

THE NOT-SO-BALANCED APPROACH

Policy Responses to New Psychoactive Substances



DRUG
reporter



*EuropeanDrug
PolicyInitiative*

OVERVIEW:

This report aims to assess the various policy responses to new psychoactive substances (so called “legal highs”), within five European countries - Hungary, Poland, Portugal, Romania and Serbia - from the perspective of researchers, service providers, law enforcement officials and activists working with the most affected communities of people who use drugs.

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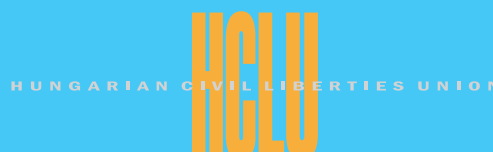


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INTRODUCTION

According to the definition of the European Monitoring Centre on Drugs and Drug Addiction (EMCDDA), a new psychoactive substance is a drug “in pure form or in preparation, that is not controlled by the United Nations drug conventions, but which may pose a public health threat comparable to that posed by substances listed in these conventions¹”. These drugs – popularly known as “legal highs” or “designer drugs” - have in recent years occupied a prominent place on the agenda of the European Union.

The emergence of drugs not controlled by international conventions is not, however, a new phenomenon. When heroin was banned in 1925 by the International Opium Convention, new morphine derivatives were developed to provide a legal replacement². There is good reason to expect that whenever restrictions are placed on a substance for which there is a significant popular demand, smart entrepreneurs will try to modify its molecular structure in order to create a legal substitute drug, and thereby avoid administrative or criminal sanctions.

The globalisation of drug markets, however, together with access to advanced communication technologies, and (paradoxically) the successful international interdictment efforts of law enforcement authorities, have led to an unprecedented boom in the use of new psychoactive substances (NPS) in the first decade of the 21st century. In 2007,

fewer than twenty NPS were being recorded in the European Union annually. From 2008 onwards, there was an exponential growth in the number of registered NPS, with more recorded each year than the previous year. In 2012, the number of newly-registered NPS reached an all-time high of 73 substances³.

The NPS phenomenon poses a significant challenge for policy-makers, for many reasons. NPS are not easily detected and identified, their psychopharmacological effects are unknown due to lack of research, therefore the public health and social care system is not prepared to deal with their problematic use. The legislative procedure to bring them under legal control takes longer than the time needed to design a new substance – so designers are always a step ahead of legislators. The control measures themselves can have unintended consequences, such as stimulating the search for legal substitutes, or pushing the substance and its users into the black market, where criminal organisations reap the financial benefits.

There has been no systematic analysis of policy responses to NPS in the EU. Member states have experimented with various legislative solutions⁴. Some countries have amended their drug laws and introduced the term “substitute drug” (e.g. Poland);

1 Responding to new psychoactive substances. EMCDDA, Lisbon, 2011. 1.

2 “Esters of Morphine”. UNODC Bulletin on Narcotics (2): 36–38. 1953.

3 2012 Annual report on the state of the drugs problem in Europe
EMCDDA, Lisbon, November 2012. 90.

4 Controlling new psychoactive substances.
EMCDDA, Lisbon, 2013.



A product containing synthetic cannabinoids. (Picture: Spice: Schorle, Wikipedia)

others have required the registration of “smart shops” in order to ban the distribution of NPS (Romania); while others again have drawn up generic lists of substances, in order to prevent the easy transformation of controlled substances into legal drugs (Hungary).

The impact of these laws is not monitored and evaluated, and we have even less information on the scale and impact of other – public health and social – interventions aimed at prevention, treatment and harm reduction.

In 2013, the European Drug Policy Initiative⁵ of the Hungarian Civil Liberties Union (HCLU) conducted a study in five EU mem-

ber and candidate states - Hungary, Poland, Portugal, Romania and Serbia - to assess the various policy responses to NPS, from the perspective of researchers, service providers, law enforcement officials and activists working with the most affected communities of people who use drugs. With so little available research data on the NPS phenomenon, information gathered from professionals working on the ground has an indisputable value and significance in identifying the diversity of NPS-related problems in different settings and geographic areas, and the perceived impact of policy responses.

5 More information about the EDPI project:
<http://drogriporter.hu/en/edpi>

RESEARCH DESIGN, METHODOLOGY

Our research had three aims. First, to review trends in NPS use, and related harms in the target countries. Second, to assess the impact of existing policy responses to the NPS phenomenon. Third, to put forward recommendations on the best possible policy responses.

We have worked with NGO partners in each of the five target countries to facilitate the research. The following NGOs, with a broad range of experience in the field of drug policy in their separate countries, contributed to designing the questionnaires, identifying and interviewing key respondents, as well as translating and analysing the responses:

ReGeneration, based in Belgrade, Serbia

Romanian Harm Reduction Network, based in Bucharest, Romania

Hungarian Civil Liberties Union, based in Budapest, Hungary

Polish Drug Policy Network, based in Warsaw, Poland

APDES, based in Porto, Portugal

We asked our NGO partners to complete a questionnaire, whose purpose was to review the current situation in the partner countries in the field of new psychoactive substances (NPS), in order to provide a “baseline” for analysis and to get to know the general characteristics of substance use in the partner countries. The questionnaire covered four topics: the basic situation in respect of NPS, the legal framework of substance use in general and of NPS, substance use patterns in the individual country, and a few questions about the early warning system.

102 semi-structured interviews were conducted during the spring of 2013 among key experts. For the purpose of the interviews, we asked our NGO partners to identify at least 20 key experts on the NPS phenomenon in their respective countries. We instructed them to ensure that experts were selected from a variety of fields and professions, so that the results would reflect views from multidisciplinary perspectives. Interviewees included medical doctors, psychotherapists, psychiatrists, social workers, prevention and education professionals, law enforcement officials, and service clients.

Main areas of expertise/field of work reported by interviewees according to country

	Poland	Hungary	Portugal	Serbia	Romania
Harm reduction/Outreach	9	11	7	4	4
Treatment/Social reintegration	12	4	6	9	11
Criminal justice/Law enforcement	5	2	1	2	2
Prevention/Education	5	2	3	4	2
Researcher/Academia	6	3	4	5	1
Drug User/Club or Shop Owner	0	1	4	4	5
Total Number of Interviewees	25	17	17	23	21



NPS are often distributed as “bath salts”, “plant food” or other products “strictly not for human consumption”. (Picture: FrogE Magic Plant Food: Raquel Baranow)

666MONEY



An outreach worker from the Blue Point needle and syringe program in Budapest collects needles abandoned by NPS users, who inject much more frequently than heroin users. For more information, see the HCLU Drugreporter's movie, "[Budapest at the edge of an HIV explosion?](#)" (Picture: Róbert Csák)

TRENDS IN NEW PSYCHOACTIVE SUBSTANCE USE

THE MOST PREVALENT NEW PSYCHOACTIVE SUBSTANCES

Two main groups of NPS were identified by respondents in all countries: Firstly, synthetic cannabinoids, mostly sold as incense, and marketed under various brand-names (eg. Spice). Although distributors often imply that the product contains pure herbal or “ethnobotanical” ingredients, this is really no more than a marketing ploy. In reality, these products contain various types of synthetic cannabinoid receptor agonists produced in laboratories. The most common method of use is smoking the substance, either as a cigarette or in a pipe. Such drugs mimic the psychopharmacological effects of THC, the main psychoactive ingredient in cannabis. However, most of the experts working for public health or social services point out that undesirable effects occur more often than with natural cannabis products.

The other group of substances comprises synthetic stimulants, especially cathinones (such as mephedrone, MDPV, penthedrone etc.) and amphetamine-type stimulants (such as F-FA). In its natural form, cathinone is a monoamine alkaloid found in the shrub *Catha edulis* (khat). Synthetic ring-substituted cathinone derivatives are among the most abundant NPS. These substances are marketed under various brand-names, as bath salts, plant food and other products not for human consumption. They are sold in powder, crystal or pill form, and most users tend to snort or swallow them, though in some countries a significant number of people inject them. There is very little knowledge on the pharmacology of these sub-

stances. According to reports from users, these drugs mimic the effects of classic illegal stimulants like cocaine, amphetamine and MDMA. Users particularly value their euphoric and empathogenic effects.

The NPS market is characterised by constantly fluctuating availability, prices and types of substances. This instability is caused by the changing patterns of illegal drug markets and the semi-legal status of new substances with the prospect of slow but inevitable legal responses. Some experts have called it an online human experiment where distributors test out their future products on young people and collect data on web forums. As soon as the government decides to bring a substance under legal control, a legal replacement is ready to be introduced to the market. Service providers complained that they have no access to reliable information on what substances their clients use, partly because those substances are constantly changing, but also because there is no legal way of carrying out anonymous tests on drug samples gathered from their clients. Many experts are only aware of the marketing brand or street names of these drugs. Pill testing programs are only available in Portugal.

MOTIVATION OF USE

There are several factors facilitating the spread of new psychoactive substances. Most respondents identified a number of distinctive properties of NPS, as compared with classic illegal drugs. The most significant of these are easy availability, legality and low price. Increasing access to online

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The semi-legal status of these substances has made it possible for distributors to invest in professional marketing campaigns to advertise them, especially on the internet. These campaigns are seen by professionals as highly effective in branding their products. This branding and marketing often



Budapest's 8th district is home to approximately 3,000 marginalised injecting drug users, most of them members of the Roma ethnic minority. When NPS (new psychoactive substances) appeared on the Hungarian market, thousands of marginalised drug users switched from heroin to the new drugs. For more information, see the HCLU Drugreporter's movie, "[Budapest at the edge of an HIV explosion?](#)" (Picture: Lili Ragály)

reinforces popular misconceptions that a product is “herbal”, “organic” or “ethnobotanical”, and therefore not dangerous. Ma-nufactured folklore includes myths about the non-addictiveness of these drugs, or their lack of side-effects. NPS legality is often perceived by people who use drugs as a sign that these drugs are ‘safer’. The lack of available information and experience on the short- and long-term effects of NPS has also contributed to the widespread myths.

Some sub-groups had specific motivations to experiment with NPS. In Poland, Romania and Hungary the poor quality of street heroin was highlighted as one of the reasons why heroin users decided to use NPS. In these three countries, it was mentioned that methadone maintenance clients started to experiment with new psychoactive substances, in the belief that they were not detectable by drug tests (and could therefore be used while in methadone treatment). The 2008 collapse of the Ecstasy (MDMA) availability dramatically reduced, as a result of police seizures in Asia, there was an increasing demand for replacements among drug users in the dance scene. Another important factor highlighted in promoting NPS, was the media. The sensational, often misleading and inaccurate media coverage of NPS, resulted in a boomerang-effect. The media focused on a few highly publicised emergency cases and fatalities, with the aim of deterring young people from using these drugs – but the coverage actually provided a free advertisement platform for these substances and made them even more attractive.

CHARACTERISTICS OF NPS USERS

The average NPS user was described as an urban young male in his late teens or early twenties, who lives in a big city, has internet access, is studying or employed, and lives with his family. These young people

regularly attend electronic dance clubs and/or youth festivals. They use both synthetic cannabinoids and new stimulants to relax, to seek new experiences, to enhance their social or sexual performance, to stay awake for an extended period of time, and to induce euphoria. Recreational drug use in a party setting was reported to be the most common pattern of NPS use in all of our target countries. In Portugal and Serbia, this was the only pattern of use reported.

In Serbia, NPS use is reported to be marginal – even within the electronic dance scene. NPS users were characterised as mostly young, urban males, who use drugs at dance clubs. Problem users of methedrone and synthetic cathinones were registered at social and public health services. Most treatment providers had not reported any NPS-using clients, though they were aware of the NPS phenomenon from media news. There was no reported NPS use among OST clients, only among club drug users.

Apart from club drug users, there was a smaller group of NPS users reported in three countries, namely in Poland, Hungary and Romania. Members of this group are reported to be older, in their twenties and thirties, with a long history of drug dependence, tending to inject drugs, less educated and often unemployed, living in poverty and on the margins of society. In Romania and Hungary, they often belong to an ethnic minority (Roma).

In Hungary and in Romania, respondents described a significant drug switching trend. Former heroin and amphetamine injectors switched from illegal drugs to NPS en masse in 2009 and 2010. As we described in the previous chapter, the main motivation was that they had easier access to NPS than to illegal drugs, these drugs were undetectable in blood and urine samples, and many users believed that by contrast with heroin, the new drugs were not addic-

tive and not as harmful. There are more plausible explanations on why the injecting use of NPS became a mass phenomenon in Romania and Hungary and not in the other countries - one being a difference in the availability of traditional illegal drugs: both in Hungary and in Romania, our respondents reported a shortage of good quality heroin on the market.

The role of criminal law was mentioned as a contributing factor as well. In Eastern-Central European countries, the risk of arrest and criminal prosecution is greater, and the legal penalties more severe, than in Western European countries. Access to treatment programs is also a significant difference: the coverage of opiate substitution programs is much lower in Central Eastern European countries than in Western European countries. NPS injection was most prevalent among concentrated urban populations of marginalised injecting drug users living in poverty. It should be said, however, that most of these factors are true for Serbia as well, but no significant injecting NPS use was reported from that country. Further research is needed into the economic and social factors responsible for the drug behaviour-switching phenomenon in Romania and Hungary.

RISKS AND HARMS

Most respondents expressed a concern that even if a substance is identified by the early warning system, very little (in the absence of relevant research) will be known about the short- and long-term risks of consuming it. This means that service providers largely depend on anecdotal information from clients, and their own observations of symptoms related to the problematic use of these substances. Lack of reliable knowledge has itself been identified as one of the greatest risks associated with NPS use: if users are not aware of the dosage and expected effects, they can easily overdose, or choose an inappropriate setting for its use. As one

respondent said, users do not know the effects, so they tend to be scared by the intensity of effects. In the words of a Romanian forensic expert, “A major part of the effects of a drug are effects related to knowledge”. A Portuguese respondent said, “Information is key to reducing NPS risks”.

Respondents identified risks in relation to the psychopharmacological effects of NPS. Many respondents described these risks in comparison with the risks of traditional illegal substances, and rated the risks of NPS use more highly. For instance, synthetic cannabinoids are perceived to have “stronger effects” and more adverse psychosocial consequences, such as psychotic episodes, hallucinations, paranoia, anxiety, panic attacks, tachycardia, increased heart rate, etc. Undesirable side effects have been observed even among experienced cannabis users. According to a respondent from Portugal, the use of synthetic cannabinoids is most problematic among teenagers. He reported psychotic episodes he had “never seen with any other substances”.

In the case of stimulant NPS, such as cathinones, the most severe health consequence described was death. According to a Romanian forensic expert, most of the fatal cases were associated with injecting NPS use, with only a few cases attributable to non-injecting use. Fatalities were rare but often highly publicised by the media.

Public health professionals described severe psychiatric disorders as a consequence of NPS use, and some respondents were concerned about paranoid and aggressive behavior among patients. Some emphasised that stimulant NPS use has negative effects on the overall health of people with a history of opiate use, such as weight loss, psychotic episodes, and less responsible injecting practices. A public health professional in Romania reported a case when his client lost 11 kg in 9 days. In all countries, unprotected sexual activity was also

frequently mentioned as a risk of NPS use. The research also identified risks attributable to the route of drug use. Snorting of drugs was associated with the risk of infections, such as hepatitis C. Injection was rated as the most dangerous form of drug use, because of the risk of infections and injuries - and unsafe injection practices are more prevalent among NPS injectors than among opiate users. The fact that these drugs do not need preparations such as cooking was mentioned as a contributory factor: NPS injection takes less time, users tend not to use filters, and they choose risky, unhygienic settings for injection. In Romania, dealers are reported to sell five doses of NPS in one syringe, so that in case of arrest, they can say it is for personal use. This means that a number of clients of the dealer will share the same syringe.

The frequency of injection was also highlighted as a risk. While heroin is injected 3-4 times a day, NPS may be injected as often as 10-15 times a day. This leads to an increased need for sterile injecting equipment. If there are no sterile needles and syringes available, the risk of sharing equipment becomes more common. This leads to an increased risk of blood-borne infections.

The injecting use of NPSs was reported in three countries - Poland, Hungary, and Romania. In Poland, injecting NPS use seem to be a marginal phenomenon, largely confined to methadone patients. In Hungary and Romania, however, injecting amphetamine and opiate users have switched en

masse to using NPS, leading to a significantly greater risk of HIV and HCV transmissions. In Romania, a rapidly exploding HIV epidemic among injecting drug users is strongly associated with NPS use. This finding is also supported by epidemiological data. Between 2007-2010, there were only 28 new HIV cases registered among people who inject drugs (1% of the total new cases) in Romania; while during 2011-2012, 362 new cases were recorded among this population.

In Hungary and Romania, the boom in NPS use coincided with dramatic financial austerity measures, leading to reduced availability of evidence-based public health and social services for drug users. In a period when there was a growing demand for sterile injection equipment (due to more frequent NPS injections) the distribution of clean needles and syringes dropped significantly.


The reported reduction in injecting drug users' access to needles and syringes is supported by epidemiological data collected by the Reitox National Focal Points. The availability of clean syringes has decreased from 1.7 million in 2009 to fewer than 900,000 in 2011, due to the lack of funding. In Hungary, needle and syringe programs distributed 30 percent fewer sterile needles and syringes between 2011 and 2012. Experts in both countries found it particularly worrying that the correlation between the growing risk of HIV transmissions and the rising rates of NPS injections was not reflected in political decision-making.



The HCLU interviewed Peter Dunne, the New Zealand Revenue Minister. He explained the innovative legislative approach his country has adopted to new psychoactive drugs. [You can watch the movie by clicking here.](#)



- Hey guys, ARAS is here, com



e and exchange your syringes.

An outreach worker from the Romanian ARAS NGO calls out street drug users from the sewers where they live, and where they usually use NPS, and other drugs, during cold weather. [For the HCLU Drugreporter's movie on the Romanian situation click here!](#)

POLICY RESPONSES TO NEW PSYCHOACTIVE SUBSTANCES

PORTUGAL

The schedule of controlled substances is regulated by Law Decree 15/93 of 22 January. Between 1993 and 2012, this decree has been amended nineteen times, to add new psychoactive substances to the schedules. The most recent amendment (Law nº13 de 2012) added tapentadol and methedrone to the existing tables.

At the time of the interviews, a decree-law was being prepared by the Portuguese government and awaiting parliamentary approval. The decree-law 54/2013 came into force on 18 April, 2013. It established a list of psychoactive substances that pose a public health risk comparable to controlled drugs, and prohibits their advertising and distribution, punishable by administrative fines (up to 45,000 EUR) and closure of premises. The law bans any commercial activity involving these substances, through a temporary schedule listing 160 substances. In due course, if their toxicity is proven, substances will pass into the permanent schedules which formally prohibit their possession and use. The law is essentially a measure designed to eliminate smart shops.

The Portuguese Economy and Food Safety Authority (Autoridade de Segurança Alimentar e Económica/ASAE) is responsible for enforcing the law. It can confiscate and analyse any substances proposed by SICAD (Serviço de Intervenção nos Comportamentos Aditivos e nas Dependências, Service for intervention on addictive behaviours and dependencies) a government

agency under the aegis of the Ministry of Health.

Substance use has been decriminalised in Portugal since 2001, when a new law was approved (Law nº 30/2000). Possession for personal use was changed from a criminal offence, with imprisonment as a possible punishment, to an administrative offence if the amount possessed is no more than ten days' supply of that substance (e.g. cocaine 2 grams; MDMA 1 gram; weed 25 grams; heroin 1 gram). Even though no criminal penalties remain, these changes did not legalise drug use in Portugal: Possession remains prohibited by Portuguese law, and criminal penalties are still applied to drug growers, dealers and traffickers.

Individuals found in possession of small quantities of drugs are issued a summons. The drugs are confiscated, and the suspect is interviewed by a "Commission for the Dissuasion of Drug Addiction" (Comissões para a Dissuasão da Toxicodependência – CDT). The dissuasion commission have powers comparable to an arbitration committee, but restricted to cases involving drug use or possession of small amounts of drugs. There is one CDT in each of Portugal's 18 districts.

The committees have a broad range of sanctions available to them when ruling on the drug use offence. These include fines, suspension, a ban on visiting certain places or associating with specific people, a ban on foreign travel, a requirement to report periodically to the committee, withdrawal of the

right to carry a gun, confiscation of personal possessions, or cessation of subsidies or allowances that a person receives from a public agency.

If the person is addicted to drugs, he or she may be admitted to a drug rehabilitation facility or be given community service, if the dissuasion committee finds that this better serves the purpose of keeping the offender out of trouble. The committee cannot mandate compulsory treatment, although its rationale is to induce addicts to enter and remain in treatment. The committee has the explicit power to suspend sanctions, conditional upon voluntary entry into treatment. If the offender is not addicted to drugs, or unwilling to submit to treatment or community service, he or she may be given a fine.

Since the new NPS legislation came into force after these interviews had been completed, our study does not reflect specific feedback on the implementation of this law. However, our respondents highlighted their general views on the role and effectiveness of legislative solutions to this phenomenon. (See 'ASSESSMENT OF POLICY RESPONSES TO NEW PSYCHOACTIVE SUBSTANCES, below.)

POLAND

The number of shops selling NPS in Poland increased from 42 in 2009, to almost 1400 in 2010. In October 2010, the Chief Sanitary Inspectorate (CSI) conducted more than 3500 investigations and closed more than 1300 shops. The Polish Prime Minister announced that "in the fight against legal highs, we will work on the fringes of the law." In the next step, the Polish Parliament almost unanimously adopted an amendment to the Act on Counteracting Drug Addiction, making the manufacture, advertising, and supply of "substitute drugs" illegal. The term 'substitute drug' is redefined in the new law as a substance or plant used instead of, or for the same purposes as, a controlled drug,

and whose manufacture or marketing is not regulated by separate provisions. The law is enforced by the Chief Sanitary Inspectorate, which can impose administrative sanctions, such as fines up to 250,000 EUR. The penalty for advertising is imprisonment, for up to one year. The risk assessment of the substance is not a prerequisite for classing a substance as a substitute drug. However, according to Article 2 of the new law, substitute drugs can be withdrawn by the Inspectorate from the legal market for 18 months in order to assess their safety. If the suspicion that the drug is dangerous to health is confirmed by the risk assessment, the substance is added to the list of controlled substances and the distributor has to pay the costs of the assessment. If the substance is not found harmful, the drug can be distributed legally and the costs of assessment are covered by the state.

The use or possession for personal use of substitute drugs is not criminalised in Poland. Article 62.1 of the Act on Counteracting Drug Addiction, however, makes it a criminal offence to use illegal drugs, punishable by a fine or up to one year's imprisonment. The fine is ordered in so-called daily rates (the minimum number of daily rates is 10 and maximum is 360) and the court decides how much one daily rate shall be. According to a 2011 amendment, in the case of minor offences, the prosecutor can exercise discretion not to prosecute.

ROMANIA

The Romanian parliament passed a new law in November 2011, targeting products susceptible of having psychoactive effects. The new legislation introduced a new term - "substitute" - defined as "any substance or substance mixture, whether natural or synthetic, in any physical form, or any product, plant, mushroom or parts thereof, whose legal status is not regulated by other legal provisions, which has the capacity to cause psychoactive effects or can be used as a

replacement for a concoction with psychotropic effects.”

In April 2012, a new procedure governing operations involving potential “substitutes” was published in the Official Gazette, in order to specify the authorisation methodology arising from law 194/2011.

Thus, in order to receive authorisation to sell substances susceptible of having psychoactive effects, the operator (e.g. any person or registered business) intending to conduct, or already conducting, operations involving such substances, has to follow a very costly and time-consuming protocol.

The National Authority for Veterinarian and Food Safety (NAVFS) has the power to authorise the sale of a substance under suspicion, via the Institute for Controlling Biological Products and Veterinarian Drugs, if the substance has been proven not to be a “substitute” within the meaning of the new law.

This means the operator has to submit a request and a file in triplicate, specifying:

1. quality and quantity details of all components of the product, including their international designation;
2. an assessment of the product’s potential psychoactive risks;
3. a description of the manufacturing method and industrial controls used by the producer;
4. the product’s physical and chemical tests results;
5. a layout of the packaging and recommended usage method;
6. proof of payment of the authorisation procedure fee;
7. any other relevant documents.

Any failure to comply with the protocol terms (which include various associated time limits) results in cancellation of the whole procedure, which means re-starting the whole procedure from scratch. In the end,

after submitting the file in triplicate and paying the lab analysis costs, the operator can be granted permission to sell the product, or the authority can reject the request.

HUNGARY

In Hungary, the appendix to Act No. XXV of 1998 and Government Decree 142/2004. (IV.29) contains the lists of controlled substances. This list was amended several times between 2009 and 2012, with substances like BZP, mephedrone, MDPV, 4-MEC and several synthetic cannabinoids being added to list B (substances with no known medical use). In 2011, the governmental advisory body, the Drug Coordination Committee (KKB) prepared new legislation to create a rapid response mechanism against the threat of NPS use. Government Decree 66/2012 (IV. 2.) came into force on April 2, 2012. It introduced a temporary list of “new psychoactive substances”. This ‘List C’ includes both individual substances and groups of substances (generic list). The generic approach aims to deter distributors from altering the molecular structure of substances and thus create new substitutes that are not controlled. Individual substances are placed on the list by National Center for Addictions (OAC) after a preliminary risk assessment. OAC has to make a risk assessment within three years, and if the substance is found to be dangerous, it is added to the list of illicit substances. If not, it is removed from List C. Generic formulas are not assessed for risk, and remain permanently on List C. It would have been impossible to assess them, since an infinite number of substances belong to these formulas, some of them never synthesised.

The Criminal Code was amended in March 2012 to criminalise NPS import, export, production and distribution, punishable by up to three years’ imprisonment. The use and possession of these substances was not criminalised under this amendment. However, Law No. CCXXXIII of 2012 on Admin-

istrative Offences, that came into effect in July 2013, made the use of new psychoactive substances an administrative offence punishable by a fine.

The use of illicit drugs and possession of illegal substances for personal use is a criminal offence under Article 178 of the Criminal Code, which came into effect on July 1, 2013. Offenders in possession of a small amount of drugs (the limits are defined in the law according to the pure psychoactive ingredient contained by the street drug) can choose to attend a six-month alternative prevention, treatment or other program as an alternative to criminal prosecution. Those who re-offend within two years are not eligible for diversion to treatment, and are prosecuted.

SERBIA

The Law on Psychoactive Controlled Substances, adopted by the Serbian parliament in 2010, contains the lists of controlled substances (identical to the lists of the UN drug conventions). The Law regulates all activities related to production and trade of these substances. There is no formal procedure to add new substances to the lists, nor is there any mechanism or institutional framework to carry out NPS risk assessment. No new substances have been added to the lists of controlled substances by the closure of our interviews – but in June 2013 the parliament brought several NPS under legal control, including Mephedrone and several synthetic cannabinoids.

The Criminal Code of Serbia, amended in 2006, makes the possession, production and distribution of illicit drugs a criminal offence. The possession of small amounts of illicit drugs is a crime punishable by up to three years' imprisonment.





A needle and syringe program operated by the VEZA NGO in Belgrade, Serbia. Large-scale injecting use of stimulants has so far not been reported in Serbia. (Picture: István Gábor Takács)

ASSESSMENT OF POLICY RESPONSES TO NEW PSYCHOACTIVE SUBSTANCES

SUPPLY REDUCTION MEASURES

Legislative responses to the spread of NPS use were reported from only four countries: Hungary, Poland, Romania and Portugal. At the time of the interviews, the Portuguese government was still preparing national legislation, and only one local municipality, Madeira, had made efforts to close down smart shops selling NPS. The views expressed by our Portuguese respondents cannot therefore be interpreted as an assessment of the new legislation in Portugal, merely as general remarks on the perceived role and effectiveness of legal control mechanisms. The same is true for Serbia, where there was no specific legislation adopted to tackle new psychoactive drugs by the end of the research period (however, some NPS were brought under legal control in June 2013). In Hungary, Poland and Romania, enough time has passed for our respondents to assess the legal changes.

Most respondents noted some positive effects of NPS control measures, but such effects had significant limitations:

After smart shops were banned, a decline in the supply of drugs was reported in Portugal, Romania, Hungary and Poland.

A Portuguese service provider reported positive effects of the closure of smart shops in Madeira, as measured by the reduced number of emergency cases associated with NPS use. A similar decrease in NPS-related

emergency cases was reported from Hungary, although it was temporary.

A Hungarian police officer said a positive effect of the new law was that substances are added to the list much faster and police can seize these substances and need not give them back to the distributor. The officer also emphasised that one benefit of the new NPS regulation is that it does not criminalise users, only distributors. A Hungarian psychiatrist said that “The introduction of List C made sense. It could reduce the influx of new unknown substances in a limited way. It was not enough in itself, but it has a place in an integrated strategy to tackle this problem.”

Most of the experts who reported a reduction in the supply of drugs emphasised that this impact was temporary and limited, due to the replacement of supply channels or the replacement of banned substances with new drugs. In Poland, Portugal and Romania, the banned offline smart shops were replaced by online shops, and the control of online distribution has proved to be more difficult. A Portuguese expert said that the shops would have been the only places where consumers could get reliable information on the substances - an opportunity which is now lost.

One perceived impact of legislative measures, was the replacement of drugs and the rapidly changing composition of the NPS market. As soon as they are informed that an NPS is being brought under legal con-

trol, distributors switch to sell other, previously unknown substances. Less harmful substances have been replaced by drugs that pose unknown or even greater harms for users. A Hungarian researcher said after the new introduction of the new regulation (with generic lists of substances) that police seizure data indicated that banned substances vanished from the market, but only to be replaced by new substances. She said the effects of the ban seemed to be more effective with cathinones, where availability has been reduced, but less effective with synthetic cannabinoids.

The replacement phenomenon was reported from Portugal as well. As a respondent put it, after the 2012 mephedrone ban, the drug disappeared from the market, but was rapidly replaced by other substances, marketed under fantasy names (such as BLOOM+). Another Portuguese respondent said there were significant police seizures of mephedrone after the ban came into effect – an indication that the substance had moved onto the black market. A researcher said that the closure of smart shops in Madeira had positive effects, but with the unintended consequence that NPS entered the black market.

A Romanian public health service provider said that after the adoption of new legislation, users “were pushed back to the black market” and some “turned back to heroin”. A therapeutic community expert said “the ban was very efficient, but only in respect of inexperienced users” – experienced users turned back to the black market. Two Romanian injecting NPS users also reported that many of their peers switched to classic illegal drugs after the new law came into effect, because they had already been dependent before the advent of NPS.

Some Romanian service providers said NPS use reached a tipping point more or less at the same time as the new legal measures were adopted, so the final reduc-

tion of NPS was not a consequence of the legal interventions. A social worker within a needle and syringe program said, “I doubt that the vanishing of approximately 80% of the legal highs was due to regulations”. The head of a Hungarian needle and syringe program reported the same: “We are not sure if [the changes in the market] were the result of List C. There was no reduction in the number of users. They just use other substances.”

It was reported that the NPS market became less visible after the changes, and therefore less transparent for research. NPS users became a hidden population, with reduced access to services. A Polish professor of law said that, “The problem has disappeared from the headlines, but in fact it still exists.”

A Romanian OST service provider reported that after the ban on so-called ethnobotanicals came into effect, the prices of NPS products went up and street dealers took over the role of semi-legal shops, with much riskier marketing strategies. (See, ‘five doses of NPS in one syringe’, described above.)

Doubts were often expressed in the interviews, about the general effectiveness of drug law enforcement as a mean to reduce the supply of, and demand for, illegal drugs. Furthermore, there were opinions that the rise of new psychoactive substances was a direct consequence of enforcement. As a Polish social service provider put it, “On the one hand, the state wants to bring these substances under control, but paradoxically, this control enhances operations aimed at circumventing the law (the creation of new substances). The result is the growth of the market of new substances and de facto – lack of any control.”

A treatment specialist said the real solution lies on the demand side, not the supply side: “The market is so creative and dy-

namic, there are always new substances, so permanent banning is not the solution. The problem lies in why people want to be intoxicated, rather than by what substances.” Not only public health experts were sceptical about the effectiveness of the new law. A Polish policeman said, “The legal changes have not worked well ... we need to change our educational system.” Another policeman said, “A lot of people still use legal highs, so from my point of view, nothing has changed. We are helpless, we cannot prosecute factories and producers of the legal highs.” A Portuguese researcher said “Educating people - that’s the answer ... banning is easier, but maybe not the most effective.”

There was a general feeling among our respondents that current regulations are not based on scientific evidence, but on media pressure around highly publicised overdose cases. As a Polish respondent put it, “The decision to ban legal highs was based on unverified reports of overdoses. As a result, the NPS were put on the list of banned substances, but a number of them were not very harmful.” Another respondent adds that, “The advent of NPS in Poland was a tragedy, but hysterical media and political reaction was even worse.”

As a Polish service provider said, “After the banning of legal highs, I noticed a reduction in the scale of the phenomenon. Young people who would use new drugs, couldn’t buy them so easily and that’s a plus. On the other hand, even if the restrictions imposed on sellers of legal highs caused limited access to them, the NPS appeared on the Internet. And this is a minus.” Another Polish respondent said, “A big advantage of the new legislation is the reduction in NPS availability, but shops have not disappeared completely, because they are still functioning in online stores and on the ground in Poland.”

The lack of consideration for constitutional rights in adopting new legislation and poli-

cies was a concern for some professionals. “Nobody cared about constitutional/human rights concerns on the new policies,” said a Polish social worker. A lawyer who provides legal help to drug users said that, “Lawmakers did not take human rights into account. Closing stores showed the government responding to the threat, but not in a proper way, and with no regard for human rights.” A Polish service provider said the government considered human rights in drafting new legislation but, “Inadequate time was allowed for rationality.” A Portuguese researcher said “I think they don’t pay much attention to human rights. They think more, “Let’s control, let’s do this because it has to be this way”, instead of thinking what are human rights and why things happen. Because things happen for a reason, but they don’t care about it.”

PUBLIC HEALTH AND SOCIAL RESPONSES

There was a general feeling, especially among those working in the public health and social sector, that policy makers did not adequately address the health and social problems related to NPS use. Governments perceived NPS as a regulatory challenge, and their aim was only to bring these substances under control in order to reduce the supply – but they did not take into consideration the significance of demand and harm reduction measures.

A Polish addiction treatment specialist said, “Other than supply-side reduction measures, there were no significant demand or harm reduction measures aimed at NPS users.” A Romanian public health service provider said: “Concerning services, there were zero measures, nothing in place. There were only private services and NGO services who adapted to this change as best they could. For example, I am unaware of any special project on interventions targeting NPS users.” A school prevention professional said that, “The whole political class

is uneducated on this topic, so banning is easier for them, because it takes less work than preparing prevention programs.” A Hungarian service provider said there is “no integrated approach” to NPS use, and many professionals mentioned that financial resources for demand and harm reduction measures are vanishing.

In Poland, the National Bureau for Drug Prevention launched a mass media campaign – “Legal Highs Will Burn You!” - with the aim of frightening young people away from NPS use. The Institute of Psychiatry and Neurology conducted a research project called RedNet. They distributed a survey among 124 professionals and 600 NPS users about their knowledge on legal highs.

In Romania, a similar media campaign has been launched by the Interior Ministry. As part of this campaign, a poster was created, illustrating a young man consuming herbs, comparing NPS users to grazing animals such as cows. The accompanying message is, “The consumption of ethnobotanicals kills!” The Hungarian police launched a campaign against the use of NPS use, with the message, “Don’t use drugs, because you will die!”. There were only a few death cases associated with NPS use, mostly legal stimulants, but these campaigns made no difference between substances, and claimed the use of synthetic cannabinoids also poses a lethal risk to the user. The Hungarian National Drug Prevention Bureau launched another campaign against NPS use with billboard ads, depicting young people engaging in recreational activities, such as biking and jumping into a lake. The message of the ads was, “You can have fun without drugs!”

Most respondents were sceptical about the effectiveness of these mass media campaigns, for two reasons. First, they criticised fear-based messages as stigmatising drug users and distorting the risks of psychoactive substance use. A respondent described

the Polish campaign as “narcophobic”. A Romanian public health professional said, “There are negative aspects, clearly, but ... focusing only on negative aspects doesn’t work. We would need very accurate information about who are at risk and those who are already regular consumers.” He added that the principal barriers to effective prevention programs are a lack of money, and negative attitudes on the part of decision-makers.

Second, they pointed out that mass media campaigns as such are not effective drug prevention measures. One respondent said, “The NBDP released a campaign, but it was not good at all. In the sphere of education, any movements had a narcophobic dimension.” A scientist said, “Most of the preventive and educational actions taken by the state were not evaluated, so it hard to assess them in terms of effectiveness.”





The HCLU Drugreporter interviews outreach workers from APDES, a Portuguese NGO in Lisbon. This agency targets party-goers with harm reduction information and tools. The Drugreporter produced a movie on the subject of the 10 years of decriminalisation in Portugal and on the innovative harm reduction services of the APDES NGO. (Picture: István Gábor Takács)

RECOMMENDATIONS

ALTERNATIVES TO CRIMINALIZATION

According to the majority of the interviewees, decriminalisation (of possession for personal use) would have a positive impact on the NPS phenomenon. Some respondents emphasised that abolishing criminal sanctions against drug users would decrease the popularity of legal highs, because they would prefer to use “traditional” substances with known effects and risks. They said that, since it is impossible to control every new substance (impossible to win against chemists) every substance should be controlled in the same way. Another perceived benefit of decriminalisation is that it makes users more visible and decreases stigma, giving users better access to services. It was also mentioned that decriminalisation would make it possible to test substances, and users would know the strength and components of what they bought, which would lead to less harms and a more transparent, and more controlled drug market.

A minority of experts said the key to success is to create even faster and more effective mechanisms to bring NPS under control; others said legal regulation of the market is necessary to effectively control NPS supply and demand. They argued that the elimination of the NPS market – and drug markets in general – is not feasible, the drug-free society is a utopia. Therefore the only reasonable goal of policies should be to minimise the harms of the market. The view was expressed that a regulated market would allow consumer protection and effective educa-

tion among drug users. Some respondents referred to the New Zealand model of NPS regulation as an example of an innovative, positive model. In New Zealand, the government offers drug designers the chance of obtaining official approval for their products. If they can persuade a new “Psychoactive Substances Regulatory Authority” that their pills and powders are low risk, they will be licensed to market them, whether or not they get people high. Drugs will have to undergo clinical trials, which the government expects to take around 18 months—much less than for medicines, because the drugs will be tested only for toxicity, not for efficacy.

A Polish lawyer said, “If we want to talk about regulations or actions which would be effective, I always say it depends on what we want to achieve. If the purpose of the state is to eliminate the problem of any psychoactive substances, it will never be achieved, because if someone wants to buy a prohibited substance and use it, he will.” A Polish outreach worker added that, “Banning is easier for the politicians, because it takes less work... A prohibition policy is easier than an education policy, which of course would be more productive.”

Some respondents see NPS as a possibility to test alternatives to the prohibitionist approach: “I think this would be a great opportunity for us to try an alternative to the prohibitionist model. The development of chemistry and of technology pose new challenges to an already dying model. The

prohibitionist model has failed with the more traditional substances, and it is my belief that it will fail with the legal highs [...] With regulated shops, the government could have the chance to study the substances, know the type of users, control adulteration, dosages, etc. Pushing the substances onto the black market deregulates the market even more and prevents any attempt to control this phenomenon.”

A Serbian drug-user respondent said: “I would like to buy substances in a controlled environment, where I know what am I buying and its quality. If you buy from a dealer, you’re never sure what you’re buying. So decriminalisation and relevant institutions that would carry out distribution and quality control, would provide a benefit for everyone, the state would collect tax, the black market would shrink, and users’ health would be better because substances would be standardised. The current situation is catastrophic, and favours criminals.”

MORE INFORMATION AND EDUCATION

A view was repeatedly expressed by respondents, that current policies are not based on evidence, and more research and credible information is needed to develop more effective interventions, to assess NPS harms and to develop and implement policies and services, to create protocols, organise training courses, and to provide information on treatment methods and best practice. Although early warning systems (EWS) exist in most countries, several interviewees mentioned that networking among professionals and circulation of information should be improved to update our NPS knowledge.

Service providers proposed the introduction of confidential drug-testing programs to provide reliable NPS information to professionals and drug users alike. They identified financial and legal barriers to voluntary drug-testing services. A Hungarian needle

and syringe program coordinator said, “Our knowledge of classic illegal substances has been accumulated for decades, we have a lot of information based on experience, experiments, observations. This knowledge became outdated with the emergence of designer drugs. We have to provide more information to our clients, that is the key. I know that this is currently illegal, but the testing of substances is necessary, we need valid information.”

Education and prevention programs targeting young people and at-risk populations must also be improved. A respondent emphasised that, “We should invest in prevention and preventive actions. We need to share information, and in a tailored fashion, since young people in particular have easy access to all types of information, but they will not seek scientific information; they look for information that is available on multiple sites and says a variety of things, but this material tends to underestimate the effects of these substances, and makes no reference to extreme situations, therefore we have a responsibility in these preventive measures, we have to provide reliable information.”

SCALING-UP TREATMENT AND HARM REDUCTION

Many service providers, highlighted the need to scale-up treatment and harm reduction services, in order to address NPS-related problems. A Romanian social worker said: “Harm reduction services that you traditionally use for heroin do not work, unless you multiply them by 10, in terms of the number of staff, the materials you provide, the frequency of giving them... because outreach is an activity you can do once or twice per week [for a single area], and they would need the service every day. We are needed each day there, with the van, actually it would be preferable to have a drop in centre, so they could come every day, get the syringes and shoot.” He also mention

that there is a need to introduce new services, such as supervised injection rooms: “It would have helped at that time to have supervised injection rooms, because you could keep an eye on them.”

Treatment professionals pointed out that the treatment system has been developed to treat the users of “traditional” drugs, especially opiates, targeting experienced, adult users with a long history of drug use. NPS users are often much younger and NPS have different psychopharmacological effects, so treatment and rehabilitation methods which were effective in treating opiate-dependent people are not effective in treating NPS users.

It was pointed out that financial resources should be reallocated to demand and harm-reduction programs. A Polish education specialist said that, “The ideal solution involves introducing broad harm reduction, educational and preventive programs addressing young users of legal highs.

The barrier is a bad allocation of public financial sources and lack of education among prevention specialists.” A law enforcement official suggested that police training should be improved to make them able to focus on serious crime, rather than petty possession cases.

Many experts stressed the importance of harm reduction programs in reaching out to NPS users. As a Hungarian OST service provider put it, “Efforts towards getting NPS users into treatment and rehabilitation are not effective without low threshold and street outreach programs.” He also pointed that medical professionals need training to recognise the symptoms of NPS use and learn how best to treat it. He mentioned as an example for serious medical intervention, that two of his clients needed dialysis due to NPS use. A Hungarian psychiatrist said there is no adequate communication between the public health and social care systems - the two operating in parallel worlds.

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