,4,5-trimethoxyamphetamine, as referred to in Council Decision 2003/847/JHA of 27 November 2003 concerning control measures and criminal sanctions in respect of the new synthetic drugs 2C-I, 2C-T-2, 2C-T-7 and TMA-2[12].

(D) 1-benzylpiperazine or 1-benzyl-1,4-diazacyclohexane or N-benzylpiperazine or benzylpiperazine as referred to in Council Decision 2008/206/JHA of 3 March 2008 on defining 1-benzylpiperazine (BZP) as a new psychoactive substance which is to be made subject to control measures and criminal provisions.

(E) 4-methylmethcathinone, as referred to in Council Decision 2010/759/EU of 2 December 2010 on submitting 4-methylmethcathinone (mephedrone) to control measures.

(F) 4-methylamphetamine, as referred to in Council Decision 2013/129/EU of 7 March 2013 on subjecting 4-methylamphetamine to control measures.

(G) 5-(2-aminopropylindole, as referred.
14. IMPLEMENTATION OF EUROPEAN POLICIES AND THE DIFFERENCES IN NATIONAL LEGISLATIONS

The first section of this report has been showing the difficulties of EU legal approaches to NPS. These difficulties, are due to the fact that the values of the protection of the internal market have been jeopardizing the development of a drug and NPS policies, within the space of freedom, security and justice. Such an approach does not seem any more consistent with the structure of the Treaties. It creates furthermore problems in including a fully-fledged approach, joining the individual and the social risk approach (legal approach), with an approach which is taking into account the specific risks and dangers of the different substances (forensic approach). In this section we aim to consider, which is the impact of the uncertainties of EU legal policy on the legislation of the Member States. In the tables below we can see an attempt to develop a synoptic analysis of the legal approach to drugs and NPS in Europe. The first table takes into account the relation between drug strategy and market situation especially with reference to the supply of NPS, and finally the legal regulation (Policy Aims – NPS National Context – Basic Normative solutions). The table appears extremely interesting for what concerns forensic analysis. Indeed, all the States of European Union as well as Turkey, adopted a strategy very similar to the European one, which is characterized by two sided policies concerning demand and supply, as well as cross-cutting activities, permitting exchange of information and coordination. However, the market situation and namely the supply side, shows significant differences between the States. We have regional supply chains and global supply chains that intersect. This aspect, especially for what concerns NPS takes very special characteristics due to the joining of regional and global networks. Furthermore, the difference in income, the difference in the functioning of social institutions such as family, school, workplace, as well as the difference between the legal cultures, produce, in the lack of a proper harmonization, to very differentiated solutions. To examine such differentiation, it is essential to consider how harmonization may take place. We have indeed first of all countries that concentrate their policy, in the field of drugs, as well as of NPS on punishment, while other concentrate on health. We have also countries that regulate drug abuses, mostly through one source of law, and we have countries that concentrate on a plurality of sources. After this basic distinction we may consider countries that concentrate on administrative means to fight NPS, countries that concentrate on criminal law, countries that address NPS problem basing on a list of substances and countries that apply group control of substances.

Finally, for what concerns legal interpretation, NPS policies are affected by basic approaches to understanding law. In particular, we have countries that center on a literary linguistic interpretation and countries that ascertain what is the meaning of law, though a process of legal interpretation based upon a ratio.

Concerning the technique of the redaction of the Table, we made used of selected information reported by the States to EMCDDA. When needed, we have been making verification on other official documents.
### 15. TABLE OF POLICY AIMS

#### NPS NATIONAL CONTEXT

#### BASIC NORMATIVE SOLUTIONS

<table>
<thead>
<tr>
<th>RELEVANT POLICY AIMS</th>
<th>SYNTHETIC DRUGS AND NPS CONTEXT</th>
<th>BASIC NORMATIVE SOLUTIONS</th>
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<tbody>
<tr>
<td><strong>AUSTRIA</strong></td>
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<td><strong>BELGIUM</strong></td>
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<tr>
<td>Prevention and limitation of risks for drug users, their environment and society as a whole. Three pillars (i) prevention; (ii) harm reduction, assistance and re-integration; and (iii) enforcement.</td>
<td>Synthetic drug market: is a strong link with the Dutch synthetic drug production market.</td>
<td>Use of controlled substances is not mentioned as an offence; punished on the basis of prior possession. In 2003 personal possession of cannabis was differentiated from the possession of other controlled substances. Relevance of quantities. 2014. The law was adapted to allow controlled substances to be listed according to generic group definitions.</td>
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<td><strong>BULGARIA</strong></td>
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<td>Goals: (i) to protect the health and public security; and (ii) to reduce the supply of illicit drugs and chemical precursors through enforcement and control agencies, alongside taking preventative action against drug-related crime.</td>
<td>Bulgaria is mainly considered to be a transit country for all illicit substances, with trafficking activity shaped by supply and demand in western European and Middle Eastern countries. However, some production of synthetic stimulants is consistently reported.</td>
<td>The Narcotic Substances and Precursors Control Act (NSPCA) 1999. Amendments: added several new controlled substances and plants. In 2004 the Penal Code was amended to remove the rule that exonerated possession in a quantity that suggested that it was for personal use. 2006 reduced sanctions for drug possession, differentiation between high-risk and moderate-risk substances. Drug use itself is penalised as an administrative offence for high-risk drugs (List 1)</td>
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<td>RELEVANT POLICY AIMS</td>
<td>SYNTHETIC DRUGS AND NPS CONTEXT</td>
<td>BASIC NORMATIVE SOLUTIONS</td>
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<td><strong>CROATIA</strong></td>
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<td>Prevent and reduce the abuse</td>
<td>The Republic of Croatia is on a transit route through which illicit drugs and precursors are smuggled to and from western Europe. Amphetamines and other synthetic drugs are primarily smuggled from western European countries and increasingly from eastern European and Asian countries.</td>
<td>Drug control mainly covered by the Law on Combating Drugs Abuse (LCDA), and the Criminal Code. LCDA (November 2001) and updated since. It prohibits unauthorized drug cultivation, possession and trafficking it provides for fines for legal entities in breach of drug trading regulations, and for individuals who cross the border without declaring psychoactive medicines. More serious offences are prosecuted under the Criminal Code.</td>
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<td>Reduce the scale of drug abuse and addiction.</td>
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<td>Reduce the availability of drugs.</td>
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<td>Improve, build and network a system for drug abuse suppression and combating addiction at the national and local level.</td>
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<td><strong>CYPRUS</strong></td>
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<td>Contribute to a reduction in drug demand and drug supply in Cyprus, and a reduction in the health and social risks and harms caused by drugs.</td>
<td>Cyprus is the final destination of all drugs seized in the country. Illegal drugs enter the Republic of Cyprus from the Turkish-occupied area of the island and from other European Union countries. New psychoactive substances mainly arrive via the postal services. Most of the cannabis herbs and stimulants seized in 2013 originated from the Netherlands</td>
<td>Drugs are classed A, B or C according to their level of harm. Trafficking class A or B drugs may be punished by up to life in prison, while trafficking class C drugs carries a penalty of up to eight years. Ongoing effort to promote the implementation of alternative measures to imprisonment in the criminal justice system. In 2011 Cyprus started to adopt a ‘generic approach’ to control various groups of substances.</td>
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<td>Two policy areas: drug demand reduction and drug supply reduction. It has three cross-cutting themes: coordination; international cooperation; and research, monitoring and evaluation.</td>
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<td><strong>CZECH REPUBLIC</strong></td>
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<td>Four key objectives: (i) to reduce the level of experimental and occasional drug use, particularly among young people; (ii) to reduce the level of problem and intensive drug use; (iii) to reduce potential drug-related risks to individuals and society; and (iv) to reduce drug availability, particularly to young people.</td>
<td>In recent years large-scale cannabis cultivation and distribution has become more specialised and contributed to the establishment of highly organised criminal groups, mainly of Vietnamese descent, which are sometimes also involved in the sale of pervitin. It is also exported to border regions of Germany, Austria and Poland. Restrictions on the sale of pseudoephedrine-containing medication was followed by a significant rise in the illegal import of such medication from neighbouring countries, mainly from Poland.</td>
<td>The Penal Code, valid since 2010 (Act No. 40/2009), is the major act concerning drug-related offences. The Penal Code regulates several aspects of drug-related offences, such as drug trafficking, unauthorised possession of drugs, conditions of prosecution, diversion of prosecution, types of penalties, etc. Licit handling of narcotic drugs and psychotropic substances and precursors is subject to regulation according to the Addictive Substances Act (Act No. 167/1998). In 2009 a new category of medicines was created to restrict sales of non-prescription medicines, such as those containing pseudoephedrine (a precursor for producing methamphetamine). From January 2014, the list of controlled substances is no longer included in the Act on Addictive Substances, but in a Government Regulation. This should facilitate more rapid control of new substances in future.</td>
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<tr>
<td>RELEVANT POLICY AIMS</td>
<td>SYNTHETIC DRUGS AND NPS CONTEXT</td>
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<td><strong>DENMARK</strong></td>
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<td>Prevention and early intervention, treatment, harm reduction and law enforcement.</td>
<td>Amphetamines and ecstasy seized in Denmark are produced in the Netherlands and Belgium and, to a minor extent, in Poland and the Baltic states. Cocaine seized in Denmark is produced in South America.</td>
<td>According to the Consolidated Euphoriant Substances Act of 2008, import, export, sale, purchase, delivery, receipt, production, processing and possession of drugs are defined as criminal offences. Use itself is not mentioned as an offence. The Act amended in 1996 to increase the penalty for professional drug dealers. <strong>More serious offences are punished under Section 191 of the Criminal Code:</strong> the criminal offence shall involve the transfer of, or the intention to transfer, at least 25 g of heroin or cocaine, 50 g of amphetamine or 10 kg of cannabis. <strong>On 1 July 2012 group bans on psychoactive substances came into force</strong> following the amendment of the Euphoriant Substances Act, so that Denmark will apply a ‘generic classification’ to control certain new psychoactive substances entering the country.</td>
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<td><strong>ESTONIA</strong></td>
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<td>Prevent and reduce the consumption of narcotic substances and reduce the health and social damage caused by drug use. This change reflects adjustments to objective-setting and strategy development in other policy areas, where overarching cross-cutting strategies, such as the National Health Plan 2009–20.</td>
<td>Fentanyl, the most prevalent synthetic opioid used in Estonia, is smuggled from Russia. Ecstasy available in Estonia originates in the Netherlands, Belgium, France and Germany, while other synthetic drugs, i.e. amphetamine and methamphetamine, are mainly smuggled to Estonia from the Netherlands, Poland, Russia and Lithuania and are destined for other Scandinavian countries. Domestic production of amphetamine and GHB is reported, but in rather small quantities.</td>
<td>The Act on Narcotic Drugs and Psychotropic Substances and Precursors: unauthorised consumption or illegal manufacture, acquisition, possession of small quantities is punishable by a fine. In 2011 Parliament adopted a legal basis for the implementation of treatment for addiction as an alternative punishment for drug addicts. New psychoactive substances (NPS) are regulated by amending schedules of narcotic and psychotropic substances, and in 2013 a new schedule — Schedule V — was added in order to regulate turnover of NPS, in particular for cases when a substance is sold with the intention to cause intoxication, while it may also have other legal applications beyond that purpose.</td>
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</table>
### Finland

(i) preventive work and early intervention; (ii) combating drug-related crime; (iii) treatment of drug addiction and reduction of harm from drug use; (iv) the European Union’s drug policy and international cooperation; and (v) information collection and research regarding drug problems.

The drug trade is professional and dominated by organised crime groups with strong international connections to the neighbouring countries of Estonia and Lithuania. Because of its location, Finland is increasingly seen as a route to Russia for cocaine and hashish, for example. There is concern over an increase in the domestic cultivation of cannabis and its professionalisation, as well as the smuggling of amphetamines, ecstasy and other synthetic psychoactive substances and narcotic pharmaceuticals.

The central framework for drug legislation in Finland is based on the Narcotics Act. The provisions for drug offences are laid down in Chapter 50 of the Penal Code. A ‘drug offence’ includes possession (whether for personal use or supply), manufacturing, growing, smuggling, selling and dealing. There is no specific offence of dealing or trafficking.

In 2014, the Narcotics Act was amended to address both narcotics and ‘psychoactive substances banned from the consumer market’. These latter substances are listed in a Government Decree following a defined procedure of evaluation, and unauthorised supply is classed as an offence endangering health and safety, punishable by up to one year in prison.

### France

(i) prevention, care and risk reduction; (ii) stepping up the fight against trafficking; (iii) improving the application of the law; (iv) basing policies for combating drugs and addictive behaviours on research and training; (v) reinforcing coordination at national and international levels.

France is a transit area for illicit drugs smuggled to the Netherlands, Belgium, the United Kingdom, Italy and beyond.

Cocaine circulates in two chemical forms: salt (hydrochloride) and base (‘crack’ or ‘freebase’) forms. Synthetic stimulants are chiefly smuggled from Belgium, the Netherlands or Germany, though only in small amounts. New psychoactive substances are offered through various segments of a web-based market.

Use or possession of illicit drugs is a criminal offence in France. The law itself does not distinguish between possession for personal use or for trafficking, nor by type of substance. However, the prosecutor will opt for a charge relating to use or trafficking that is based on the quantity of the drug found and the context of the case.

In 2012 a Directive establishing a criminal policy strategy for drug crimes reiterated that, when sentencing, courts should take account of factors suggesting a simple use or drug addiction, the principle of proportionality with respect to the seriousness of the alleged offence, calls for systematic penal responses and increasingly effective judicial measures.
### RELEVANT POLICY AIMS

The overall goals of the strategy are reflected in its four levels: (i) prevention; (ii) counselling and treatment, help in overcoming addiction; (iii) harm reduction measures; and (iv) repression.

The comprehensive scope of the strategy, which focuses on addictive substances and behaviours, can be seen in its six areas: (i) alcohol; (ii) tobacco; (iii) prescription drug addiction and prescription drug abuse; (iv) pathological gambling; (v) online/media addiction; and (vi) illegal drugs

### SYNTHEtic DRUGS AND NPS CONTEXT

The Netherlands and, to a much smaller extent, the Czech Republic (especially for methamphetamine) are the main countries of origin for synthetic drugs, such as amphetamine and its derivatives.

### BASIC NORMATIVE SOLUTIONS

#### GERMANY

The German Federal Narcotics Act defines schedules of narcotic substances, the framework and procedure for legal turnover and prescription of narcotics, criminal and administrative liability, and alternative measures for drug-addicted offenders. Use of drugs is not mentioned as an offence. When a sentence is given, the principle of ‘treatment instead of punishment’ still — under certain circumstances — allows a postponement or remission of the punishment, if the offender undergoes treatment instead.

The illicit supply, cultivation and manufacture of narcotic drugs carry penalties of up to five years’ imprisonment. This increases to 15 years if there are also aggravating circumstances, which include: ‘not insignificant’ quantities of narcotic drugs; an adult supplying narcotics to a person under the age of 18; a person trafficking narcotics ‘professionally’ or as a member of a gang; or carrying a weapon when committing a serious drug-related offence.

In 2012 further regulations to amend Schedules I to III of the Narcotic Act were passed by the Bundesrat in order to include some new psychoactive substances.

#### GREECE

There are two priorities: (i) the development of more treatment places on opiate substitution treatment programmes in order to eliminate waiting lists; and (ii) improving the coordination of drug policy through changes at the institutional level.

Cannabis is the only substance produced in Greece to meet domestic needs.

The amount of cocaine seized shows significant annual variations, and in 2013 the amount seized increased by more than three times compared to the 2012 quantity (706 kg and 201 kg respectively). A significant increase in the amount of synthetic substances was reported in 2013 — 1.175 kg amphetamine, 14.6 kg of methamphetamine and 34 579 tablets were seized.

The Greek drug law of 1987 and its amendments were significantly modified in 1993, 2006, 2009 and 2013. The law distinguishes between drug possession/acquisition for personal use and for commercial use, and the punishment varies accordingly. In general, the 2013 (L. 4139/2013) law establishes more lenient sanctions.

Traffickers may be sentenced to at least eight years’ imprisonment, with a life sentence possible in very special cases, such as trafficking by medical professionals, teachers, drug therapists, etc. The Greek drug law also states that the drug dependent offender charged with drug dealing can be considered for conditional release. He/she is then referred to reintegration structures outside prison.
The National Anti-Drug Strategy 2013–20, ‘Clear consciousness, sobriety and fight against drug crime’, was adopted on 16 October 2013 (Parliament Resolution No. 80/2013). The National Anti-Drug Strategy is based on five core values: the right to life, human dignity and health; personal and community responsibility; community activity; cooperation; and a scientific basis. It establishes objectives and development directions for three areas of intervention: health development and drug prevention; treatment, care and recovery; and supply reduction.

Hungary has traditionally been a transit country for heroin trafficked across the Middle East via the Balkan route to western Europe. In recent years the cocaine seized in Hungary travelled through Spain, Romania or Greece, thus emphasising the increasing importance of the south—north trafficking route. The share of NPS among all seizure has increased steadily since 2010, and these substances have been involved in more than half of all seizures. In 2013 herbal substances treated with synthetic cannabinoids and cathinone derivates were the most frequently seized substances, with 2 159 and 1 029 seizures respectively. A laboratory producing amphetamine and three laboratories tableting illicit substances were seized in Hungary during 2013.

Five pillars of supply reduction, prevention, treatment, rehabilitation and research. Five strategic aims are set out:
To create a safer society through the reduction of the supply and availability of drugs for illicit use.
To minimise the problem of drug use throughout society.
To provide appropriate and timely substance treatment and rehabilitation services (including harm reduction services) tailored to individual needs.
To ensure the availability of accurate, timely, relevant and comparable data on the extent and nature of problem substance use in Ireland.
To have in place an efficient and effective framework for implementing the National Drugs Strategy 2009–16.

Hungary’s current National Anti-Drug Strategy 2013–20, ‘Clear consciousness, sobriety and fight against drug crime’, was adopted on 16 October 2013 (Parliament Resolution No. 80/2013). The National Anti-Drug Strategy is based on five core values: the right to life, human dignity and health; personal and community responsibility; community activity; cooperation; and a scientific basis. It establishes objectives and development directions for three areas of intervention: health development and drug prevention; treatment, care and recovery; and supply reduction.

Seizures of ecstasy-type stimulants decreased significantly between 2008 and 2010; however, in 2011–13 an upward trend in the number of seizures was noted. Moreover, in 2013 a record amount of more than 465 000 ecstasy tablets were seized in Ireland. Amphetamine-type stimulants are seized less frequently than other classic illicit substances and the amounts seized has been relatively stable over past years. The vast majority of drug-law offences reported come under one of three sections of the Misuse of Drugs Act 1977. Section 3 — possession of any controlled drug without due authorisation; Section 15 — possession of a controlled drug for the purpose of unlawful sale or supply; and Section 21 — obstructing the lawful exercise of a power conferred by the Act. Other offences regularly reported relate to the unlawful importation of controlled drugs contrary to Section 5; the use of forged prescriptions (Section 18); and production of any harmful new psychoactive substances not specifically proscribed under the Misuse of Drugs Acts.
Taking a comprehensive approach, 89 objectives are set out in the Action Plan in two pillars, demand and supply reduction, across five cross-cutting areas of intervention. Demand reduction activities include prevention, treatment, rehabilitation and reintegration, while supply reduction covers evaluation and monitoring, legislation, combating drugs and youth justice. Primarily focused on illicit drug use, the Action Plan also covers licit drug use and addictive behaviours as elements, predominantly in the context of prevention.

The Italian drug market is largely supplied by cocaine produced in Colombia, heroin from Afghanistan, cannabis from the Netherlands and lately also from Albania, and synthetic drugs from the Netherlands. In 2013 the amount of methamphetamine seized tripled when compared to 2012 (29.197 kg and 9.727 kg respectively). In addition, 73.29 kg and some 740 tablets of amphetamine and 16.881 kg of ecstasy and 4 713 ecstasy tablets were seized.

In Italy, the Consolidated Law, adopted by the Presidential Decree No. 309 on 9 October 1990 and subsequently amended, provides the legal framework for trade, treatment and prevention, and prohibition and punishment of illegal activities in the field of drugs and psychoactive substances. A distinction is made between illicit drugs (Table I) and medicinal drugs (Table II). A maximum quantity determines the threshold between personal possession and trafficking. The penalty for production, sale, transport, distribution or acquisition is six to 20 years’ imprisonment, though this can be reduced by 33–50% if the substances are from Table IIA (medicinal). When the quality or quantity of the substance is considered to be not as serious, the penalty may be one to five years’ imprisonment.

Lithuania is considered a transit country for the trafficking of illicit substances between west European, east European and Scandinavian countries, mainly by land. Methamphetamine is the most common illegal drug produced locally, Amphetamine-type stimulants (ATS), predominately methamphetamine, are smuggled mainly from the Netherlands, Belgium and Poland en route to Scandinavian countries, Belarus, Russia and Ukraine. Three ATS production sites (all methamphetamine) were detected in 2013. New psychoactive substances arrive from eastern or southern Asian countries, and postal courier services are increasingly used for their transport. Ecstasy was involved in a small number of seizures, and the amount seized has significantly declined in last five years.

The penal code entered into force in May 2003, with further changes in 2010 to tighten custodial sentences. Possession of even a small amount of illicit drugs with no intent to distribute is a criminal offence, with a sentence of up to two years’ imprisonment. (This is also listed as an administrative offence, but the penal code takes priority.) A Ministry of Health Regulation defines small, large and very large quantities of all drugs.

In 2009 an administrative penalty was introduced for offences related to the presence of intoxicated workers at workplaces. New psychoactive substances are regulated through amendments of the List of Drugs and Psychotropic Substances Prohibited to Use For Medical Purposes. In 2010–12, for example, 18 new substances or substance groups were added to this list.
To ensure a high level of health protection, public security and social cohesion. The national policy focuses on both illicit and licit drugs, although it refers to separate thematic action plans (alcohol, tobacco, psychotropic medication, other addictions, etc.). The illicit drugs action plan covers two pillars: supply and demand reduction; and four transversal axes of risk, nuisance and harm reduction; information and evaluation; international cooperation and research; and horizontal coordination mechanisms.

The majority of illicit substances consumed in Luxembourg originate from the Netherlands (cannabis production and transit), Belgium (synthetic drugs) and Morocco (cannabis). The drug provision sources and distribution networks are assumed to be highly organised in Luxembourg, and have managed to significantly increase the availability of illicit substances at the national level. The first national seizures of ecstasy-type substances (MDMA, MDA, etc.) were recorded in 1994. A record number of 9,478 ecstasy tablets were seized in 2009, falling to only 13 tablets seized in 2013.

In 2001 the national drug law was amended to decriminalise cannabis use and personal possession. Prison sentences would only be given if there were aggravating circumstances (e.g. use in schools or in the presence of minors). The law does not specify a difference between small-scale and large-scale drug deals or distribution. The respective sentences currently range from 1–5 years imprisonment and/or a fine, while imprisonment of 5–10 years is applied if the distributed drug has caused severe damage to health (e.g. an incurable disease). If the drugs had fatal consequences for the user, the punishment may increase to 15–20 years.

(i) improve the quality and provision of drug-related services; and (ii) provide a more coordinated mechanism to reduce the supply of and demand for drugs in society. The strategy’s main objectives are to ensure a high level of security, health protection, well-being and social cohesion. It is primarily concerned with illicit drugs, but it also considers the abuse of prescription medications. The strategy is built around six main pillars addressing: (i) coordination; (ii) the legal and judicial framework; (iii) supply reduction; (iv) demand reduction, including harm reduction; (v) monitoring evaluation, research, information and training; and (vi) international cooperation and funding.

Cannabis is the only illicit substance cultivated locally, as a result of climatic conditions on the island. It is very easy to grow, even without artificial assistance. Home growers are not uncommon and commercial operations are occasionally discovered. Cannabis resin is imported from Tunisia and Libya. Heroin is imported from Turkey, North Africa or western European countries, while cocaine, ecstasy and other amphetamines are imported from other European countries, particularly from Italy or the Netherlands. Malta has also become a recipient of new psychoactive substances.

The principal pieces of legislation dealing with substance abuse in Malta are the Medical and Kindred Professions Ordinance (Cap. 31) concerning psychotropic drugs, and the Dangerous Drugs Ordinance (Cap. 101) concerning narcotic drugs, combined with the new Drug Dependence (Treatment not Imprisonment) Act 2014.
RELEVANT POLICY AIDS  
SYNTHETIC DRUGS AND NPS CONTEXT  
BASIC NORMATIVE SOLUTIONS  

NETHERLANDS

The 1995 white paper ‘Drug policy: continuity and change’ set out some of the basic principles of the Dutch drug policy on illicit drugs. These included a continuation of the distinction between ‘soft’ (List II) and ‘hard’ (List I) drugs, and the white paper took a balanced and integrated approach. It also outlined four major objectives: (i) to prevent drug use and to treat and rehabilitate drug users; (ii) to reduce harm to users; (iii) to diminish public nuisance caused by drug users; and (iv) to combat the production and trafficking of drugs.

In 2012 some 2 200 kg of cannabis resin, 12 600 kg of herbal cannabis, 1.4 million cannabis plants (1.2 million in 2013), 750 kg of heroin, 10 tons of cocaine, more than 2.4 million ecstasy tablets, 680 kg of amphetamine and 0.5 kg of methamphetamine were seized in the Netherlands.

In 2013, a total of 17 130 offences against the Opium Act were registered by the Public Prosecutor, which is fewer than were registered in 2012. Since 2009, slightly more than half of all reports have been linked to ‘soft drugs’, while the proportion of reports linked to ‘hard drugs’ has decreased.

The Netherlands Opium Act, which came into force in 1928 and was fundamentally amended in 1976, is the basis for the present drug legislation. It defines drug trafficking, cultivation and production, dealing in and possession of drugs as criminal acts. The Act and its amendments confirm the distinction between List I drugs (e.g. heroin, cocaine, ecstasy, amphetamines) and List II drugs (e.g. cannabis or hallucinogenic mushrooms). Since 2012, there is a proposal to place cannabis that has over 15 % tetrahydrocannabinol (THC) in List I. Furthermore, criteria defining the ‘professional cultivation of cannabis’ for prosecution purposes were also revised in the Opium Act Directive.

NORWAY

Launched in June 2012, it covers alcohol, illicit drugs, addictive medications and doping. These substances are addressed through five areas: (i) prevention and early intervention; (ii) coordination — services working together; (iii) greater competence and better quality services; (iv) help for those with severe dependency — reducing the number of overdose fatalities; and (v) efforts aimed at next-of-kin and at reducing harm to third parties.

Most amphetamine in Norway comes from illegal laboratories in Poland and the Baltic states, while crystal methamphetamine is more likely to have been produced in the Czech Republic. Smuggling of new psychoactive substances including gamma-hydroxybutyric acid (GHB) and gamma-butyrolactone (GBL), khat, tranquilisers, hallucinogens and new psychoactive substances was reported by Customs in 2012–13, mainly from China, Denmark, Hungary, Poland, Spain, Sweden, the Netherlands and the United Kingdom.

In Norway there are no separate laws relating to illicit drugs alone. The use and possession of minor quantities of drugs falls under the provision of the Act on Medicinal Products. Penalties comprise fines or imprisonment for up to six months. The manufacture, acquisition, import, export, storage and trafficking of narcotic drugs is prohibited by Penal Code § 162, the penalty for which is fines and/or imprisonment for up to two years. An offence may also be aggravated, following a special evaluation that will consider what type of substance is involved, its quantity and the nature of the offence.
### Poland

Adopted on 29 July 2005, the Act on Counteracting Drug Addiction is a key legal text in the drugs field in Poland. It sets out, inter alia, the priorities to be addressed in the National Anti-Drug Strategy and Action Plan. Primarily concerned with illicit drugs, the Programme’s general aim is to reduce drug use and drug-related social and health problems. This is achieved across the five pillars the Programme is constructed around: (i) prevention; (ii) treatment, rehabilitation, harm reduction and social reintegration; (iii) supply reduction; (iv) international cooperation; and (v) research and monitoring.

Poland is both a transit country for drug trafficking from east to west, and the producer of synthetic drugs for the western European markets. Amphetamines, and also recently methamphetamine, are illegally produced in Poland and smuggled to Germany, France, Sweden and other Scandinavian countries, the United Kingdom and Ireland, and is also used in Poland.

Drug addiction in Poland is regulated by the Act of Law of 29 July 2005 on Counteracting Drug Addiction. The Act generally has a preventive and treatment-oriented character and the stipulated sanctions should not be used against problem drug users. Any drug possession is penalised, even a small amount for personal use, with up to three years’ imprisonment. In 2010, Poland passed an innovative law to penalise the supply of any unauthorised psychoactive substance, as enforced by the State Sanitary Inspectorate. This was revised in 2015 to introduce a list in a Regulation of the Ministry of Health of those substances declared to be psychoactive.

Go to the European Legal Database on Drugs (ELDD) for additional information.

### Portugal

The National Plan is guided by five overarching objectives:
- Prevent, deter, reduce and minimise the problems associated with the consumption of psychoactive substances, addictive behaviours and dependencies.
- Reduce the availability of illicit drugs and new psychoactive substances.
- Ensure the availability, sale and consumption of legal psychoactive substances is safe and does not induce harmful use. Ensure legal gambling is safe and does not induce addictive behaviour.
- Ensure the quality of services provided to citizens and the sustainability of policies and interventions. The National Plan is built around the two pillars of drug demand reduction and drug supply reduction.

Portugal remains an important transit point of international drug trafficking, mainly for cocaine, while a large proportion of other drugs seized in Portugal are destined for the local market. The majority of illicit substances enter Portugal via sea routes, while land (from Spain) and air routes are used to a lesser extent. The postal service has emerged as the preferred transportation route for ecstasy.

The main drug law in Portugal is Decree Law 15/93 of 22 January 1993, which defines the legal regime applicable to the trafficking and consumption of narcotic drugs and psychoactive substances. Drug trafficking may incur a sentence of 1–5 or 4–12 years’ imprisonment, depending on specific criteria, one of them being the nature of the substance supplied. The penalty is reduced for users who sell drugs to finance their own consumption.

A new Decree Law 54/2013 was adopted in April 2013. It prohibits the production, export, advertisement, distribution, sale or simple dispensing of new psychoactive substances (NPS) named in the list accompanying the Decree Law and sets up a control mechanism for NPS.

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<th>BASIC NORMATIVE SOLUTIONS</th>
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<td>POLAND</td>
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Go to the European Legal Database on Drugs (ELDD) for additional information.
**ROMANIA**

The National Strategy has five overarching objectives:
- To reduce the demand for drugs by strengthening the national integrated prevention and support system.
- To reduce the supply of drugs by identifying and dismantling drug trafficking networks.
- To coordinate anti-drug efforts, to ensure a consistent line of action.
- To improve awareness of the drugs phenomenon at the national level, based on scientific findings, through monitoring, research and information.

Due to its geographical location, Romania forms part of the Balkan route for heroin smuggling. The available data indicate that heroin originates in Afghanistan and is trafficked through Turkey and other Balkan countries into Romania towards central and western Europe. Cocaine is shipped from South America in larger quantities through the ports on the Black sea, and is mainly intended for markets outside the country. Cannabis comes from Spain, Greece, Bulgaria, Italy, the Czech Republic or Albania, transits Hungary and Bulgaria, and enters Romania from Hungary.

**SLOVAKIA**

The strategy’s objectives:
- To contribute to a measurable reduction of drug demand, drug dependence and drug-related health and social risks and harms.
- To contribute to combating drug-related crimes and illicit markets and to reduce the availability of illicit drugs and new psychoactive substances.
- To contribute to a better dissemination of monitoring.
- To further strengthen dialogue and cooperation between the EU and third countries and international organisations.

After 1989 Slovakia gradually became a transit point on the routes through which several drugs are illegally transported. Heroin is primarily imported from Afghanistan and usually passes through Slovakia to other European Union (EU) countries. In 2010–11 there were indications that fentanyl had replaced heroin in the drug market; however, after a clandestine fentanyl laboratory was dismantled in August 2011 the trend did not continue in 2012.

In 2005 Section 171 of the Penal Code changed the offence of unauthorised possession for personal use, according to the amount of drug possessed. From April 2013 the new §16a of the Drug Control Act, Act no. 139/1998, established the list of ‘hazardous substances’, classed as such for up to three years, and limited their supply and distribution.

**SLOVENIA**

The promotion of prevention programmes in order to reduce the number of new drug users.

The development of programmes for the psychosocial treatment, the development and upgrading of all the coordinating structures in the drug field at local and national levels.

Strengthening of the activities against organised crime, the illicit drug trade, money laundering and other drug-related crime.

Slovenia is located on the Balkan route, the main pathway for illegal trafficking of heroin and cannabis from south-eastern Europe to central and western Europe, while synthetic stimulants and cocaine are smuggled in the opposite direction. Small amounts of the trafficked illicit drugs are diverted to the Slovenian market, which is organised by small criminal groups with good connections to their peers in other Western Balkan countries.

Slovenia’s Production and Trade in Illicit Drugs Act defines separately the possession of illicit drugs, the possession of a small quantity for individual use, and the possession of a small quantity for individual use for a person who opts for medical treatment. Possession of an illicit drug is considered a minor offence under the Production and Trade in Illicit Drugs Act (Article 33).

The Penal Code, adopted in 2008, defines two criminal offences: the manufacture and trafficking of illicit drugs (Article 186), and facilitating the consumption of illicit drugs (Article 187).
# Relevant Policy Aims

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<th>Spain</th>
<th>Synthetic Drugs and NPS Context</th>
<th>Basic Normative Solutions</th>
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<tr>
<td>The strategy has 14 objectives, including: reducing the use of legal and illegal drugs; delaying the age of first contact with drugs; guaranteeing quality assistance adapted to the needs of all people affected by drug use; reducing or limiting the harm caused to drug users’ health; and facilitating their social integration.</td>
<td>Due to its geographical position, Spain is one of the countries in the European Union most targeted by international drug traffickers, especially for cannabis and cocaine transit to other European countries. Synthetic drugs are smuggled into Spain from the Netherlands and Belgium.</td>
<td>The Law on the Protection of Citizens’ Security (1992) establishes drug consumption in public and illegal possession as serious order offences punishable by administrative sanctions. In 2011 a Royal Decree was adopted establishing the procedure to consider a substance as a narcotic drug at the national level.</td>
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</table>

| Sweden | Curtailing the supply of illegal drugs, doping substances, alcohol and tobacco. Protecting children against the harmful effects of alcohol, narcotic drugs, doping and tobacco. Gradually reducing the number of children and young people who initiate the use of tobacco, illicit drugs or doping substances or begin drinking alcohol early. Gradually reducing the number of people who become involved in harmful use, abuse or dependence on alcohol, illicit drugs, doping substances or tobacco. Improving access to good-quality care and support for people with substance abuse or addiction. Reducing the number of people who die or suffer injuries or damage to their health as a result of their own or others’ use of alcohol, illicit drugs, doping substances or tobacco. Promoting a public health based, restrictive approach to ANDT (alcohol, narcotics, doping, tobacco) in the European Union and internationally. | Methamphetamine seizures, after reaching a maximum in 2009, stabilised for the period 2010–12 and decreased in 2013, and the quantity of methamphetamine seized is decreasing (164 kg in 2009; 46.8 kg in 2012; 45.52 kg in 2013). Ecstasy seizures have increased dramatically in the last three years, and the quantity of ecstasy tablets seized increased from 2,400 to 38,630 tablets between 2009 and 2012. In 2013, a total of 26,919 tablets and 16.39 kg of ecstasy were seized. | The Act on the Control of Narcotic Drugs regulates trade in narcotics for medicinal or industrial purposes. The use and possession of illicit drugs are criminal offences under the Narcotic Drugs Punishment Act. Possession is punished according to three degrees of severity for drug offences: minor, ordinary and serious. Sweden also operates a system of classifying substances as ‘goods dangerous to health’, which may be used to control goods that, by reason of their innate characteristics, entail a danger to human life or health and are being used, or can be assumed to be used, for the purpose of intoxication or other influence. More recently, a new Act came into effect in 2011 to enable the confiscation and destruction of new psychoactive substances before their official classification as narcotics, but with no other penalty for the owner. |
**Turkey**

Constructed around the pillars of drug supply reduction and drug demand reduction, it states the priorities set by the Turkish government in the fight against illicit drugs. These include the need to develop a rapid intervention system to combat new psychoactive substances and to target drug trafficking as a means of funding terrorist activities. Drug use is identified as a major public health challenge in the strategy, which underlines the need to prevent drug use and to provide treatment and reintegration for drug users.

Captagon (amphetamine) tablets originating in south-eastern Europe are smuggled through Turkey for domestic use and en route to countries in the Middle East. Methamphetamine, originating in Iran, was seized for the first time in 2009, and seizures of the substance have since increased. Ecstasy, originated mainly in the Netherlands and Belgium, is trafficked to Turkey mainly for the domestic market. Synthetic cannabinoids seized in Turkey mainly originate in the European countries, the USA and China.

The Turkish Penal Code, which came into force in 2005, no longer criminalises consumption per se, but sets prison sentences of one to two years for those who buy, receive or possess drugs for personal use; Judicial supervision rather than arrest is also available for the manufacture of and dealing in drugs, under the Penal Procedure Code (Article 188), with a maximum possible sentence of three years. Production and import or export of drugs are punished by a minimum sentence of 10 years, and sale or supply by a sentence of 5–15 years. In this case, punishments are linked to drug type, involvement of organised crime, or where those convicted held positions linked to legal trades.

**United Kingdom**

Launched on 8 December 2010, the Drug Strategy 2010: Reducing Demand, Restricting Supply, Building Recovery is primarily concerned with illicit drugs, but also includes alcohol use. The strategy has two overarching aims: (i) to reduce illicit and other harmful drug use; and (ii) to increase the numbers recovering from their dependence. The strategy aims to reduce demand and takes an uncompromising approach to targeting those involved in supplying drugs in the United Kingdom and internationally. In addition, it places more power and accountability in the hands of local communities to tackle drugs and the harms they cause. The strategy’s aims are addressed through three thematic areas: (i) reducing demand; (ii) restricting supply; and (iii) building recovery in communities.

Amphetamine and ecstasy are the main synthetic drugs trafficked to the United Kingdom, with the Netherlands and Belgium as the countries of origin for the majority of these substances. Methamphetamine continues to have limited direct impact in the United Kingdom — the majority of seizures tend to involve the United Kingdom being a transit point between production (often in western Africa) and end-user markets (usually in the Far East or Australia). New psychoactive substances are mainly acquired in China via Internet orders and imported via parcel post.

The Misuse of Drugs Act 1971, with amendments, is the main law regulating drug control in the United Kingdom. It divides controlled substances into three classes (A, B, C) based on harm, with Class A being the most harmful. These classes provide a basis for attributing penalties for offences. Drug use per se is not an offence under the Misuse of Drugs Act 1971; it is the possession of the drug that constitutes an offence. Under the Misuse of Drugs Act, a distinction is made between the possession of controlled drugs and possession with intent to supply to another; this latter is effectively for drug trafficking offences. The Drug Trafficking Act 1994 defines drug trafficking as transporting or storing, importing or exporting, manufacturing or supplying drugs covered by the Misuse of Drugs Act 1971.
16. INTRODUCTION TO THE SYNOPTIC TABLE OF THE NORMATIVE SOLUTIONS ADOPTED

The analysis we have been developing so far concerning the different European Union Member States (to which we have been adding Turkey) has been starting from a synthetic approach on the comparison between strategies, supply and demand, as well as legal approach in the different European countries. We have been using to start with, the data at the disposal of EMCDDA. We have been observing the presence of two main models, and namely one based upon the regulation of drug and drug addiction by means of special legislation, and a second based upon a duality between drug legislation included in special legislation and criminal code approach to drug crimes. Even though Polish, German, Italian and also UK models are based on the treatment of drug problems by means of special legislation, we have been observing with interest also the model based upon a dualism in the approach to drug problems. Such dualism characterizes for example Hungary and Denmark. The recourse in most of the cases of the criminal code is reserved, to the most important crimes. For this reason NPS has been regulated mostly in special legislation, and the offences related to NPS have been maintained an ambiguous nature confined in a space between administrative sanction and criminal sanctions.
### 17. A Synoptic Table of the Normative Solutions Adopted

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<th>Application of the Solutions in the Different Countries</th>
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<td>Qualitative distinction between dependence and trafficking</td>
<td>Austria, Germany (principle of 'treatment instead of punishing'); Greece: possibility suspension of the execution of the penalty; Italy, Hungary: possibility of suspension for only small quantities; Spain; United Kingdom</td>
<td>Recuperation to society</td>
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<td>List of Substances</td>
<td>Austria, Czech Republic (regulation), Estonia, Finland, Germany, Greece, Hungary, Poland, Portugal, Slovakia, Spain (procedure to establish that a substance is a narcotic substance.)</td>
<td>Certainty of law - principle of liberty</td>
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<tr>
<td>Generic group definition of substances</td>
<td>Generic group definition of substances</td>
<td>Certainty of law – public duty of protection</td>
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<tr>
<td>Classification of substances related to their intrinsic risk</td>
<td>Bulgaria (differentiation between high-risk and low-risk substances), Cyprus, Italy (illicit drugs – Table I and medicinal drugs – Table II), Netherlands (List II: light drugs; List I heavy drugs); Romania (&quot;risk&quot; – &quot;high risk&quot;); United Kingdom: It divides controlled substances into three classes (A, B, C) based on harm, with Class A being the most harmful. These classes provide a basis for attributing penalties for offences.</td>
<td>Individual and Social damage</td>
</tr>
<tr>
<td>Social danger of the action defined by the quantities possessed (substance threshold)</td>
<td>Austria, Belgium, Italy (a maximum quantity determine the threshold between personal possession and trafficking, Lithuania (a Regulation defines small, large, very large quantities), Slovenia</td>
<td>Connotation of the avidity – joining the subjective and the objective element</td>
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<td>Protection by means of special laws</td>
<td>Austria, Croatia, Germany, Greece, Italy, Luxembourg, Poland (inter-institutional cooperation), Portugal, Spain (Law on the Protection of Citizen’s Security, 1992), Sweden (act on the narcotic drugs and Act on the punishment of narcotic drugs)</td>
<td>Specific prevention for protection against drug offenses</td>
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<td>NORMATIVE SOLUTIONS</td>
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<tr>
<td>Protection by means of special laws and penal code for major crimes – or special</td>
<td>Bulgaria, Denmark, Finland, Norway, Slovakia, Slovenia</td>
<td>Differentiating the levels of protection</td>
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<tr>
<td>offences related to drugs</td>
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<tr>
<td>Protection Centred on the Penal Code</td>
<td>Czech Republic, Hungary (also a special section on NPS), Lithuania, Turkey.</td>
<td>Taking care of the systemic characteristics of the legal order</td>
</tr>
<tr>
<td>Special legislation for NPS</td>
<td>Ireland – Criminal Justice (Psychoactive Substance) Act, Romania (2011 – law counteracting the supply of any potentially</td>
<td>Taking into account the specific nature of the phenomenon to regulate</td>
</tr>
<tr>
<td></td>
<td>psychoactive products, independently from their use)</td>
<td></td>
</tr>
<tr>
<td>Use of Medicine or Medical Laws</td>
<td>Czech Republic, Malta (medical laws are partly used), Norway (the on Act Medicinal products regulates also illicit drugs).</td>
<td>Individual and social damage</td>
</tr>
<tr>
<td>Social danger of the action defined by the quantities possessed (substance threshold)</td>
<td>Austria, Belgium, Italy (a maximum quantity determine on the threshold between personal possession and trafficking, Lithuania (a Regulation defines small, large, very large quantities), Slovenia</td>
<td>Granting the coordination of all the values protected</td>
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<tr>
<td>Specific relevance of general intention</td>
<td>Intention to cause intoxication (Estonia)</td>
<td>Underlining the criminal nature of the offence</td>
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<td>Non Punishment</td>
<td>Austria (of possession of NPS for personal use), Belgium (use of controlled substances; punishment possible on the base of previous use)</td>
<td>Proportional use of the tools of criminal law</td>
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<tr>
<td>Non relevance of special aims or objective elements</td>
<td>France (No distinction between possession for personal use or for trafficking) Luxembourg (no difference by law between small scale and large scale drug deals or distribution; for determining the imprisonment relevance to the damage caused)</td>
<td>Protection of the public order</td>
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<tr>
<td>Relevance of special aims</td>
<td>Greece (distinction between possession and acquisition for personal use of trafficking), Turkey (aggravating: organized crime)</td>
<td>Protection of the individuals and of the public order</td>
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<td>NORMATIVE SOLUTIONS</td>
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</table>

Prosecution and punishment

Belgium: full prosecution for possession over a threshold; Croatia: it prohibits unauthorised drug cultivation, possession and trafficking; fines for legal entities in breach of drug trading regulations, and for individuals who cross the border without declaring psychoactive medicines. More serious offences are prosecuted under the Criminal Code. Norway: possession for personal use is regarded as a serious criminal offence, punishable by up to 12 years in prison for class A drugs, eight years for class B and four years for class C). Denmark: possession for own use, trafficking, distributing). Estonia: unauthorized consumption – fine; possession non intended solely for personal use). Finland: use or possession of small amount – fine; possession - whether for personal use or supply - manufacturing, growing, smuggling, selling and dealing. No specific offence of dealing or trafficking. Germany: unauthorized possession, illicit supply, cultivation and manufacture, possession, supply, manufacture supply and possession of NPS). Hungary: Possession, incitement to minors; Supply. Ireland: possession; trafficking, NPS. Orders for smuggling, trading, advertising and production, Italy: production, sale, transport, distribution or acquisition. Luxembourg: to some limited extent also use; drug deals or distribution; Malta: simple possession for personal use; aggravated possession, not for offender exclusive use; Netherlands: drug trafficking, cultivation and production, dealing in and possession of drugs; Poland: any possession; trafficking; supply of unauthorized psychoactive substance. Portugal: drug use; Romania – penalties linked to the type of drug – risk or high risk: drug consumption, production and sale of risk drugs, their import or export, supply of any product having psychoactive effect. Slovakia: possession (according with amount possessed); drug trafficking, supply or production. Slovenia: Possession of an illicit drug is considered a minor offence; penal code: the manufacture and trafficking of illicit drugs (Article 186), and facilitating the consumption of illicit drugs (Article 187). Article 186 includes the sale of illicit drugs, the manufacture of illicit drugs, the purchase of illicit drugs with the intention of sale, possession with the intent to re-sell. Spain: drug consumption in public and illegal possession as serious order; trafficking. Sweden: use and possession (punished with three degrees of severity), importing dangerous substances for the health. Turkey: buy, receive or possess for personal use, production, import or export; United Kingdom: possession (not use); trafficking. Hungary: consumption

Protection of the society from the circulation of narcotic drugs and NPS: tendency to join narcotic drug policy with NPS policy
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<tr>
<td>Aggravating circumstance</td>
<td>Denmark: professional drug dealers; From 2004 the distribution of drugs in restaurants, discotheques or similar places frequented by children or young people; Finland: substances considered as 'very dangerous'; large quantities of drugs; considerable financial profit; or if the offender acts as a member of a group that has been organised for the express purpose of committing such an offence. Germany: not insignificant quantities of narcotic drugs, and adult supplying to a minor of age; professional activity. Greece: trafficking by medical professionals, teachers, drug therapists, etc.; Slovakia: repeated offence, involvement of minors), crime committed in the context of an organised group. Slovenia: such as particular locations or involving vulnerable people. Spain: selling to minors;</td>
<td>Protection of the public order together with specific categories of vulnerable subjects</td>
</tr>
<tr>
<td>Exemptions or reducing sanction</td>
<td>Belgium (use of controlled substances is not considered an offence); Bulgaria (2006, reduced sanctions for drug possession); Czech Republic (Drug use is not an offence, and possession of small quantities for personal use is a non-criminal offence under the Act of Violations); Denmark: Use itself is not mentioned as an offence; Germany: notion of small amount based upon type of drugs, involvement of others, personal history and public interest in the prosecution; Italy: use is not considered an offence; Netherlands: The possession of small quantities of drugs for personal use is not subject to targeted investigation by the police; Portugal: a person caught using or possessing a small quantity of drugs for personal use (established by law, this shall not exceed the quantity required for average individual consumption over a period of 10 days), where there is no suspicion of involvement in drug trafficking, will be evaluated by a local Commission for the Dissuasion of Drug Addiction, composed of a lawyer, a doctor and a social worker; drug trafficking; production, export, advertisement, distribution, sale or simple dispensing of new psychoactive substances. Slovenia: purchasing drugs for one's own consumption.</td>
<td>Due consideration to the social small relevance of the phenomenon</td>
</tr>
<tr>
<td>Alternative treatments</td>
<td>Austria, Germany, Greece, Italy; Romania</td>
<td>Health protection and social recuperation</td>
</tr>
<tr>
<td>Very severe penalties</td>
<td>Cyprus: life imprisonment; Greece; in certain cases of trafficking, life imprisonment; United Kingdom: trafficking in class A drugs</td>
<td>Underlining the social danger in context</td>
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Szczecin University has been organizing an expert session in Poland on 23 June 2015 to discuss the issues related to the implementation of NPS policies in Poland and in the other countries which have been selected as a priority from the project EPS – NPS, and namely Hungary, Italy and United Kingdom. The countries that have been selected as national case studies present important characteristics with respect to the national models, which we presented in the previous section. Indeed, both United Kingdom and Italy present a significant similarity due to the differentiation between substances, with respect to the risk, and for the significant attention to social services addressed to the addicted persons. Hungary and Poland are two examples of the countries that adopted the so-called “zero-tolerance” approach. Namely the latter are countries in which Drug and NPS policy concentrate on the individual and social damage. We would like to present in this Section the main results of our debate with respect to the national experiences. Indeed in the expert session, after a brief presentation concerning the legal issues of compliance to international and European standard, a significant attention has been addressed to the different models that characterize legal protection towards NPS. We have been trying to explain the reasons that characterize the difference that appear between the different countries, has they have been highlighted in the previous section.

Hungarian legislation takes up the drug problem with harshness. It zero-tolerance approach has many aspects in common with the Polish approach. Such approach is becoming a shared approach in different countries of Central and Southern Europe. Zero-tolerance approach is based upon the concept that drug use is the manifestation of a behavior, which destroys both the user and the collectivity. Therefore, all drugs shall be seen as inherently bad and destructive. As it has been pointed out, this approach may make sense in a country where the economic means, which are needed to develop social services, are quite low. This situation takes place both for structural reasons and due to the economic crisis. Hungary has indeed has been lately experiencing a severe economic crisis and in 2012 the budget for community services has been reduced of over 60%. And therefore, also basic services addressed to addicted people, such as needle exchange services, have been suppressed or heavily reduced. These elements have been leading to a shift in the policy, together with a conception that protecting human rights with respect to drugs is related with making a drug free society.

There is no lack of criticism with respect to this approach, since such an approach is accused to neglect the needs of the people who are addicted (see 7 reasons why we dislike. The new Hungarian drug strategy Peter Sarosi http://drogriporter.hu/en/7reasons 12/10/2012) Such criticism underlines that this approach is basically morally wrong. We
would like here to add that it is in economically poorer societies that the problem of synthetic drugs and of new and cheap drugs manifests with most virulence. Furthermore, as it has been observed, to concentrate fight against drugs on enforcement leads actually to an increase of the costs, since enforcement is more expensive then social service.

Our objective to this approach is the following one: enforcement is an essential state service. Therefore, it shall exist in any case. From this, we shall drive some reflections. The principle of freedom of circulation of psychoactive substances appears quite dangerous if we do not develop a number of services and helps for the State, who may not assure a specific level of drug related social services.

This is one of the aspects that have been taken into account by the reflections developed in June 2015 at the dedicated event, which took place at Szczecin University. Indeed, the meaning of the policy statement in European regulation on NPS that freedom of circulation of medicines is an important element of internal market is not a statement of value. It is an economic statement and therefore it means that we have companies that benefit from such a freedom. This is, as we think, the correct way to read also the statements of the Economic and Social Committee with respect to the strong support granted from the freedom of circulation of NPS. The companies however, which get the benefit from such a freedom of circulation are not located in all the European countries. With all probability they are located in those countries that mostly benefit from the internal market. Those whose national income and consequently added value are higher within the context of internal market. Such countries are able within themselves to support far reaching services fro what concerns drug addiction and NPS dependencies. The principle of solidarity in European Union should be understood also in relation to contributive capacity of a State. We presented this thesis during the event organized in June 2015 at Szczecin University, within the project EPS-NPS. Prof Neji Baccouche, from Sfax University, in Tunisia took the task of commenting it. Prof. Baccouche, who directs president of the "Revue Tunisiennne de Fiscalité, considers this thesis an important perspective for the understanding of the processes of economic integration.

The Rumanian participants to the session, and namely prof. Ian Ganfalean and prof. Miriuna Tudorascu, confirmed in their perspective the analyses published by Hungarian scholars, saying that the model of contrasting drug is related also to the poor financial situation of the State. The process of European integration shall take into account those specific rights, which require public expenditure, may not properly be supported. Therefore, it shall not be surprising that to tackle drugs trafficking there are used mostly police means. The augmentation of the public expenditure by means of police by shall also be seen as the attempt of the police to develop better skills to deal with drugs. The Romanian representatives agree with the fact that the model to contrast drugs, based upon zero-tolerance is extending also to Rumania, and at the best of their knowledge, also to Bulgaria.

Professor Ibrahim Kaboglu from Istanbul posed the accent on the fact also in Turkey drug contrast and contrast to NPS is provided by means of a strong accent on the enforcement aspects. At the same time, the phenomena related to NPS are increasing due also to the fact that they represent cheap alternatives. However, the Turkish strategy and action plan 2013-2015 do not take into account such phenomenon. Therefore, to correct the considered tendencies, it would appear most suitable a European policy aim, addressed at providing public services but also at coordinating the development of police skills.

Concluding this section concerning Hungary, the rapporteur of the event and namely the author of this report has been pointing out that in central Europe the zero-tolerance policy may be also justified in the context of moral reproach to the addiction problem. Such moral reproach characterizes since ever the public approach towards alcohol.

To help changing this approach, a declaration setting from one side the responsibility of the individual to keep in good health in the limits of his possibility within an ordinary way of living, together with a public duty of solidarity,
both at the European Union and at the national level appear suitable. Public duties of solidarity may also manifest in supporting public services, addressed to health, as well as to enhancing police skills.

20. UNITED KINGDOM: A LIBERAL APPROACH TO RIGHTS JOINS A SIGNIFICANT INTEREST TO PUBLIC HEALTH SERVICES

The Department of Health and the Home Office in UK provide a comprehensive page including all their strategy approach. In UK we observe a genuine distinction between policies addressed to reduce the demand of drugs and policies addressed with supply. UK from this viewpoint shows clearly the capability of dealing both with social and health services and with security issues. It is appears therefore in the condition to choose the best policy mix, without taking up difficult choices and without the need to justify risky trades-off between health and security, as in the case of Hungary. Form the comparative viewpoint we can see that, constitutionally speaking, we deal with a basic differences between the states in which the legitimacy of the State is based upon the exercise of power and states in which the legitimacy of the State is based upon services. According with the Strategy document, the drug policy of the Conservative and liberal Democratic Coalition Government, starts from three basic figures. Between 2011 and 2012, around 8.9% of the adults used an illegal drug. This figure was much bigger for young people aged between 16 and 24. According with the government, this was the lowest level of drugs since 1996, the first year when the government started to take figures. The government points out the negative effect for health, wellbeing and quality of life of the citizen. It point out also the drain of public resources, which takes place through drugs phenomena. Indeed it adds that crime related to drugs "costs EU over £ 13,3 billion every year". In this context we see that UK puts in evidence the issues related to the protection of the rights of the individual, understood as the protection of the manifestation of the existence of the human person.

Security is meant here as functional with respect to the rights and to the freedoms of the individual.

The zero tolerance approach has a completely different nature. Indeed, it points out necessity as a main value, which protects the society and the State from behaviors that are deemed to have a destructive character on individuals and on society. Here we see the difference between two approaches to statehood, one granting negative freedoms (liberal approach) and the second considering freedom in a rather participative way. Namely we see freedoms rather as addressed to grant the fulfillment of basic duties within a community. For this reason, actions disrupting the community immediately connect with a punitive reaction.

From the strictly legal viewpoint, therefore the UK approach is characterized by a distinction between controlled substances into 3 classes (A,B,C). In the class "A" we have the most dangerous substances. Even if we have basic differences, in the model of protecting freedoms in Hungary and in the model of protecting freedom in UK, the utilitarian approach to criminal law and namely to the danger, which appears generated from specific activities, may be seen as a common ground to punish and to investigate in this field. Concerning UK legislation, the main legislative act is the misuse of drugs Act of 1971. The Act aims (Chapter 38) "to make new provisions with respect to dangerous or otherwise harmful drugs and related matters and for purposes connected therewith". So the aim is to limit the diffusion and misuse of substances, which are put under control. The legal values protected are related to the circulation of dangerous and harmful, and therefore also their production and possession.

Concerning the normative solutions adopted, we have restrictions to the production and circulation of controlled drugs and related offences. The restriction concerns the following activities related to controlled drugs: import, export, production, supply, possession. Restrictions concern also cultivation of cannabis plants.
The normative solutions include also the creation of ad hoc institutions, and namely the “Advisory Council on the Misuse of Drugs” as well as regulatory powers to the Secretary of State to prevent misuses. The normative solutions include also powers of law enforcement and punishment of the offences. Concerning the policy actions, there is a clear distinction between demand and supply oriented action. For what is related to demand, the general policy aim is to reduce the number of misusing people, at the same time increasing the number of people that recover from dependence. A special aim is instead preventing young people to become drug misusers. Connected with the general aims are also recovering people from drug dependence and helping offenders who misuse drugs to get treatment and avoid prison. Among the actions we see an information-based action, which aims at creating information, support and treatment services that meet the needs of local communities. The control of supply is instead restricted to classifying and controlling drugs. For this reason a significant step forward may be the differentiation between the control of the demand and the control of the supply in a way that it permits to countries that have lower budget possibilities to comply. An issue of extreme interest for what concerns the approach of UK is the approach to NPS, which is a genuine example of best practice in this field. Indeed, UK has been introducing “the temporary class drug order”, which tracks newly identified harmful drugs within a delay of very few days. This order remains in place until a full report concerning the substance has been issued. This solution has been exercising a significant influence in different European countries, including Hungary, and to some extent, also Poland. Therefore the Forensic Early Warning System (FEWS), which detects new psychoactive substances in UK, appears of extreme interest. This system has been starting in UK in January 2011. The System collects samples form shops, police, hospitals. One of the aims of FEWS is to collect information on NPS in a cross-section environment. In the reflection on the early warning system in UK, which has been provided at Szczecin University during the national event, we have been underlining the significance of the Szczecin Forensic Warning System in the form of the platform “Pensiero”. It is a system that aims to achieve forensic aims exploring the tendencies in the consumption of NPS at the regional level. The system will be described in the project proposals of this report.

21. ITALY: THE LONG MARCH FOR THE DIFFERENTIATION OF SUBSTANCES

From the viewpoint of drug policies, Italy appears a mixed model. It stays between a model such as the UK one, which is service oriented, and presents a clear perspective of protection of the rights as well as of contrast to the drug phenomenon, based upon the protection of the society.

The first reference to drugs in Italian legislation took place through the law nr. 396/1923. This statute implemented the International Convention on Opium, which was undersigned in Haag on January 23rd 1912. The terminology used by the statute referred to “poisonous substances”, which have “psychotropic effects”. Later, the criminal procedure legislation of 1930 adopted the concept of “psychotropic substances”. Both the statute of 1923 and the code of 1930, did not punish the use of drugs as such, but only in the case in which it had negative consequences for the public order. The relevant issues where in this field public health as a consequence of illegal trafficking, as well as the diffusion of such substances among youth.

In the new political order after WWII moralistic aspects and participative duties influenced also drug legislation. The statute 1041/1954 severely punished the possession of any psychotropic substance, no matter if the possession was motivated for reasons of trafficking or for personal use.

This system showed a tendency to evolve with the statute 685/1975. Such evolution was related to a change of the social consciousness about drugs, which was not related with a liberal transition of the understanding of freedom. Instead, the legal order in Italy was at that time
more aware of social assistance opportunities. However, according with the legislation of 1975, no punishment was given to minor infringements. Furthermore, social intervention for preventing, healing and supporting former addicts was envisaged. The law was not sufficiently applied and it produced in sum negative effects, since a lower stigmatization of drugs encouraged its consumption.

This led to the legislation of 1990, which punished all consumption of drugs with prison also in the case in which the consumer possessed small quantities of substance. However, with this statute an attempt has been done to distinguish between the aims of possession for consuming purposes from the one of production with trafficking purposes. This system was changed by a referendum and substantially overturned with the regulation D.L. 30.12.2005 n 272, which has been converted in the statute 49/2006. The statute was inserted in the context of the new conservative government’s statute “Bossi-Fini” nr 190/2002. Indeed, the main normative solutions were to reintroduce a threshold possession, in order to distinguish between consumption and trafficking. In this way, many consumers have been incriminated also for a possession of a minimum quantity exceeding the threshold. The statute of 2011, the so-called Fini-Giovanardi, introduced a distinction of difficult application between a subject considered to be dependent and a subject, which was considered to be merely assuming drugs.

This legislative intersection of opposing principles and of approaches based upon repression with approaches based on public service was clashing with social instances promoting a liberal approach. For this reason, the resulting legislation has been manifesting defects, which have been perceived by the Constitutional Tribunal.

The status of the Italian legislation makes also difficult to deal precisely with the questions of the reduction of the demand and the questions of the reduction of the supply. Indeed, in the Italian experience the legislation is characterized by an ambiguous approach to the legal status of the person who is consuming drugs and the person who is trafficking with drugs. A policy of demand control, which is based upon criminal sanctions, appears indeed the sign of a protection of the rights, which is not basically centered in the protection of the individual, but is centered in the protection of the groups. And this takes place especially when, information services and treatment of addicted persons are provided, as it took place in Italy, at an insufficient level with respect to the needs. Furthermore, we shall keep in mind that a policy, which is based upon a legislation that permits to punish any kind of use of drugs is mixing demand policies with supply policies. Finally, the substitution of treatment of addicted people with prison appears also the sign of the difficulty to distinguish from the viewpoint of the policy of law, between policy addressed to the demand and policies addressed to the supply.

A policy based upon the distinction between drugs of different level of danger may be a better approach to the demand. And this also because in this way we can concentrate on the therapy addressed to the consumers.

The substance control is instead an activity, which is very efficient for the control of the demand. In Italy, the progressive affirmation of the differentiation between substances appears to be an interesting indicator of development of a genuine differentiation between demand oriented policies and supply oriented policies.
22. RECENT TRENDS IN THE POLISH LEGISLATIVE POLICY ON NEW PSYCHOACTIVE SUBSTANCES

The project ENP – NPS has been starting in Poland in a period of intense transformation for what concerns NPS policy. The Polish Statute on drugs has been on NPS has been enacted with a New Emphasis on NPS. However, the approach to the legal protection for what concerns NPS on the base of an annex to the legislation, has been giving rise to criticism. Indeed, just after the coming into force of the new list, new substances have been appearing. This period has been accompanying by an intense evolution of the communication means and the developing of electronic platforms for the exchange of legal data.

The activity of the Szczecin University team, have been concentrating first of all on the issues of 1) Legal and Forensic Analysis. However, the clear interconnectedness between these aspects and the ones related with 2) Best practices of handling NPS related cases by police at the local level have been emerging from the very beginning. Such interconnectedness has been leading to the necessity to develop some comparative analysis, as we had the occasion to highlight. To consider the legal status of New Psychoactive Substances in Poland (NPS. In Polish: NSP – nowe substancje psychoaktywne), we will consider first of all: i) the aims of the legislation; ii) the legal goods protected; iii) the fundamental normative solutions; iv) the social impact of the legislation.

Aims of the Legal protection and Psychoactive Substances. Traditionally drug policy has been considered in Poland as a whole. The main legal Act in this field is since 10 years the Statute of July 29th 2005 on counteraction to drug addiction (Legal Gazette “Dziennik Ustaw” 2015, pos. 875) USTAWA z dnia 29 lipca 2005 r. o przeciwdziałaniu narkomanii). The statute defined in the first version (art. 2.1.) that “counteracting drug addiction is achieved by an adequate configuration of social policy, economic policy, educational and instruction policy and in particular: 1) by an educational, instruction, information and prevent on; 2) by its treatment, rehabilitation and reintegration of the addicted person; 3) by a limitation of the health and social damages; 4) by control on the substances, which use may lead to addiction; 5) fighting illegal circulation, production, processing, transformation and possess of substances, which use may lead to drug addiction [...]”. The statute includes the main definitions of the terms used, in art. 4. Among them we have: [...] 6) “leczenie” - treatment; 7) “leczenie substytucyjne” – substitutive treatment; 11) “narkomania” – drug abuse; 12) “ograniczenie szkód zdrowotnych i społecznych” – limitation and social harm; 14) “osoba zagrożona uzależnieniem” – person at risk of addiction; 15) “osoba uzależniona” – addicted person; 21) “przywóz” – import; 25) “substancja psychotropowa” – psychotropic substance, 26) “środek odurzający” – narcotic drug; 27) “środek zastępczy” - substitute; 31) “używanie środka odurzającego” – use of a narcotic drug; 34) wprowadzenie do obrotu - marketing; 35) “wytwarzanie” – production.
The legal goods protected. From this notion we see that the statute protects health and dangers to health, to life and to society coming from drug abuse. It aims also counteracting production, marketing and in general the circulation of narcotic drugs, psychoactive substances and their substitutes.

The fundamental legal mechanisms of protection are based on two elements: the grouping of the substances, and some sanctions. The grouping of the substances is based upon the two annexes to the statutes. The Annex 1 includes the narcotic drugs, and is divided in 4 tables (I-N, II-N, III-N, IV-N). It is modeled, with minor differences, on the list of the Single Convention on Narcotic Drugs, with some differences. The Annex 2 includes the psychotropic substances, and is also divided in 4 tables (I-P, II-P, III-P, IV-P). It is modeled, with minor differences, on the list of the Convention on Psychotropic Substances. The lists have a very important forensic value, since to ascertain that a substance is considered of a given kind and included in a specific table appears a strictly limited part of the process of law. According with art. 31 and 32 of the Statute of 2005, narcotic drugs and psychotropic substances are divided in groups according with the risk of addiction, in case of non-medical use and the ambit of their medical use. Therefore (art. 33.1) narcotic drugs of the groups I-N and II-N may be only used for medical purposes, industrial purposes and with the purpose of scientific studies. Instead (art. 33.2) the Psychotropic substances of the group I-P may be used only for study purposes. Narcotic drugs of the group IV-N, apart from the latter use, may be used also for animal treatment. For what concerns precursors, EU law applies accordingly.

Concerning the sanctions the statute of 2005 envisages a strong criminal protection based upon detention sanction. In this way we have the following punishments: for the one who processes 3 years imprisonment (art. 53); for the one who portions and keeps in relation to marketing 2 years (art. 54); for the one who markets 5 years (art. 56 - 1 year for crimes of less importance and not less then three years for significant quantities; the aim of material advantages increases the penalty to 10 years (art. 59). For the sake of this report we shall say that also possesses any quantity may is punishable with 3 years of prison: for possessing a significant quantity the penalty is increased to 5 years (art. 62). The recourse of obligatory therapy in a specific unit for the addicted people is an extra element that permits to highlight the afflictive character of the penalty system. In this way as both institutional reports and literature have been underlining, the police attention shifts significantly towards the consumers. Therefore the character of drug policy as a composite policy fades away.

The impact of the legislation on the society. This aspect requires considering, first of all the changes to the legislation, which occurred with the time. Secondly, the decisions of the courts that took place on the base of the legislation.

Concerning the changes in the legislation we have to consider both the question of the substances included in the protection granted by the legislation and the question of the evolution of the legal protection system granted by the legislation. The Act of 2005 has been changed several times. In particular we have had also one official consolidated texts of the Act, one redacted in 2012 (Official Gazette “Dziennik Ustaw”, 2012 r. Pos. 124: Notice of the Marshall of the “Sejm” of the Republic of Poland of January 10th 2012 r. on the publication of a consolidated text of the statute on counteraction to drug addiction. The amendments enacted in 2015 (following the Statute of April 24th 2015, on the amendment to the statute on counteraction to drug addiction and some other statutes: Official Gazette “Dziennik Ustaw”, 2015 r. Pos. 875) are collected in a consolidated form in the Internet System of Legal Acts (ISAP available at the web pages of the “Sejm” – low chamber). An important aspect of the changes has been the evolution of the substances included in the Annexes of the statute. For the purpose of this report we will consider only the substances included in the presently binding formulation (of 2015) and in the original one (of 2005).
Evolution of the number of the substances included in the annexes 1 and 2.

Annex 1 = N - Narcotic Drugs; Annex 2 = P - Psychotropic Substances

<table>
<thead>
<tr>
<th>TABLES</th>
<th>2005</th>
<th>2012</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>A 1</td>
<td>I-N</td>
<td>109</td>
<td>141</td>
</tr>
<tr>
<td>A 1</td>
<td>II-N</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>A 1</td>
<td>III-N</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>A 1</td>
<td>IV-N</td>
<td>16</td>
<td>17</td>
</tr>
<tr>
<td>A 2</td>
<td>I-P</td>
<td>61</td>
<td>43</td>
</tr>
<tr>
<td>A 2</td>
<td>II-P</td>
<td>18</td>
<td>21</td>
</tr>
<tr>
<td>A 3</td>
<td>III-P</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>A 3</td>
<td>IV-P</td>
<td>62</td>
<td>65</td>
</tr>
</tbody>
</table>

To these substances, shall be added isomers, esters, ethers, salts (of isomers, esters, ethers, when available)

23. THE STRUCTURE OF THE POLISH SANCTIONING SYSTEM

For what concerns the sanctioning system, we observe that its structure did not change. We shall observe only that in the case of Art. 58 (to make possible the use of a substance), Art. 62 (possession of substances), Art. 63 (cultivation of relevant plants), Art. 64.2 (getting ahold of substance) in the evolution, we have been having more rigorous penalties, which have been remaining without changing in the amendments of 2015. Only in the case of irrelevant quantities of substances for personal consumption, in the evolution of the statues there has been introduced the possibility to remit the fact (Art. 62a). Also the recourse to compulsory systems of rehabilitation has not been changing.

24. THE LEGAL ACKNOWLEDGEMENT OF NPS IN POLAND IN THE RECENT LEGISLATION: SOME REFLECTIONS ON THE CONCEPT OF “SUBSTITUTE SUBSTANCE”

The most important element in the amendments of 2015 is the legal acknowledgement of New Psychoactive Substances (NPS – NSP: Nowa substancja Psychoaktywna) in the legal framework of the statute on counteraction to drug addiction. The history of this introduction shall take into account that already from the coming into force of the drug legislation, there appeared cases in which the use of alternative means with respect to the illegal substances took place. Therefore the legislation of 2005 made use of the notion (Art. 4 p. 27) of "środek zastępczy" - substitute substance. This notion was defined as "substitute - a substance in any physical state, which is a poison or harmful agent, used instead of or for the same purposes other than medical as a narcotic drug or psychotropic substance". However, this notion
underwent evolution, as amended by Art. 1 point 1 and the Act of 8 October 2010, amending the Statute on Counteracting Drug Addiction and the Statue on State Sanitary Inspection (Dz. U. No 213, item. 1396), which entered into force on 27 November 2010. Another change was introduced in 2015. However, as we have already mentioned, the amending legislation of 2015 has been introduction also the notion of New Psychoactive Substance, maintaining nevertheless the notion of substitute. We will consider in the following table the relation between New Psychoactive Substance and substitute - a substance of natural or synthetic origin in any physical condition or product, plant, fungus or a part thereof, containing a substance used in the place of a narcotic drug or psychotropic substance or at the same purposes as a narcotic drug or psychotropic substance whose production and marketing is not regulated under separate regulations; the rules on general product safety shall not apply to the substitutes; new psychoactive substance - a substance of natural or synthetic origin in any physical state, acting on the central nervous system, as set out in regulations issued pursuant to art. 44b. 2; a substitute - a product comprising at least one new psychoactive substance or another substance with similar effects on the central nervous system, which can be used instead of a narcotic drug or psychotropic substance or for the same purposes as a narcotic drug or psychotropic substance whose manufacture and marketing is not regulated under separate regulations; the rules on general product safety do not apply to the substitutes; substitute - a substance of natural or synthetic origin in any physical state, which is a poison or harmful agent, used instead of or for the same purposes other than medical as a narcotic drug or psychotropic substance.

As we can see the notion of substitute starts in the Polish legislation as a 'fluid notion', and is related to any substance, which may be used in place or at the same purpose as a narcotic drug or a psychoactive substance. However, the condition of being a “poison or a harmful agent” included in the legislation of 2005, disappears since 2010. The reason shall be seen for the sake of the present analysis, in the appearance on the market of the so-called "dopalacze" to indicate products that may boost psychoactive effects, eventually not being included in the list of the forbidden substances. A specific behavior related to such substances may be seen from the decision of the Regional Administrative Court of Poland of Gliwice, where the convicted had been marketing products qualified as “dopalacze” (IV SA/Gi 231/15 - Wyrok WSA w Gliwicach). Indeed, as the decision reports: “From the materials collected as evidence, it results that in the car and at the home of the party there was found a large amount of substances kept for further resale, about which A.G. stated that they are the so-called "boosters". In the hearing on 6 February 2013, he explained that most of the substances that have been collected at his place are boosters. In the past, the party ran a shop with so-called “boosters” in T, and after its closure he “took care” for getting these products for his friends using online stores. A.G. admitted that these products are sold “under the guise eg. absorbers of moisture, odors, bath salts”, anyway he himself does not know their chemical composition. A.G. was aware of what products he marketed, especially that previously he sold them in the shop running his own business. He was selling products that are not used in accordance with the description resulting from the labels whose composition and effect on human body he does not know. His activities posed a threat to the health and life of humans. The Next-instance authority argued that the names listed in the introduction of the substitutes and substances identified in them are known to them and are in a database of other investigations conducted related to the introduction of substitutes on the market. The test results of the products made by A Ltd. in K. confirmed that the substances contained in them have psychoactive...
effects and are substitute substances hazardous to the health and life of humans.” Here we see the court terminology and the terminology of the lab of chemical analysis, are joining the expression “dopalacze” (boosters) with the one of “substitutes”.

However, the new legislation introducing the concept of new psychoactive substance may seem to limit the open character of “substitutes”. In fact, the new definition of substitute, requires that they contain at least a new psychoactive substance. The NPS in the Polish legislation appears now defined in a similar way as Narcotic Drugs or Psychotropic Substances. Together with this there is also the obligation of the Minister of Health to make a list of NPS. And this permits to apply a penalty also to the introduction in the country and marketing on NPS. However, the definition remains open since there is added “another substance having similar effects”. Therefore, the assumptions of the recitals of the draft law of 2010 amending the law on prevention of drug addiction and the Law on State Sanitary Inspection that “The main purpose of the amendment was to introduce a total ban on the production and marketing of the Republic of Poland” (recently referred to by II OSK 2965/13), has been maintained.

25. NPS LEGISLATION AND THE DECISIONS OF THE ADMINISTRATIVE COURTS

The possible impact on this new legislation may not be studied without considering the legal decisions undertaken by the courts, both ordinary and administrative, on the issues related to psychotropic substances and especially on the so-called “dopalacze”. The study, however, has been conducted on the complete sample of the legal decision starting from 2015 until possible by the present database.

There have been examined decisions of the administrative courts and of the ordinary courts.

Administrative courts. In the legal decisions concerning the so-called “dopalacze”, administrative courts have a very important role. Indeed, any substance suspected to be dangerous is taken in charge by the office of the Sanitary Inspection, to make the necessary controls. The decisions taken by the Sanitary Inspection, the administrative Courts may review them. Concerning administrative Courts, we have been examined 240 decisions of the Administrative Courts, which concerned the so-called “dopalacze”. The decisions can be divided in two: a) decisions, which related to substances found marketed mainly in shops or transported by individuals; b) decision that concern the application of law and that we may refer to the good practices.

Concerning the decisions related to the substances often the substance is described giving the marketed name such as for example “tajfun”, “Cząstka Boga” (God particle), “Ekstazy-4”, “Black Afgan”, “Ivory”, “Puszek” (little fine bloom), “Talizman Szczeńścia”, (The talisman of happiness), “haszu” (synthetic cannabinoid containing AM 2201), “Gryzli” as well as some of their marketing characteristics, such as: “absorbers of moisture, odors, bath salts or scented sachets”. In other cases, depending on the relevance of the chemical analysis in the trial there is the mention of: 2-DMP; 3-MMC; 3,4-DMMC; 4-ACO-DMT; 4-MEC (Mefedron); 5-APB; AKB 48; AM; AM-2201; AM-694; BB22; Brefedron; Butylon; CB2; D2PM; DMAA; DVP; Izo-pentedron; JWH-019; JWH-081; JWH-203; MDPBP; MDPV; MePPP; Metedron; Metylon; MXE; Nafyron; NEB; Not; PEA; Pentedron; RCS-4; UR-144; WIN-48 098 (Pravadolin).

We indicate in bold the substances found in the Annex to the statute as amended in 2015. In Italics we indicate related substances. We underscore instead the substances found in the Annexes to the text of the statute as amended in 2012. We see that the substances highlighted in the judicial decision of the administrative courts, notwithstanding their partial character, show that exists a clear and efficient flow of information between enforcement organs – inspection organs - central organs od the administration – courts – legislator. Such flow of information permits a constant and in principle complete up-to-dating of the annexes of the statute on counteracting drug addiction. Such evolution of the annexes permits to give, through a due process of law, criminal relevance to new psychoactive substances.
The list above is not exhaustive, since in the proceedings of many trials the kind of substance is not reported in the public database. Also the portals of the “State Sanitary Inspection” office, which has the legal task to verify the existence of “dangerous substances”, do not really report the detected substances. This notwithstanding the relevant statute obliges to give public information on the detected substances. This aspect shall be deepened in further parts of the enquiry. Indeed, the Wikipedia list of Narcotic drugs and Psychotropic Substances (page in Polish language) appears including many substances, which do not appear in the legislative Annexes, and has undoubtedly a function of information to the public, also the one who may have intentions of consuming, producing processing or marketing NPS.

However, soon there shall be published as a ministerial regulation, the list of the New Psychoactive Substances, which in the frame of the new legislation, shall have a criminal relevance. As a forensic result of the study stemming from the judicial decisions of administrative courts on “dopalacze” we have that the policy principle of not allowing any dangerous psychoactive substance to be introduced and traded in Poland, which manifests from the intention of the legislator, leads to give judicial relevance to many substances, which may be qualified as “NPS”. From the point of view of the best practices we have that the studied aspect permit to: a) to arrive to determine possible official “lists” of NPS that may be applied for criminal law purposes; b) to develop public order activity of prevention on the territory also making use of the existing European Networks.

26. NPS AND THE DECISIONS OF ORDINARY COURTS

From the point of view of the forensic results in relation to the activities of the ordinary courts, their decisions concerning the “dopalacze” and of the substitutes are of not so big relevance, since the choice of criminal policy has been to maintain under any circumstance, the strict determination of the substances, which may give rise to a criminal responsibility. Their relevance is confined to the case when we have illegal activities joining criminally relevant substances with “substitutes” or “dopalacze”. Instead, the legal decisions concerning crimes committed in relation to psychotropic substances are extremely relevant for what concerns their number namely more then one thousand in the period considered. In such legal decision we find reference to substances and first of all amphetamines and their derivatives, ecstasy, hallucinogen mushrooms, ketamine, 4-MEC, but also to abused medications, such as benzodiarepin, three cyclical anti-depressants, phenotiazine, haloperidol, zolpydem and others. What is interesting to observe is that the inclusion of specific NPS in the annexes of the legislation, giving them specific criminal relevance, is a means of specific criminal prevention for the abuse of specific substance. And therefore the process of law leading to the inclusion on discovered substances in the annexes of the legislation, shall be seen an institutional good practice.

The finding of a good institutional practice plays a very important function in our research, since it is an indicator of the presence of good police practices. However, apart from this, our research has been highlighting the presence of practices that should be improved, and namely: a) the ones related to detention and consumption of very small substances. The efforts of the police in this field should be limited to permit them to better use of the resources; b) A good use of the resources shall avoid economic but inefficient practices. Among others, the use of administrative law evidence for criminal purposes (II Akz 483/13). Also, the collection of the evidence
shall lead to the presentation of a clear allegation of facts (II Aka 192/13). However, Polish courts have been stressing that some evidence however given in a synthetic and economic way, can be accepted. For example, the possession of half kilo of amphetamine may not be used for one's own consumption (II Aka 14/13 - argument in re ipsa).

For what concerns the institutional practices it is our opinion that too little attention is dedicated in the legislation to the specific features of organized crime related with Psychotropic Substances (II Aka 18/13).

27. INTRODUCTORY RESULTS ON THE POLISH CASE CONCERNING LEGAL AND FORENSIC ANALYSIS

In conclusion, the midterm work of Szczecin University has been putting in evidence, for what concerns legal analysis, the evolution of the legislation on drug counteraction has been taken specifically into account New Psychoactive Substance, as appears from the amendments of April 2015. The work of Szczecin Unit has been putting in evidence that the new legislation, taking into account new psychoactive substances, lead to a reinforcement of the inter-institutional cooperation. This institutional reinforcement is consistent with the legislative aim to prohibit the use in the country of any psychoactive substance for abuse reason. Furthermore it is justified looking the good results so far in the cooperation between enforcement organs-inspection organs-ministerial organs-judicial organs-legislative organs.

The elements collected for what concerns legal analysis, lead to the necessity to deepen the analysis taking into account the working documents of the legislative authorities, especially the ones in progress. This also for the sake of studying the implementation of EU law and the influence that this process has on the local police best practices. For this reason we deem appropriate to take interviews with the institutional participants to the legislative process. The forensic analysis has been showing that administrative trials concerning the present administrative interdictions have often been related to questions, which are connected to criminal law questions. However administrative law judiciary has been having so far a very important role in sanctioning the introduction on the market and the diffusion of New Psychoactive Substance. The determination of the substances considered in administrative trials has been showing that new psychoactive substances, so far considered as substitutes of narcotic drugs and psychotropic substances, has been of help for the determination of the new legislative annexes including the substances, which may be related with criminal prosecution.

The analysis of the ordinary courts decision has been showing that the development of up-to-dated annexes list of substances is a significant special mean of criminal prevention. In both the cases of administrative and ordinary court forensic analysis we have been seeing that the evidence provided by the labs had the highest consideration also from the side of the defendants.

However, a deeper analysis of the courts’ decision is needed also to permit a better connection between the judicial cases and investigating activities in all the regions of Poland, which is necessary to study local police best practices. Furthermore the Polish legislation shows the clear necessity to take more and more into account the arguments developed by the defendants underlining their specific situation. For this reason a comparison with the situation in the countries represented in the project is deemed appropriate. Also the comparison between the individual situation, emerging in the courts with other databases where individuals refer to their experiences with NPS appears relevant as preliminary studies developed by Szczecin unit have been showing. The elements studied created a very good base for the study of the best practices of local police. The synergies between enforcement organs – inspection – organs – ministerial offices – courts – legislator, as well as the other practical elements connected with the collection of evidence
and with the methods used to this purpose, are a very good base for the study of the best practices; The introductory questionnaire provided by the Szczecin unit shall therefore be up-to-dated for Poland, in particular taking into account the duty to disseminate data concerning the diffusion of NPS for the sake of counteraction, as well as for prophylactic information: in this issue Polish police and other offices are developing important activities that should be followed. We propose therefore to continue to verify the results obtained taking into accounts human rights and the protection of human dignity. To this sake the analysis of the best practice needs a very tight cooperation between the partners. Furthermore, at the level of the substance assessments, it is worth deepening solutions, which are dedicated to study the demand. For this reason, Szczecin University team deems appropriate to present some proposals on a dedicated forensic platform at the regional level, and dedicated to study the regional evolution of the demand.
THE REGIONAL FORENSIC PLATFORM “PENSIERO”: PREVENTING CONTROLLING AND COMBATING THE ABUSE OF NEW PSYCHOACTIVE SUBSTANCES

28. THE EVOLUTION OF EUROPEAN NPS POLICY AND THE RATIONALE OF THE PLATFORM

The aim to develop the platform started some years ago and connected with the participation of Szczecin University, as associated partner, to the European Union Project ReDNet (http://www.rednetproject.eu/). The latter project, which followed a previous project called Psychonaut, was able to identify 650 new products and their compounds, which were able to deeply interfere with personal development.

At the same time EMCDDA (European Monitoring Center on Drugs and Drug Addiction), in its report in 2012, announced that 693 stores were discovered selling so called “Legal highs” namely psychoactive substances not yet outlawed. In our contribution to the project Rednet, we stressed the need to develop an expert system permitting on a regional base, to collect a variety of information needed to determine what are the trends in consumption and in the diffusion of new substances capable to deeply interfere with individual’s personal development. The need to design and implement an expert system has been emphasized in all our papers presented during the project ReDNet (P. Policastro, Promoting Active Life and Positive Attitude: Tasks, Methods and Proposals for New Drug Legislation, University of Hertfordshire, School of Pharmacy, Luty 2011 oraz University Autonoma of Barcelona, May 2011; P. Policastro, Promoting a multidisciplinary approach to develop new drug legislation: its practical meaning for the European legislation, “keynote speech” given in the international conference organized by ReDNet together with EMCDDA on “The Ever-Changing World of Psychoactive Drugs” Budapest, 12-13 March 2012). Another paper has been K. Boguslawski, O. Corazza, P. Policastro: “Legal Training and Legal Profession at the Crossroads with Pharmacology and Telemedicine: Designing a System for Preventing the Circulation of New Psychoactive Substances” in P. Policastro (ed.), Towards Innovation in Legal Education (Utrecht 2013). The studies on the platform development in Szczecin University started in 2012. However, the project EPS-NPS stimulated, within the ambit of legal and forensic analysis the development of intensified studies.

29. AIM OF THE PLATFORM AND THE OPERATIONAL PROCESS

The aim of the platform “Pensiero” is to develop a wide recognition of the use of psychoactive substances, and of their use: we mean here all the substances, which may deeply interfere with the personal development. On this base an expert system will be created in a way to permit to use its results for a deeper analysis of the phenomenon, addressed to develop approaches (at individual, social and legislative levels) addressed to prevent, control and combat its enlargement.

The first operative step of the platform is to collect input from existing experiences. Making use of the data available starting from Psychonaut project, ReDNet project EMCDDA (European Monitoring Center for Drugs and Drug Addiction), as well as from other forms of data mining, provide the necessary input to the expert system. The expert system will be based regional input data. The expert system will be founded on a regional experience. It will permit the
interaction of the different figures involved to collect data on the field. Different professional figures, such as teachers, police officers, medical doctors, experts in pharmacology, will participate with the use of different technologies to collect the data. The trends collected may permit to concentrate on substances and compounds, which appear at the first level analysis. The relevance of such substances and the trends of consumption in the regional selected environment may provide information for all the professional categories involved. They may also be object of further enquiry. The Analysis of the social trends, and of the social understanding of the phenomenon play a very important role at this stage. Studying herding related phenomena we expect that the consumption of many substances and compounds may be related with trends in social behaviors finding acceptance or support. Therefore, at this stage one may provide debates with volunteers simulating arguments accepting, justifying and supporting the consumption of new psychoactive substances or other kind of compounds interfering with human performances or perception of the self. Neural EEG measurements may be taken on group of volunteers participating to such debates, trying to isolate herding effects (conforming to majoritarian group, effects of counter-herding (resisting to a herding effect with counter-majoritarian reaction (against or supporting majority tendencies) - this will be a strictly non-judgement activity.

A further operative step may be promoting rational and attractive arguments against abuses. Feed-back may be provided involving volunteers in specific activities, profitable for the society at large, and seeing if and how the arguments developed evolve and change, trying to isolate the adequate brain response following from it. Studying the correlation between brain response, arguments developed and activities performed by the sample groups, we may give feedback to the interested categories of arguments and methods, which may positively influence the environment dissuading from the abuse of psychoactive substances.

The development of the platform may also permit to deepen legal aspects, such as a) the damage produced by these substances, and the possibility to make use of legal remedies; b) the other forms of violation of human rights related with the phenomena of abuse of psychoactive substances (also in connection with the production, the commercial activity and the distribution of the substances); c) the development of best standards and practices of protection and respect of human rights in monitoring the consumption and the abuse of New psychoactive substances; d) determination of the legal ground for policies aiming to prevent, to monitor and combat the abuse of psychoactive substances.

30. GENERAL CONCLUSIONS

The conclusions of this report are related first of all with the need to develop of harmonization policies in the field of NPS. Such process of harmonization should be adapted to the structure of the Lisbon Treaty and therefore should take fully into account the possibility to develop an NPS policy within the development of the internal market, as well as within the area of freedom security and justice. The process of harmonization envisaged in the development of European legislation at the present moment, is, taking also into account the evolutions in course of approval, are insufficient to the needs of prevention and repression. Furthermore they are not fully consisting with the same structure of the treaties. The result of this inconsistence is a mismatch between Strategy of EU, Action plan and the possibility offered by the present legislation. As a consequence of this one observe a legal difficulty to conceive and implement adequate actions dealing with the demand of NPS, distinguished from the actions dealing with the supply. For this reason the national best practice find difficulties to be enlarged, notwithstanding the continuous information efforts of EMCDDA to provide information. This state of affairs permits the maintaining of very strong national differences, and creates obstacles to the implementation of demand of NPS policies in many Member States. As a consequence also repressive
policies may not be well centered on the social danger. The analysis of the Polish legislation as the national case that have been studied more in depth confirms this statement: indeed the administrative based approach taken so far, has a good sanctioning potential addressed to the supply side. However, it does not permit to concentrate repression skills to the present needs of contrasting the very rapid multiplication of new substances. For this reason a recent court decision, which made use of the criminal code and not of the special legislation has been seen with interest. The need to develop a demand policy calls for innovative solutions, especially at regional level. Among such solutions we may have platforms and expert systems, such as the one presently considered by Szczecin University.

31. ANNEX 1. DOCUMENTATION ON THE RECENT DEBATE IN POLAND CONCERNING THE NEED TO CONTRAST THE PROLIFERATION OF NPS

The document reports the debate in information press concerning the events that have been following the coming into force of the new legislation on drug prevention of 2015, where a new, bigger list of substances has been introduced, permitting to prosecute illicit behaviours related to New Psychoactive Substances. The press starts reporting that the legal approach to New Psychoactive Substances based upon: a) the verification that a substance is dangerous; b) the declaration that a substance is illegal, appears not only slow and inadequate, but also dangerous for the health of citizens.

Indeed, at the beginning of July 2015, in the moment in which the new list of illegal substances came into force, massive poisoning with new substances took place. The supposition of the press, supported by politicians, government members, enforcement authorities and physicians was that the coming into force of a new list of prohibited substances, started a race for new substances. The Polish press has been considering with care the case of a new substance, which appeared on the market in that period called “Mocarz” (Strogmen) and the wide poisonous effects that it generated.

The reaction has been firm, and the reaction of high government officers was first of all to protest against the use of calling NPS as “boosters” – Indeed they are not anything new, but they are simply synthetic drugs, which are extremely dangerous. As it has been stated, they are more dangerous than traditional narcotic substances. For this reason, the policy mechanism of periodically approving new lists of illegal substances became subject to criticism. Instead a recent court approach, which has been leading to punish trafficking of NPS under the criminal code, and specifically of introducing into the market substances which are dangerous for health, has been obtaining approval. This approval matches with the pre-electoral declaration of the PiS party, which is now having the government responsibility. Indeed the punishment under the criminal code underlines the “criminal attitude” and not only the objective characteristics of the substance.

The press underlines the open and cooperative attitude of Polish authorities, before and after the elections with Europol and Interpol.
Surowsze kary dla dilerów dopalaczy  
Tougher penalties for dealers of "boosters" highs

Dopalacze traktowane jak narkotyk, czyli koniec taryfy ulgowej dla dilerów. W życie wchodzi nowe prawo, a wraz z nim surowe kary za ich posiadanie i handlowanie. Czy to wystarczy, by dilerzy dopalaczy w końcu przestali czuć się bezpieczne?

“Boosters" highs are treated like a drug, that is the end of leniency for dealers. The new law comes into force, and with it severe penalties for their possession and trafficking. Is it enough to dealers highs finally ceased to feel safe?

In the vicinity of ul. Mostowa in Poznan there were noticed four strange behaving people. - They were hitting their head against the wall, they were screaming – says an employee of one of the nearby shops. Police intervened. There are suspicions that the four of them took “boosters” highs. All of them were taken to hospitals in Poznan. - Approximately at hours 15:00 we arrived in the area of the intersection of Grobel and Mostowa. We got a report of four people who felt bad. In a nearby store with "boosters" nothing happened, in the shop there was not even an assortment - reports Maciej Święcichowski, a toxicologist city hospital. Officers found four strange behaving people in the gates near the store and called an ambulance. - There were screams from different angles. I saw hyperactive girls banging their heads against the wall - says Joanna Lachowska, a worker at the grocery store. Officers found four strange behaving people in the gates near the store and called an ambulance. One person was in serious condition. All four were taken to hospitals. The girl who was in the most serious condition was taken to the department of toxicology at the Hospital Municipal them. Francis Raszej. - She is in serious conditions. There is no contact with her, she lunges, jerks. We will give her a drip and sedatives - tells Eric Matuszkiewicz, a toxicologist city hospital. Hospital workers do not want to give detailed information about the health of the other three.
Plaga zatruc w Katowicach. Kilkadziesiąt osób trafiło do szpitali. Brali dopalacze?

Policja podejrzewa, że zawinił nowy dopalacz


- Od środę do Szpitala Zakonu Bonifratrów w Katowicach trafiło łącznie 11 osób, których stan wskazywał na zazycie substancji, które są nazywane dopalaczami - poinformował rzecznik szpitala, Damian Stępień.


He also noted that all patients who were taken to the hospital, had symptoms of poisoning. - Often, these people were unconscious, drowsy. Contact with them was difficult. As for the aggressive patients, they were arguing with the medical team, screaming. It was quite uncomfortable for the medical personnel and for other emergency room patients who reported to the hospital with other symptoms - Damian Stepien said.


- Wiseść z tych osób mówiła, że brała trucicę o nazwie Mocarz - zaznaczył rzecznik katowickiej policji, komisarz Jacek Pytel.

- For all patients they have used standard procedures - mainly intravenous medications, hydration. All patients were admitted to the house. They did not usually remember what happened to them. They were not able to present the circumstances of ingestion of substances - said a spokesman for the hospital. The "Mocarz" high guilty? Police officers from the department for countering drug-related crime in Katowice command instructed the toxicological substances. - Most of these people said that they took a poison called "Mocarz" - said the spokesman of the Katowice police, commissioner Jacek Pytel.

- Źródło trucizny na razie jeszcze nie jest znane. - Te osoby były przewożone z różnych miejsc - z różnych rejonów Katowic i z miast ościeniowych. Nie wykluczymy, że za sprzedażą stoi ta sama lub te same osoby - zaznaczył policjant. Problem z identyfikacją takich substancji jest na duży, bo ci, którzy je zazywają, zazwyczaj nie mówią, co to było. Lekarze mogą się więc tego domyślać tylko po obserwacjach, które obserwują u pacjentów. - Te substancje to nie są płyny. To substancje wziemowe. To coś do wdychania albo proszek - tłumaczył dyrektor Wojewódzkiego Pogotowia Ratunkowego w Katowicach, Artur Borowicz.
Od pobudzenia do omdlenia Ratownicy medyczny podkreślają, że osoby po zażyciu dopalaczy ”są nieprzewidywalne”. Zaczną się od agresji słownej, a kończy często także na tej fizycznej. - Jeżeli takiej osoby nie ubezwłasnowolni, możemy być nawet pobici - mówi Anna Turak, która wielokrotnie spotkała agresywny mi pacjentami. Zauważa, że często pomoc możliwa jest dopiero po interwencji policji. - My przyjeżdżamy w różnych fazach po zażyciu takiego środka. Najczęściej jest to pacjent bardzo agresywny i pobudzony, który potem wpada w stadium wesołkowatości, a następnie apatie i omdlenia. Zdarzały się też zatrzymania krążenia - wylicza Borowicz.


Most often poisoned by young last year Provincial Sanitary-Epidemiological Station in Katowice reported throughout the region 602 cases of poisoning boosters. Three people died. In the first quarter of this year poison was already approx. 300, of which more than 250 people required hospital treatment. According to the sanepidu largest group of victims' legal highs are young people aged 15 to 24 years. Most of these substances in the region sold in Wodzislaw Slaski, Katowice, Chorzow, Czestochowa, Rybnik, Gliwice, Bytom, Ruda Slaska and Sosnowiec. Sanitary inspectors indicate that the problem is growing fast - producers and traders of these funds achieve huge profits and are an important tool - in addition to the traditional sales - is trading via the Internet.

Zatrucie dopalaczami w Poznaniu, 17 osób w szpitalu. "Coś niezrozumiałego dzieje się od trzech dni"

Poisoning of "boosters" in Poznań, 17 persons in the hospital. „Something ununderstandable takes place since three days”


Nowe, silniejsze dopalacze

There appeared on the market new substances, which bring much more harm than the substances they replaced. - They are a lot more dangerous, cause stronger reactions and wreak more havoc in the organism - says the doctor. Symptoms of taking legal highs vary depending on the specific substance, but the most common are aggression and a general stimulation of the body. - Patients are vulgar, screaming, plucking up. There are also cases when the effect is only anxiety and insomnia, but they are far less - tells Matuszkiewicz. They asked the police for help.


Walka z objawami ogranicza się więc do minimalizowania skutków, pobudzenie łagodzi się środkami uspokajającymi, a substancje lekarz próbują "wypłukiwać" kroplówką. Osoby, które trafiły na oddział w szpitalu Raszei, są pod stałym obserwacją personelu. Umieszczono ich na sali intensywnego leczenia.

Fighting symptoms is therefore limited to minimize the effects, stimulation alleviates the means of calming and substances doctors try to 'flush' the drip. Those who hit the ward Raszei, are under constant surveillance personnel. They were placed in the hall of intensive treatment.
"Ładnie opakowany narkotyk jest dostępny łatwo, jak bilet do tramwaju". Fala zatruć dopalaczami

Wywiad: W ostatnich dniach do szpitali trafiło ponad sto osób po zażyciu dopalaczy

Śląska policja zatrzymała w Bytomiu kolejne trzy osoby podejrzewane o handel dopalaczami. Wcześniej, po serii zatruć tymi środkami, w Katowicach zatrzymano 59-letnią kobietę i 26-letniego mężczyznę. Oboje mają zostać przesłuchani i najprawdopodobniej usłyszą zarzuty. Lekarze podkreślają, że dopalacze to nic innego jak nowoczesne, syntetyczne narkotyki.

W ostatnich dniach Silesia and Wielkopolska hospitals received more than a hundred people after taking legal highs. On Saturday evening, police announced the arrest of two people in connection with the marketing of such substances. This 59-year-old woman and 26-year-old man. As announced on TVN24 by Commissioner Andrew Browarek of Police Headquarters, in their apartment in Katowice we found 144 grams of a psychoactive substance called “Mocarz” (Strongman). Both face up to eight years in prison.


On Saturday evening, as the policeman said - in Bielsko-Biała there were secured tens of grams of psychoactive substance and one person was arrested. On the other hand Friday in Plock the police secured a half thousand pieces of highs. There also persons have been detained. - There is no question of any indulgence for these people. Those people who sell death, must be punished - he stressed comm. Browarek. "Conscious suicide"

To, co pospolice jest nazywane dopalaczami to są najczęściej substancje syntetyczne o wielokrotnie większej sile działania niż tzw. klasyczne czy naturalne narkotyki - dodał. Wcześniej Artur Borowicz, dyrektor wojewódzkiego pogotowia ratunkowego w Katowicach w rozmowie z redakcją "Faktów" TVN mówił, że mamy do czynienia z nowym środkiem, który działa mocniej, coraz niż te, które do tej pory funkcjonowały na tzw. rynku. - Coś niezrozumiałego dzieje się od środę bieżącego tygodnia - mówił Eryk Matuszkiewicz, toksykolog ze szpitala miejskiego w Poznaniu, gdzie także trafiło co najmniej kilkanaście osób po dopalaczach. Część tych osób przyznała się do spożycia środka o nazwie "Mocarz".

"To szaleństwo walki z syntezą chemiczną nie zna końca" - zapowiedziała w sobotę, że w sprawie dopalaczy spotka się wkrótce z minister spraw wewnętrznych Teresą Piotrowską. Zdaniem szefowej rządu potrzebne są działania uświadamiające społeczeństwu jak bardzo szkodliwe są dopalacze. Jak zauważyła, ten problem dotyczy nie tylko młodych ludzi. - Wraz z policją i sanepidem powinno rozpocząć się akcję, także z udziałem obywateli, która pomogłaby zamykać sklepy oferujące trujące, nielegalne substancje – powie działa. Od 1 lipca, zgodnie z ustawą o przeciwdziałaniu narkomanii, 114 dopalaczy zostało przekwalifikowanych i stało się narkotykami. Dzięki zmienionej ustawie nowe środki, którymi odurzają się ludzie zakwalifikowano jako narkotyki. To powoduje, że nie tylko samo wprowadzanie do obrotu (jak to było dotychczas), ale także posiadanie, wytwarzanie takich specyfików jest karalne. Niewykluczone, że gwałtowna fala zatruć ma związek z nowymi przepisami: handlarze wyprzedają zapasy lub też gorączkowo eksperymentują z nowym składem dopalaczy.

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Prime Minister Ewa Kopacz announced on Saturday that the boosters will meet soon with Interior Minister Teresa Piotrowska. According to the head of government action is needed to raise awareness to the public on how very harmful boosters are. As noted, this problem is not only the young people. - Together with the police and SANEPID, an actions should start also involving citizens, which would help to close shops selling poisonous, illegal substances - she said. Since July 1, according to the Law on preventing drug addiction, 114 boosters have been reclassified and became a drug. With the revised law new measures, which intoxicate people classified as drugs. This means that not only the placing on the market (as it was before), but also the possession, production of such specifics is punishable. It is possible that a violent wave of poisoning has to do with the new regulations: traders are selling stocks or feverishly experimenting with new line-highs.

Wideo TVN 24: Inspektor Sanitarny o dopalaczach
Wideo TVN 24: Sanitary Inspector of designer drugs

Wideo TVN 24: Masowe zatrucia dopalaczami. Prawie wszyscy brali to samo
Wideo TVN 24: Mass poisoning boosters. Almost everyone took the same
Zatrucia dopalaczami

Poisoning from “boosters”

Główny Inspektor Sanitarny uruchomił specjalną infolinie, gdzie można zasięgnąć informacji m.in. dotyczących negatywnych skutków i możliwości leczenia. - poinformował we wtorek wiceszef MSW Grzegorz Karpiński na konferencji prasowej poświęconej zwalczaniu dopalacz. Dodał również, że Polska zwróciła się o pomoc do Europolu. Karpiński powiedział, że “ze względu na skalę tego zjawiska” m.in. w MSW, MF, GIS, UOKiK powołano został pełnomocnicy, których zadaniem będzie bieżąca koordynacja wszystkich służb i inspekcji w zakresie zwalczania zjawiska dopalacz. - ich rola będzie polegać na tym, żeby być tymi, którzy na bieżąco współpracują, informują i koordynują pozostałe inspekcje i służby w zakresie zwalczania zjawiska dopalacz. - Dodał, że w ostatnich dniach w postępowaniu prowadzonym na Śląsku zatrzymano w sumie 13 osób. Większość z nich miała już wcześniej konflikty z prawem. Główny organizator dystrybucji "Mocarz" w chwili zatrzymania miał ten środek przy sobie. Zatrzymywano go z tym specyfiki również wcześniej, ale wtedy "Mocarz" nie był jeszcze nielegalny - podkreślił wiceszef KGP. Według Schosslera wszystko wskazuje, że ta grupa miała charakter zorganizowany (wtedy grozi siurowsza odpowiedzialność - red.) i że działała nie tylko w Katowicach. Jak dodał, na terenie całego kraju trwają szeroko zakrojone działania policii, w które zaangażowani są funkcjonariusze Centralnego Biura śledczego Policji i pionów zwalczania przestępczości narkotykowej. W sumie to 1,5 tys. osób. Schossler poinformował, że policja ściśle współpracuje z Interpol i Europolom. - Działamy tutaj na poziomie wymiany operacyjnej i na najbliższe dni pewnie przygotujemy działania, które wykroczą poza teren naszego kraju - powiedział.


Chief Sanitary Inspector has launched a special hotline where you can obtain information, inter alia concerning the negative effects and treatment options - said Tuesday the deputy head of the Interior Ministry Gregory Karpiński at a press conference dedicated to the fight against designer drugs. He also added that Poland requested assistance to Europol. Karpiński said that "due to the scale of this phenomenon" among others in the Interior Ministry, the Ministry of Finance, GIS, UOKiK called to be agents whose task will be ongoing coordination of all services and inspections related to combating highs. - Their role will be to this to the ones who keep collaborate, communicate and coordinate inspections and other services in the fight against trafficking boosters - said Karpiński.

He added that GIS has launched a special hotline - 800 060 800 - where you can obtain any information on adverse effects, treatment options, as well as provide information that can help law enforcement authorities to reach potential perpetrators. He said Karpiński, some of the findings in recent days shows that the measures that were put into circulation in Poland, are manufactured abroad. He added that therefore Poland also asked Europol to help in the fight with legal highs 13 people detained deputy police chief superintendent. Mirosław Schossler reported that on Monday in the evening Silesian police officers stopped three people, among them 20-year-old, who - according to police - is the main organizer of the illegal distribution center called "Mocarz - Strongman".

He added that in recent days, in proceedings in Silesia arrested a total of 13 people. Most of them had earlier conflicts with the law. The main organizer of distribution "Strongman" while in detention had the measure with you. They stopped him with this specific, meaning also before, but then "the Mighty One" was not illegal yet - said the deputy head of the National Police Headquarters. According to Schosslera everything indicates that this group had an organized (the so-called "pure" - due liability - already.) And that it acted not only in Katowice. He added that throughout the country hundreds last large-scale police activities that involve investigators of the Central Bureau of Police and departments to combat drug-related crime. All in all it 1.5 thousand. people. Schossler reported that the police is working closely with Interpol and Europol. - We work here at the level of the exchange operations and for the next few days probably we will prepare measures which go beyond the territory of our country - he said.
Blisko 250 zatrutych

W wtorek rano Wojewódzkie Centrum Zarządzania Kryzysowego (WCZK) w Katowicach podało, że od czwartku w całym regionie odnotowano już 247 przypadków zatrucia dopalaczami, najwięcej w Katowicach – 194. W Częstochowie było ich 29, w Sosnowcu – 21, a w Bielsku-Białej – 3. Dwie osoby przebywające w szpitalach nadal są w stanie krytycznym. W środek po raz pierwszy obradować ma kierowany przez Śląskiego Kuratora Oświaty zespół roboczy, który ma w m.in. przygotować działania profilaktyczne adresowane do dzieci i młodzieży. O powołaniu tego zespołu informował w poniedziałek, po posiedzeniu Wojewódzkiego Zespołu Zarządzania Kryzysowego, wojewoda śląski Piotr Litwa.

Według rzecznik kuratorium Anny Wietrzyk zespół ma dostarczyć wychowawcom i opiekunom dzieci przebywających na koloniach i półkoloniach materiały z wskazówkami, jak rozmawiać m.in. o dopalaczach. - Nie wszyscy wiedzą jak takie zajęcia poprowadzić, albo jak je rozpocząć, aby odniosły skutek - powiedziała Wietrzyk. Kuratorium akcentuje, że jednym z głównych wyzwań jest dotarcie do dzieci i młodzieży spędzających wakacje w miastach. - Dzieci, które nigdzie nie wyjechały, mają mnóstwo wolnego czasu, dlatego materiał ten trafi również do domów kultury czy ośrodków sportowych, które organizują różnorodne wakacyjne zajęcia – zaznaczyła Wietrzyk. W poniedziałek wojewoda śląski podał, że w tym roku w regionie zarejestrowano już 905 przypadków zatrucia dopalaczami (w całym ub. roku 602 przypadki). Największa ich liczba dotyczy młodzieży w wieku od 15 do 19 roku życia - 260; w przedziale wiekowym 20-24 - było 187 przypadków. Najmłodzi z zatrutych mieli 10 lat. Wśród dzieci w wieku 10-14 lat zarejestrowano 44 zatracia dopalaczami.

Nearly 250 poisoned

On Tuesday morning, the Provincial Crisis Management Centre (WCZK) in Katowice announced that from Thursday throughout the region have already reported 247 cases of poisoning boosters, the most in Katowice - 194. In Częstochowa, there were 29 in Sosnowiec - 21, in Bielsko-Biała - 3. Two people in hospitals are still in critical condition. On Wednesday, for the first time sit is headed by the Silesian Chief Education Officer working team, which has, among others, prepare preventive measures aimed at children and young people. The establishment of this team informed on Monday, after a meeting of the Provincial Crisis Management Team, Silesian province governor Piotr Lithuania.

According to spokeswoman of the regional education department Ann Wietrzyk the team they are expected to provide educators and guardians of children residing in the colonies and półkoloniach materials with instructions how to talk, among others, about designer drugs. - Not everyone knows how to run such a course, or as they begin to take effect - Breeze said. Board of Trustees emphasizes that one of the main challenges is to reach children and youth spend their holidays in the cities. - Children who never traveled, they have plenty of free time, so this material will also include cultural houses and sports centers, which organize a variety of holiday activities - noted breeze. On Monday Silesian province governor said that this year in the region are already registered 905 cases of poisoning boosters (throughout last year. The year 602 cases). The largest number of young people aged 15 to 19 years old - 260, aged 20-24 - were 187 cases. The youngest were poisoned 10 years. Among children aged 10-14 years registered 44 poisoning boosters.
Zatrucia dopalaczami  
Poisoning boosters

Nierówna walka z dopalaczami. "Chemicy zaczną zmieniać ich skład. To kwestia czasu"  
Unequal fight with legal highs. "Chemists begin to change their composition. It's a matter of time"

Kolejna odsłona walki z dopalaczami - MSW otwiera specjalną infolinię i ponawia apel: dopalacze są śmiertelne, nie kupujcie ich. Co zrobić, by wygrać nierówną walkę z dopalaczami i jak robią to nasi sąsiedzi? Mate- riał programu "Polska i Świat". Według rządu, walka z dopalaczami trwa już od kilku lat. Trudno jednak oprzeć się wrażeniu, że w tej sprawie działania podejmowane są ad hoc.

Koordynacja działań rzeczywiście wydaje się potrzebna, bo dochodzi do takich absurdów, jak wypuszczenie z aresztu dwoje osób podejrzewanych o handel dopalaczami. Prokuratura rejonowa Katowice-Północ nie zmieściła się w 48 godzinach z wysłaniem odpowiedniego wniosku.

Jak radzi sobie Polska?  
How Poland is coping with?

- Zdecydowaliśmy się ze względu na skalę tego zjawiska powołać w każdej z instytucji, które tutaj dzisiaj są reprezentowane, pełnomocników, których zadaniem będzie bieżąca koordynacja działań wszystkich służb i inspekcji - mówił na konferencji prasowej Grzegorz Karpiński, wiceminister spraw wewnętrznych.

Jak radzą sobie inne kraje?  
How are the other countries?

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Podobnie jest w Niemczech, ale to właśnie Polscy przykład pokazuje, jak mało skuteczne jest tworzenie list z zakazanymi substancjami. - Jest to tylko kwestią czasu w naszej ocenie, aż chemicy działający na zlecenie grup przestępczych zaczną zmieniać skład dopalaczy i wprowadzać do nich takie substancje, które nie będą na wykazie - ocenia Piotr Kosmaty z Prokuratury Apelacyjnej w Krakowie. Jak karaj? To powoduje, że nie można im stawiać zarzutu z ustawy o przeciwdziałaniu narkomanii, dlatego krakowscy prokuraturzy zaczęli stawiać podejrzewanym o handel dopalaczami zarzuty z artykułu 165 KK, który mówi m.in. o sprowadzaniu niebezpieczeństwa na życie i zdrowie poprzez wprowadzanie do obrotu szkodliwych substancji, za co grozi karą do 8 lat pozbawienia wolności. W podobnym duchu idzie propozycja Poznań councilors of Law and Justice, which calls for the government and parliament to introduce punishment for not using prohibited ingredients, but for the intention of creating a harmful substance.

Sprawiedliwości, którzy apelują do rządu i parlamentu o wprowadzenie do obrotu szkodliwych substancji, które nie można im stawiać zarzutu z ustawy o przeciwdziałaniu narkomanii, dlatego krakowscy prokuraturzy zaczęli stawiać podejrzewanym o handel dopalaczami zarzuty z artykułu 165 KK, który mówi m.in. o sprowadzaniu niebezpieczeństwa na życie i zdrowie poprzez wprowadzanie do obrotu szkodliwych substancji, za co grozi kara do 8 lat pozbawienia wolności. W podobnym duchu idzie propozycja Poznań councilors of Law and Justice, which calls for the government and parliament to introduce punishment for not using prohibited ingredients, but for the intention of creating a harmful substance.

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### 29/07/2015 – TVN 24 – 11:59


<table>
<thead>
<tr>
<th>Zatrucia dopalaczami</th>
<th>Poisoning boosters</th>
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</thead>
<tbody>
<tr>
<td>&quot;Przeciw dopalaczowym zbrodniom&quot;. Premier i ministrowie podpisali pakt</td>
<td>&quot;Against boosters highs crimes&quot;. The Prime Minister and the ministers signed a pact</td>
</tr>
<tr>
<td>Pakt Społeczny Przeciw Dopalaczom podpisany. Kopacz: trzeba uświadamiać młodych ludzi</td>
<td>Social Pact Against Dopalaczom signed. Minister: you need to educate young people</td>
</tr>
</tbody>
</table>


Jak powiedziała szefowa MSW, raz w miesiącu instytucje publiczne, organizacje pozarządowe, media, środowiska naukowe i młodzież będą spotykać się, by wspólnie monitorować wszystkie prowadzone działania, definiować nowe problemy i szukać najlepszych rozwiązań w walce z dopalaczami. Podkreśliła, że zaproszenie na te spotkania jest otwarte dla każdego. - Chcemy, aby prowadzone i planowane inicjatywy w walce z dopalaczami znalazły się na interaktywnej mapie inicjatyw społecznych. Każdy z tutaj obecnych i każdy w Polsce będzie mógł dopisać się do tej mapy i dołączyć do paktu przeciw dopalaczom - powiedziała szefowa MSW. Podkreśliła, że każda z instytucji publicznych musi "robić swoje" i szukać coraz lepszych rozwiązań w walce z dopalaczami. - Bardzo potrzebna jest integracja tych działań. Dlatego MSW, wspólnie z Radą ds. Przeciwdziałania Narkomanii, będzie w ramach podpisanego dziś paktu społecznego koordynować działania i inicjatywy antydopalaczowe - zapowiedziała Piotrowska. ([http://www.tvn24.pl](http://www.tvn24.pl))

"Dziś nie ma mody na dopalacze"
...czasem wygrywają ci, którzy swoje karierę i pieniądze budują na nieszczęściu młodych ludzi - powiedziała premier. Przypomniała, że po ostatnich zmianach w prawie substancje odurzające, które są nazwane substancjami, dla posiadania i rozprowadzanie których grozi takie kary jak w przypadku narkotyków. Mimo to - jak podkreśliła - potrzeba zdecydowanie więcej wielokierunkowych działań, w które zaangażują się ludzie mający szczególny autorytet wśród młodych.

Prime Minister Ewa Kopacz, in turn, reminded that in early July reported a tragic series of poisonings boosters. She pointed out that in the wake of the intense police action occurred, which resulted in 717 people were detained and secured 80 kg of narcotic substances. The head of government stressed that this does not mean the end of the action, because every day for intensive care units and hospital emergency departments get young people poisoned by boosters. - Our laboratories are working very hard, but lose over time, the market still appear new substances (...) A race against time win those who their careers and money are building on the misery of young people - said the Prime Minister. She recalled that after the recent changes in nearly 114 new substances have been named drugs, for possession and distribution of which threatened the same punishment as in the case of drugs. Despite this - as underlined - need much more various actions in involving people with special authority among the young.

- Dlatego tak cenne jest przyłączenie się do paktu ludzi, którzy mają swój wielki autorytet, jak Jurek Osiak czy Marcin Gortat - powiedziała Kopacz. Dodała, że "dzisiaj nie ma mody na dopalacze". - Dziś jest moda na to, aby być wolnym od dopalaczy, dziś cool jest ten, kto nie bierze dopalaczy - mówiła Kopacz. Premier podkreślała, że młodzi muszą "wiedzieć i rozumieć, że dopalacze to coś, co grozi ich życiu i zdrowiu, to coś, co rujnuje ich życie na przyszłość". Dlatego - mówiła - ważne jest uświadamianie młodych ludzi, a kopacz zapewniła, że są osoby, które zaangażują się w tym dziedzinie. Premier podkreśliła, że służby będą zwalniać dystrybutorów dopalaczy - Moje służby będą pracować bardzo zdecydowanie i będą to robić każdego dnia i każdej godziny - zapowiedziała szefowa rządu. Dodała, że będą "bacznie obserwować i zatrzymywać skutecznie oraz karać, tych, którzy rozpowszechniają narkotyki". Kopacz podkreśliła, że dopalacze to nie tylko problem Polski. Zapewniła, że chce, by "pakt społeczny, który rodzi się w Polsce, został przeniesiony za granicę", a współpraca w zwalczaniu dopalaczy została zwiększona i aby tak się stało zamierza zabiegać o to na poziomie Rady Europejskiej.

- That's why so valuable to join the Pact of people who have their great authority, as Jurek Osiak and Marcin Gortat - Kopacz said. She added that "today there is a fashion highs". - Today is the fashion for it to be free from highs, cool today is the one who does not take highs - Kopacz said. Prime Minister stressed that young people should "know and understand that boosters is something that threatens their lives and health, is something that is ruining their lives for the future". That is why - she said - it is important to raise awareness of young people. Kopacz assured that the services will be fought distributors highs. - My services will work very strongly and they will do it every day and every hour - announced the head of government. She added that it will "closely monitor and effectively stop and punish those who distribute drugs". Health Minister stressed that boosters is not only a Polish problem. She assured that it wants to "social pact that is born in Poland, was transferred abroad," and cooperation in the fight against designer drugs has increased, and for this to happen is going to seek it at the level of the European Council.

Fala zatrutych


A wave of poisonings

During the ceremony, the film presents a spot campaign, whose slogan is: "Boosters steal life". It integrates taken so far activities carried out by different entities - governments, NGOs, schools, the police and the media. The action is aimed mainly at young people - because she frequently reaches highs - and to parents of secondary school pupils and people working with children. Since the beginning of the wave of poisonings boosters, which occurred in the second week of July, mainly in Silesia, two people died - 19-year-old and 24-year-old. From July 3 throughout the region reported 771 suspected poisonings boosters, more than 20 people still in hospital.
<table>
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<tr>
<th>Zatrucia dopalaczami</th>
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<tr>
<td>234 śledztwa, 104 osoby z zarzutami za dopalacze. Raport Prokuratury Generalnej</td>
<td>234 investigations, 104 people with charges for boosters. General Prosecutor’s Office Report</td>
</tr>
<tr>
<td>Prokuratura ściga handlarzy dopalaczami</td>
<td>Prosecutor prosecution of traffickers boosters</td>
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Prosecutors across the country leading 234 proceedings concerning the marketing of afterburners. The charges of committing crimes against life and health, erected 104 people - according to the report of the General Prosecutor’s Office. This document shows that most investigations in these cases (based on the law on combating drug addiction) lead the prosecution of the action area Appellate Prosecutor’s Office in Katowice - 50 cases, the Appellate Prosecutor’s Office in Krakow - 41 cases and Appellate Prosecutor’s Office in Gdansk - 38 cases.

<table>
<thead>
<tr>
<th>TVN 24 - 24/09/2015</th>
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<tr>
<td>Handlarze dopalaczami być może będą surowiej karani</td>
</tr>
<tr>
<td>Zapadł precedenstorowy wyrok, potwierdzający możliwość karania za handel niebezpiecznymi substancjami, tzw. dopalaczami, na podstawie kodeksu karnego, a nie ustawy o przeciwdziałaniu narkomanii – poinformował w czwartek rzecznik Prokuratury Apelacyjnej w Krakowie prok. Piotr Kosmaty.</td>
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<td>Sąd Okręgowy w Koszalinie prawomocnie skazał mieszkańca Śląska Roberta R. za wprowadzenie do obrotu w okresie od lutego 2012 do czerwca 2013 r. niebezpiecznych dla zdrowia i życia wielu ludzi substancji na półtora roku pozbawienia wolności w zawieszeniu na 4 lata.</td>
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<td>Ponadto sąd orzekł 5 tys. zł grzywny, przepadek 20 tys. zł korzyści majątkowej z przestępstwa i zakaz prowadzenia działalności gospodarczej związanej ze sprzedażą substancji chemicznych na 5 lat. Wyrok zapadł na podstawie dobrowolnego poddania się karze przez oskarżonego i jego wniosku o wydanie wyroku bez przeprowadzania procesu. - Sąd wyraził na to zgodę, czyli uznał, że można stosować kodeks karny w walce z dapolaczami. Takie stanowisko sądu daje nam zielone światło do walki z producentami dapolaczy – podkreślił prok. Kosmaty. Substancje szkodliwe dla zdrowia Sprawa dotyczyła jednego z wątków śledztwa prowadzonego przez Prokuraturę Apelacyjną w Krakowie przeciw zorganizowanej grupie przestępczej złożonej z pseudokibiców. Członkowie grupy handlowali narkotykami, głównie marhuną oraz substancjami chemicznymi, stanowiącymi składniki dapolaczy.</td>
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<tr>
<td>W ramach śledztwa policjanci z krakowskiego oddziału Centralnego Biura Śledczego Policji zlikwidowali dwa profesjonalnie urządzone laboratoria chemiczne.</td>
</tr>
</tbody>
</table>
W składzie sprzedawanych dopalaczy nie było substancji zabronionych, znajdowały się jednak substancje szkodliwe dla zdrowia. Dlatego prokuratura postawiła podejrzanym zarzut nie z ustawy o przeciwdziałaniu narkomanii, ale z kodeksu karnego, dotyczący sprawdzania niebezpieczeństwa dla życia lub zdrowia wielu osób. Według ustaleń, grupa wyprodukowała co najmniej 50 kilogramów substancji alfa-PVP i większości produkcji rozprowadziła za pomocą internetu w Polsce i świecie. Z informacji uzyskanych przez prokuraturę w Państwowej Inspekcji Sanitarnej oraz Narodowym Instytucie Leków wynikało, że substancja ta jest bardzo niebezpieczna dla zdrowia, bo jej zażycie może powodować poważne uszkodzenia wątroby, nerek i mózgu. Na tej podstawie zastosowano wobec pięciu podejrzanych kwalifikację z art. 165 par. 2 kk: "Kto sprowadza niebezpieczeństwo dla życia lub zdrowia wielu osób (...) wyrabiając lub wprowadzając do obrotu szkodliwe dla zdrowia substancje, środki spożywcze lub inne artykuły powszechnego użytku lub też środki farmaceutyczne nieodpowiednie wobec obowiązujących warunków jakości, podlega karze pozbawienia wolności od 6 miesięcy do lat 8". Pod takim zarzutem krakowski sąd aresztował podejrzanych.

Obrońcy kwestionowali taką kwalifikację prawną, wskazując m.in., że skoro na liście substancji zabronionych nie było tych substancji, to w związku z tym oskarżeni nie popełnili przestępstwa. Podnosili, że podejrzani kontrolowali stan prawny i skoro nie było zakazu prowadzenia takiej działalności, to prowadzili ją będąc przekonanymi, że prowadzą ją zgodnie z prawem. Zwracali też uwagę, że prokuratura próbuje stosować przepis, który dotyka np. wprowadzania do obrotu zepsutej i szkodliwej żywności itp. Stanowisko prokuratury potwierdziły sądy krakowskie i koszalińskie – zarówno w sprawach aresztów dla podejrzanych, jak i wyroku skazującego. Jak podawała prokuratura, według Europejskiego Centrum Monitorowania Narkotyków i Narkomanii sprzedawane przez podejrzanych substancje mogły mieć działanie kilkunastokrotnie bardziej szkodliwe dla zdrowia niż narkotyki.

The composition of designer drugs sold there was no prohibited substances, but the substances were harmful to health. Therefore, the prosecution put the suspect complaint is not with the law on the prevention of drug addiction, but of the Criminal Code, for bringing danger to the life or health of many people. According to the findings, the group has produced at least 50 kilograms of the substance alpha-PVP and most of the production distributed through the Internet in Poland and the world. According to information obtained by the prosecution in the State Sanitary Inspection and the National Institute of Drug it indicated that the substance is very dangerous for health, because its ingestion can cause serious damage to the liver, kidneys and brain. On this basis, the five suspects were applied for qualification of Art. 165 par. 2 of the Penal Code: "Whoever brings danger to life or health of many people (...) honed or by entering the market of substances harmful to health, food or other articles of everyday use or pharmaceuticals unresponsive applicable terms of quality, punishable by imprisonment of 6 months to 8 years." Under such an allegation Krakow court arrested the suspects.

The defenders have questioned the legal qualification, indicating, inter alia, that since the list of prohibited substances was not these substances are therefore accused did not commit the crime. They claimed that the suspects controlled legal status and since there was no prohibition of such activities, it led her being convinced that they lead it in accordance with the law. They also noticed that the prosecution is trying to apply a provision which concerns eg. The marketing of harmful food spoiled and the like. The position of the prosecutor’s office confirmed courts Cracow and Koszalin - both in matters of detention for suspects and conviction. How gave the prosecutor’s office, according to the European Monitoring Centre for Drugs and Drug Addiction sold by suspicious substances may have effects several times more harmful to health than drugs.
### Radio RMF 24 – Friday 8/1/2016


<table>
<thead>
<tr>
<th>Cztery lata walki z dopalaczami. Wymierzono kary na 44 mln złotych</th>
<th>Four years of fighting with &quot;boosters&quot; NPS. Penalties are imposed on 44 million PLN</th>
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<td>Piątek, 8 stycznia (13:11) Friday, January 8 (13:11)</td>
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### Z najmocniejszym uderzeniem w dopalaczowy biznes mieliśmy do czynienia właśnie w 2010 roku. Od października do końca roku Główny Inspektorat Sanitarny we współpracy z policją zamknął ok. 1300 punktów rozprowadzających te substancje. Na tym nie koniec, bo działania - choć już nie tak spektakularne - trwały przez kolejne lata.

We had to deal with the highest peak in the NPS business in 2010. From October to the end of the year, Chief Sanitary Inspectors, in collaboration with the police closed approx. 1300 points of distribution of these substances. This is not the end, because the action - although not as spectacular - lasted through the years.

### Od początku 2011 roku do października 2015 roku inspektorzy sanepidu zamykali sklepy z dopalaczami w sumie 1146 razy. Wbrew pozorom nie oznacza to jednak, że dokładnie tyle punktów zostało zamkniętych, bo ich właściciele często można zdołać podjąć działania samodzielnie.

Since the beginning of 2011 to October 2015 years sanitary inspectors closed shops selling "boosters" for a total of 1146 times. Contrary to appearances, this does not mean, however, that exactly this many shops were closed because their owners often do not yield and do little with penalties and prohibition. They start a brand new business and open up a shop again under a different banner in the same place. The result is then to absorb situations - eg. One of those shops were closed was up to 30 times.

### Blędne koło

**Vicious circle**

**Cztery lata walki z dopalaczami. Wymierzono kary na 44 mln złotych**

**Four years of fighting with "boosters" NPS. Penalties are imposed on 44 million PLN**

**Pamiętna "wojna z dopalaczami" zaczęła się w 2010 roku - to właśnie wtedy polskie władze ogłosiły, że będą na wielką skalę walczyć z niebezpiecznymi syntetycznymi narkotykami, które wcześniej można było kupić na każdym rogu. Tzw. dopalacze sprzedawane były - i nadal są - pod szyldem "artykułów kolekcjonerskich", opatrzonym adnotacją "nie do spożycia przez ludzi". Według ekspertów to często środki bardziej niebezpieczne od "tradycyjnych" narkotyków, bo ich skład nieustannie się zmienia - więc nikt nie wie co tak naprawdę bierze, a w przypadku zatrucia lekarze nie mają pewności, jak zajmować się pacjentem.**

**The memorable "war on boosters" began in 2010 - it was then that the Polish authorities have announced that they will lead a large-scale fight against dangerous synthetic drugs, which previously could be purchased on virtually every corner. The so-called. "boosters" sold were - and still are - under the banner of "collectibles" endorsed "not for human consumption". According to experts, this often means more dangerous than "traditional" drugs, because their composition is constantly changing - so no one knows what one really takes, and in case of poisoning - doctors are not sure how to take care of the patient.**
Moreover, sellers are getting smarter - often in the shop they do not have legal highs, but one finds them in a car standing next to the shop: a car whose sanitary inspectors do not have the right to check. It is difficult to determine how many stores actually worked over these 5 years - sanitary inspection data, however, shows that their number does not exceed hundred. After all - after the hit of the authorities in 2010 less determined retailers resigned considering the business too risky.

Closed shops selling boosters - for 2011-2015; 2011 = 0; 2012 = 25; 2013 = 273; 2014 = 352; 2015 (October) = 396

Dany give the number of closed units; how many times the inspectors closed stores - a total of 1146

During the period referred GIS has conducted 3556 inspections, on points for which occurred the suspicion that they could sell boosters. At that time, to retailers there were also applied to a total of 44 million and 104 thousand PLN of penalties: sanitary inspection can do so under the law on counteracting drug addiction. It offers the possibility of punishing a person distributing new psychoactive substances or substitutes (as in the law determined boosters) with a fine of 20 thousands PLN to even a million PLN.

Checks GIS (Main Sanitary Inspector) 2011-2015: 2011 = 335; 2012 = 548; 2013 = 779; 2014 = 652; 2015 (October) = 1243

The number of inspections carried out: a total of 3556

The amount of the penalties imposed 2011-2015 (in PLN millions): 2011 = 0; 2012 = 0.495; 2013 = 10.669; 2014 = 14.007; 2015 (October) = 18993

The amount of the penalties imposed makes a big impression - unfortunately, in practice it is, however, a big problem with their execution. With 13 million PLN penalties imposed in the first half of 2015 the authorities managed to have paid just 360,000.

The cases relating to traders of boosters are getting increasingly turned to the prosecutor’s office. In 2011-2014, GIS notify in such cases the law enforcement offices a number of 256 times. The involvement of the prosecutor’s office in fighting boosters is growing rapidly and it seems that not very effective financial penalties are no longer the only whip on traffickers. An example is the precedent judgment of September 2015 issued by a court in Koszalin, confirming the possibility to punish such persons on the basis of the Criminal Code, not only the law on counteracting drug addiction.
It is specifically about art. 165. § 1. 2 KK: 'Who brings danger to life or health of many people (...) producing or entering on the market of substances harmful to health, food or other articles of everyday use, or pharmaceuticals that do not meet the applicable conditions of quality, shall be punished by imprisonment from 6 months to 8 years'.

Notification to law enforcement agencies 2011-2015
2011 = 0; 2012 = 0; 2013 = 54; 2014 = 79; 2015 (until October) = 118
Total number of notifications: 256

Secured packaging of "boosters" (NPS) from 2011 to 2015.
2011 = 1819; 2012 = 16141; 2013 = 28402; 2014 = 52714; 2015 (until October) = 65741

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Read more at:
Fatal poisoning from "boosters" in the prison of Warsaw Białołęka

On Christmas Eve, three sentenced to prison poisoned in Białołęka with drugs. One of them died in the hospital on December 31, already outside the prison walls. Information about the poisoning got on the Hotline RMF FM.

Boosters have used 3 prisoners (Fig. Illustration) / RMF FM

In the morning, when asked about the matter, the reporter RMF FM heard from the Prison Service that the prisoner was still staying on treatment. The guards explained this information gap in the penalty, which the court granted the penitentiary prisoner at the time of treatment.

The day I received this gentleman a break in punishment, is a free man and not get information about it - says spokeswoman Regional Director of Prison Service in Warsaw Arleta Pęconek.

Read more at:
**Radio RMF 24 – 28/1/2016 (Verified 1/02/2016)**


| Rozbito gang handlujący dopalaczami i pigułkami gwałtu. Zaopatrywał 60 proc. rynku w Polsce | A Gang of traders of “boosters” (NPS) and rape drug has been smashed. It supplied 60 % of the market in Poland |
| Potężny cios w rynek handlu dopalaczami w Polsce. Jak dowiedzieli się reporterzy śledczy RMF FM, policja i straż graniczna rozbiły największy gang handlujący tymi śmiertelnie groźnymi specyfikami. W olbrzymiej operacji antydopalaczowej brało udział kilkuset funkcjonariuszy, a wszystko nadzorowali śledczycy z dwóch prokuratur. | A powerful blow to the market trade of “boosters” (NPS) in Poland. According to the information to RMF FM investigation reporters, police and border guards broke up the biggest gang dealing in those mortally dangerous substances. Several hundred officers participated in a huge operation against NPS supervised by two prosecutors’ offices. |
| Zatrzymano 34 osoby w wieku od 18 do 24 lat. Za-
bezpieczono też ponad 100 kilogramów dopalaczy i prawie tyle samo litrów substancji psychotropowych, z których wyprodukować można kilkanaście tysięcy porcji dopalacz i pigułek gwałtu. | They arrested 34 people between the ages of 18 to 24 years. Also secured more than 100 kilograms highs and almost as many liters of psychotropic substances, which can produce several thousand portions of highs and pills of rape drug. |
| Większość z zatrzymanych usłyszała zarzuty związane z obrotem dopalaczami oraz udziału w zorganizowanej grupie przestępczej. Wśród nich jest szef grupy. | Most of the arrested heard the charges related to trading boosters and participation in an organized criminal group. Among them is the head of the group. |
| Grupa działała w całej Polsce. Diatego też funkcjo-
nariusze w tym samym czasie weszli do mieszkań i podejrzanych miejsc między innymi w Gdańsku, Gdyni, Jastrzębiu, Warszawie, Grudziądzu i jeszcze kilkunastu innych. | The group operated throughout the country. Therefore, officers at the same time entered the apartment and suspicious sites in different towns, among others: Gdansk Gdynia, Jastrzebie, Warszawa, Grudziadz. |
| Według naszych ustaleń, gang mógł zaopatrywać w dopalacze nawet 60 procent rynku w Polsce. Przestępcy rozprowadzali miesięcznie nawet kilkadziesiąt kilo-
gramów środków odurzających. Pigułki gwałtu trafiały do dilerów w kilkudziesięciu miastach. Gang zbudował wręcz idealną strukturę - hierarchiczną - Polskę podzielono na regiony, w których narkotyki rozprowadzali lokalni liderzy. | According to our findings, the gang could provide the boosters up to 60 percent of the market in Poland. Criminals distributed per month up to several dozen kilos of drugs. Pills of rape drugs found their way to dealers in several cities. The gang built an almost ideal structure - hierarchical - Poland was divided into regions where local leaders distributed drugs. |
