European Monitoring Centre
for Drugs and Drug Addiction

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RELEASED TODAY: 'RESPONDING TO NEW PSYCHOACTIVE SUBSTANCES'

EMCDDA briefing paper highlights need for range of tools to counter threat of emerging drugs

(14.12.2011, LISBON) 'The speed at which new psychoactive substances can appear and be distributed now challenges the established procedure of passing legislation to control a substance in each country,' according to a new publication released today by the **EU drugs agency (EMCDDA)**. ***'Responding to new psychoactive substances'*** – the latest briefing in the series ***Drugs in focus*** ([1]) – describes how policymakers are demanding 'new, faster and effective ways of drug control' that will protect public health and deter suppliers from circumventing controls. It notes that drug laws are not the only means available to meet the challenges posed by these substances.

New psychoactive substances are defined as narcotic or psychotropic drugs that are not controlled by United Nations Conventions, but which may pose a public health threat comparable to that posed by controlled drugs ([2]). The European early-warning system on new psychoactive substances, operated by the **EMCDDA** and **Europol** since 1997, draws on national early-warning systems to collect, assess and disseminate information on new drugs and products containing them. The last two years have seen record numbers identified in Europe – 24 in 2009 and 41 in 2010 – with some 150 now monitored at EU level and preliminary data for 2011 showing no signs of decline.

Today's briefing describes some of the practical and legal obstacles facing Member States when responding to such new substances. Testing products can be time-consuming and expensive which can hinder timely and targeted responses by legislators. New drugs may pose health and other risks to individuals and the general public, yet hard data on these may initially be lacking. Legislative procedures to bring a substance under the control of the specific drug law can take over a year in some countries. And controlling a substance may have unintended consequences, such as the emergence of a more harmful, non-controlled replacement.

'Member States require the capacity to rapidly identify and scientifically evaluate the increasingly diverse and complex new substances appearing on the market,' says **EMCDDA Director Wolfgang Götz**. 'Their response mechanisms should be optimised to act effectively and efficiently to protect public health with the minimum adverse consequences; control under drug law is one of various options that can achieve this'.

The briefing underlines the importance of national early-warning systems in detecting and identifying new substances as the first step towards assessing the risks of, and ultimately controlling, potentially dangerous new drugs. According to the briefing, these could be strengthened via the use of quantitative drug monitoring indicators, qualitative research and multidisciplinary information sources (e.g. healthcare, law enforcement).

National risk-assessment systems now exist in most Member States to examine the health and social risks of new substances. These are described as lending important support to the legislative process by sending 'accurate and credible messages' to the public about potential threats. Targeted research into a substance in question is described as 'key to providing a firm evidence base for risk assessment and for the ongoing justification of control measures'.

Psychoactive substances controlled under criminal law must be clearly defined (i.e. substances not listed in the drug law are not controlled by it). Yet the briefing describes how countries are able to overcome this obstacle with 'proactive controls'. These include controlling 'chemical families' of substances (generic controls) or the analogues or derivatives of controlled drugs (substances with similar structures or effects). In 2010, **Ireland** introduced legislation prohibiting the sale of any addictive or harmful psychoactive substances for human consumption ([3]), while **Poland**

Contact: Kathy Robertson, Media relations • Kathryn.Robertson@emcdda.europa.eu
Cais do Sodré, 1249-289 Lisbon, Portugal • Tel. (351) 211 21 02 00 • Fax (351) 218 13 17 11
press@emcdda.europa.eu • www.emcdda.europa.eu

banned the marketing of 'substitute drugs' (substances or plants used instead of, or for the same purposes as, a controlled drug) ([4]).

Faster processes have been introduced in some countries to overcome procedural delays in placing a new drug under control. **Germany**, the **Netherlands**, and more recently the **UK** ([5]), have established emergency systems that enable a substance to be placed under temporary controls. Other countries now have fast-track systems to place substances under permanent control by shortening the consultation periods in the law-making process.

The briefing states that, while drug laws should address substances that pose major threats, other measures, combined with prevention programmes, could be used to dissuade the use of non-controlled substances of concern.

'Speed of reaction may be more important than severity', states the briefing. Existing laws in areas such as consumer protection or medicines might also be considered as options and have already been used to stop the open distribution of new drugs.

For instance, regulations requiring that goods on sale are clearly and accurately labelled in relation to their expected use have been invoked to confiscate 'Spice' products not labelled in the national language (**Italy**), or mephedrone labelled as bath salts and plant food (**UK**). In 2009, **Austria** classified 'Spice' products under non-criminal medicines legislation which proved effective in halting their open marketing and distribution. Young people's access to new substances can also be reduced by licensing or age restrictions on sales outlets similar to those regulating alcohol and tobacco sales. All these approaches follow recommendations by the United Nations' Office on Drugs and Crime to concentrate law enforcement efforts on suppliers, rather than criminalising users.

'Striking the right balance between swiftness of response to new substances, on the one hand, and sufficient scientific evidence and legislative supervision, on the other, is an important policy goal', states the briefing. Looking to the future, the **European Commission**, in cooperation with **EU Member States**, the **EMCDDA** and **Europol**, is working on new legislation to better address the control of new psychoactive substances throughout the EU.

Notes

([1]) *Drugs in focus* No 22, available in 25 languages at www.emcdda.europa.eu/publications/drugs-in-focus

([2]) Council Decision 2005/387/JHA, citing 1961 United Nations Single Convention on Narcotic Drugs and 1971 United Nations Convention on Psychotropic Substances.

([3]) Ireland: www.emcdda.europa.eu/publications/drugnet/online/2010/72/article11

([4]) Poland: www.emcdda.europa.eu/publications/drugnet/online/2011/73/article12

([5]) UK: www.emcdda.europa.eu/publications/drugnet/online/2011/76/article13