DRUGS COOPERATION/ COMBATTING DRUGS TRAFFICKING

Disclaimer: These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

Migration and Home Affairs

International instruments

- Relevant UN Conventions form part of the EU acquis in the drugs field
  - **1961 Single Convention on Narcotic Drugs**
  - **1971 Convention on Psychotropic Substances**
  - **1988 Convention against Illicit Traffic in Drugs**

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EU Drugs Strategy (2013-2020)
EU Drugs Action Plan *(2013-2016)* / (2017-2020)

- Balanced approach between drug demand and supply reduction
- Based on fundamental principles of EU Law
- Upholds founding values of the Union
  - *respect for human dignity, liberty, solidarity, proportionality, the rule of law & human right*
- "EU model" influential and well-respected internationally

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EU Drugs Strategy (2013-2020) structure

- **Two policy areas**: drug demand reduction and drug supply reduction

- **Three cross-cutting themes**
  - coordination
  - international cooperation
  - research, monitoring and evaluation

- **Action Plans** to translate strategic priorities into specific actions:
  - Action Plan for 2013-2016
  - Action Plan for 2017-2020

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EU Drugs Strategy (2013-2020): objectives

- Reduce **demand** for drugs, drug dependence, drug-related health and social risks and harms
- Reduce **availability** of illicit drugs and contribute to the disruption of illicit drug markets
- Encourage **coordination** through active cooperation and analysis of developments and challenges in the field of drugs at EU and international level
- Further strengthen **dialogue and cooperation** between EU and third countries and international organisations on drug issues
- Contribute to a better dissemination of **monitoring, research and evaluation results** and a better understanding of all aspects of the drugs phenomenon and the impact of interventions in order to provide sound and comprehensive evidence-base for policies and actions

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Most important legislative instruments

- **Council Framework Decision 2004/757/JHA** laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking
- **Council Regulation (EC) 1920/2006 (recast)** on the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)
- **Regulation (EU) 2017/2101** as regards information exchange on, and an early warning system and risk assessment procedure for, new psychoactive substances
- **Directive (EU) 2017/2103** amending Council Framework Decision 2004/757/JHA in order to include new psychoactive substances in the definition of 'drug' and repealing Council Decision 2005/387/JHA

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Council Framework Decision 2004/757/JHA on illicit drug trafficking

- Provides an EU **definition of drug trafficking offences** and **minimum rules on levels of sanctions**
- Refers for the definition of drugs to the International Drug Control Conventions
- Calls for **closer cooperation** between various law enforcement authorities in Member States to tackle the problem of illicit drugs trafficking
- **New legal framework on new psychoactive substances (NPS):** Scope of application of criminal law provisions applicable to illicit drugs is widened also to NPS posing severe risks

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New NPS legislation - deadlines

Publication of Regulation and Directive in the OJ: 21 November 2017

→ Entry into force: 22 November 2017

Application of the Regulation: as of **23 November 2018**

Transposition of the Directive by **26 Member States**: by **23 November 2018**

- **UK and DK** are **not bound** by the Directive (see Recitals 13 and 14)
- **Repeal of Council Decision 2005/387/JHA** with effect from 23 November 2018

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Scheduling of new substances

- **Until 22 November 2018:** the **current procedure** under Council Decision 2005/387/JHA **continues to apply**

- **As of 23 November 2018:** the **new procedure** – scheduling of new substances through **delegated act** – applies

- **Current procedure** continues to apply for all NPS for which a **joint report has been submitted before 23 November 2018** → based on information of the EMCDDA no such joint report is currently under preparation

- **Adoption of (a) Commission delegated act(s) to <u>add</u> the new substances scheduled during the transitional period to the Annex**

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Preparatory steps of a Commission delegated act for NPS

- **Initial report** by the EMCDDA (with input from 5 other agencies, in particular Europol and EMA)
- **Request by the Commission** of a risk assessment – within 2 weeks of the submission of the initial report if the substance may pose severe public health and severe social risks
- **Risk assessment** by the EMCDDA within 6 weeks of the receipt of the Commission request
- **Submission to the Expert Group on NPS for expert advice**

Delegated acts – Finalisation

- **Adoption by the Commission of the delegated acts**
  - Notification to the Council and the European Parliament for **political scrutiny** (2 months period)
  - After the end of the political scrutiny period, if no objections, **publication** of the delegated act **in the Official Journal**

- **Within 6 months, Member States have to transpose the delegated act**

First delegated act

- Adoption of (a) delegated act(s) to **add the new substances scheduled during the transitional period to the Annex**
  - Furanylfentanyl, ADB-CHMINACA, CUMYL-4CN-BINACA, cyclopropylfentanyl and methoxyacetylfentanyl have been scheduled between the adoption of the Directive and its full application **= transitional period**
  - In order **to be included in definition of 'drug'** in line with the amended **Article 1(1) of Council Framework Decision 2004/757/JHA**, a delegated act is required to add these substances to the annex (see Article 3 of Directive (EU) 2017/2103)

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Banned NPS on EU-level

- Council Decision 1999/615/JHA: **4-MTA**
- Council Decision 2002/188/JHA: **PMMA**
- Council Decision 2003/847/JHA: **2C-I, 2C-T-2, 2C-T7 and TMA-2**
- Council Decision 2008/206/JHA: **1-benzylpiperazine (BZP)**
- Council Decision 2010/759/EU: **4-methylmethcathinone (mephedrone)**
- Council Implementing Decision 2015/1873/EU: **4,4'-DMAR and MT-45**
- Council Implementing Decision 2015/1874/EU: **4 methylamphetamine**
- Council Implementing Decision 2015/1875/EU: **51-NBOMe, AH 7921, MDPV and methoxetamine**
- Council Implementing Decision 2015/1876/EU: **5-(2-aminopropyl) indole**
- Council Implementing Decision 2016/1070: **1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one (α-pyrrolidinovalerophenone, α-PVP)**
- Council Implementing Decision 2017/369: **methyl 2-[[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]amino]-3,3-dimethylbutanoate (MDMB-CHMICA)**

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Banned NPS on EU-level

- *Council Implementing Decision (EU) 2017/1774 - acryloylfentanyl*
- *Council Implementing Decision (EU) 2017/2170 - furanylfentanyl*
- *Council Implementing Decision (EU) 2018/747 - ADB-CHMINACA*
- *Council Implementing Decision (EU) 2018/748 CUMYL-4CN-BINACA*
- *Council Implementing Decision (EU) 2018/1463 - cyclopropylfentanyl and methoxyacetylfentanyl*

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Monitoring of the drug situation

- **Council Regulation (EC) 1920/2006 (recast)** on the European Monitoring Centre for Drugs and Drug Addiction (**EMCDDA**)

- **Aim**: provide the Union and its Member States with factual, objective, reliable and comparable information at European level on drugs, drug addiction and their consequences.

- **Tasks**: collecting and analysing the existing data
  disseminating data
  improving data-comparison methods
  provide information on best practices and guidelines

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Thank you for your attention !

Questions?