

**Policy Responses to Changing Markets  
of New Psychoactive Substance and Mild Stimulants  
Barcelona, Spain 28 November 2014**

**Report**

This report reflects the discussions that have taken place during the Expert Meeting on Policy Responses to Changing Markets of New Psychoactive Substances and Mild Stimulants organised by TNI in collaboration with Energy Control on Nov 28<sup>th</sup>, 2014 in Barcelona, Spain. This meeting was part of a [series of expert seminars](#) organised within the project on “[New Approaches in Drug Policy and Interventions](#)” (NADPI) funded by the European Commission and the Open Society Foundations funded.

The seminar was a follow-up to the TNI/IDPC [expert seminar on Herbal Stimulants and Legal Highs](#) organised in Amsterdam, October 2011 and aimed to take stock of the lessons drawn from the different national and international responses. We compared national legislation in different EU member states and looked at the effectiveness of adding new psychoactive substances (NPS) to the existing schedules of drug laws versus legislative experimentation designing new schedules or applying controls under medicines or consumer protection regulations. Aiming at potentially new policy perspectives, we discussed strategies to diminish the dominance of concentrated and more harmful stimulant substances and ways to steer the market towards milder, often plant-based, substances.

The seminar was guided by the Chatham House rule to facilitate an open-minded exchange of opinions and experiences of policy officials and non-governmental experts in the field.

The names of the participants have been omitted from this report. The seminar was attended by 24 experts in the area of harm reduction, drug policy, government officials, NGO representatives and others, coming from 8 different countries in the EU. The report follows a loosely chronological order and the discussions' contents were aggregated in the different sections below according to the themes at hand.

**Introduction**

Mr Joan Colom, Director of the Program on Substance Abuse of the Catalonian Health Department, opened the meeting with a welcome and a brief explanation about how local health authorities are also paying close attention to the NPS theme through mechanisms such as the Early Warning System. A short introduction on the history of the expert seminar and a description of the seminar's structure followed the opening. The developments of the market and the policy responses around the European continent were announced as the main themes of the day. It was explained that the discussions at the seminar would feed into policy discussions currently taking place nationally and at EU level.

## **Session 1- Overview of the EU NPS Market and international drug control responses.**

### **Adulterated cocaine warning**

Before going into the NPS market discussion, attention was raised to an alarming situation in Amsterdam where tourists had been sold white heroin as if it was cocaine. This has caused three fatal incidences over the last week when British nationals died in their hotel room after consumption. The EMCDDA has been informed and there should be a general warning released soon. It is important to raise attention to the topic, and since tourists don't read local newspapers, other methods of communication are being used, such as billboards and signs in the streets. It is hard to understand why this is happening since white heroin is more expensive than cocaine.

### **NPS phenomenon overview**

The NPS discussion started with a brief overview of what they were, and the different names that have been used so far to describe such substances: Legal Highs, Designer Drugs, NPS, Research Chemicals etc. There is no real consensus on the definition of NPS but they are generally considered to be substances that are not under control or where not under control when released in the market.<sup>1</sup> The EMCDDA started cataloguing these substances in 2005-2006 and a heavy increase has been noted since 2008. During the last year 81 new substances have been catalogued, and this year already over 90 new substances have been described.

[Mr Alexander Shulgin](#) was named as one of the main figures that became famous for synthesizing many of these compounds, some of which had been previously discovered but had been forgotten on the shelves until the experimental pharmacology researchers picked these molecules up again. In the 80's and 90's we have seen the first start of some of these compounds such as synthetic phenethylamines and other MDMA substitutes like BZP which appeared in New Zealand and elsewhere in the 90s.

There are many groups of NPS, generally imitating traditional drugs in their effects. Usually they are stimulants, synthetic cannabinoids, empathogenic substances or psychedelics, but there are also other kinds such as dissociatives or 'downers'. In terms of prevalence, there is a big variability, in some countries we barely see any use, while in others they have overtaken the market of some of the traditional substances, for example in in Romania where NPS are substituting heroin.

### **Why are NPS available?**

Another of the questions raised in the discussion was why are some of these substances successful in some markets and not in others? Is it related to quality and availability of the traditional drugs? Are they merely substitutes or do they also generate new consumer preferences and interest?

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<sup>1</sup> The definition used by the EMCDDA (from: <http://www.emcdda.europa.eu/activities/action-on-new-drugs>): A new psychoactive substance is defined as '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'. Research chemicals describe the unmixed, pure cannabinoid or cathinones or piperazines as used in scientific research. A herbal mixture includes a research chemical, specifically a synthetic cannabinoid, and plantbased material to make it look herbal. More information can also be found on <http://www.i-trend.eu/nps.htm>

In terms of contextual factors that catalyze the appearance of some of these substances in the market, it was suggested that drug control and precursors control were a significant factor. In 2008 when precursors BMK and PMK were put under control, it became harder to produce MDMA and amphetamine, so clandestine chemists started producing different substances as substitutes. When BMK and PMK re-appeared on the market, so did MDMA and amphetamines. Participants remarked that there are several other indications that controlling a commonly used drug through a ban generates negative effects which include the appearance of several new substitute drugs with unknown and often riskier profile. In the Netherlands for example cannabis is commonly available and as a result synthetic cannabinoids are very rare. It seems that when traditional drugs are available in a safe setting, NPS expansion diminishes. But as a counter example it was raised that in Colorado USA, where cannabis has recently become legal, synthetic cannabinoid use is still rampant. In the following discussion it became apparent that the contextual reasons for that are probably related to the fact that cannabis is still illegal at federal level and people can get tested for cannabis when driving, as well as when trying to get jobs or enter the army, but there are no such tests for synthetic cannabinoids.

The NPS market is increasing not only because of the control on substances and precursors but also because the profit margins are very large. Importing large quantities of these substances and selling them in small doses generates a very significant profit with relatively low legal risks. Purchasing substances over the internet is offering advantages to both sellers and users. Many are sold both on the open web in normal websites, in invite-only websites as well as on the 'deep web'. It's an ever increasing market and technological advances make a true control of the internet next to impossible, the police can only ever skim the surface.

In an effort to control the NPS market governments have turned to different control systems: consumer acts, generic controls or medicine control, in session 2 these have been examined more extensively. It was remarked that the only commonality seems to be that the NPS use generally did not decrease in any country.

### **Are NPS really a problem and can we generalize when talking about risks and measures?**

One of the questions raised is whether the NPS issue is really the apocalyptic scenario painted by the media and other people. Is there really an emergency? It is important to think critically and see to what extent that is an exaggeration. It often is the case that only a few substances are actually important and have a big effect on the market. The point was raised whether we have to accept the subject of NPS as such: The only thing the substances have in common is that they were legal when entering the market. "Legal or not legal" is not a public health argument and with this focus on scheduling we accept that in drug use the only important factor is the chemical property/structure and it's presence in some special list. Instead the most important factors should be prevalence, presence of abuse, rules for safer use, etc. It was remarked it takes time to develop rules for safer use and knowledge about 'good practices', which often appears in peer-to-peer form with more experienced users informing the newer ones.

What is the goal of discussing control? There are 400 new substances since 2005. But if we look closer, maybe 90% are obsolete: In that case we can stop discussing them. We should be specific about what are we discussing, are we talking about substances, or substance use? Participants suggested the focus should be on substance use and preferences. Many factors need to be taken in account when talking about the NPS:

- Pharmacological differences
- User group differences
- Intentional use vs adulteration/accidental use.
- Market mechanisms
- Global dynamics
- Prevalence

In either case an umbrella legislation might not be appropriate and adapt to the unique local realities. In Netherlands for example there is no problem with CB1 agonists, so designing a legislation for these substances there would be inappropriate and unnecessary.

### **Barriers for an evidence base in NPS policies**

To what extent is it possible to adopt an evidence-based strategy despite the political obstacles that are in the way? It is essential to consider a balanced approach and look at possible safe use, medical use but it seems that an evidence-based system goes against the logic of present-day controls. One particular example of the WHO expert committee was mentioned, who faced important backlash for recommending substances NOT to be scheduled. Funding was lost and they even had to stop their meetings. The moment that more logic and rationality is being introduced in the policy responses to NPS, the control and scheduling logic will be questioned. This will require a departure from the zero-tolerance approach, policy makers will have to deal with inconsistencies of the laws in the EU. Another issue is the fact that the international conventions are often not clear and contradictory. There is a fundamental difference in how substances are treated in the 1961 and the 1971 UN conventions. The WHO struggles with the question under which convention these narcotics should be.

As regards the advantages of a unified EU NPS policy it was remarked that many countries would like the idea of having a quicker procedure to react to NPS on the market. But it seems the systems in place are very one-directional and the temporary scheduling measures are flawed. It is very hard to un-schedule a substance, so it ends up being a permanent measure. A better idea is to have a proportionate response, not only have a 'yes it has to be scheduled' or a 'no we do nothing' option. Unfortunately the idea there could be 'milder' psychoactive substances is not widely accepted yet.

If the landscape is significantly changing, then the international control system will have to change and adapt. The main worry is regarding opposing recommendations, for example: The WHO often expresses caution and the need for a more thorough look, while the INCB straight away asks for scheduling, as has been the case for Ketamine now. Ketamine will be one of the test cases to how much the INCB takes advice from the WHO. In the 90's we had seen a similar situation regarding cocaine, then WHO was about to publish a report which showed the cocaine was not as harmful as generally believed, under pressure of the US which threatened to remove funding for malaria control the report was never published.<sup>2</sup>

Questions were raised about the dubious role that the INCB is playing. They are overstepping their mandate by making control recommendations about substances that are not scheduled in the

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<sup>2</sup> For more information about this case and a link to the WHO cocaine study report: <http://www.tni.org/article/who-cocaine-project>

treaties. The correct procedure would be for the WHO expert committee to advise on scheduling.

### **European Commission's proposal**

The status of the European Commission [Proposal for Regulation adopted by the European Parliament](#) in April 2014 was discussed in this first session. Some felt the system being proposed by the EC was too complicated and unrefined. There is hardly any information on risks of NPS available, so it is not realistic to have a system that differentiates between the different levels of harm. Within the EU public health matters have to be decided on a national level. This proposal is based on the protection of free movement of goods and will limit the member states' possibilities to go beyond EU level policies, and this is a crucial point. Some member states have a generic approach like for example Austria. If the EU decides not to ban a certain substance, this might have the consequence that Austria will need to change its own law. The EU Horizontal Drugs Group is trying to determine which parts of the proposal can apply to all member states and which parts not. So far the discussion has not come to an end and alternatives have not been found. The European Parliament has made amendments to the proposal, but the Council is not even at the point where they have a set proposal.

Another critique towards the Commission's proposal claimed that the proposal was built on false premises: the Flash [Eurobarometer](#) 330 "Youth attitudes on drugs"<sup>3</sup> was used as an evidence base. This study is not a representative survey and the question about NPS includes a very significant bias. Still, those percentages are now points of reference that will indicate evolution, when they will be compared with previous done with the same methodology. The proposal also claims that with regulation the workload in the Early Warning System will remain the same but one participant expects the workload to increase. An

The difference in regulation between different countries was one of the subjects commented on during this session. Problems can spread between different countries if the legislations of neighboring countries are very different, for example: methamphetamine in Czech Republic started so spread to Germany where there is more control on over-the-counter medication. Also when Poland closed NPS-selling shops, many new ones opened in the Czech border. The market is Europe-wide, so individual decisions without taking into account the interconnection will by default make those decisions limited. But this opinion was then rebutted since there are also other variables which should be taken into account. The example of the methamphetamine market in Austria was cited: the country is bordering the Czech Republic yet it does not have the same problems with methamphetamines as Germany has. It was then elated that we still don't understand the NPS market. We cannot think of the NPS market without looking at the whole drugs market, the precursors and pre-precursors, the historical use of certain substances, etc.

Another comment that came up again in this session and several other times during the seminar is regarding the effect of regulation of more common drugs. NPS are mostly trying to substitute other substances which have a known safety and risk profile which can be managed. So if some substances are substituting for example MDMA, would it not be better to regulate MDMA? There is a clear displacement effect in the market, with cathinones substituting MDMA for example. The Khat market also has shown the 'waterbed' effect, supply will just find different ways to meet the demand. Again,

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<sup>3</sup> See link: [http://ec.europa.eu/public\\_opinion/flash/fl\\_330\\_en.pdf](http://ec.europa.eu/public_opinion/flash/fl_330_en.pdf)

market rules are clearly applying.

## **Session 2 - Comparison of national NPS legislation models<sup>4</sup> and their impact on the NPS market. What are the differences per EU country, what are the results? What other factors influence the market?**

### **New Zealand**

The session started with a [video regarding the unique attempt in New Zealand to control NPS](#) by switching the burden of proof of the safety of such substances towards the suppliers and allowing temporary sales of NPS in certain selected shops. Any manufacturer desiring to produce and sell NPS would have to pay for expensive safety tests under pharmaceutical standards. The stores that received temporary permit to sell these substances would have to follow several regulations such as not allowing minors to buy, having clear packaging with dosages and other safety information, amongst others.

In the end this new law had been overturned and the sale of NPS was made totally illegal again. This was partly due to the fact that animal rights group called for a ban on the use of animal testing to assess the safety of NPS. This made it even more impossible to actually research them and prove (or disprove) their safety, as the law required.

Some of the seminar members thought it had been an interesting and partly successful legislation since it at least recognized the existence and possible legitimate use of such substances under certain settings and safety precautions. Another supposed measure of success was that the majority of the shops selling NPS were closed and a stricter control of the substances on the market became possible. Nevertheless, several downsides to the measure were also mentioned. For example the fact that closing shops might not be an indicator of availability since the market might have just shifted to internet suppliers. Another negative aspect of the measure was that proving the safety of such compounds has just not been possible since NZ never clearly established criteria for it. The hypocrisy of having alcohol and tobacco legal, with their questionable safety was mentioned. Since the NZ law stated that drugs that were previously under control (like cannabis) cannot be part of this new law, this basically prevented any discussion regarding the coherence of drug laws and prevented a critical look at the logic behind prohibition.

### **Hungary**

In Hungary, the second most popular drug after cannabis is synthetic cannabinoids. The drug most injected by people is penthedrone, this has now completely replaced heroin. There also is a significant intravenous use of NPS. A survey on the NPS market in different countries in Europe shows huge differences: in Romania/Hungary NPS are often being injected, while in Portugal for example it has low prevalence. One reason for these differences could be the social status of drug users in Eastern Europe that live in extreme poverty, often belong to the Roma minority, they have no access to good quality heroin and amphetamine and lack of access to treatment.

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<sup>4</sup> An overview of legal innovations across Europe can be found on the EMCDDA website : [http://www.emcdda.europa.eu/topics/pods/controlling-new-psychoactive-substanceshttps://duckduckgo.com/l/?kh=-1&uddg=http%3A%2F%2Fec.europa.eu%2Fpublic\\_opinion%2Fflash%2Ffl\\_330\\_en.pdf](http://www.emcdda.europa.eu/topics/pods/controlling-new-psychoactive-substanceshttps://duckduckgo.com/l/?kh=-1&uddg=http%3A%2F%2Fec.europa.eu%2Fpublic_opinion%2Fflash%2Ffl_330_en.pdf)

It was also added that Hungary seems to oppose the EC proposal for regulation because they have a generic control for substances, which the authorities claim to be successful. Nevertheless legislation has to be amended every 3-4 months.

### **Germany**

Lifetime prevalence of NPS in a student poll conducted annually among 15-18 yr old students in Frankfurt rose to 9% in 2011 in Germany, and then dropped back to 5% in 2013.<sup>5</sup> Media coverage seems to be a significant factor in the demand for NPS, it directly or indirectly incites people to use. There is no scientific data showing a rise of methamphetamine use in Germany, and the use of heroin and crack also remained stable. A survey conducted in 2011 and 2013 revealed a decline in the use of traditional NPS such as herbal mixtures and bathing salts and on the contrary, the consumption of pure research chemicals used to assemble the traditional NPS rose. The people in the survey used research chemicals much more often than herbal mixtures; synthetic cannabinoid was the most used research chemical.

Regarding the reason for use, according to surveys, the top four are: To experience intoxication, curiosity, legal availability, and the unavailability of illegal drugs.

Bavaria has the most repressive drug policy in Germany. To illustrate this example of a teacher who was found to have 0.01g of cannabis, and then got a 700 euro fine was mentioned. It was added that such harsh laws can make people move to NPS use.

There are no NPS-specific laws, the general misuse of drugs act is used instead. The European Court has ruled that NPS are not illegal, but the headshop owners are still apprehensive. In any case there is a low prevalence in Germany. Most people purchase them over the internet. The public opinion on NPS in Germany seems to favor prohibition; at the same time there is an increasing effort to try to legalize cannabis.

### **Austria**

In Austria is implementing a generic approach which is a broad-reaching law that forbids hundreds of substances. Nevertheless, the use is not criminalized. Each case is dealt with in an individual contextual basis.

### **Romania**

The NPS market appeared in Romania in 2007, first through the internet, then in shops. There was a big boom in 2008, it started in the bigger cities then moved on to smaller cities and villages. The population is historically not interested in drugs but the younger generations are. At the same time there is very limited information on risks and characteristics. All drugs are perceived the same. The name 'legal highs' gave the misleading impression of safety, and resulted in some hospitalizations. During the years of 2008-2011 the drug market tripled. The most popular substances were synthetic cannabinoids, but in the party scene, cathinones such as mephedrone also had significant use.

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<sup>5</sup> [http://www.uni-frankfurt.de/52060909/MoSyD\\_Jahresbericht-2013\\_final.pdf](http://www.uni-frankfurt.de/52060909/MoSyD_Jahresbericht-2013_final.pdf)

Under political pressure to do something two Romanian politicians started to debate the issue. The starting point was prohibitionist. Some NGOs tried to get have a balanced discussion but faced significant opposition and in 2010 44 substances were banned. Amongst them were synthetic cannabinoids and stimulants, but also amylnitrate, amanita muscaria, psilocibin, ketamine and many other unrelated substances. The law did not help the situation, and after new NPS appeared in 2011, the next focus was on closing the shops. Retailers were ordered to get a license but these licenses were never issued. The law focused also on banning substitutes of traditional drugs, but questions were raised about the burden of prove they are substitutes? The procedures were expensive and the processes to authorize substances never came to a conclusion.

In 2013 there was a formal request to change the law demanding licenses to sell NPS because this was believed to be unconstitutional, referring to tobacco/alcohol as an example. But the Constitutional Court rejected the request, because tobacco and alcohol are already regulated and the law was related to new unregulated substances. The law had an impact in reducing availability to 'general' public but those who want can still get it (though facing significantly more risks). 74 new substances have been scheduled since 2010 and the last shop was closed recently, and is now selling through the internet. The market simply moved into the black market. In a total of 37 out of 41 counties there were emergency cases and 5 deaths have directly been linked to NPS. HIV infections have also increased with NPS users since many are injecting. At the same time, the data from official statistics is probably unreliable, and numbers could be way higher.

It was remarked that in Romania and other parts of Eastern Europe, it seems that people are not taking these substances for pharmacological preferences; instead it is related to the availability (and lack of availability of other safer substances). Some users when relating to the effects of a substance say that they only had panic attacks, and yet needed to take something, *anything*, just to get into an altered state.

### **Poland**

The Poland context is similar to Romania. NPS availability started in 2008 through the internet. In March 2009 the list of illicit substances was enlarged. Then, many shops were closed in 2010, and an emergency bill was signed which affected to some extend the general availability of NPS, but didn't affect the availability of NPS on the internet.

### **Portugal**

In 2007 the first smart shop opened in a small city, specialized in psychoactive plants and mushrooms, in 2009 this shop started selling NPS. In 2012 many smart shops spread throughout the country. In terms of legislation, in March - April 2013 the government took the decision to ban 159 psychoactive substances. This Decree Law 54/2013 is a specific legislation dealing with the production, import, export, publicity, distribution, selling, holding or availability of the substances as listed in the accompanying list. The law delivered a blow to the smart shops that flourished during the preceding year. The decree is only defining administrative sentences. While a person caught using NPS, without a suspicion of another offence, is referred to a local Commission for the Dissuasion of Drug Addiction, personal use of a small quantity of controlled substances is still decriminalized. Nevertheless it seems the government was spreading stigmatizing propaganda exposing a negative view of drug users.

### **Bulgaria**

There is very little data on NPS, it was suggested that perhaps NPS are not an issue in Bulgaria.



## **Serbia**

There is a scene using NPS but not much info about it.

## **UK**

The prevalence of drug use in the UK is generally high compared to other countries in the EU. Official statistics are not reliable, according to some of the people present in the seminar. The main source for NPS is the internet, headshops too, and a percentage also gets from friends or family.

The NPS market properly kicked off in 2010 but started in 2008. There seem to be two main groups: One group is composed of recreational users, which are either weekend users or experimenters with a small number of those moving onto problematic use. The other group is the problematic users who have historically used traditional drugs, including injecting drug users which incorporated NPS in their use. There is a significant use in prisons too, specially synthetic cannabinoids and stimulants. Participants suggested these synthetics were used to avoid positive drug testing.

In terms of NPS use, synthetic cannabinoids are most popular. Mephedrone is also widely used, and in Wales and England it is also being injected. There is also an increase in hospitalizations but the data is not reliable since there is a lot of misdiagnosis and other issues. Synthetic cannabinoids are used also by different groups that do not use cannabis. There is high prevalence of synthetic cannabinoids in small towns where availability of other drugs is limited. There are sellers making their own mixtures and sometimes competing against each other making stronger mixtures of cannabinoids, which can be a big problem as has been seen before.

MDMA use seems to be on the rise, even though about a third of the suspected MDMA samples show no MDMA at all, often some cathinone or related substances.

In the UK [Wedinos](#) is collecting samples of NPS. They do drug testing both collecting at different locations as well as receiving by post, and information is used for harm reduction and to have data on the market.

The main legislation dealing with NPS is the Misuse of Drugs Act which includes long list of drugs that are prohibited. The Home Office has responsibility for the legislation of drugs, but each of the countries within the UK has a different drug strategy. In England the strategy is recovery/abstinence oriented. The media plays a big part in the response to NPS. The Home Office has undertaken and completed a review of NPS and came up with a strategy that moved away from an 'analogue approach', which would have been the worse. But the review indicates that there will be a move into blanket ban of importation and selling of NPS. So they want to close stores and reduce internet availability. Same was done regarding steroids. The predominant drugs are still the traditional drugs cannabis, cocaine and heroin, NPS is added to this market instead of substituting the traditional market.

The Advisory Council on the Misuse of Drugs (ACMD) is an independent body that is supposed to provide evidence-based information for the Home Office (though they don't always listen to the panel). Home Office now proposes to control with a generic model, which would include emergency/temporary scheduling. The control-only approach is leading to confusion and mistrust in the legality and legal system.

In Ireland they are closing and controlling headshops. The closure reduced the opportunistic/impulsive use of substances but not necessarily the general access. Part of the drugs just went to the underground and risk increased with this shift to the illegal market.

An ACMD report noted the failure of the analogue approach, and now they are proposing a ban on the [basis of brain receptor](#), which participants believe to lead to several problems in the future.

### **France**

The Decree of 27 July 2012 gives a generic definition of cathinones, and the same type of disposition is now also planned for synthetic cannabinoids<sup>6</sup>. Seven families and two specific substances are under consideration. It could happen that individual substances are regulated, even if they have a very low prevalence on the national territory, at least at the time decision.

National authorities took two main criteria into consideration: fatalities in other countries such as for instance in the case of 5-IT (5-(2-Aminopropyl)indole) in Sweden, or the presence of the compound in traditional laboratories of amphetamine type stimulants, as for the 4-FA (4-Fluoroamphetamine). In the case of 4-FA it hardly appeared on the market when it was identified in France in 2009, or in 2011, when it was scheduled. But the number of seizures rose 100-fold between 2012 and 2013.

### **Netherlands**

In the Netherlands the reduced use of CB1 agonists (synthetic cannabinoids) is notable; experts relate this to the tolerated availability of cannabis. Some substances are sold in smartshops and through the internet, including cathinones and stimulants and others. 4-FA is popular in Netherlands now.

### **The role of the media**

The participants discussed the role of the media as a factor to take into account in NPS policy making. It was commented it is appealing to write stories about “young kids dying in the streets”. It is a clear 'moral panic' and not based on reason or statistics. There appears to be a clear bias regarding substances, for example deaths by alcohol or tobacco are never mentioned. When mentioning NPS-related deaths, the people that die are portrayed as 'innocent victims', while heroin deaths are not considered the same way.

The question was raised if journalists are even conscious of the misinformation they are spreading. In some cases it may be they are simply misinformed, or in other cases it may be deliberate manipulation of information to fit the newspapers' political agenda. In any case, the media has a direct effect on policy: a big publicized case can result in a ban withstanding the expert opinions from professionals and civil society.

It was also noted that the media hype regarding NPS has an opposite perverse effect: it can actually serve as free advertisement for the substances, even when they are painted in a negative light. For example when correlating the deaths in the UK due to mephedrone use google analytics data showed

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<sup>6</sup> See the minute report of the national commission on drugs and psychotropics on the 20th June 2013, [http://ansm.sante.fr/var/ansm\\_site/storage/original/application/d6fec5ffad7d97b6043deba56adcf33c.pdf](http://ansm.sante.fr/var/ansm_site/storage/original/application/d6fec5ffad7d97b6043deba56adcf33c.pdf), accessed on the 12/01/2015.

that search terms like “buy mephedrone” greatly increased at the same time. It may be in many cases the media is the one that actually creates the hype in the first place. One example in Spain was the rumors of girls using tampons filled with vodka were spread by the media without doing any fact checking, which later led some cases of girls actually trying it and being hospitalized.

In many countries a rational debate about cannabis, amphetamine etc, is non-existent. NPS is seen as the 'new threat'. All NPS are seen as something that has to be banned, there is no alternative. Some participants suggested we can perhaps use the development of NPS policy as an opportunity to look back at the old substances. There are other strategies that can work, doing press conferences/announcements. In the UK it has also worked to go against the 'our children are in danger' propaganda, by publicizing quotes and opinions from parents whose children died due to drugs, but who had a more sophisticated view and could break the stereotype about how 'drugs killed my child' but rather point out that 'prohibition is responsible for my child's death' .

Other examples were given about how one can try to diminish some of the damage from misinformation regarding drugs spread by media by trying to educate them and collaborating with journalists or editorial boards, spreading truthful information. In the Netherlands there have been talks with the media to inform and to 'downplay' NPS news, in an attempt to not blow it up beyond proportions. Sometimes not informing the media resulted in misunderstandings and misinformation being spread. Working with the editorial board can be effective, it has been seen in UK for example with the Sun, slowly changing to a less reactionary stance

In Spain, another example of dealing with the media is with Energy Control's press conferences. Energy Control occasionally calls representatives from the different newspapers and news channels to release information regarding drugs that have appeared on the market and are commented on by the media. Recently this has been the case with MDPV, which was often named as 'cannibal drug' for sensationalist purposes. Energy Control has informed the media about the misinformation which was being spread, and talked about the effects of MDPV, about how the 'cannibal' from USA actually did not have MDPV in his blood and it was just a rumor, etc. Since then, news regarding this drug has basically disappeared.

### **Session 3. Steering the market towards milder less harmful substances.**

#### **History, social legitimacy and supporting structures**

There is a need for a historical perspective on the subject of drugs. Especially now, in this period of rapid change. Negotiations are ongoing between cultural conservatives and people looking for legitimacy for their drug use and to give meaning to a new pharmacological experience. Mushrooms for example had been completely ignored for years, and then suddenly they reappeared and were discovered all over the world and northern Europe. 1972 was the beginning of a wave of information, people were trying to build an ideological structure around it, tried to tie the mushrooms with the idea of Merlin and druids and stone circles, but once the substance found its niche, that need for a cultural context disappeared. The same happens with new substances, where there's a need to develop a structure surrounding them

#### **Natural stimulants: Coffee, guarana and coca.**

When talking about stimulants, caffeine is largely ignored or not viewed as a drug, despite the fact that it is most certainly a drug with powerful effects and even dangerous effects when taken in excess. Why isn't there a market for pure caffeine? One reason could be the social context surrounding it, how it has been legitimized in a certain context where dosage is generally controlled and so on.

Guarana has been used in Central Amazon for its energetic purposes, it is more powerful than coffee. When guarana first appeared in the UK, people considered controlling it. The Home Office felt in some cases the way a dosage was packaged was unacceptable, like certain types of vials. But this feeling changed over time. There will probably not be a huge boom in the caffeine/guarana market any time soon.

At the opposite end, we have the case of coca and cocaine. Low doses of cocaine are pretty much indistinguishable from mild caffeine experience. Originally cocaine extracted from the leave was seen as some kind of panacea, but this gradually acquired more negative connotations and as a result the coca leave and cocaine were put under international control. One of the negative side effects of this control is the ban of the natural milder coca-leaf based products. This made the situation worse than it was before: it acted as an incentive to concentrate the product (into crack and cocaine) and marginalize the users. Crack was on the front cover of UK magazines before anybody had ever seen it. It was an advertised product. Participants suggested that a rational policy on cocaine and natural coca-leaf products, would have prevented many of the issues we struggle with today. Since people would have access to a sanctioned and reasonably safe mild stimulant.

### **Khat**

Khat is a native plant in Arica and the Arabian Peninsula. It has been used traditionally for thousands of years, and is used in The Netherlands mostly by Somali and Yemeni people, composing a group of around 30 thousand people. Less than a thousand of those people have problematic use patterns mostly connected to integration problems and domestic violence. Some of the worst cases are staying in Khat houses all day long in a stupor, but they are a small minority.

In January 2012, as a result of international pressure and lobby groups, the Dutch Government decided to ban Khat. The ban was a disproportionate law aimed at a small group of problematic users. Fresh Khat needs to be used within a couple of days, but since the ban the product is taking longer to arrive through the alternate routes. Now a dried version of the plant is being used in the Netherlands, unknown chemicals have been added to conserve the alkaloids and these chemicals may be toxic. So the ban not reduce supply and use continues: now instead of going to Khat stations, they call the dealers. Before the ban, 1 Khat bundle was 4 euro, and after the ban 1 bundle is 10 euro. The Khat dealers are profiting from the ban. Some Somali women were supporting the ban because they felt their husbands were using too much. Parliamentarians in favour of the ban, were also asking for preventive measures. One of the conclusions of the expert panel in Netherlands was that khat was one of the lowest in the list of harmful substances, but decisions were taken regardless. Some grower countries are considering suing the western countries for forbidding these countries but there is political pressure. The UK now wants to follow the same path and ban khat as well.

### **Using mild plant-based psychoactives as an alternative to NPS**

Participants discussed the possibility of using plant-based milder psychoactives as a substitute for NPS. Some of the participants mentioned that the user groups might be significantly different and they

might not overlap. So while there might be a market for functional stimulants that people can use in their daily lives, which could be plant-based, there is also another market of recreational users that might want strong stimulants and for those, mild stimulants might not work at all. On the other hand there are certainly examples where the natural plants could greatly substitute NPS: If cannabis was legal then it certainly could substitute a lot of the synthetic cannabinoids use, or psychedelics mushrooms might work in the psychedelic NPS market, or opium might be used by heroin users.

A comment was made on the safety of natural plant compounds versus synthetic ones, and how also from a spiritual perspective shamans will respect the plants and how extracts or synthetics are a diversion from this spiritual path. This comment was rebutted since there have also been published cases of shamans even preferring synthetic substances over the traditional entheogens, as was the case with Sangoma healers in South Africa that started using 2C-B. At the same time there are also toxic natural substances like curare, strychnine and anti-cholinergic deliriants, which show that this debate is much more nuanced and not only based on whether a substance is synthetic or natural.

One participant noted that there seems to be two kinds of people using these substances: The more educated users, psychonauts, often part of club cultures, sophisticated users. Working hard during the week, having fun weekend and generally managing use alright. And then there is another group, in rural areas, less educated, more interested in uppers and downers. They often go to hardcore parties. There's a thin line in this group between recreational and abuse/addiction. Generally this group looks for a quick fun. So regarding mild plant-based substitutes, only a minority is interested in khat, coca leaves, etc. They say the effects of these are too mild. It doesn't fit the spectrum with the party scene. They also think it might look silly to be chewing these leaves or so on. So using mild natural psychoactives may be an alternative in some cases, but not in all.

Another factor that was mentioned is the social context: Often people are looking for a 'way out', for an escape to the daily grind and stress. Since society does not offer socially sanctioned places where people can let go of their inhibitions and manifest themselves freely as well as alter their consciousness if they want, the result is the energy comes out in an uncontrolled form, including excessive drug use. So a societal change is also necessary, and while that is a long-term work, many things can still be done in short/mid-term like harm reduction measures such as drug testing, information and offering safe settings for consumption.

Regarding the suppliers side, the members also saw an important area for intervention. In Amsterdam, there is the illegal market (dealer), the tolerated market (coffeeshops), and the smartshop market. In the case of NPS, the smartshop market is very relevant and may offer options to reduce the harms of the NPS market. Smartshops originally started selling health supplements such as L-tryptophan, kava kava, cola nut, etc. Then came the ecstasy-like substances (2C-B and related substances). After a year or two they were banned in the 90s. Then ephedra was on a rise and was subsequently prohibited in 2004. Ephedra provided a good alternative to stimulants, but once it was banned users switched to other substances. The smartshop focused on magic mushrooms, which were banned in 2008 due to incidents with tourists (some cases having been questionable and full of misinformation). Now there are truffles which substituted the market due to a legal loophole. One possible discussion in steering the use into a more healthy alternative is thinking how to transform the smartshops. By collaborating, it will be possible to identify and separate the riskier substances, focus more on harm reduction, inciting a discussion on what products are being sold, what information is being given, etc. An alliance

with the smartshop owners could be a good idea.

### **Recent and future innovations affecting the drug market**

One participant shared his experience in designing new legal drug. It took him two months, all arranged by e-mail with a laboratory in China. The final product he received was 95% pure. 20 years ago this would have been impossible; the internet is opening a whole range of new possibilities. Participants learned that the first thing bought over the internet was in fact a bag of marijuana: a transaction from MIT to Stanford. "Operation Onymous" closed spoof websites, so in fact actually made the dark web safer for people. NPS are becoming more and more accessible with internet.

One participant added that another future innovation may render drug laws even more obsolete: the appearance of 3D chemical printers that will allow people to print their drugs at home.

The hypothesis was presented that people will use less and less NPS due to getting a connection to the substances they actually want. For example now MDMA is back on the market because someone made the pre-precursor PMK glycidate. Other substances which can affect the market are surely to come in the near future. Dr Z, the biochemist who rediscovered mephedrone, is working on a substitute for alcohol which apparently results in less side effects and is less toxic. Markets may greatly change in the future due to these or other innovations, and regulation will always be a few steps behind.

### **Final comments on prohibition and market regulations**

It was remarked that drug prohibition has failed and generates negative consequences which worsen the problems rather than solving them. Apart from the very existence of NPS themselves being an example of the failed 'war on drugs', other particular illustrative instances were brought up, such as when mephedrone was banned in Hungary in 2010 and MDPV started being sold as a substitute. This substance is five times more potent, which led to a lot of overdoses. Similar cases were observed elsewhere, a significant concern was expressed regarding the thousands of people in UK currently addicted to etizolam and the possible consequences of a ban on this substance. Benzodiazepine withdrawal can be life-threatening, and a direct ban can result in a lot of people going cold-turkey and possibly death.

Major part of the participants acknowledged that the market will always find a way, that is why specially for NPS we should try to more understand how the market runs. It was suggested that the history of the failure of NPS control is a mirror of the failure of prohibition in general: it creates more harms. The idea of closing the shops is naive, since suppliers just change from one place to another or from real locations to a virtual one on the Internet. Blanket or analogue laws or laws depending on brain receptor action only generate a few possible outcomes, none of them being the reduction of drug use. What happens is a displacement to another quasi-legal market or to an illegal market. NPS policies are exemplary of the failure of drug prohibition in fast forward and in a loop.

Participants commended we need to question the current ways of drugs scheduling. As knowledge and prevalence evolve along the time, it is necessary to impose that scheduled drugs shall be assessed on a regular frequency. And even when a reassessment happens, it seems psychoactive substances always move from unscheduled to scheduled, rarely ever the other way around.

One participant suggested we can use a differential application into regulation, separating substances based on risk, together with factoring in a possible use of more mild plant-based stimulants as partial

substitutes for some of the synthetic or extracted versions. The problem with this is, as discussed by other participants, is: how can we even measure risks in the first place? Animal tests have inherent limitations, though they may be an additional source of evidence. Sometimes we can only know of risks once the substance has been used by a significant amount of people. It is important to be observant on the data from systems such as the Early Warning System to determine the effects of certain drugs. So for example certain drugs have relatively low prevalence and yet a significant number of deaths, which is an indicator of the harmfulness. But we need more, we need to question how can we create a system outside of prohibition to deal with this.

It was remarked that it seems policy makers only see two options: full prohibition or free-for-all, but a much more nuanced view is necessary. A more comprehensive view including harm reduction measures, education, use of technology and collaborative work with different key actors, as well as unscheduling of safer compounds that are at the moment scheduled.

So with harm reduction measures, education, tools like the Early Warning System, drug testing services and usergroup-led initiatives where more experienced (or ex-) users can inform younger users, as well as de-regulation of safer compounds, all can and should be part of a larger strategy on dealing with these substances.

At the same time, political pressure, trying to contact and inform the media, and use of other techniques to spread the message can be useful: an example in the New Zealand initiative was the use of co-opted words from the drug war vocabulary, but rather to suggest a positive change that is open to a regulation of NPS. To help people understand and see de-scheduling and alternative regulation as a safety measure of control. In the mentioned NZ case, this communication strategy was so successful that even representatives of conservative parties were applauding the intervention.

One of the objections of the EU Action Plan on Drugs is to include the Civil Society Forum on Drugs in the EU discussions but so far this has not been happening. Civil society forum representatives are only allowed to make short presentations at the Horizontal Drugs Group meetings and cannot even stay in the room as observer during the discussions. It would be very helpful if these discussions become more inclusive.

To conclude the seminar, final comments were made about how moments of crisis can also offer new opportunities. Current strategies of drug control are in a crisis and the NPS make that even more obvious. Hopefully this will push drugs policy towards alternative policies which are truly balanced and evidence based.

**Barcelona, December 2014**

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With financial support from



Drug Prevention and  
Information  
Programme of the  
European Union



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