



EUROPEAN COMMISSION

Brussels, XXX
COM(2011) 689/2

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL**

Towards a stronger European response to drugs

1. A STRONGER EUROPEAN RESPONSE TO THE CHALLENGES POSED BY DRUGS

Illicit drugs¹ are a major threat to the health and safety of individuals and societies in the EU. Europe's drugs problem is evolving rapidly. **New and harmful psychoactive substances² are emerging at an unprecedented rate.** Drug traffickers change routes and methods for smuggling or for laundering the proceeds of illicit trafficking in drugs.

Drugs particularly affect young people. The use of drugs is one of the major causes of health problems among young people and is one of the most important causes of avoidable death among young Europeans. The 2011 Eurobarometer "Youth attitudes on Drugs"³ shows that young people can easily obtain even the most harmful drugs within 24 hours. Statistics show that one person dies in Europe every hour because of drug overdose.⁴ The use of the internet for selling new drugs and the rapid exchange of information on new drugs through social networks, present new challenges to current drug control policies and to traditional prevention methods.

More needs to be done to address the drug problem. Action should take place where it is more effective, in full respect of subsidiarity. The EU action should be focused where it brings more added value. **Member States are unable to contain the spread of drugs without effective cooperation:** in the internal market goods, but also crime, move freely. If one Member State bans new psychoactive substances, traders open shops in Member States where the law is more permissive. Uncoordinated clamp-downs may force traffickers to move drug production sites to neighbouring countries or to shift trafficking routes, but these measures cannot disrupt trafficking sustainably.

Over the past 15 years, the European Commission has helped develop a comprehensive and balanced EU response to drugs, in the framework of the EU Drugs Strategy (2005-2012)⁵. The two main **EU legal instruments** in anti-drugs policy, one on drug trafficking⁶ and the other on the emergence of new drugs (new psychoactive substances)⁷, date respectively from 2004 and 2005. However, the past few years have brought fresh challenges: new ways of trafficking drugs and chemicals used for their manufacture ("drug precursors"), the rapid emergence of new drugs and innovative distribution channels for these new substances.

In the 2010-2014 Stockholm Action Plan⁸ the European Commission committed itself to measures reinforcing protection against serious and organised crime. With the **Lisbon Treaty**

¹ Illicit drugs are those psychoactive substances for which the unlicensed cultivation, production, trade and possession - other than for medical and scientific purposes - is prohibited.

² New psychoactive substances are new narcotic or psychotropic drugs which may pose a threat to public health comparable to illicit drugs, and which emerged only recently on the market and are not banned. The large majority of these substances are synthetic.

³ European Commission, Flash Eurobarometer Nr. 330, *Youth attitudes on Drugs*.

⁴ EMCDDA, *2010 Annual report on the state of the drugs problem in Europe*.

⁵ The Commission has launched an external evaluation of the EU Drugs Strategy (2005-2012), which will be completed by the end of 2011.

⁶ 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, OJ L 335, 11.11.2004, pp 8–11.

⁷ Council Decision 2005/387/JHA of 10 May 2005 on the information exchange, risk-assessment and control of new psychoactive substances, OJ L 127, 20.5.2005, pp 32–37.

⁸ The European Council of 10-11 December 2009 adopted the Stockholm Programme, a comprehensive framework on initiatives in justice and home affairs. To translate these political objectives into concrete

now in place, the European response to drugs needs to be strong and decisive, addressing both drug demand and drug supply. New legislation involving the European Parliament, and implemented by the Member States, will be subject to the scrutiny by the European Commission and ultimately the Court of Justice of the European Union.

The Commission is committed to lend fresh impetus to the EU anti-drugs policy. In its proposed **Budget for Europe 2020**⁹ the Commission pledges financial support to meet future challenges posed by drugs. The EU budget should focus on funding those actions that have clear added value, which include: tackling new drugs, developing innovative practices on prevention or treatment and cross-border law enforcement cooperation and training.

2. DRUG TRAFFICKING

The illicit drugs market is constantly evolving to escape controls and seizures¹⁰. New technologies facilitate the development of **innovative methods for smuggling** into and within the EU. Traffickers use advanced techniques to conceal drugs, for instance, by mixing liquid cocaine into commercial goods (clothes, liquids, plastic), converting it into powder cocaine in laboratories in Europe, or making it odourless. They use remote monitoring of production and storage sites. To increase resilience, traffickers diversify their business, becoming multi-drug (smuggling different drugs or illicit doping substances that have harmful effects on the health of athletes) and poly-criminal (carrying out several illicit activities).

Criminal networks change their **trafficking routes** frequently in order to circumvent controls. The growing importance of the West African route for smuggling cocaine from Latin America into Europe is proof that the networks are able to overcome controls along the Atlantic coast and points to the need for an effective European Border Surveillance System.

The European Pact on international drug trafficking adopted by the Council on 3 June 2010¹¹, and the forthcoming European Pact against synthetic drugs initiated by the Polish Presidency seek to improve coordination between the various initiatives launched to clamp down on drug trafficking:¹²

Drug trafficking is one of the biggest cross-border law enforcement challenges in the EU. Since 2004, **Eurojust** has dealt with more cases of drug trafficking than any other type of crime. The number of drug trafficking cases referred to Eurojust increased more than threefold over this period, from 77 to 254¹³, and this trend is continuing in 2011. In 2010, around a third of operational support provided by **Europol** to national law enforcement agencies was related to illicit drug trafficking¹⁴. Eurojust and Europol increasingly help coordinate cross border investigations within the EU, and with third countries.

The Lisbon Treaty defines drug trafficking as one of the "**particularly serious crimes with a cross border dimension**", which justify the adoption of directives establishing minimum rules

proposals, the Commission selected a number of key actions for adoption in 2010-2014. COM(2010) 171 final.

⁹ COM(2011) 500.

¹⁰ Europol, *EU Organised Crime Threat Assessment OCTA 2011*.

¹¹ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/114889.pdf.

¹² On the agenda of the Justice and Home Affairs Council of 27 and 28 October 2011.

¹³ Eurojust Annual Report 2010.

¹⁴ Europol, *General Report on Europol Activities 2010*.

concerning the definition of criminal offences and sanctions¹⁵. This is a major step forward that will make it possible for the EU to provide a **bolder response**, with stronger involvement of the European Parliament and of national Parliaments.

The existing EU legislation on drug trafficking, namely **Framework Decision 2004/757/JHA**, which provides an EU definition of drug trafficking offences and minimum rules on sanctions, is an important first step towards ensuring a European approach, but it has its **weaknesses**. The Commission's assessment of the implementation of the Framework Decision¹⁶ has shown that this instrument has scarcely led to any alignment of national measures in the fight against drug trafficking. It has not sufficiently contributed to facilitating judicial cooperation in drug trafficking cases.

For instance, in most Member States the trafficking of chemical precursors is directly covered by the criminal law of the respective state. However, in some Member States it only falls under the offence of aiding and abetting drug trafficking. Consequently the judiciary might face obstacles in effectively prosecuting this crime. Similarly, the provisions related to aggravating circumstances (justifying high criminal punishments) set out in the Framework Decision are insufficient: they do not include all aggravating circumstances¹⁷ listed in previous EU or UN instruments.

Common minimum rules are essential in order to establish the level of **trust necessary to enhance cooperation** among Member States' judiciaries. The entry into force of the Lisbon Treaty now enables a legal and political strengthening of this important legal instrument.

The Commission will bring forward new EU legislation, to ensure a more effective approximation of drug trafficking offences and sanctions across the EU. The new proposal would:

- (1) **Target major cross-border drug trafficking** and the organised criminal networks, by exploring minimum common aggravating or mitigating circumstances.
- (2) **Improve the definition of offences and sanctions**, possibly with a more detailed breakdown of sanctions.
- (3) **Introduce stronger reporting obligations** for Member States on the implementation and impacts of legislation.

In addition to strong capabilities in gathering demand side data, the improvement of **data collection in the field of drug supply** is essential for assessing developments in the drugs market. The lack of indicators makes it difficult to evaluate such developments, to estimate the burden of drug-related crime on society and to assess the impact and effectiveness of drug supply reduction.

¹⁵ Article 83(1), Treaty on the Functioning of the European Union.

¹⁶ COM(2009) 669 and SEC(2009) 1661.

¹⁷ For instance on the victimisation or the use of minors, as foreseen by Art. 3.5.(f) of the 1988 UN Convention against illicit traffic in narcotic drugs and psychotropic substances, and the Council Resolution of 20 December 1996 on sentencing for serious illicit drug-trafficking, OJ C 10, 11.1.1997, p. 3–4.

Building on the technical expertise developed at the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), **the Commission**, with the support of Europol, **will present key indicators** for the monitoring of drug markets, drug-related crime and drug supply reduction. These should help to improve the effectiveness of responses in the area of drug supply.

3. DRUG PRECURSORS

The trafficking of chemicals used for manufacturing drugs is a matter of major concern.

Transforming raw opium into heroin, for instance, requires significant quantities of drug precursors. These chemical substances have various legitimate industrial uses, but they may be diverted from legitimate trade into the production of illicit drugs. They are smuggled within the EU and between the EU and different regions of the world. Bilateral agreements between the EU and trading partners on the control of drug precursors provide a strong platform for coordinating policies and exchanging information on the trafficking of drug precursors. The EU has already signed such agreements with Turkey, Mexico, Chile, United States, China and the countries of the Andean region.

To evade control, traffickers change production methods, transform drug precursors into different substances (pre-precursors) from which they are recovered at a later stage, or extract them from pharmaceutical preparations.

Any measures to prevent the diversion of drug precursors must strike a balance between **ensuring an effective control of diversion without disrupting lawful trade** in such substances. Good cooperation between authorities – including the European Medicines Agency, national health/medicines authorities, and economic players – is key in this respect.

The Commission's **assessment¹⁸ of the implementation of EU legislation** on monitoring and control of trade in drug precursors¹⁹ made several recommendations, including: strengthening the implementation of existing rules and possibly introducing a tougher regime for certain chemicals (such as the key precursor for heroin production, acetic anhydride) and ensuring appropriate control of pharmaceutical preparations containing substances used for the production of methamphetamine.

The Commission is examining ways to **strengthen EU rules on the control of production and trade in drug precursors** which comprise different categories of substances and reaction agents frequently used in the manufacture of narcotic drugs or psychoactive substances, and to ensure an effective and uniform implementation of these rules. It is currently assessing the impacts of several policy options, with the aim of presenting legislative proposals to increase the efficiency of rules preventing illicit diversion, while allowing legitimate trade in precursors without excessive administrative burden. Particular attention will be given to the heroin precursor, acetic anhydride, and to pharmaceutical preparations containing ephedrine and pseudoephedrine, used for the production of methamphetamine.

¹⁸ COM(2009) 709.

¹⁹ Council Regulation (EC) No 111/2005 of 22 December 2004, OJ L 22, 26.1.2005, p. 1–10; Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004, OJ L 47, 18.2.2004, p. 1–10.

The Commission will take action to enhance international cooperation against the diversion of drug precursors. It is negotiating an agreement with Russia on drug precursors, with the aim of signing it in the coming months as a matter of urgency. Together with the Member States, the Commission will reinforce cooperation with the Latin American countries and will pursue cooperation with China, with which the EU already has such agreements.

4. CONFISCATION AND RECOVERY OF CRIMINAL ASSETS

The main motive for cross-border organised crime is financial gain. In order to be effective, any attempt to prevent and combat organised crime, including drug trafficking, must **focus on tracing, freezing, seizing and confiscating the proceeds from crime.** Organised criminal groups increasingly exploit the advantages of a Europe without internal borders to acquire assets in various EU Member States, and often hide them in third countries. They also change techniques for laundering money.

The tracking, freezing and confiscating the assets of criminal networks is a major challenge. The EU has adopted five legislative instruments (Framework Decisions) designed to deprive traffickers of their gains²⁰. These **instruments have not been effective enough.** In particular, they have not enabled public authorities to confiscate large amounts of goods. A functioning network of asset recovery offices in Europe is crucial in order to weaken the financial power of criminal networks and target effectively their illicit proceeds and assets.

The Commission will propose **new, stronger EU legislation on confiscation, recovery of criminal assets and mutual recognition of freezing and confiscation orders.** The aim is to ensure more efficient seizure of the proceeds of crime and to prevent them from being re-invested in the licit economy or used to commit other crimes. The planned legislative package on confiscation and asset recovery will also cover drug trafficking. Its aim is to achieve harmonised minimum rules and to reinforce mutual trust between judicial authorities.

The Commission will review the third **anti-money laundering directive**, in order to further strengthen the EU's defences against the laundering of money generated by organised crime, including drug trafficking.

5. NEW PSYCHOACTIVE SUBSTANCES

During past years new psychoactive substances, which imitate illicit drugs, have frequently emerged in the EU. **Since 2005, Member States have reported 115 new psychoactive substances** through the EU Early Warning System²¹. They are sold in "specialised" shops or over the internet, but some are available from illicit drug sellers. To circumvent national legislation, these drugs are frequently labelled "*not for human consumption*". The speed with which they are launched on the market **challenges the capacity of the authorities to respond.**

²⁰ Three Framework Decisions aim at harmonising national measures for freezing and confiscating criminal assets (2001/500, 2005/212, 2007/845) and two relate to mutual recognition of decisions of Member States to freeze and confiscate criminal assets (2003/577, 2006/783).

²¹ SEC(2011) 912.

A record number of new substances (41) were reported in 2010, accounting for about one third of all substances since 2005. Two substances, BZP and mephedrone²², were subjected to **risk assessment at EU level**, following which the Council, based on a proposal from the Commission, subjected them to **control measures and criminal sanctions**. On this basis, Member States must classify these substances as illicit drugs, introducing control measures and criminal sanctions under their legislation in compliance with the UN Conventions.

According to the 2011 Eurobarometer²³ survey, **5% of young people interviewed across the EU have used such substances**. The price of these substances (which is lower than illicit drugs) and the fact that they are "not illegal" – and therefore very easily accessible – could explain their rapid spread in many Member States. However, their toxicity and potential for dependence may pose health threats comparable to illicit drugs.

The Commission continues working closely with EU agencies to improve understanding of this problem and identify more effective answers, including in the field of prevention. The current EU legislation is inadequate for tackling this challenge. The Commission's **assessment of the functioning of Council Decision 2005/387/JHA**²⁴ on new psychoactive substances concluded that it has three major shortcomings:

- It is unable to tackle the large increase in the number of new psychoactive substances, because it addresses substances one by one, via a lengthy process.
- It is reactive: substances subjected to control measures are quickly replaced with new ones with similar effects.
- It lacks options for regulatory and control measures.

The Commission will propose **stronger EU legislation on new psychoactive substances**. Taking into account the rapid developments in this field and scientific evidence about the risks posed by these substances, the new proposal would:

- (1) **Enhance the monitoring and risk assessment of substances**, by extending support for forensic analysis, toxicological, pharmacological and epidemiological studies.
- (2) **Provide swifter and more sustainable answers** to the emergence of these substances, possibly by exploring ways to address groups of substances, notwithstanding the need to determine scientifically the harmfulness to health of the individual substance.
- (3) **Enable a faster response** to the emergence of substances, including, possibly, through temporary bans on substances that pose immediate risks.
- (4) **Better align laws** in the field of drug control, product and food safety, consumer protection and medicines to cover the wide variety of substances that emerge.

²² BZP in 2008 (OJ L 63, 7.3.2008, p. 45–46) and mephedrone in 2010 (OJ L 322, 8.12.2010, p. 44–45).

²³ European Commission, Flash Eurobarometer Nr. 330, *Youth attitudes on Drugs*.

²⁴ COM(2011) 430.

6. REDUCTION OF DEMAND

Various measures are in place across the EU to reduce the demand for drugs. These aim to prevent people from starting to use drugs, to avoid them becoming addicted, to reduce harmful health and social consequences of drug use, and to provide treatment, rehabilitation and social reintegration services. However, the changing patterns of drug use and the increased 'poly-consumption' of substances, such as illicit drugs in combination with alcohol or prescription medicines, is challenging current prevention and treatment methods.

While the provision of treatment has expanded in recent years, **major differences persist in the coverage and quality of drug-related services across the EU.** Around 670 000 Europeans receive substitution treatment for heroin addiction – i.e. only about half of those in need of treatment. The availability of treatment is limited in some EU countries. In certain Member States, the effectiveness of many education, prevention and treatment programmes is still not evaluated.

Measures such as needle and syringe exchange programmes which provide people who inject drugs with access to needles and syringes to prevent them from sharing injecting equipment have helped reduce the spread of HIV and other blood-borne infections among drug users. However, the success of these measures calls for sustainable and integrated strategies across the EU to prevent the spread of drug-related blood-borne infections²⁵.

There is a clear **need to extend and improve drug-related services**, in order to make sure that prevention works, and that those in treatment recover and reintegrate into society.

The Commission will also promote improved implementation of the key indicators in the field of drug demand reduction, to enable Member States to provide more effective services.

The Commission will help develop **minimum quality standards**, to improve the effectiveness of drug prevention, treatment and harm reduction in the EU. The aim is to set standards for quality in the delivery of drug-related services, for example prescribing a thorough planning of treatment in line with the patient's individual needs or on staff qualification requirements. These standards will be developed together with the EMCDDA, Member States and practitioners involved in drug-related services, and will take into account the different health systems and capacities across the EU.

The Commission will further support and promote **measures to reduce health and social harms associated with drug dependence**, including strengthening educational prevention and early stage support in avoiding addiction, interventions to prevent and control infections among people who inject drugs, and to prevent drug-related deaths²⁶. It will continue to support measures to help rehabilitate and reintegrate drug-dependent users in society.²⁷ It intends to submit a second report on the implementation of the 2003 Recommendation on harm reduction²⁸, designed to assess the effectiveness of prevention and reduction of health-related harm associated with drug dependence.

²⁵ EMCDDA, *2010 Annual report on the state of the drugs problem in Europe*.

²⁶ As outlined in the Commission communication on combating HIV/AIDS in the EU and neighbouring countries, COM(2009) 569.

²⁷ Such initiatives will continue to be funded by EU financial programmes, including the Drug Prevention and Information Programme, the Health Programme, as well as the European Social Fund.

²⁸ OJ L165, 03.07.2003, p. 31 – 33.

7. DRUGGED DRIVING

Many road accidents in the EU are caused by **drivers under the influence of psychoactive substances**. Studies show that driving under the influence of illicit drugs increases the risk of causing a fatal road accident. However, because data are not collected systematically at EU level, the adverse effects of drug-driving on road safety needs further study. Developing effective and proportionate responses to tackle drugged driving presents a major challenge as highlighted in the Roadmap to a Single European Transport Area²⁹.

The Commission is exploring possible actions at EU level to **address drugged driving**, with the aim of increasing road safety. Based on the results of the EU-financed DRUID³⁰ project, which has assessed the impact of illicit drugs on road safety, the effectiveness of testing devices and possible responses, the Commission will propose measures to help tackle this problem effectively. These responses could include ways of improving the reliability of devices used for road-side testing or providing appropriate training support for traffic officials.

8. INTERNATIONAL COOPERATION

The EU plays a leading role in international cooperation on illicit drugs. It is engaged in an active dialogue with the production and transit countries and provides political, financial and technical support. A stronger response to illicit drugs will require the EU to step up its engagement with neighbouring countries, with strategic partners and along the drugs routes into the EU on the basis of a balanced and comprehensive approach with full respect for human rights.

Apart from illicit drugs originating in the EU, there are two main drug routes through which drugs enter the EU. These are the "cocaine route" (from Latin America via West Africa into the EU) and the "heroin route" (from Afghanistan through either the Western Balkans or Central Asia into the EU). The EU approach to tackling illicit drugs internationally is three-fold:

Comprehensive – the Lisbon Treaty provides an opportunity for the EU to strengthen its law enforcement cooperation with third countries, to help them improve the capacity of judicial systems and to promote the rule of law, in full respect of human rights. The EU focuses on seeking long-term solutions, for example, through promoting alternative livelihoods for drug crop farmers in rural areas, in countries such as Afghanistan, and reducing demand in countries of origin and transit. The EU is committed to work closely both with transit and with producing countries, as both suffer from increasing drug use in their populations, related public health challenges as well as from weak institutional capacity to tackle the problem.

Geographical – the EU will further consolidate its "drug route" approach, which enables it to tackle the problem comprehensively from drug crops cultivation to the entry of drugs onto the EU market. **European Neighbourhood countries** (ENP) will remain a priority. Continued support will be provided to the enlargement countries on capacity-building to enable them to tackle drug trafficking and abuse, notably through the Instrument for Pre-Accession

²⁹ COM(2011) 144.

³⁰ Driving under the Influence of Drugs, Alcohol and Medicines. <http://www.druid-project.eu>.

Assistance (IPA). The EU will reinforce its engagement with **Latin American**³¹, **Caribbean and African** countries, as well as with relevant regional organisations, building on the success of the cooperation platforms of liaison officers in West Africa, to coordinate capacity building.

Cooperation with strategic partners – the EU will build on our engagement with strategic partners with a shared interest in tackling illicit drugs. Cooperation with the United States on Passenger Name Record (PNR) data has been particularly valuable in the fight against drug trafficking. The EU and the United States are exploring ways to establish a joint law enforcement network on drug trafficking and coordinate capacity-building projects in West Africa, Latin America and the Caribbean. The EU is intensifying efforts with the United States and Russia to reduce drug trafficking and prevent drug abuse in **Central Asia**. It is also working with international partners to improve international cooperation to tackle the drugs economy in Afghanistan, which supplies up to 90% of the world's heroin.

Further measures to strengthen international cooperation in the drug field will be considered in the context of the ongoing evaluation of the current EU Drugs Strategy and Action Plans.

9. CONCLUSIONS

The European drugs policy aims to protect and improve the well-being of society and of the individual, to protect public health, to offer a high level of security for the general public and to take a balanced, integrated approach to the drugs problem. The entry into force of the Lisbon Treaty and the dismantling of the pillar structure in EU policy making, provides new opportunities for the integration of all policy areas relevant to the drugs problem. The scale of Europe's drugs problem and its changing nature require **swift, strong and effective EU action**. The Commission is determined to scale up its response to illicit drugs and to new psychoactive substances that imitate their effects (mainly new synthetic drugs)³², using the new opportunities provided by the Lisbon Treaty.

The Commission will present; as legislative proposals:

- (1) A legislative package on drugs, proposing the revision of the Council Framework Decision on drug trafficking and the Council Decision on new psychoactive substances;
- (2) Legislative proposals on drug precursors;
- (3) Legislative proposals on the confiscation and recovery of criminal assets and on strengthening mutual recognition of freezing and confiscation orders;
- (4) New legislative measures to combat money laundering.

³¹ The COPOLAD programme provides a solid framework to continue our efforts with the Latin America countries in addressing all aspects of drug policies. Furthermore, in Latin America and the Caribbean, drug-related security issues will be addressed, in light of the growing concern in this area.

³² The first EU initiative on new psychoactive substances was a Joint Action 97/396/JHA of 16 June 1997 on the information exchange, risk assessment and the control of new synthetic drugs. New psychoactive substances are mostly new synthetic drugs but they also include organic substances. The Joint Action has been replaced by Council Decision 2005/387/JHA of 10 May 2005 on the information exchange, risk-assessment and control of new psychoactive substances.

In addition, the Commission will present:

- (5) Indicators to monitor drug supply, drug-related crime and drug-supply reduction to help improve the effectiveness of supply-reduction measures;
- (6) Minimum quality standards to improve drug prevention, treatment and harm-reduction services.

The Commission invites the European Parliament and the Council, civil society and other important stakeholders, to take part in a debate on effective responses to illicit drugs and new psychoactive substances. To enable all interested stakeholders to contribute to this debate, the Commission will launch an online public consultation on how best to tackle illicit drugs and the emergence of new substances that imitate them.