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DRAFT REPORT

on the Communication from the Commission to the Council and the European Parliament on the control of new synthetic drugs (designer drugs) (COM(97)0249 - C4-0244/97)

Committee on Civil Liberties and Internal Affairs

Rapporteur: Mr Hubert PIRKER

CONTENTS

Page

Procedural page 3

A. MOTION FOR A RESOLUTION . . . . . .

B EXPLANATORY STATEMENT . . . . . .

Opinion of the Committee on the Environment, Public Health and Consumer Protection . .

Opinion of the Committee on Budgets . . . . . .

Opinion of the Committee on Culture, Youth, Education and the Media . . . . .

By letter of 23 May 1997 the Commission forwarded to the Council and the Parliament a Communication on the control of new synthetic drugs (designer drugs).

At the sitting of 3 June 1997 the President of Parliament announced that he had referred this Communication to the Committee on Civil Liberties and Internal Affairs as the committee responsible and the Committee on the Environment, Public Health and Consumer Protection, the Committee on Budgets and the Committee on Culture, Youth, Education and the Media for their opinions.

At its meeting of 19 June 1997 the Committee on Civil Liberties and Internal Affairs appointed Mr Hubert PIRKER rapporteur

The Committee on Civil Liberties and Internal Affairs considered the Commission communication and the draft report at its meeting(s) of .

At the latter/last meeting it adopted the draft legislative resolution by ... votes to ..., with ... abstention(s)/unanimously.

The following took part in the vote/The following were present for the vote: ..., chairman/acting chairman; ... (and ..), vice-chairman/chairmen; ..., rapporteur; ..., ... (for ...), .. (for .. pursuant to Rules 138(2)), .. and ... .

The opinions of the Committee on the Environment, Public Health and Consumer Protection, the Committee on Budgets and the Committee on Culture, Youth, Education and the Media are attached.

The report was tabled on ... .

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

A

MOTION FOR A RESOLUTION

Resolution on the Communication from the Commission to the Council and the European Parliament on the control of new synthetic drugs (designer drugs) (COM(97)0249 - C4-0244/97)

The European Parliament,

- having regard to the Communication from the Commission to the Council and the European Parliament on the control of new synthetic drugs (designer drugs)([1]),

- having regard to the Treaty on European Union, in particular its Article K1(4) and (9), and the EC Treaty, in particular Article 129,

- having regard to the draft Treaty of Amsterdam, in particular Articles K1, K2 and K3 thereof, and the amended Article 129 of the EC Treaty,

- having regard to the World Drugs Report of the United Nations International Drug Control Programme (UNDCP)([2]),

- having regard to the 1997 annual report of the European Monitoring Centre for Drugs on the state of the drugs problem in the European Union,

- having regard to Council Directive 92/109/EEC of 14 December 1992 on the manufacture and the placing on the market of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances, amended by Commission Directive 93/46/EEC and supplemented by Commission Regulation 1485/96 and Council Regulation (EEC) 3677/90 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances, amended by Regulation (EEC) 900/92,

- having regard to the Joint action of 16 June 1997 adopted by the Council concerning the information exchange, risk assessment and the control of new synthetic drugs([3]),

- having regard to the Joint action of 29 November 1996 adopted by the Council concerning the exchange of information on the chemical profiling of drugs to facilitate improved cooperation between Member States in combating illicit drug trafficking([4]),

- having regard to its resolution on the Commission Communication to the Council and the European Parliament on a European Union action plan to combat drugs([5]),

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([1]) COM(97)0249, 23.5.1997.
([2]) Oxford University Press 1997
([3]) OJ L 167, 25.6.1997, p.1.
([4]) OJ L 322, 12.12.1996, p.5.
([5]) OJ C 166, 3.7.1995, p.116.

- having regard to the report of the Committee on Civil Liberties and Internal Affairs and the opinions of the Committee on the Environment, Public Health and Consumer Protection, the Committee on Culture, Youth, Education and the Media and the Committee on Budgets (A4-0000/98),

A. whereas the consumption of synthetic drugs in the Member States of the European Union has increased massively since the end of the 1980's and whereas it is mainly young people and young adults who take the drugs as part of their leisure activities,

B. whereas the users of synthetic drugs differ markedly in terms of social situation and consumption habits from those taking opiates as they often take the drugs only at weekends and are not conspicuous in society,

C. whereas the negative side effects and long-term effects of synthetic drugs are only starting to be investigated so that it is not yet possible to determine the risks of consumption conclusively,

D. whereas particular risks occur when synthetic drugs are taken in conjunction with other drugs or alcohol or under additional environmental pressures (great physical exertion, lower liquid intake, overheated rooms),

E. whereas the manufacture of synthetic drugs is relatively easy and whereas the precursors and equipment needed have up to now, often not been subject to any controls,

F. whereas synthetic drugs are usually produced in the vicinity of the consumers and whereas the European Union is one of the largest production regions in the world as far as the manufacture of amphetamines and Ecstasy-type stimulants is concerned,

G. whereas the market for synthetic drugs is highly profitable and the manufacture of and traffic in synthetic drugs is increasingly controlled by organized criminal groups,

H. whereas the producers of synthetic drugs obtain the precursors from various countries in central and eastern Europe and whereas there is regular traffic in these drugs between these countries and the Member States of the European Union,

I. whereas 'designer drugs' which are specially developed to circumvent existing bans on drugs and where the effects and side-effects are unknown present a particular danger,

J. whereas it is possible to manufacture a number of different drugs by exchanging individual molecules such that the legal coverage of synthetic drugs raises many practical problems,

K. whereas the current synthetic drugs (Ecstasy, LSD and amphetamines) are covered by the 1971 United Nations Convention on Psychotropic Substances and the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances which are designed to prohibit the use of these substances and to control manufacture and distribution,

L. whereas the legal situation in the Member States of the European Union regarding the classification of individual synthetic drugs and the penalties incurred for possession and consumption of or traffic in different substances is not uniform,

M. whereas with its Joint Action of 16 June 1997 the Council has created a mechanism for assessment of the risks of new synthetic drugs and for decisions on any measures or controls to be adopted, the practical efficacy of which must first be examined,

N. whereas the Europol Drugs Unit systematically collects information on the ballistic and chemical profiles of synthetic drugs and forwards this information to the Member States,

O. whereas synthetic drugs can be manufactured from various precursors, the exact number of which is not known and only a limited number of which are covered by European Union instruments for the control of drug precursors,

P. whereas the Commission communication contains only vague ideas about a mechanism to control the precursors for synthetic drugs and whereas the European Parliament will deliver a separate opinion on the proposal for a European Parliament and Council Directive, forwarded on 20 February 1998, amending Council Directive 92/109/EEC relating to the manufacturing and placing on the market of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances([1]),

Q. whereas the Treaty of Amsterdam makes provision in the amended Article 129 for the Community to complement the Member States' action in reducing drugs-related health damage, including information and prevention measures and for the Member States to coordinate among themselves their policies and programmes in these areas in liaison with the Commission,

R. whereas in several Member States damage limitation measures have already been implemented, such as agreements with the organizers of 'raves' on the observance of certain rules, the distribution of information materials and the possibility of having the actual content of pills tested,

S. whereas consumers of synthetic drugs mostly do not consider that they have a drugs problem and are hardly aware of the existing drugs advisory services, which are mostly geared to the needs of those dependent on opiates,

1 Considers the growing consumption of synthetic drugs, in particular by young people, to be a matter for concern, in particular in view of the possible and as yet unresearched long-term damage caused by synthetic drugs;

2. Considers that there is an urgent need to gather further information about synthetic drugs, in particular their effects and side-effects and possible long-term damage; calls on the Member States and the Commission to encourage and support relevant research;

3 Stresses that the international instruments already available for the control of synthetic drugs such as the UN drugs conventions must be brought into force in all Member States and expects that future agreements will quickly be ratified and brought into force by all Member States;

([1]) COM(98)0022

Repressive measures

4. Draws attention to the differences which still exist between the Member States with regard to penalties for traffic in and possession and consumption of synthetic drugs and considers that a harmonization of the relevant criminal law provisions in the Member States to be desirable;

5. Considers it necessary that the diversion of precursors for synthetic drugs, production of such drugs and traffic in them should be a criminal offence and should be prosecuted in all Member States;

6. Draws attention to the responsibility of the operators of the relevant clubs and the organizers of raves who must ensure that no illegal drugs are consumed and no dealing takes place within their sphere of responsibility;

7. Considers it necessary, on the grounds of prevention not only to enshrine repressive measures against dealers in legislation but also actually to apply these measures;

8. Calls on the Member States, in police investigations of producers of and dealers in synthetic drugs, to give priority to the exposure of criminal organizations over short term successes such as the seizure of drugs or the prosecution of small-time dealers;

9. Calls on the Member States to ensure the closest possible cooperation of the national authorities concerned and to examine whether the organized criminal groups behind the traffic in precursors and synthetic drugs could not be countered effectively through special supra--institutional units;

10. Considers that the effective threat of penalties for the consumption of synthetic drugs can have a deterrent, and thus preventive, effect on potential consumers;

11. Calls on the Council and the Commission to support the exchange of experience between the prosecution authorities of the Member States and the central and eastern European states on police aims and tactics in combating the production of and traffic in synthetic drugs; considers that the possibilities offered by programmes such as OISIN and FALCONE should be used to this end;

12. Calls on the Member States following ratification of the Amsterdam Treaty, Article K2(1)(a) of which provides for operational cooperation between the competent authorities, including the police, in relation to the prevention, detection and investigation of criminal offences, to develop forthwith structures for the prosecution of organized criminal groups in the synthetic drugs sector;

Information and control systems

13. Calls on the Commission to investigate at international level whether existing systems for the listing and control of new drugs operate efficiently, thereby preventing new synthetic drugs appearing on the markets;

14. Calls on the Council after two years to submit an initial assessment of the method of operation and the results produced by the mechanism for the exchange of information, for risk assessment and for controls for new synthetic drugs, and if necessary, to alter this mechanism as appropriate after consulting the European Parliament and taking into account the assessment of the experiences of other countries, to be submitted by the Commission;

15. Considers the transmission of the information collected at European level to the competent bodies in the Member States to be crucial and calls on the Council in particular to supplement its Joint Action on information exchange with a mechanism to ensure that the information collected on new synthetic drugs and their risks is also passed back to the bodies in the Member States which are responsible for preventive measures against drugs and health measures;

Control of precursors

16. Calls on the Commission to submit a report on the implementation to date and the success in controlling drug precursors through the relevant EEC directives and regulations;

17. Hopes that the Commission will also submit a report on the results of cooperation in this field with non-member countries, in particular where relevant clauses are contained in cooperation or association agreements;

18. Stresses that a control system for precursors must also have a list of the substances to be controlled which can actually be checked; stresses that in this field it is not sensible for the European Union to act in isolation and the involvement of at least the CEEC is a fundamental precondition for successful operation of such a system;

19. Intends to examine the proposals announced by the Commission for a control system for precursors for synthetic drugs in relation to whether these criteria have been taken into account, while also ensuring practicality, flexibility and a sensible cost-benefit ratio and expects the Council to wait for and take proper account of the European Parliament's opinion on the Commission proposals on control measures for the precursors for synthetic drugs;

20. Calls on the police authorities of the Member States and the applicant countries of central and eastern Europe to establish close contacts between themselves and with the chemical industry so that information is obtained as early as possible on suspicious transactions;

Prevention and damage limitation

21. Calls on the European Monitoring Centre for Drugs to assess in a systematic and scientific manner the effect of damage limitation on measures and prevention and information measures with regard to synthetic drugs in the Member States;

22. Calls on the Commission to pay particular attention to the problem of synthetic drugs and to examine whether existing programmes, including those in the health sector, can also be applied to synthetic drugs and in particular to provide financial support for the exchange of information between the Member States on the reduction of risks in the consumption of synthetic drugs and on preventive measures;

23. Calls on the Commission and the Member States to ascertain to what extent there is the need to develop a special advisory service for the users of synthetic drugs and what form it should take;

General

24. Considers close cooperation with the central and eastern European states on synthetic drugs to be absolutely essential and calls, therefore, on the Council and the Commission to involve the countries of central and eastern Europe as far as possible in existing information systems and in those to be developed (Europol, early warning system, contacts with the chemical industry, control of precursors) and to give priority in the framework of the accession partnerships to the development of efficient structures to combat the criminal organizations which manufacture synthetic drugs and traffic in them;

25. Calls on the Member States to coordinate their police measures and their health measures and to ensure that they do not hinder each other;

26. Calls on the Commission to examine the extent to which the consumption of synthetic drugs affects the ability of drivers to drive and expects appropriate action to be taken;

27. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the applicant countries.

B
EXPLANATORY STATEMENT

1.1. What are synthetic drugs?

Synthetic drugs differ from other drugs in that they are manufactured in laboratories from chemicals and not from natural products. The term 'synthetic drugs' normally refers to three groups of drugs. Ecstasy, amphetamines and LSD.

Amphetamines are usually taken orally, but are also injected by some groups of users. There are numerous derivatives which belong to the amphetamines group. The effects of amphetamines are increased energy and alertness, increased powers of concentration and a clearly reduced need for sleep and food.

Ecstasy belongs to the amphetamines group. The effect of the ecstasy type drugs also increases energy and there are psychotropic characteristics, such as enhancement of sensation and feeling and a euphoric mood with openness and sympathy Ecstasy is taken in tablet form.

Both amphetamines and Ecstasy have unwanted side-effects, in particular rapid breathing and heart beat, higher blood pressure, sweating, dry mouth and diarrhoea. Panic attacks can occur while the drug is effective and tiredness and depression as the effects wear off.

LSD is also taken orally, but has predominantly psychedelic effects. The perception of the LSD user changes and intensifies and pseudo-hallucinations occur.

1.2. Consumption pattern for synthetic drugs

Since the end of the 1980s the consumption of synthetic drugs, in particular Ecstasy has become fashionable, mainly as part of techno-happenings. A specific youth culture has developed which involves dance events (raves) at weekends which may last several days. The taking of various drugs often forms part of the cultural pattern. Now the consumption and sale of synthetic drugs is no longer limited just to the techno-scene but has also spread to other parts of the music scene.

The use of Ecstasy in particular, but also of other synthetic drugs, as part of the dance culture occurs throughout the European Union, although to varying degrees. Surveys in various countries of the European Union have shown that in some countries in the 18-20 age group 3-4% have used amphetamines and in others the figure is as high as 9-10%. The figures for Ecstasy and LSD are similar, with the highest rates being found in Belgium, the Netherlands, Spain and the United Kingdom (source: annual report of the Monitoring Centre for Drugs). It is estimated, for example, that in the United Kingdom 500 000 people take Ecstasy each week. The relatively high numbers for school pupils aged 15-16 are particularly striking. Where such surveys were made as a rule 2-4% had already taken amphetamines once (EMCDDA).

Ecstasy users are thus relatively young, mostly under the age of 21, usually living in orderly circumstances and not conspicuous in society. Most of the users take Ecstasy and other drugs only at weekends and the consumption of synthetic drugs forms part of recreational enjoyment.

With regard to the consumption of amphetamines, two further groups of users were identified who differ markedly from the leisure consumers of the techno-culture. In particular in northern countries,

and especially Sweden, there is a population of dependent users who inject amphetamines. They differ markedly from the leisure users, are often on the margins of society and in terms of their overall situation are much more like the opiate-injecting drug users. Amphetamines are also used on occasions for a specific purpose, for example by students, drivers or night shift workers to enhance concentration and reduce tiredness or by women to induce weight loss.

1.3. Production and sale of synthetic drugs

The market for synthetic drugs in the European Union is served at present mainly through the illegal manufacture of these drugs, either within the European Union or in the central and eastern European states and the Baltic states. The European Union is one of the largest production regions of the world for the manufacture of amphetamines and Ecstasy-type stimulants. There are illegal laboratories in most Member States.

The market for synthetic drugs is highly profitable, with a production price of about ECU 0.3 per Ecstasy tablet contrasting with a resale price of ECU 7-18 (EDU). The manufacture of synthetic drugs is frequently in the hands of organized criminal groups who invest their laundered profits in the legal economy.

The manufacture of synthetic drugs requires the chemical precursors and the appropriate equipment. The equipment can be obtained everywhere at low cost and there is no register of purchasers. Drug manufacture is relatively simple and, in terms of size, such a laboratory can also be set up in a kitchen. Information on the manufacture of different drugs can easily be obtained through the Internet or specialist books. Many chemical precursors can be used for the manufacture of synthetic drugs. These chemicals are usually obtained from the chemical industries of the Member States or are imported from central and eastern Europe or Asia.

Synthetic drugs can be altered by exchanging individual molecules, such that the substance is no longer cocvered by controls. Thus it is theoretically possible to manufacture many drugs (designer drugs) which have a similar composition but differing, and often unknown, short and long-term effects and side-effects. Thus in 1996 and 1997, the designer drugs MBDB and 2-CB came on the market which did not appear on the list of prohibited substances in most Member States.

The illegal producers can respond to more stringent controls on precursors in the following ways:
. the precursors is illegally produced or traded,
- the way of making the synthetic drug is altered (different precursor),
- manufacture of other drugs where the precursors are not yet subject to controls.

As the production of synthetic drugs can basically take place everywhere, it mostly occurs in the vicinity of the consumers and there is no extensive long-distance trade. However, there is a regular traffic in these drugs across national frontiers within the European Union and with neighbouring countries.

While the manufacture and large-scale dealing is mostly in the hands of organized criminal groups, the small-scale dealing is often carried out by people who are themselves users and members of the relevant youth scene. It is thus often difficult in practice to distinguish between dealers and users.

1.4. Risks of synthetic drugs

High doses of amphetamines can produce side-effects such as nausea, vomiting, blurred vision and reduced pain response. Very high doses can lead to cardiac rhythm disturbances, cramps, overheating, strokes, coma and death.

The level of unwanted side-effects noted in the few tests carried out on MDMA (Ecstasy) is considerable. 10-15% of those tested had side-effects such as anxiety, delusions and confusion. Such a percentage would not be acceptable, for example, for licensing as a medicinal drug. Experiments on animals also showed that MDMA produces nerve damage. In addition there are indications that longer term repeated use of Ecstasy can cause severe liver damage.

Overall, however, there is little known about the side-effects and in particular possible long-term effects as the drugs are taken illegally and there have been hardly any controlled experiments with synthetic drugs.

The illegal manufacture and sale also mean that the user never knows exactly what substance is being taken and at precisely what dose, which of course constitutes an additional risk. The use of Ecstasy in conjunction with other drugs and alcohol is also a major problem.

The designer drugs constitute a further health risk. These substances, which are developed in order to circumvent existing prohibitions, are a completely unknown quantity in terms of their effect and their immediate and long-term risks. Users of these drugs thus turn themselves into pharmaceutical guinea-pigs.

There are additional risks when machinery is used or cars are driven under the influence of synthetic drugs. This factor is a particular problem as those attending raves often travel long distances to and from the dance events, thus potentially while they are under the influence of synthetic drugs.

2. National responses to the use of synthetic drugs

2.1. Legal bases

At international level psychotropic substances are covered by the 1971 UN Convention on psychotropic substances, which provides for a whole series of control measures. The psychotropic substances are divided into four categories in this Convention. MDMA (Ecstasy) and LSD are placed in category 1 (substances with a high risk of dependency, particularly serious risk for public health, little or no therapeutic use). The use of these substances is to be prohibited, except for scientific and, to a very limited extent, medicinal purposes. Manufacture, distribution and possession require prior authorization. Other amphetamine type stimulants belong to category 2 (risk of dependency with serious risks for public health, of little or modest therapeutic use), for which less strict controls are to be applied. The provisions of this convention are supplemented by the 1988 UN Convention against illicit traffic in narcotic drugs and psychotropic substances. Both conventions are in force in the majority of the Member States of the European Union, but not yet in all.

The classification of substances and the control of precursors in the individual Member States of the European Union is basically geared towards the obligations deriving from the UN conventions. There are, however, still differences in the detail as regards the number and composition of the categories of psychotropic substances and the penalties attached to the possession and consumption of or trafficking in the various substances.

2.2. Repression

Originally many Member States responded to the use of synthetic drugs predominantly by applying repressive measures, e.g. banning raves or closing clubs. This approach still remains part of police tactics under certain conditions in the Member States. Thus, in the Netherlands clubs can be closed for six months if dealing takes place in them. In France the organizers are made legally responsible for any drug use at their events.

In practice the responsible authorities in the Member States often waver between repression and tolerance. On the one hand they feel under an obligation to take repressive measures because synthetic drugs are illegal, but on the other hand there is the fear that the closure of clubs and other repressive measures could force the dance scene underground, thus making targeted prevention and damage limitation measures impossible and ultimately causing more harm than good.

It is therefore increasingly considered important to make targeted action against the criminal groups behind the production of and traffic in synthetic drugs the main aim of police activity. Up to now measures in the Member States have still been concentrated chiefly on the seizure of drugs, which has little long-term effect if it does not lead to the discovery of the underlying criminal organizations. Cooperation between the various national bodies and supra-national cooperation is particularly important for the success of this work. In some countries joint customs and police teams have already been formed to increase the effectiveness of the work. In the Netherlands, a special synthetic drugs unit was set up in November 1996, comprising staff from various bodies, such as the police, customs and tax investigation service.

2.3. Treatment and damage limitation measures

The users of synthetic drugs are hardly aware of the current advisory and treatment services for drug addicts. Where the use of synthetic drugs plays any part in the treatment of client, it is basically as a drug used in addition to other drugs which are causing the main problem. Users of synthetic drugs, however, usually do not take the view that they have a drug problem as ecstasy, for example, does not cause any physical dependency, the drugs are often only taken at weekends and the rest of their lives are not conducted in a socially conspicuous manner.

The limited take-up of the advisory services by users of synthetic drugs could also be because in the past it has been geared more towards those dependent on opiates and not to the specific needs of synthetic drugs users. These users have already shown that there is at least great interest in information on the effects and risks of synthetic drugs. Contact is also made with advice centres when users face proceedings for possession of drugs or dealing and they need legal advice.

Various Member States are therefore trying to reduce the risks of the use of synthetic drugs. The organizers of raves are, therefore, to be persuaded to keep certain rules, e.g. free availability of drinking water, first aid staff, good ventilation and 'chill-out' rooms. These measures are designed to reduce the risk of serious damage to health through over-exertion, overheating and too little liquid intake in conjunction with the use of drugs. Information packs for the drugs users which warn of special risk factors such as the use of drug cocktails and the consumption of alcohol at the same time are also drawn up and distributed.

In the Netherlands there is also the possibility of having the actual content of pills tested. This testing can generally be carried out in the laboratory so that warnings of potentially dangerous pills can be

passed on through an information campaign. However thre is also sometimes the possibility at music events for the individual user to have the contents of his or her particular pill tested.

2.4. Prevention

In the Member States of the European Union, preventive measures usually take place at four levels:
a) Advice and information are made available for the general public.
b) Information on the effects of using Ecstasy and synthetic drugs is integrated into the school curriculum.
c) Targeted activities, for example, drug-free dance events are organized for young people who have already experimented with synthetic drugs or who run the risk of doing so.
d) Mostly as part of a damage limitation policy, clubs and events are visited and information material, advice and support offered.

3. Measures at EU level

3.1. Cooperation to date

In various fields, synthetic drugs are already the subject of special cooperation under the third pillar, or are included in European Union measures in the drugs sector.

a) Control of the precursors

The relevant provisions for precursors are Council Regulation No 3677/90 of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances and Council Directive 92/109/EEC of 14 December 1992 on the manufacture and the placing on the market of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances.

These instruments cover a total of 22 drug precursors, of which eight are also used as precursors for synthetic drugs. Strict controls, precise documentation, authorizations for operators and cooperation between the authorities and operators are laid down.

In addition there are special agreements with various third countries and appropriate paragraphs in most of the association agreements which should prevent the diversion of drug precursors.

The Netherlands has drawn up a reference document which systematically lists and describes 70 different chemical substances which can be sued in the production of synthetic drugs.

b) Cataloguing of synthetic drugs

Since 1995 the Europol Drugs Unit has been using the LOGO data base to collect comprehensive information on ballistic profiles of the drugs seized in the Member States. In the catalogue of Ecstasy tablets, drawn up in September 1997, over 250 different pills were described and depicted.

On the basis of the Joint action of 29 November 1996 on the exchange of information on the chemical profiling of drugs, Member States have started to exchange information on the chemical profiling of drugs, including synthetic drugs. The Europol Drugs Unit collects this information and forwards it to all Member States.

c) Early warning system

With the Joint action of 16 June 1997 on the information exchange, risk assessment and the control of new synthetic drugs the Council has set up a mechanism which should enable the control measures which apply in the Member States to psychotropic drugs to be applied rapidly to new synthetic drugs. The existing Reitox network of the Monitoring Centre for Drugs and the national Europol units are responsible for collecting information. A committee of experts from the Member States and representatives of the Commission, the Europol Drugs Unit and the European Agency for the Evaluation of Medicinal Products take responsibility for the risk assessment. After submission of this assessment the Council can adopt a unanimous decision on what measures or controls should be applied to the new synthetic drugs. The Member States are then obliged to implement an appropriate decision in accordance with their national laws.

3.2. The Commission Communication

In its Communication on the control of synthetic drugs, the Commission states that it intends initially to propose measures in three areas.

a) A system to control the precursors

The Commission considers that close monitoring of the trade in precursors is an effective method of combating the new synthetic drugs. Such a control mechanism must differ from existing Community provisions, which it would be impossible in practical terms and undesirable to apply to precursors for synthetic drugs. The Commission cannot yet say what form this mechanism is actually to take and what substances are to be covered by it, but announces that appropriate documents are to be presented in October 1997. The submission of the proposals was, however, delayed and they were forwarded to Parliament on 20 February 1998.

b) Early warning system for new synthetic drugs

The Commission proposes that a new Technical Committee should be set up comprising representatives of the Member States and experts from the relevant bodies, under the chairmanship of the Commission, and that it should undertake the risk assessment of new synthetic drugs.

c) Classsification as a punishable offence

The Member States are to be obliged to make the production of new synthetic drugs classified as dangerous and the trade in these drugs a punishable offence.

The Commission also considers that it would be useful to examine whether further instruments should be introduced at a later stage. It does not specify what these instruments should be, but refers to national measures such as urgency procedures for the control of new drugs, controls of substance analogues, etc.

Furthermore, in particular in relation to the control of precursors, the Commission encourages close cooperation with the countries of central and eastern Europe and the Baltic states and the creation of networks of experts and law enforcement authorities.

3.3. Assessment of the Commission proposals

Two of the Commission's proposals have now largely been overtaken by events. An early warning system has already been created with the Council's Joint Action, although in a slightly different form from that proposed by the Commission. Article 5 of this Joint Action also provides that, after the risk assessment of the new synthetic drugs has been made, the Council can decide unanimously which synthetic drugs should be subject to control measures. The Member States are then obliged, in accordance with the Council decision and their national laws, to place the new synthetic drugs under new control measures and criminal penalties. Thus the Commission's proposal that Member States should be obliged to make the manufacture of and trade in synthetic drugs classified as dangerous a punishable offence would also be covered by this Council Joint Action, in a different and differentiated form.

What remains is the Commission's general proposal to create a separate mechanism to control the precursors of synthetic drugs. As the Commission does not specify either the number of the precursors to be controlled or the type of control only general comments can be made on the usefulness of a control on the precursors of synthetic drugs and the problems involved. A conclusive assessment is difficult as long as the number of basic substances, the number of precursors of those substances which might also have to be controlled, the legal uses of these substances and the necessary precision of a control are not limited. This question will therefore be considered below by means of a general assessment of possible measures to deal with the problem of synthetic drugs.

3.4. What measures could be useful at EU level?

When assessing the measures to be taken at EU level it should be borne in mind that the problems concerning synthetic drugs differ markedly from those of other drugs, in particular opiates. The user groups are different, the harm caused by use is not as far-reaching (no increased risk of AIDS, no crime associated with drug acquisition, no social marginalisation of users) and the production and dealing methods are different. The overlap comes, however, from the fact that production and trade in synthetic drugs is also controlled by organized criminal groups. What is needed, therefore, is to incorporate special and appropriate responses to the problem of synthetic drugs into the existing EU programmes or, where this is suitable, to develop special cooperation. The subsidiarity principle should also be taken into account.

a) Exchange of information and prohibition of synthetic drugs

It is clearly useful if efforts are made in various ways to collect more information on synthetic drugs and new trends, as for example through the LOGO project, DRCHIS and the Council Joint Action and the Monitoring Centre for Drugs.

It is generally felt that a mechanism is needed which alerts the responsible authorities to the development of new drugs trends and their possible risks. Such a system will probably run up against numerous difficulties in practice, ranging from the identification of an unknown trend to the question of how such information should be handled (could a report on a new trend make potential users aware of it in the first place?). An initial mechanism was created a few months ago with the Council's Joint Action and it remains to be seen how this early warning system will function in practice and what results it will produce.

This early warning system is mainly geared towards identifying new trends in order to be able to prohibit and control new drugs. It would however be sensible if there were to be links back to other

bodies, for example in the prevention or health sectors. This Council Joint Action should therefore be supplemented by such a mechanism.

It has not yet been made completely clear what can be achieved through control measures and the rapid inclusion of drugs in a list of banned substances and whether this could create new problems. On the one hand, a relevant basis in penal law is needed when measures have to be taken against criminal organizations dealing in these drugs. On the other hand it must be borne in mind that there are many different substances (apparently over 1000 hallucinogenic amphetamines) which, sooner or later, will have to be prohibited. It should also be noted that where clearly efficient methods have been found to cover new substances rapidly by bans (e.g. in the USA with a combination of an urgency procedure and controls of analogue substance), while fewer new drugs come onto the market there are certainly no fewer illegal substances being traded.

Before considering further-reaching measures at EU level, there would seem to be an urgent need to analyse precisely the effectiveness of different systems.

b) Control of basic substances

There are no clear figures in the literature about the actual number of precursors for synthetic drugs. In its communication the Commission refers to up to 64 substances which can be used for the manufacture of synthetic drugs and which should therefore be subject to control measures. On the other hand can precursors also be manufactured from other substances? Should these also be subject to controls? What form would this take and how practical sould this be?

What is the purpose of the controls on basic substances? Clearly such control measures can be useful for police activities, as they provide information which could lead to the exposure of criminal organizations, production sites and dealer rings. The question also arises as to whether such an objective could also be achieved through the establishment of close cooperation between the police and customs authorities on the one hand and the chemical industry on the other (chemical liaison officers).

Such controls should of course mean that a diversion of these substances is made more difficult if not impossible. Can this goal be reached and is there a reasonable balance between the effort involved and the results achieved?

It remains to be seen whether the proposals announced by the Commission for the control of precursors answer these questions convincingly.

c) Police measures

The concentration of police activities on the crushing of organized criminal groups which control the production of and trade in synthetic drugs and priority for this activity over the detection of small-scale dealers and the seizure of drugs is increasingly considered to be fundamental. An exchange of experiences between the competent authorities of the Member States on police goals and tactics could thus also be a task for the European Union. The Europol Drugs Unit can play an important role in this process and existing programmes such as OISIN (programme for the exchange and training of and cooperation between law enforcement authorities) could be used to this end.

Article K2(1)(a) of the Amsterdam Treaty makes provision for operational cooperation of authorities, including the police, in the prevention, detection and investigation of criminal offences. After ratification, appropriate structures for the prosecution of organized criminal groups in the synthetic drugs sector should be developed.

A further important factor is better coordination of preventive and health measures with policing activities and a coordinated assessment of what specific aims should be given priority.

d) Prevention and damage limitation

The European Union has an additional task in the assessment and exchange of experiences on the results of preventive and damage limitation measures and in supporting relevant activities. With the Amsterdam Treaty the reduction of drug-related health damage and information and prevention measures (modified Article 129 of the EC Treaty) become a specific task for the Community.

The special problems of synthetic drugs should be taken into account in the framework of the Community's action programme for the prevention of drug dependency and in other programmes which have a bearing on health. Member States' experiences concerning damage to health from synthetic drugs should be assessed jointly It should also be ascertained whether measures which are already applied in some Member States to limit damage have been effective and what prevention and information measures effectively reach the users of synthetic drugs. The European Monitoring Centre for Drugs should include such investigations in its programme of work as soon as possible.