

**Contribution from the Civil Society Forum on Drugs
to the 3rd intersessional meeting of the 63rd session of the Commission
on Narcotic Drugs – 19 to 21 October 2020**

Topic: New Psychoactive Substances

October 2020

The Civil Society Forum on Drugs in the EU (the ‘CSFD’) welcomes the opportunity to contribute with this submission to the forthcoming 3rd intersessional meeting of the 63rd session of the Commission on Narcotic Drugs (‘CND’), which will take place from 19 to 21 October 2020. This contribution will focus on Thematic session 2, namely on New Psychoactive Substances (‘NPS’).

This contribution relies on the experience and research of CSFD members who have been working on NPS for years. As a consequence, it inevitably presents a European perspective, for instance by focusing on synthetic rather than plant-based NPS. It also focuses on the aspects of the NPS phenomenon that CSFD members are most familiar with, namely the health risks associated to mislabelling of substances, and drug-checking services. Given that EU civil society and public authorities have been carrying some of the most innovative work in this field, it is especially important that the EU speaks on these topics in the CND intersessional meeting.

In particular, the EU should call for a more balanced, integrated, and evidence-based approach to NPS, including the following recommendations:

- (1) Support and promote stronger social and health-based responses to NPS, with a focus on prevention, treatment, harm reduction, and social reintegration and recovery tailored to the specific demographics, use patterns, and health risks associated to NPS.
- (2) Promote continued research on the effectivity of responses to NPS exclusively based on law enforcement and on expanding the number of scheduled substances.
- (3) Given the scarcity of relevant knowledge, increase investment and strengthen partnerships with civil society to monitor the evolution of NPS markets, better understand use patterns, and strengthen national and international warning systems that address harmful and mislabelled products. In that regard, there is need for increased research in the effectivity of drug-checking services, and to provide them with a legally secure environment to operate in.

1. Introduction: A brief overview of NPS

Since the early 2000s, the availability and production of a diverse array of psychoactive substances collectively known as New Psychoactive Substances (NPS) has rapidly increased.¹ Following the definition of the Council of the EU, by NPS we mean ‘a new narcotic or psychotropic 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 conventions’.² NPS include a wide range of substances such as stimulants, synthetic cannabinoids, benzodiazepines, opioids, hallucinogens and dissociatives.³

Prevalence and evolution of NPS use

While the number of new substances continues to increase, in Europe the growth rate has stabilised at approximately 50 new substances detected for the first time every year through the EU Early Warning System.⁴ By the end of 2019, the EMCDDA was monitoring around 790 NPS, 53 of which were reported for the first time in Europe that year.⁵

The levels of NPS consumption in Europe are low, even when it comes to the most widely used substances, like synthetic cannabinoids and cathinones. According to the EMCDDA⁶, estimates of last year prevalence of NPS use for young adults ranged from 0% in Norway to 1.9 % in Poland. In 2019, the use of synthetic cannabinoids among people aged from 14 to 35 ranged from 0.3 % in Spain and Lithuania to 0.6 % in Italy. Data on the United States also points to a significant decline; the prevalence of synthetic cannabinoid use among twelfth-grade students fell from 11.4 per cent in 2011 to 3.3 per cent in 2019, while the use of synthetic cathinones dropped from 1.3 per cent in 2012 to 0.6 per cent in 2018.⁷

While prevalence remains low, the use of NPS has been concentrated in certain demographic and social contexts. Evidence of increased NPS use has been identified amongst people living in vulnerable situations, such as street-based people or people deprived of liberty,⁸ as well as in settings that are “off-the-radar” of some national drug policies, like MSM.⁹ In many cases, NPS are added to existing drug repertoires to supplement more established drugs, rather than replacing or displacing those substances.¹⁰ This underlines the urgent need to address the underlying social conditions of high risk NPS use, such as poverty, quality of housing, homelessness, educational attainment and quality, unemployment, racial residential segregation and other forms of social exclusion.

Health concerns associated to NPS: focus on mislabelling and adulterants

Because the definition of NPS is based on a legal criterion (i.e. lack of scheduling), rather than a chemical or scientific one, NPS include a wide variety of substances with very different

health risks and outcomes. The assessment of these risks needs to be done on a case per case basis, and on the basis of scientific evidence, rather than in bulk.

This contribution focuses on a phenomenon that has driven NPS-related deaths in virtually all EU member states, namely the mislabelling of substances. For instance, in the past the EMCDDA reported dozens of deaths occurring after the mislabelling of a batch of 5-(2-aminopropyl) indole (5-IT), and the subsequent selling of the mislabelled batch as being 6-APB. Due to different toxicity of equal doses of the two substances, dozens of users overdosed on 5-IT and subsequently died.¹¹ In another example, mislabelling was also found in an epidemic of synthetic cannabinoid-related deaths in Germany and other Eastern-European EU member states. Therefore, this is a topic that requires more attention.

Another worrying phenomenon related to NPS is their increased use to adulterate traditional substances like MDMA or LSD, which highlights the added value of identifying discrepancies between what drug users think they are using and what they actually consume.¹²

While not the focus of this contribution, it is worth noting that mislabelling and adulteration are an additional risk to the health impact of NPS themselves, which is not necessarily well known. In some cases, people who use NPS living in situations of vulnerability have reported substantially more acute side effects, more mid- and long-term mental and physical problems.¹³

It is also worth noting that other instances of NPS-related health risks are often associated with problem drug use, such as an increased prevalence of cathinone injection in several European countries. For instance, in Hungary in 2015 nearly 70% of people who injected drugs and visited low threshold services reported to be primarily injecting synthetic cathinones, which are associated to high frequency and compulsive injecting, needle sharing, changes in injecting behaviours and a risk for increased HIV and HCV transmission.¹⁴ This is yet another aspect in which the lack of support for harm reduction services in Hungary is doing a disservice to the health of people who use drugs.

2. Strengthening the balanced approach to NPS: Interrogate the effectiveness of law enforcement-only approaches

So far, states' response to the emergence of NPS has emphasised the scheduling of new substances and law enforcement, while prevention, treatment, harm reduction, and social reintegration services have not received sufficient attention. In order to ensure that the balanced and integrated approach also extends to NPS, the effectiveness of law enforcement should be interrogated, and health-based responses must be strengthened.

The emergence of NPS presents several challenges to the traditional scheduling system, including the large number of substances that are classified as NPS; the speed with which they enter and exit drug markets; the capacity of manufacturers to create derivatives of newly scheduled substances; and the diverse (and often unknown) potency, effects, and risk profile of NPS.¹⁵

The most frequent response to the appearance of NPS is a legislative change that amends legislation to schedule the substances that were previously unknown. Scheduling takes place routinely after new substances have been detected and enough data has been gathered regarding their safety, risks and effects, amongst others. While there have been some studies pointing out to a decline of treatment admission for NSP use following scheduling and legislative changes in Ireland and Scotland,¹⁶ , little information is available, and more research is needed as to what extent these legislative changes have an influence on factors such as supply, price, quality, presence or absence of contaminants and methods that people employ to acquire their drug of choice.

Underlying these questions is the ‘whack-a-mole effect’, namely the fact that chemists producing NPS can easily alter the composition of recently banned substances, thus creating new derivatives that will evade control.

In another approach to this problem, countries such as the United Kingdom have opted for banning all psychoactive substances—even substances yet to be created—with the exception of those included in a white list. When adopted, this approach attracted a strong criticism,¹⁷ because psychoactive is a hard concept to define and operationalise within a legal framework,¹⁸ and because an automatic prohibition approach does not seek evidence for each substance, thus banning substances without taking into account any potential benefit or therapeutic value,¹⁹ and without considering that people who use drugs could replace the newly banned NPS with other substances—sometimes traditional illegal drugs—associated to equal or more harmful health outcomes.²⁰ However, in a later review of the legislation the UK government has claimed that it has been successful in reducing the availability of NPS.²¹

In sum, the effectivity of law enforcement-only responses to NPS should be interrogated on the basis of evidence, and not accepted as a given. Further research is needed on the effects of scheduling on available supply, price, and quality; as well as on any changes in use patterns in response to legislative changes.

3. Strengthening the balanced approach to NPS: Increase support for a social and health-centred responses to NPS

Ensuring that the balanced and integrated approach applies to NPS also means supporting and investing in health-centred responses, including drug services that take into account the special demographics, use patterns, and health risks associated to NPS. As researchers have suggested, responses should “concentrate less on the legal status of new substances, and more on improved public health outcomes of prevention, treatment, and harm reduction”.²²

In particular, increased public research and funding are needed for the following interventions -amongst many others:

- Ensure continuous research on the composition and the health risks of each NPS, so that practitioners across the whole spectrum of the drug services, as well as people who use drugs and the community, are aware of them.²³
- Gain a better understanding of the demographical and social context in which NPSs are used, in order to adapt the content, framing, and targeting of all interventions, including alerts and warnings.²⁴
- Expand specialised education and training material for health practitioners that are likely to be involved with people who use NPS, as surveys report important knowledge gaps.²⁵
- Gain a better understanding of the online markets in which many NPS are sold, and the behaviours of buyers and sellers in such markets, including what measures can be taken to deliver information on mislabelling and adulterated substances.

Provide legal security and support further research on drug-checking services

Drug-checking services aim to reduce the harmful impact of high-purity and adulterated stimulants by helping people who use drugs understand the substances they plan to take.²⁶ They do so by taking samples of NPS sold in the online or offline markets (in the latter case, mostly but not exclusively on nightlife settings), testing their chemical composition, and disseminating the results. While not all members of the CSFD support the expansion of drug-checking services, further research on their effectivity and a secure legal environment for their operations is needed.

Drug checking-services have been used as monitoring tools in several European countries such as Spain, Belgium, the United Kingdom, The Netherlands, Luxembourg, Portugal, Switzerland or Austria²⁷ and they provide service to both recreational and non-recreational

users. By 2020, there were drug-checking services in twelve EU member states. Drug checking services and the network TEDI aim to act as a sentinel, facilitating data biannually to the EMCDDA as well as any time it is requested for the evaluation of a specific trend.²⁸ However, both in Europe and abroad they can find themselves operating in legal grey areas. In some cases, even when drug checking services exist they are confined to recreational settings, and not allowed within DCRs.

As a harm reduction response specifically tailored to NPS, drug-checking services should be presented by the EU in the next intersessional meeting. In particular, the EU should call for increased support for research on their effectivity, and the creation of secure legal frameworks in which drug-checking services can operate.

The staff of the Energy Control project, which is a drug-checking services hosted by CSFD member ABD, provided a clear explanation of the value that drug-checking services seek to add in a letter published at the International Drug Policy Journal in 2017.²⁹ While not all CSFD members agree on the effectivity of drug checking-services, the letter can be used as a guide to evaluating the services.

- Drug-checking services seek to identify discrepancies between the substance sold to people who use drugs as advertised by the seller, and the real chemical composition of the substances actually sold. This is especially relevant in the case of NPS, due to the large number of harmful outcomes, including deaths, associated to adulterated or mislabelled substances.
- Drug checking services also seek to operate as a monitoring tool to follow the evolution of the NPS market, and to identify when new substances appear or disappear. The Energy Control project reported the identification of new NPS to the Spanish Early Warning System (EWS) 50 times in 2015, and 82 times in 2016.³⁰
- In the past, drug-checking services have engaged with people who use drugs in hard-to-reach settings such as cryptomarkets, sharing warnings and harm reduction information.³¹
- In general, drug-checking services can be regarded as trustworthy by demographics that neither trust nor welcome law enforcement authorities and top-down messaging. As such, they could have the capacity to not only disseminate information, but also to gather valuable data on patterns of use and harm reduction practices followed by people who use drugs.
- Lastly, while more research needs to be carried out, there is at least some evidence that drug-checking services have been able to change the behaviour of people who use NPS in ways that are undoubtedly beneficial, such as disposing of dangerous substances.

The Civil Society Forum on Drugs (CSFD) is an [expert group of the European Commission](#) that was created in 2007 on the basis of the [Commission Green Paper](#) on the role of civil society in drugs policy in the EU. Its purpose is to provide a broad platform for a structured dialogue between the Commission and European civil society which supports drug policy formulation and implementation through practical advice. The CSFD is consistent with the [EU Strategy on Drugs 2013-2020](#) and the new [Action Plan on Drugs 2017-2020](#) both of which require the active and meaningful participation and involvement of civil society in the development and implementation of drug policies at national, EU and international level. Its membership comprises 45 CSOs from across Europe and representing a variety of fields of drug policy, and a variety of stances within those fields. Below is the list of CSFD members for the period 2018-2020:

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| 1. ABD - Associació Benestar i Desenvolupament | 23. Forum Droghe |
| 2. AFEW International | 24. FUNDACIÓN ATENEA |
| 3. AIDES | 25. GAT - Grupo de Ativistas em Tratamentos |
| 4. Ana Liffey Drug Project | 26. HRI - Harm Reduction International |
| 5. APDES - Agência Piaget para o Desenvolvimento | 27. IDPC - International Drug Policy Consortium |
| 6. APH - Association Proyecto Hombre | 28. INPUD - International Network of People who use Drugs |
| 7. ARAS - Romanian Association Against AIDS | 29. IREFREA - Instituto Europeo de Estudios en Prevención |
| 8. Citywide Drugs Crisis Campaign | 30. MAT - Magyar Addiktológiai Társaság |
| 9. De Regenboog Groep | 31. Médicos del Mundo España |
| 10. Dianova International | 32. PARSEC Consortium |
| 11. Diogenis Drug Policy Dialogue | 33. Polish Drug Policy Network |
| 12. EAPC - European Association for Palliative Care | 34. Prekursor Foundation for Social Policy |
| 13. EATG - European AIDS Treatment Group | 35. Proslavi Oporavak |
| 14. ECAD - European Cities Network for Drug Free Societies | 36. Romanian Harm Reduction Network |
| 15. EFSU - European Forum for Urban Security | 37. Rights Reporter Foundation |
| 16. ENLACE | 38. San Patrignano |
| 17. EURAD | 39. SANANIM |
| 18. EuroTC - European Treatment Centres for Drug Addiction | 40. SDF - Scottish Drugs Forum |
| 19. EUSPR - European Society for Prevention Research | 41. UNAD |
| 20. FAD - Fundación de Ayuda contra la Drogadicción | 42. UTRIP |
| 21. Federation Addiction | 43. WFAD - World Federation Against Drugs |
| 22. FEDITO BXL | 44. WOCAD |
| | 45. YODA - Youth Organisations for Drug Action |

ENDNOTES

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- ² Council Decision 2005/387/JHA of 10 May 2015 on the information exchange, risk-assessment and control of new psychoactive substances.
- ³ European Monitoring Centre for Drugs and Drug Addiction. European Drug Report 2020: Trends and Developments. September 2020.
- ⁴ European Monitoring Centre for Drugs and Drug Addiction. European Drug Report 2020: Trends and Developments. September 2020.
- ⁵ European Monitoring Centre for Drugs and Drug Addiction. European Drug Report 2020: Trends and Developments. September 2020.
- ⁶ For the European data in this paragraph, see: European Monitoring Centre for Drugs and Drug Addiction. European Drug Report 2020: Trends and Development. September 2020.
- ⁷ United Nations Office on Drugs and Crime. World Drug Report 2020. June 2020.
- ⁸ Amy Peacock PhD et al. (2019) "New psychoactive substances: challenges for drug surveillance, control, and public health responses", *The Lancet* Vol. 394 Issue 10209. Pages 1668-1684.
- ⁹ Alessandro Pirona et al. "New psychoactive substances: Current health-related practices and challenges in responding to use and harms in Europe. *International J. Drug Policy*. 2017 Feb; 40: 84-92. Access: <https://pubmed.ncbi.nlm.nih.gov/27956184/>
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- ¹⁵ Amy Peacock PhD et al. (2019) "New psychoactive substances: challenges for drug surveillance, control, and public health responses", *The Lancet* Vol. 394 Issue 10209. Pages 1668-1684. Access: <https://www.sciencedirect.com/science/article/abs/pii/S0140673619322317?via%3Dihub>
- ¹⁶ Bobby P.Smyth et al. "Legislation targeting head shops selling new psychoactive substances and changes in drug-related psychiatric admissions: A national database study. *Early Intervention in Psychiatry*. Volume 14, Issue 1. February 2020. Access <https://onlinelibrary.wiley.com/doi/abs/10.1111/eip.12807> & Bobby p: Smyth et al. "Decline in new

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<https://bpspubs.onlinelibrary.wiley.com/doi/full/10.1111/bcp.13672>

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¹⁸ Peter Reuter and Bryce Pardo. "Can new psychoactive substances be regulated effectively? An assessment of the British Psychoactive Substance Bill". *Society for the Study of Addiction*. Volume 112, Issue 1, January 2017. Access: <https://onlinelibrary.wiley.com/doi/abs/10.1111/add.13439>

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²⁹ Claudio Vidal Giné et al. "The utility of drug checking services as monitoring tools and more: A response to Pirona et al." *International Journal of Drug Policy*. 45 (2017) 46-47. Access: https://energycontrol-international.org/wp-content/uploads/2017/10/Vidal2017_Utility-of-Drug-Checking-services.-Answer-to-Pirona_IJDP.pdf

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³¹ Transcript CND63 side event “Drug crypto markets beyond 2020: Policy, enforcement, harm and resilience”. March 2020. Access: <http://cndblog.org/2020/03/side-event-drug-crypto-markets-beyond-2020-policy-enforcement-harm-and-resilience/>