

Drugs package: Tackling new psychoactive substances

Improving the EU's response to the rapid spread of new psychoactive substances has become urgent, and consequently Parliament is due to vote on a 'drugs package' during the October II plenary session. The package makes additions to the directive setting common minimum rules on criminal acts and penalties in the field of illicit drug trafficking, as well as corresponding amendments to the founding regulation of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA).

Background

Better known under the incorrect name of 'legal highs', new psychoactive substances are chemical substances producing similar effects to traditional illegal drugs, such as cocaine and ecstasy. The EU has created an early warning system to withdraw such substances from the market, without jeopardising their various legitimate uses. [Council Decision 2005/387/JHA](#) provides that the EMCDDA and Europol draft joint reports on new psychoactive substances, based on which the Commission may propose to the Council to decide on control measures to be taken by Member States. However, in recent years, the European market for such substances has developed at a speed that the EU and national regulators are struggling to address under the rules in force.

European Commission proposals

In September 2013, the Commission proposed a 'drugs package', composed of two pieces of legislation: a directive on minimal provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking ([2013/0304\(COD\)](#)) and a regulation on new psychoactive substances ([2013/0305\(COD\)](#)).

The negotiations stalled due to disagreement over the choice of legal basis for the regulation, the Commission being in favour of Article 114 of the Treaty on the Functioning of the European Union (TFEU) (internal market) and the Council, Article 83 TFEU (judicial cooperation in criminal matters). In spring 2016, a new approach emerged within the Council – amending the draft directive based on Article 83 TFEU while inviting the Commission to propose targeted amendments to the EMCDDA founding [regulation](#). Accordingly, the Commission made a new [proposal](#) based on Article 168 TFEU (public health) and withdrew the proposed regulation on new psychoactive substances, integrating the provisions concerning the early warning system and risk assessment procedure in the new EMCDDA proposal. In May 2017, Council and Parliament reached [political agreement](#) on the package.

The new legislation aims at substantially accelerating the EU procedure for assessing the potential negative effects of new psychoactive substances and deciding on their possible withdrawal. The time that the Member States have to implement the EU decision would be shortened from 12 to 6 months, and the early warning system, risk assessment procedure at the EU level, and information exchange would each be improved.

European Parliament position

The Parliament had supported the Commission's two initial proposals at first reading at the end of the previous parliamentary term. Following the Commission's new proposal, to amend the EMCDDA founding regulation, in November 2016 the Committee on Civil Liberties, Justice and Home Affairs (LIBE) adopted a [report](#) that proposed, among other things, fine-tuning the first recital regarding the rationale of EU action on new psychoactive substances, as well as several provisions on risk assessment. In its April 2014 first-reading legislative resolution on the proposed [directive](#), the Parliament had revamped the proposed new definition of a 'drug' and called for the possibility to criminalise new substances through delegated acts of the Commission.

Second-reading report: [2013/0304\(COD\)](#) and first-reading report: [2016/0261\(COD\)](#); Committee responsible: LIBE; Rapporteurs: Teresa Jiménez-Becerril Barrio (EPP, Spain) and Michał Boni (EPP, Poland).

