REVIEW ARTICLE

Narcotic and Psychotropic Substances Are … – a Proposal for a Legal Definition of Illicit Drugs in the Czech Republic

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SUMMARY: The article responds to the legal situation following the publication of a decision of the Constitutional Court (File Ref. Pl. ÚS 13/12, dated 23rd July 2013) to the effect that it is unconstitutional for a "quantity greater than small" of illicit drugs (referred to as "narcotic and psychotropic substances" in the Czech laws) to be determined by a government regulation (by-law). The authors assume that because of the absence of a general definition of illicit drugs, including a definition of the principal characteristics of this category of substances, in the Czech legislation a similar judgement of the Constitutional Court may be expected sooner or later with regard to the legal determination of "what illicit drugs are" in terms of the criminal law. The authors attempt to summarise the effective international and supranational legislation and practice in selected developed countries while proposing a legislative definition of what should be considered illicit drugs for further expert and public debate.

KEY WORDS: NARCOTIC AND PSYCHOTROPIC SUBSTANCES – NEW PSYCHOACTIVE SUBSTANCES – LEGISLATIVE DEFINITION – RISK ASSESSMENT

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1 BACKGROUND

On 23 August 2013 the decision of the Constitutional Court File Ref. Pl. ÚS 13/12 was promulgated in the Collection of Laws under No. 259/2013 Coll. It quashed some of the stipulations of Section 289 (2) of Act No. 40/2009 Coll., the Penal Code, as well as annulling the effect of the stipulations of Section 2 and Schedule No. 2 incorporated into Government Regulation No. 467/2009 Coll., specifying for the purposes of the Penal Code what constitutes a poison and defining the quantities greater than small for narcotic substances, psychotropic substances, any preparations containing such substances, and poisons. This effectively revoked parts of legal regulations which prescribed quantities greater than small for the individual illicit drugs, i.e. the levels constituting the legal thresholds for persons in unauthorised possession of such substances for personal use to be held liable for administrative or criminal offences. In support of its decision, the Constitutional Court referred to the Charter of Fundamental Rights and Freedoms, Art. 39, and the Constitution of the Czech Republic, Art. 78, which stipulate that only a law designates what constitutes a criminal offence, and it is exclusively the parliament that is competent to pass laws, not the executive governmental bodies and their instruments, including government regulations. The Constitutional Court argues that a government regulation would be acceptable in this respect if it further specified statutory stipulations governing the area at least in general terms. In this particular case, however, the government had nothing to specify on the basis of the empowering provision, as the law prescribed no guidance whatsoever as to how to proceed with setting threshold quantities.

An amendment to Act No. 167/1998 Coll., on addictive substances (the Act on Addictive Substances), effective since January 2014, caused the schedules thereto containing a list of illicit drugs also to be transferred to Government Regulation No. 463/2013 Coll., on the lists of addictive substances. The change was primarily driven by efforts to accelerate the process of incorporating new psychoactive substances into the list of controlled drugs. Nevertheless, the question arises of whether the instance of moving the lists of illicit drugs from the law (or schedules thereto) to by-laws does not provide grounds for also applying the objections of the Constitutional Court concerning the legislative solution to threshold quantities of individual drugs to the definitions pertaining to illicit drugs for the purposes of determining the terms of criminal liability which are laid down in a government regulation.

This issue has not been addressed yet. The reason is that the Constitutional Court considers cases on the basis of a petition for the institution of proceedings (see the Constitution of the Czech Republic, Art. 83 et seq., Regulation No. 1/1993 Coll., and Act No. 182/1993 Sb., on the Constitutional Court). It is possible, however, that a petition for a review of the constitutionality of the way the term "narcotic and psychotropic substances" is defined for criminal purposes will be lodged at some time in the future. It is particularly likely with respect to the issue of so-called new psychoactive substances (see further below).

2 DEFINITION OF NARCOTIC AND PSYCHOTROPIC SUBSTANCES (ILLICIT DRUGS) IN THE CURRENT CZECH LEGISLATION

The basic legal framework for the handling of narcotic and psychotropic substances is the Act on Addictive Substances. While the introductory provisions of Section 2 of that law stipulate what a preparation, poppy straw, cannabis, coca bush, and the export and import of addictive substances are, no general definitions of the individual addictive substances or their characteristics are specified there. For the purposes of this Act, addictive substances mean narcotic and psychotropic substances listed in Schedules 1 to 7 attached to the Government Regulation on the list of addictive substances (Section 2a of the Act on Addictive Substances). The empowering provision of the Act (Section 44c) only adds that the lists contain substances controlled by international conventions and other substances which come under control because of the scope of their abuse or because of their immediate or indirect adverse effect on health. All the same, the schedules of Government Regulation No. 463/2013 Coll. to which the Act on Addictive Substances refers constitute simple inventories of substances and generally mirror the structure of the schedules of the 1961 Single Convention on Narcotic Drugs and the 1971 Convention on Psychotropic Substances, which the Czech Republic is bound by.[1] The Penal Code, i.e. Act No. 40/2009, also works with the term 'addictive substance', which may be somewhat confusing. In comparison with the Act on Addictive Substances, Section 130 of the Penal Code defines addictive substances in considerably broader terms, taking into account their properties. Besides controlled drugs, the definition of addictive substances for the purposes of the Penal Code encompasses legal substances such as alcohol and other substances that can have adverse effects on a person's mental condition or their regulatory and cognitive abilities and social behaviour. According to Section 4 of the Act on Addictive Substances, it is not allowed to handle narcotic and psychotropic substances and preparations without a permit. Without a permit, any such handling is deemed unauthorised and can constitute e.g. the crime of the unauthorised production and other handling of narcotic and psychotropic substances and poisons (Section 283 of the Pe-

1/ The Single Convention on Narcotic Drugs of 1961, published by virtue of Decree of the Minister of Foreign Affairs No. 47/1965 Coll., and the Convention on Psychotropic Substances of 1971, published by virtue of Decree of the Minister of Foreign Affairs No. 62/1989 Coll.

nal Code). Specific substances which are considered "narcotic and psychotropic" for the purposes of the Penal Code and for subsequent consequences in terms of the criminal law are set out in the Act on Addictive Substances (Section 289 [1] of the Penal Code). One of the core tenets of criminal law is the *nullum crimen sine lege (no crime without law)* principle. Its importance is underlined by the fact that it is explicitly referred to in Art. 39 of the Charter of Fundamental Rights and Freedoms (Regulation No. 2/1993 Coll.). In simple terms, this principle holds that it is the law only that determines which act is a criminal offence. All the conceptual elements of each criminal offence which delineate the boundaries of criminal liability must thus be clearly and accurately set out in the penal code or in another relevant piece of legislation (Act). While certain features may still be specified in a bylaw, such a regulation must always be derived from a law (Act) that governs the feature at least in general terms (Šámal et al., 2012). Nevertheless, bylaws *per se* cannot determine the terms of criminal liability. Significantly, it was the contradiction of the *nullum crimen sine lege* principle that the Constitutional Court used to support its arguments in its above-cited decision. As regards the definition of narcotic and psychotropic substances, in line with this principle, the Penal Code refers to the Act on Addictive Substances, which, however, refers to the schedules of a bylaw, and this cannot be considered sufficient in terms of the criminal law. The absence of a detailed statutory definition of the term "narcotic and psychotropic substances" (in the form of a description of the properties of the substances which could also be used as criteria for including substances in the lists of illicit drugs) in the effective legal regulation appears problematic, particularly with respect to new psychoactive substances which are not controlled under the international conventions but which each country decides to control in its own way by means of its respective national legislative system.

3 NEW PSYCHOACTIVE SUBSTANCES

The term "new psychoactive substances" (NPS) refers to psychoactive substances of various chemical groups which are not controlled under the international UN conventions and are generally not controlled as narcotic and psychotropic substances at the national or EU levels either. NPS cover the full spectrum of effects, ranging from stimulating, euphorising, and hallucinogenic to depressant. The first significant appearance of NPS on the drug scene dates back to the 1990s and is associated with Alexander Shulgin and his co-workers engaging in the development and testing of stimulating and hallucinogenic compounds (Shulgin & Shulgin, 1991, 1997). It was only at the beginning of this century that a boom in the supply of NPS was experienced; in recent years international and national control mechanisms have identified hundreds of new substances, including those derived from the well-known controlled drugs (Carroll, Lewin, Mascarella, Seltzman, & Reddy, 2012; Páleníček, Kubů, & Mravčík, 2004). In Europe these new substances are collectively referred to as "new psychoactive substances", "legal highs", or "research chemicals", while in the USA they are often called "bath salts"; in the Czech Republic they are known as "*nové psychoaktivní látky*" (new psychoactive substances), "*nové syntetické drogy*" (new synthetic drugs), or "*nové drogy*" (new drugs).

In 2014 101 new psychoactive substances were identified in the EU by the Early Warning System. When compared to previous years, it is the largest number of substances reported within a single year (81 in 2013, 73 in 2012, and 49 in 2011). The largest groups comprised synthetic cannabinoids and synthetic cathinones (EMCDDA, 2015). The Czech Republic reported the identification of 19 new psychoactive substances to the Early Warning System in 2014; 13 of them were identified for the first time in the Czech Republic and for one of them it was the first time it had occurred within the EU. They were most commonly cathinones (six substances), phenetylamines (four), and arylcyclohexylamines (three) (Mravčík, Grohmannová, Běláčková, & Zábranský, 2015; Národní monitorovací středisko pro drogy a závislosti, 2015).

NPS are mainly exported from Asian countries, especially from China and India, and they are processed and packaged in Europe. They are sold under various trade names, chemical names, or abbreviations derived from their chemical denomination. NPS are often offered via freely accessible online markets. In recent years the trade in NPS has increasingly been shifting to anonymised segments of the internet which remain hidden from standard browsers and which are also used for dealing in illicit drugs and other illegal commodities (EMCDDA, 2015).

The increasing emergence of ever-newer psychoactive substances has caused a growing number of countries to control a growing number of NPS which, paradoxically, results in the production, supply, and use of additional substances which were not previously known or widespread. Hence, NPS pose a challenge for the existing prohibitionist system of drug control at the global, European, and national levels (Běláčková, Mravčík, & Zábranský, 2011; Griffiths, Evans-Brown, & Sedefov, 2013; Hughes & Griffiths, 2014), as well as raising questions about its effectiveness (Lancet editorial, 2010; Measham, Moore, Newcombe, & 2010).

4 DEFINITION OF ILLICIT DRUGS AND CRITERIA FOR ASSESSING THEM WITHIN THE UN INTERNATIONAL CONTROL SYSTEM

As indicated above, the Czech legislation concerning the control and regulation of narcotic and psychotropic substances is greatly influenced by the obligations of the Czech Republic ensuing from international documents. In this re-

spect, the essential documents (not only for the Czech Republic) comprise UN drug conventions, especially the Single Convention on Narcotic Drugs of 1961 and the Convention on Psychotropic Substances of 1971.[2] The Single Convention contains lists of substances regarded as narcotic while laying down control measures which the signatories to the Convention are obliged to adopt in handling such substances. The Convention includes four schedules with lists of substances determining the systems of control set out in Article 2 thereof. Unlike the previous international drug control documents which the Single Convention replaced, changes and additions to these lists can be made without going through the lengthy process of having an amendment to the entire Convention approved. The mechanism of changes which can be initiated by any of the parties to the Convention or the World Health Organisation (WHO) is set out in Article 3 of the Convention. The Convention on Psychotropic Substances is of a similar nature. It specifies the system of control for psychotropic substances listed in its Schedules I to IV. The lists can also be modified as needed, following the process stipulated in Article 2. Both conventions leave it up to the WHO to determine whether a substance should be subjected to international control or whether it should be excluded from the international control regime. For these purposes, the WHO established the Expert Committee on Drug Dependence (ECDD).

In Article 2, Item 4, the 1971 Convention explicitly provides that it is the responsibility of the WHO to find:

- whether a substance has the capacity to induce a state of dependence and stimulate or depress the central nervous system, whether it can result in hallucinations or disturbances in motor functions, thinking, behaviour, perception or mood, or
- has the capacity to lead to similar abuse and similar ill effects to a substance which is already controlled, and
- whether there is sufficient evidence that the substance is being or is likely to be abused so as to cause health or social harm (determining the degree or likelihood of abuse).

According to these international conventions, control should apply to those substances which may produce "similar abuse and similar ill effects" to those already included in the schedules. In the event that a new substance displays similarities to multiple substances listed in the schedules of both conventions, the ECDD primarily examines the possibility of applying the control measures according to the 1961 Convention. If that alternative is ruled out, it proceeds to assess the substances against the criteria laid down by the Convention of 1971 (Hallam, Bewley-Taylor, & Jelsma, 2014; Health Canada, 2014; WHO, 2010).

The results of the assessment of a substance under consideration, including the extent of its abuse, the degree of seriousness of the public health and social problems, and the degree of therapeutic usefulness of the substance, together with recommendations on control measures, are submitted by the WHO to the UN Commission on Narcotic Drugs (CND), which is competent to decide whether a change in the lists of substances incorporated within the international conventions should be made. The CND convenes in Vienna annually, in March. Maintaining prescribed regional representation, it consists of representatives of 83 countries which are replaced at regular four-year intervals. The Czech Republic was also elected a member of the CND for the 2014-2017 period.

Any decision of the Commission concerning a change in the schedules on the basis of a proposal made by a party to the Convention is subject to review by the Economic and Social Council of the United Nations.

While undoubtedly more effective than amendments to the Conventions, this mechanism still involves a rather lengthy and formalistic process, which poses a problem particularly as far as new psychoactive substances are concerned.

More effective monitoring and exchange of information about these substances on the international level should be facilitated by the Early Warning Advisory (EWA) platform, administered by the United Nations Office for Drugs and Crime (UNODC).[3] In addition to promoting international control, the UNODC calls upon the member states to apply more flexible monitoring and control mechanisms at both the regional and national levels (UNODC, 2013).

While the Conventions differ in their criteria for listing substances in specific schedules, it can be summarised that the schedules reflect the extent of the risk and harm which the individual substances (potentially) present and whether they can be used or are being used for therapeutic purposes (*Figure 1*). The groups can be characterised as follows:

- the most rigorous control measures apply to substances of which the abuse constitutes an especially serious risk to public health and which have very limited, if any, therapeutic value;
- less strict measures apply to substances of which the abuse constitutes a substantial risk to public health and which have little to moderate therapeutic value;
- control measures of low strictness apply to substances of which the abuse constitutes a substantial risk to

2/ The body of the UN drug conventions also encompasses the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (promulgated by a communication of the Czech Ministry of Foreign Affairs under No. 462/1991 Coll.), which, however, does not define narcotic and psychotropic substances.

3/ https://www.unodc.org/LSS/Home/NPS

Figure 1 / Obrázek 1
Schedules contained in the UN drug control conventions
Seznamy v rámci úmluv OSN o kontrole drog

Single Convention on Narcotic Drugs, 1961

Schedule I	Schedule II	Schedule III	Schedule IV
Substances with high dependence-inducing potential and liable to abuse and precursors easily convertible into substances of a similar dependence-inducing capacity and liable to abuse (such as cannabis, opium, heroin, cocaine, coca leaves, and oxycodone)	Substances with lower dependence-inducing potential and liable to of abuse in comparison with substances included in Schedule I.	Preparations containing small quantities of narcotic substances; they are unlikely to be abused and are exempted from the majority of control measures applicable to the drugs they contain (e.g. < 2.5% of codeine, < 0.1% of cocaine)	Certain substances with "particularly dangerous properties" and little or no therapeutic value (such as cannabis and heroin) which are also listed in Schedule I

Convention on Psychotropic Substances, 1971

Schedule I	Schedule II	Schedule III	Schedule IV
Drugs posing a high risk of abuse and a particularly serious threat to public health, with little or no therapeutic value (such as LSD, MDMA, and cathinone)	Drugs posing a risk of abuse and a serious threat to public health which have a low to moderate therapeutic value (such as dronabinol and amphetamines)	Drugs posing a risk of abuse and a serious threat to public health which have a moderate to high therapeutic value (such as barbiturates and buprenorphine)	Drugs posing a risk of abuse and a moderate threat to public health, with a high therapeutic value (such as tranquillisers, including diazepam)

Source: WHO (2010)
Zdroj: WHO (2010)

public health and which have moderate to great therapeutic value;
- the least strict regime applies to substances of which the abuse constitutes a smaller but still significant risk to public health and which have a therapeutic value from little to great.

It is apparent that the strictness of the control regimes applied to some of the substances does not match the degree of risk they actually pose. Inconsistencies can be found both within the group of illicit drugs and with regard to comparing those with tobacco and alcohol, despite the fact that such comparisons take account of indicators pertaining to both individual risks (such as fatality, comorbidity, dependence-inducing potential, loss of tangible assets, and damage to social ties) and social risks (such as crime, economic costs, and loss of social cohesion) which go hand in hand with the substances in question (Nutt, King, & Phillips, 2010; Taylor et al., 2012; van Amsterdam, Opperhuizen, Koeter, & van den Brink, 2010).

The situation becomes even more complicated with new psychoactive substances. While there is enough evidence on which to evaluate the danger posed by "old", "traditional" drugs, given the relatively long history of their use, the lack of information about the risks of NPS is of major concern.

5 CRITERIA FOR ASSESSING AND CONTROLLING NEW PSYCHOACTIVE SUBSTANCES IN THE EU

In order to share information and develop a joint strategy for assessing the risk posed by NPS and introducing mechanisms to control them, in 1997 the Council of the EU adopted a Joint Action concerning new synthetic drugs (No. 97/396/JHA). This initiative was aimed at synthetic drugs which are not controlled by the international conventions. The joint action gave rise to the Early Warning System (EWS), coordinated by the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) in association with Interpol.

Responding to the developments in the supply of new drugs, the Joint Action on new synthetic drugs was replaced in 2005 by the Council Decision on the information exchange, risk assessment, and control of new psychoactive substances (No. 2005/387/JHA), which, in addition to new synthetic substances not accounted for by the international convention, deals with new narcotic and psychotropic substances in general, including veterinary and human medici-

nal products which are not subject to control measures laid down in the international conventions. It also addresses the re-emergence of some of the "old" psychotropic substances and/or high-risk drug-using practices (Council of the European Union, 2005). The Czech Republic joined the EWS-related activities as part of its EU accession process in 2002; a dedicated multidisciplinary working group, coordinated by the National Monitoring Centre for Drugs and Addiction, was appointed by the Government Council for Drug Policy Coordination (GCDPC) for this purpose.

The EMCDDA sets out six main indicators to assess the harm of any NPS and to decide whether the formal risk assessment process should be launched in relation to the NPS under consideration. Such a process may subsequently lead to issuing recommendations for member states to control such a substance as an illicit drug (European Monitoring Centre for Drugs and Drug Addiction, 2007):

- the number and amount of seizures
- evidence of (international) trafficking
- evidence of the involvement of organised crime in production and distribution
- the toxicological and pharmaceutical properties of the substance or their estimates on the basis of an analogy with better-studied existing compounds
- evidence of the potential for further (rapid) spread of the substance
- evidence of use, intoxications, or fatalities in connection with the substance

EU member states differ in their responses to the challenge of assessing the risk and conducting effective control of NPS. Three approaches, which do not necessarily contradict each other, can generally be identified: (i) NPS are controlled on the basis of consumer protection laws and legislation governing pharmaceuticals (e.g. Poland, Austria, and the United Kingdom), (ii) the existing laws and legislative processes are extended and/or adjusted (e.g. Hungary, Finland, and the Czech Republic, too), and (iii) completely new legal regulations specifically intended to control NPS are introduced (e.g. Austria and Portugal). All such cases involve a prohibitory scheme, or this scheme being extended to cover the hitherto licit substances. In order to accelerate the legislative process, some countries have introduced "temporary control regimes" featuring lists of potentially risky substances with a limited period of validity (Latvia, Slovakia, the United Kingdom, and Hungary). This measure works as a legislative tool for a practically immediate reduction of the availability of NPS on the market, as well as making it possible to collect topical information needed for a competent decision about permanent control measures. The only country in the world whose legal framework has departed from the prohibitory approach is New Zealand, where psychoactive substances with a demonstrably low risk for users have come under governmental regulation since 2013 (the law permits their manufacturing and sale under certain licensing conditions) (EMCDDA, 2009). However, their attempt at a non-prohibitory approach fell victim to election-related "politicking" (Legal Highs NZ, 2015); on 8 May 2014 these substances became effectively illegal even there, as the regulatory requirements assumed a prohibitive effect because of the extremely high cost of the licensing process for "new substances" and, in particular, the ban on using laboratory animals, or performing tests on them, to demonstrate safety/harm to health (this gave rise to a drug "catch-22" situation in New Zealand). In addition, all the licences for low-risk and low-effect psychotropic substances that had been granted were revoked (Pychoactive Substances Regulatory Authority, 2014).

In July 2011 the European Commission submitted an evaluation report on the implementation of the existing European legislation, i.e. Council Decision 2005/387/JHA on the information exchange, risk assessment and control of new psychoactive substances. While finding this legislative tool useful, the report noted its gaps with regard to the scope and complexity of the issue. A new draft was prepared on the basis of this evaluation. However, when discussed by the Horizontal Working Party on Drugs of the Council of the EU (the Horizontal Drugs Group, HDG), it did not receive sufficient support from member states. Although this agenda was raised on more occasions during the HDG sessions, consensus was not reached. The subject of the debates was the very legal substance of the new legislation and the consequences it entails. The recent (May 2015) vote by the Committee of Permanent Representatives in the European Union (Comité des Représentants Permanents, COREPER) in favour of the effort to develop a brand new piece of legislation can be considered a milestone in the relatively long process of creating a new legal framework. It should provide the basis for a system resting on four pillars: (1) a simple system of information exchange among member states, the EMCDDA, and Europol, (2) risk assessment procedures aimed at identifying NPS-related risks, (3) temporary bans in emergencies which make it possible to effectively achieve the immediate reduction of the supply of NPS by means of implementing regulations, and (4) criminal sanctions for the production and sale of NPS (European Commission, 2015).

6 CONCLUSION – PROPOSAL FOR DEFINING ILLICIT DRUGS IN THE CZECH ACT ON ADDICTIVE SUBSTANCES

In particular, the absence of a general definition of illicit drugs ("narcotic and psychotropic substances") from the Czech legal framework, or the definition of the characteristics which a substance must possess to be declared an illicit drug, poses a problem in terms of controlling substances

which are not listed in schedules to the international conventions. In addition, it might be found unconstitutional in terms of the criminal law to have illicit drugs defined in a government regulation only. The solution may be to define narcotic and psychotropic substances in the Act on Addictive Substances while laying down the procedure for assessing substances before including them in schedules to the government regulation. The Act on Addictive Substances would thus determine specific properties for a substance to be considered narcotic and psychotropic, as well as providing guidance on how to assess substances for the risks they may pose.

We therefore suggest that the Act on Addictive Substances should define narcotic and/or psychotropic substances "as natural or synthetic psychoactive substances of which the handling should be controlled in the public interest because of their negative health and/or social effects on individuals and the community."

We further propose that the empowering provisions of the Act on Addictive Substances should be extended to include the description of the procedure for assessing the substances. It could read as follows:

"Prior to including a substance in Schedules 1 to 7 to its regulation, the Government will consider whether the substance stimulates or depresses the central nervous system, whether it induces hallucinations or affects motor functions, cognition, behaviour, perception or mood, whether it is capable of inducing dependence, whether it may have adverse effects, or whether it is capable of causing harm to health and social functioning. It also considers information pertaining to supply, production, trafficking, distribution, use, intoxications, and deaths associated with the substance. The Government also takes into account whether the molecular structure of the substance makes it capable of inducing a biological response similar to that produced by the substances controlled under the Single Convention on Narcotic Drugs and the Convention on Psychotropic Substances or the substances of which the control was recommended by virtue of Council Decision 2005/387/JHA of 10 May 2005, on the information exchange, risk assessment and control of new psychoactive substances. Additionally, the Government takes account of whether the substance can be or is used for therapeutic or other legitimate purposes." A detailed procedure can be set out in a bylaw or the statutes or the code of practice of a relevant expert body responsible for the actual assessment of substances. A draft version of such a procedure, including an outline of risk assessment processes at the international level and in other countries, was elaborated in a technical monograph on new psychoactive substances (Mravčík et al., 2015).

It would be advisable for the Act on Addictive Substances to incorporate a temporary control regime involving a list of narcotic and psychotropic substances with a time-limited validity in order to reduce the supply of NPS on which little information is available for risk assessment purposes and which are reasonably feared to present a potential risk of health and/or social harm to individuals and the community. The NPS would be placed on this temporary list, and controlled, until sufficient information is collected for assessing their risks and making further decisions accordingly. After a certain period, a substance may be included in the list of illicit drugs ("narcotic and psychotropic substances"), i.e. in a relevant schedule to the government regulation, or it may prove pointless to control the substance, and its status of a controlled substance expires.

In April 2015 the above proposals were discussed within the interdepartmental and interdisciplinary working group of the Government Council for Drug Policy Coordination (GCDPC), which was established in 2013 in order to analyse the situation and subsequent action following the Decision of the Constitutional Court, No. 13/12, dated 23 August 2013, and which also addresses other aspects of the legal framework for the regulation and criminal prosecution of the handling of illicit drugs. After being discussed at this expert level, the final draft amendment to the Act on Addictive Substances concerning the definition of narcotic and psychotropic substances should be submitted to the GCDPC and subsequently to the Government with a request for it to enter the legislative process.

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