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*Committee on the Environment, Public Health and Food Safety*

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**2013/0304(COD)**

8.1.2014

# **AMENDMENTS**

## **4 - 19**

**Draft opinion**

**Bogusław Sonik**

(PE524.584v01-00)

on the proposal for a directive of the European Parliament and of the Council amending Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, as regards the definition of drug

Proposal for a directive

(COM(2013)0618 – C7-0271/2013 – 2013/0304(COD))

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PE526.243v01-00

**EN**

*United in diversity*

**EN**

AM\_Com\_LegOpinion

**Amendment 4**  
**Antonya Parvanova**

**Proposal for a directive**  
**Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1a) Setting out minimum common rules across the Union on the definition of drug trafficking offences and sanctions should ultimately contribute to the protection of public health and the reduction of harm related to drug trafficking and consumption.***

Or. en

**Amendment 5**  
**James Nicholson**

**Proposal for a directive**  
**Recital 4**

*Text proposed by the Commission*

*Amendment*

(4) New psychoactive substances, which imitate the effects of substances scheduled under the UN Conventions, are emerging frequently and are spreading fast in the Union. Certain new psychoactive substances pose severe health, social and safety risks, as ascertained by [Regulation (EU) No .../... on new psychoactive substances]. Under that Regulation, measures may be taken to prohibit the production, manufacture, making available on the market including importation to the Union, transport, and exportation from the Union of new psychoactive substances posing severe health, social and safety risks. To effectively reduce the availability of new psychoactive substances that pose severe risks to individuals and society, and to deter trafficking in those substances

(4) New psychoactive substances, which imitate the effects of substances scheduled under the UN Conventions, are emerging frequently and are spreading fast in the Union. Certain new psychoactive substances pose severe health, social and safety risks, as ascertained by [Regulation (EU) No .../... on new psychoactive substances]. Under that Regulation, measures may be taken to prohibit the production, manufacture, making available on the market including importation to the Union, transport, and exportation from the Union of new psychoactive substances posing severe health, social and safety risks. To effectively reduce the availability of new psychoactive substances that pose severe risks to individuals and society, and to deter trafficking in those substances, as

*across the Union*, as well as the involvement of criminal organisations, permanent market restriction measures adopted under that Regulation should be underpinned by criminal law provisions.

well as the involvement of criminal organisations, permanent market restriction measures adopted under that Regulation should be underpinned by *national* criminal law provisions.

Or. en

#### *Justification*

*While the potential for cross-border trade in NPS is enormous national criminal law is best adapted to unique situation present in each Member State and this flexibility should not be unduly fettered by Union law.*

### **Amendment 6** **Antonia Parvanova**

#### **Proposal for a directive** **Recital 4**

##### *Text proposed by the Commission*

(4) New psychoactive substances, which imitate the effects of substances scheduled under the UN Conventions, are emerging frequently and are spreading fast in the Union. Certain new psychoactive substances pose severe health, social and safety risks, as ascertained by [Regulation (EU) No .../... on new psychoactive substances]. Under that Regulation, measures may be taken to prohibit the production, manufacture, making available on the market including importation to the Union, transport, and exportation from the Union of new psychoactive substances posing severe health, social and safety risks. To effectively reduce the availability of new psychoactive substances that pose severe risks to individuals and society, and to deter trafficking in those substances across the Union, as well as the involvement of criminal organisations, permanent market restriction measures adopted under that Regulation should be underpinned by criminal law provisions.

##### *Amendment*

(4) New psychoactive substances, which imitate the effects of substances scheduled under the UN Conventions, are emerging frequently and are spreading fast in the Union. Certain new psychoactive substances pose severe *public* health, social and safety risks, as ascertained by [Regulation (EU) No .../... on new psychoactive substances]. Under that Regulation, measures may be taken to prohibit the production, manufacture, making available on the market including importation to the Union, transport, and exportation from the Union of new psychoactive substances posing severe health, social and safety risks. To effectively reduce the availability of new psychoactive substances that pose severe risks to individuals and society, and to deter trafficking in those substances across the Union, as well as the involvement of criminal organisations, *often generating great profit on illicit drug trafficking*, permanent market restriction measures

adopted under that Regulation should be underpinned by criminal law provisions.

Or. en

**Amendment 7**  
**Nikos Chrysogelos**

**Proposal for a directive**  
**Recital 4**

*Text proposed by the Commission*

(4) New psychoactive substances, which imitate the effects of substances scheduled under the UN Conventions, are emerging frequently and are spreading fast in the Union. Certain new psychoactive substances pose severe health, social and safety risks, as ascertained by [Regulation (EU) No .../... on new psychoactive substances]. Under that Regulation, measures may be taken to prohibit the production, manufacture, making available on the market including importation to the Union, transport, and exportation from the Union of new psychoactive substances posing severe health, social and safety risks. To effectively reduce the availability of new psychoactive substances that pose severe risks to individuals and society, and to deter trafficking in those substances across the Union, as well as the involvement of criminal organisations, permanent market restriction measures adopted under that Regulation should be underpinned by criminal law provisions.

*Amendment*

(4) New psychoactive substances, which imitate the effects of substances scheduled under the UN Conventions, are emerging frequently and are spreading fast in the Union. Certain new psychoactive substances pose severe health, social and safety risks, as ascertained by [Regulation (EU) No .../... on new psychoactive substances]. Under that Regulation, measures may be taken to prohibit the production, manufacture, making available on the market including importation to the Union, transport, and exportation from the Union of new psychoactive substances posing severe health, social and safety risks. To effectively reduce the availability of new psychoactive substances that pose severe risks to individuals and society, and to deter trafficking in those substances across the Union, as well as the involvement of criminal organisations, permanent market restriction measures adopted under that Regulation should be underpinned by ***proportional*** criminal law provisions, ***aimed solely to producers, suppliers and distributors rather than individual consumers.***

Or. en

**Amendment 8**  
**Nikos Chrysogelos**

**Proposal for a directive**  
**Recital 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***(4a) To effectively reduce the demand of new psychoactive substances that pose severe health, social and safety risks, dissemination of evidence-based, public health information and early warnings to consumers should be an integral part of an inclusive and participatory strategy to prevent and reduce harm.***

Or. en

**Amendment 9**  
**Nikos Chrysogelos**

**Proposal for a directive**  
**Recital 4 b (new)**

*Text proposed by the Commission*

*Amendment*

***(4b) An objective impact assessment based upon scientific evidence is required to evaluate the utility of different control and regulatory options, for example through consumer safety or medicines legislation. A review of the New Zealand model should be undertaken to assess costs and benefits for its incorporation in the EU system. Countries wishing to trial new regulatory approaches should be supported to rigorously evaluate the impact of their legislation on public health outcomes.***

Or. en

**Amendment 10**  
**James Nicholson**

**Proposal for a directive**  
**Recital 5**

*Text proposed by the Commission*

(5) The new psychoactive substances subjected to permanent market restriction pursuant to [Regulation (EU) No .../... on new psychoactive substances] should, therefore, be covered by the **Union** criminal law provisions on illicit drug trafficking. This would **also help streamline and clarify the Union legal framework, as the same criminal law provisions would apply to substances covered by the UN Conventions and to the most harmful new psychoactive substances**. The definition of ‘drug’ in the Framework Decision 2004/757/JHA should, therefore, be amended.

*Amendment*

(5) The new psychoactive substances subjected to permanent market restriction pursuant to [Regulation (EU) No .../... on new psychoactive substances] should, therefore, be covered by the **relevant national** criminal law provisions on illicit drug trafficking. This would **afford Member States the necessary flexibility to respond to the unique challenges of each country**. The definition of ‘drug’ in the Framework Decision 2004/757/JHA should, therefore, be amended **in such a way as to facilitate this flexibility**.

Or. en

*Justification*

*While the potential for cross-border trade in NPS is enormous national criminal law is best adapted to unique situation present in each Member State and this flexibility should not be unduly fettered by Union law.*

**Amendment 11**  
**Nikos Chrysogelos**

**Proposal for a directive**  
**Recital 5**

*Text proposed by the Commission*

(5) The new psychoactive substances subjected to permanent market restriction pursuant to [Regulation (EU) No .../... on new psychoactive substances] should, **therefore**, be covered by the Union criminal law provisions on illicit drug

*Amendment*

(5) The new psychoactive substances subjected to permanent market restriction pursuant to [Regulation (EU) No .../... on new psychoactive substances] should be covered by the Union criminal law provisions on illicit drug trafficking,

trafficking. This would also help streamline and clarify the Union legal framework, as the same criminal law provisions would apply to substances covered by the UN Conventions and to the most harmful new psychoactive substances. The definition of 'drug' in the Framework Decision 2004/757/JHA should, therefore, be amended.

*supported by effective identification, early warning, prevention, treatment, and information dissemination measures.* This would also help streamline and clarify the Union legal framework, as the same criminal law provisions would apply to substances covered by the UN Conventions and to the most harmful new psychoactive substances. The definition of 'drug' in the Framework Decision 2004/757/JHA should, therefore, be amended.

Or. en

**Amendment 12**  
**Zbigniew Ziobro**

**Proposal for a directive**  
**Recital 5**

*Text proposed by the Commission*

(5) The new psychoactive substances subjected to permanent market restriction pursuant to [Regulation (EU) No .../... on new psychoactive substances] should, therefore, be covered by the Union criminal law provisions on illicit drug trafficking. This would also help streamline and clarify the Union legal framework, as the same criminal law provisions would apply to substances covered by the UN Conventions and to the most harmful new psychoactive substances. The definition of 'drug' in the Framework Decision 2004/757/JHA should, therefore, be amended.

*Amendment*

(5) The new psychoactive substances subjected to permanent market restriction pursuant to [Regulation (EU) No .../... on new psychoactive substances] should, therefore, be covered by the Union criminal law provisions on illicit drug trafficking. This would also help streamline and clarify the Union legal framework, as the same criminal law provisions would apply to substances covered by the UN Conventions and to the most harmful new psychoactive substances. The definition of 'drug' in the Framework Decision 2004/757/JHA should, therefore, be amended **and broadened**.

Or. pl

**Amendment 13**  
**James Nicholson**



**Proposal for a directive**  
**Recital 6**

*Text proposed by the Commission*

(6) In order to swiftly address the emergence and spread of harmful new psychoactive substances in the Union, Member States should ***apply the provisions of the Framework Decision 2004/757/JHA*** to new psychoactive substances posing severe health, social and safety risks within twelve months from their submission to permanent market restriction under [Regulation (EU) No .../... on new psychoactive substances].

*Amendment*

(6) In order to swiftly address the emergence and spread of harmful new psychoactive substances in the Union, Member States should ***amend national criminal law in order to apply*** to new psychoactive substances posing severe health, social and safety risks within twelve months from their submission to permanent market restriction under [Regulation (EU) No .../... on new psychoactive substances].

Or. en

**Amendment 14**  
**Antonia Parvanova**

**Proposal for a directive**  
**Recital 6**

*Text proposed by the Commission*

(6) In order to swiftly address the emergence and spread of harmful new psychoactive substances in the Union, Member States should apply the provisions of the Framework Decision 2004/757/JHA to new psychoactive substances posing severe health, social and safety risks ***within*** twelve months from their submission to permanent market restriction under [Regulation (EU) No .../... on new psychoactive substances].

*Amendment*

(6) In order to swiftly address the emergence and spread of harmful new psychoactive substances in the Union, Member States should apply the provisions of the Framework Decision 2004/757/JHA to new psychoactive substances posing severe health, social and safety risks ***as quickly as possible and in any event no later than*** twelve months from their submission to permanent market restriction under [Regulation (EU) No .../... on new psychoactive substances].

Or. en

**Amendment 15**  
**James Nicholson**

**Proposal for a directive**  
**Recital 7**

*Text proposed by the Commission*

*Amendment*

***(7) Since the objective of this Directive, namely to extend the application of the Union criminal law provisions that apply to illicit drug trafficking to new psychoactive substances posing severe health, social and safety risks, cannot be sufficiently achieved by the Member States acting alone, and can therefore be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve its objective.***

***deleted***

Or. en

*Justification*

*The principle of subsidiarity should be respected in this regard.*

**Amendment 16**  
**Zbigniew Ziobro**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1 – point a (new)**

*Text proposed by the Commission*

*Amendment*

***(a) psychoactive substances having effects which are the same as or similar to those of currently known drugs, in particular agents of plant origin used in a similar way to tobacco and agents of synthetic origin, the so-called ‘legal highs’.***

Or. pl

**Amendment 17**  
**James Nicholson**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2**

Council Framework Decision 2004/757/JHA

Article 1 – paragraph 1 – point 2

*Text proposed by the Commission*

In respect of new psychoactive substances subjected to permanent market restriction on the basis of [Article 13(1) of Regulation (EU) No .../... on new psychoactive substances], Member States shall bring into force the laws, regulations and administrative provisions necessary to apply the provisions *of this Framework Decision* to these new psychoactive substances within twelve months after entry into force of the permanent market restriction. They shall forthwith communicate to the Commission the text of those provisions.

*Amendment*

In respect of new psychoactive substances subjected to permanent market restriction on the basis of [Article 13(1) of Regulation (EU) No .../... on new psychoactive substances], Member States shall bring into force the laws, regulations and administrative provisions necessary to apply the provisions to these new psychoactive substances within twelve months after entry into force of the permanent market restriction. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

**Amendment 18**  
**Nikos Chrysogelos**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – introductory part**

Council Framework Decision 2004/757/JHA

Article 9

*Text proposed by the Commission*

(2) In Article 9, the following paragraphs 3 *and* 4 are added:

*Amendment*

(2) In Article 9, the following paragraphs 3, 4 *and* 5 are added:

Or. en

**Amendment 19**  
**Nikos Chrysogelos**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2**

Council Framework Decision 2004/757/JHA

Article 9 – paragraph 5 (new)

*Text proposed by the Commission*

*Amendment*

***5. By [5 years after entry into force of this Directive and every 5 years thereafter], the Commission shall assess the costs and benefits of regulatory models used in third countries and if more beneficial than current EU models, to make an appropriate legislative proposal to amend this framework decision accordingly.***

Or. en

*Justification*

*Necessary in order to assess effectiveness in contrast with models followed outside the EU and harmonise with international best practices*