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REPORT

1. on the initiative of the Kingdom of Sweden with a view to the adoption of a Council decision on the transmission of samples of illegal narcotic substances (14008/2000 – C5-0734/2000 – 2000/0826(CNS))

and

2. on the initiative of the Kingdom of Sweden with a view to the adoption of a Council decision establishing a system of special forensic profiling analysis of synthetic drugs (14007/2000 – C5-0737/2000 – 2000/0825(CNS))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Charlotte Cederschiöld

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

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PROCEDURAL PAGE

By letter of 18 December 2000 the Council consulted Parliament, pursuant to Article 39(1) of the EU Treaty, on the initiative of the Kingdom of Sweden with a view to the adoption of a Council decision on the transmission of samples of illegal narcotic substances (14008/2000 – 2000/0826(CNS)).

At the sitting of 15 January 2001 the President of Parliament announced that she had referred the initiative to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible (C5-0734/2000).

By letter of 18 December 2000 the Council consulted Parliament, pursuant to Article 39(1) of the EU Treaty, on the initiative of the Kingdom of Sweden with a view to the adoption of a Council decision establishing a system of special forensic profiling analysis of synthetic drugs (14007/2000 – 2000/0825(CNS)).

At the sitting of 15 January 2001 the President of Parliament announced that she had referred the initiatives to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible (C5-0737/2000).

The committee appointed Charlotte Cederschiöld rapporteur at its meeting of 16 January 2001.

It considered the Kingdom of Sweden initiatives and the draft report at its meetings of 6 February 2001, 20 March 2001 and 11 April 2001.

At the latter/last meeting it adopted

1. the draft legislative resolution on the initiative of the Kingdom of Sweden with a view to the adoption of a Council decision on the transmission of samples of illegal narcotic substances unanimously.
2. the draft legislative resolution on the initiative of the Kingdom of Sweden with a view to the adoption of a Council decision establishing a system of special forensic profiling analysis of synthetic drugs unanimously.

The following were present for the vote: Robert J.E. Evans, acting chairman; Charlotte Cederschiöld, rapporteur; Alima Boumediene-Thiery, Ozan Ceyhun, Carlos Coelho, Giuseppe Di Lello Finuoli, Glyn Ford (for Michael Cashman), Daniel J. Hannan, Anna Karamanou, Sylvia-Yvonne Kaufmann (for Pernille Frahm), Margot Keßler, Timothy Kirkhope, Alain Krivine (for Fodé Sylla), Baroness Sarah Ludford, Hartmut Nassauer, William Francis Newton Dunn (for Jan-Kees Wiebenga), Arie M. Oostlander (for Rocco Buttiglione), Elena Ornella Paciotti, Hubert Pirker, Ingo Schmitt (for Eva Klamt), Patsy Sørensen, Joke Swiebel, Anna Terrón i Cusí and Christian Ulrik von Boetticher.

The report was tabled on 18 April 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

LEGISLATIVE PROPOSAL

1. Initiative of the Kingdom of Sweden with a view to the adoption of a Council decision on the transmission of samples of illegal narcotic substances (14008/2000 – C5-0734/2000 – 2000/0826(CNS))a Council decision on the transmission of samples of illegal narcotic substances (14008/2000 – C5-0734/2000 – 2000/0826(CNS))

The initiative is amended as follows:

Text proposed by the Kingdom of Sweden¹

Amendments by Parliament

Amendment 1 Title

Initiative of the kingdom of Sweden with a view to adopting a JHA Council Decision on the transmission of samples of *illegal* narcotic substances

Initiative of the kingdom of Sweden with a view to adopting a JHA Council Decision on the *secure* transmission *between the designated authorities of the Member States* of samples of *seized controlled* narcotic substances *for the purposes of analysis or examination*

Justification

This amendment is aimed at ensuring that the transmission of samples of drugs which have been seized by the authorities and are to be forwarded to a laboratory for analysis or examination in another Member State are transmitted securely. This reflects the concerns outlined in Article 5.1.

Amendment 2, Recital -1 (new)

(-1) The fight against the illicit production and trafficking of drugs is a matter of common concern for law enforcement and justice authorities in the Member States.

¹ OJ C 10, 12.1.2001, p. 4.

Justification

There is a need to point out that drug trafficking is a problem that transcends national frontiers and can only be tackled by joint action.

Amendment 3

Recital 1

(1) The possibility of legally transmitting samples of seized **illegal** narcotic substances between the authorities of the Member States for the purposes of prevention, detection, investigation and prosecution of criminal offences would increase the effectiveness of the fight against drugs.

(1) The possibility of legally transmitting samples of seized **controlled** narcotic substances between the authorities of the Member States for the purposes of prevention, detection, investigation and prosecution of criminal offences would increase the effectiveness of the fight against drugs.

Justification

Same reasons as for Amendment 1.

Amendment 4

Recital 3

(3) At present no legally binding rules exist regulating the legal transmission of seized **illegal** narcotic substance samples between the authorities of the Member States. A system should therefore be created at European Union level to allow for the legal transmission of such samples.

(3) At present no legally binding rules exist regulating the legal transmission of seized **controlled** narcotic substance samples between the authorities of the Member States. A system should therefore be created at European Union level to allow for the legal transmission of such samples.

Justification

Same reasons as for Amendment 1.

Amendment 5

Recital 4

(4) That system should apply to all forms of transmission of samples of seized **illegal** narcotic substances between Member States. Transmission should be based on agreement between the sending and the receiving Member State, together with information to other Member States whose territory is involved.

(4) That system should apply to all forms of transmission of samples of seized **controlled** narcotic substances between Member States. Transmission should be based on agreement between the sending and the receiving Member State, together with information to other Member States whose territory is involved.

Justification

Same reasons as for Amendment 1.

Amendment 6
Recital 6

(6) Transmission **should** take place in a manner that is sufficiently secure and guarantees that the transported samples cannot be abused.

(6) Transmission **must** take place in a manner that **ensures maximum security** and guarantees that the transported samples cannot be abused.

Justification

The purpose of this amendment is to strengthen the obligation to transport samples in maximum security conditions.

Amendment 7
Article 1, paragraph 1

1. This Decision establishes a system for the **legal** transmission between Member States of samples of **illegal** narcotic substances.

1. This Decision establishes a system for the transmission between Member States of samples of **controlled** narcotic substances.

Justification

Since it is obligatory to comply with any European Union legislative act that is properly adopted, there is no need for the word 'legal'.

'Controlled' replaces 'illegal' as in Amendment 1.

Amendment 8
Article 1, paragraph 2

2. Transmission of samples of **illegal** narcotic substances (hereinafter “samples”) shall be considered lawful in all Member States when it is conducted in accordance with this Decision.

2. Transmission of samples of **controlled** narcotic substances (hereinafter “samples”) shall be considered lawful in all Member States when it is conducted in accordance with this Decision.

Justification

Same reasons as for Amendment 1.

Amendment 9
Article 2, subparagraph (c)

(c) any substance coming under the scope of the decisions taken or to be taken on the basis **of Article 5** of Council Joint Action 97/396/JHA of 16 June 1997 concerning the information exchange, risk assessment and the control of new synthetic drugs.

(c) any substance coming under the scope of the decisions taken or to be taken on the basis of Council Joint Action 97/396/JHA of 16 June 1997 concerning the information exchange, risk assessment and the control of new synthetic drugs.

Justification

The reference to Article 5 of the Joint Action is restrictive: it refers to the procedure for the control of new drugs that are being synthesised and placed on the market for illegal sale.

Amendment 10
Article 3, paragraph 3

3. The national contact points shall be the sole bodies competent for authorising the transmission of samples under this Decision.

3. The national contact points shall, **if appropriate in association with relevant national bodies**, be the sole bodies competent for authorising the transmission of samples under this Decision.

Justification

Each Member State must designate a national contact point. But efficiency will require them to be able to coordinate their work where necessary with the relevant other national contact authorities.

Amendment 11
Article 4, paragraph 1

1. The national contact point of the Member State intending to send a sample and the national contact point of the Member State intended to receive a sample shall agree on the **method** of transport. For this purpose they shall make use of the sample transmission form set out in the Annex.

1. The national contact point of the Member State intending to send a sample and the national contact point of the Member State intended to receive a sample shall agree on the **most appropriate and secure means** of transport **before the transmission takes place**. For this purpose they shall make use of the sample transmission form set out in the Annex.

Justification

The emphasis is on ensuring that the agreed means of transport is appropriate and secure. It must be borne in mind that the transportation of samples could involve lengthy journeys between several Member States.

Amendment 12
Article 4, paragraph 2

2. Where transmission of a sample involves transportation through the territory of another Member State (“**involved** Member State”), the national contact point of such **involved** Member State shall be informed of the planned transport by the national contact point of the sending Member State. To that end, each **involved** Member State shall receive a copy of the duly completed Sample Transmission Form.

2. Where transmission of a sample involves transportation through the territory of another Member State (“**transit** Member State”), the national contact point of such **transit** Member State shall **subsequently** be informed of the planned transport by the national contact point of the sending Member State. To that end, each **transit** Member State shall receive a copy of the duly completed Sample Transmission Form **before the transmission begins**.

Justification

The best word to define a Member State when a substance crosses its territory from a third country to another Member State is ‘transit’.

Similarly, it is important that such transit Member States receive advance warning of samples crossing their territory to the relevant laboratory in another Member State.

Amendment 13
Article 5, paragraph 1

1. ***The Member States sending and receiving the sample shall decide on the means of transport.*** Transport of samples shall take place in a ***sufficiently*** secure way.

1. Transport of samples shall take place in a secure way.

Justification

It is clear that the national contact points must agree on the means of transport, as Article 4 requires. The deleted text is incorrect, repetitive and meaningless.

Similarly, transport must always provide guarantees of security. Otherwise it would have to be rejected. It is absurd to presume at the outset the possibility of choosing a means of transport that does not ‘sufficiently’ provide guarantees of security.

Amendment 14
Article 5, paragraph 2

2. The following means of transport shall be regarded, inter alia, as ***sufficiently*** secure:

(a) transport by an official of the sending or receiving Member State;

(b) transport by courier;

(c) transport by diplomatic bag;

(d) transport by registered (express) mail.

2. The following means of transport shall be regarded, inter alia, as secure:

(a) transport by an official of the sending or receiving Member State;

(c) transport by diplomatic bag;

(d) transport by registered (express) mail.

Justification

In principle, the choice of a means of transport implies from the outset that it is secure, or it would have been rejected. So ‘sufficiently’ is deleted.

However, transport by courier does not provide the security guarantees that this sensitive product requires, so it should not be used.

Amendment 15
Article 5, paragraph 2 a (new)

2a. The above means of transport shall be kept under constant review and alternative secure means of transport shall be agreed by the national contact points should experience so dictate.

Justification

It is necessary to provide the possibility for alternative secure means of transport if experience of operating the system shows that the initial transport means cannot guarantee secure transit.

Amendment 16
Article 5, paragraph 4

4. The authorities of Member States shall not hinder or detain any transport accompanied by a duly completed Sample Transmission Form unless they have doubts as to whether ***the Sample Transmission Form has been issued*** lawfully. In case of doubts as to the legal status of the sample transmission form, the national contact point of the Member State detaining the transport shall, ***as soon as possible***, contact the national contact points of the Member States responsible for the completion of the sample transmission form in order to clarify the issue.

4. The authorities of Member States shall not hinder or detain any transport accompanied by a duly completed Sample Transmission Form unless they have doubts as to whether the ***transport is being carried out*** lawfully. In case of doubts as to the legal status of the sample transmission form, the national contact point of the Member State detaining the transport shall, ***without delay***, contact the national contact points of the Member States responsible for the completion of the sample transmission form in order to clarify the issue.

Justification

The Member States' authorities must have the option to detain the transport when there are doubts as to its legality, based on any element that is justified objectively, and not just when there are doubts about the legality of issuing the Sample Transmission Form.

When the national contact authorities of a Member State do detain a transport, they must 'immediately' put it in touch with the national contact points of the Member State that completed the Sample Transmission Form.

Amendment 17
Article 5, paragraph 5

5. If the means of transport chosen is transport by an official of the sending or receiving Member State, that official shall not be permitted to wear a uniform. Further, he or she shall not *have* any operational *powers and shall not be permitted to carry out any other missions during the transport*.

5. If the means of transport chosen is transport by an official of the sending or receiving Member State, that official shall not be permitted to wear a uniform. Further, he or she shall not *carry out* any operational *task in connection with the transport other than agreed upon by the sending, transit or receiving Member State*.

Justification

If the sending, transit or receiving Member States, jointly or separately, agree to grant operational powers to the official transporting the sample, the law must permit the option and not prohibit it.

Amendment 18
Article 6, title

Nature of the sample and its use

Quantity of the sample and its use

Justification

It is clear from the wording that the article refers to the quantity of samples considered sufficient for analysis or examination, not its nature. So consistency requires the change.

Amendment 19
Article 6, paragraph 1

1. A sample shall not exceed the quantity necessary for *the work of* law enforcement or judicial *authorities*.

1. A sample shall not exceed the quantity *deemed* necessary for law enforcement *and* judicial *purposes or for the analysis of samples*.

Justification

The new wording increases the options for taking drug samples and provides new criteria for the correct application of the law and the presentation of evidence in judicial proceedings.

It also expands and details the purposes that justify and require taking samples.

Amendment 20
Article 6, paragraph 2

2. The use of the sample within the receiving Member State shall be agreed between the sending and receiving Member States, it being understood that samples can only be used for prevention, detection, investigation and prosecution of criminal offences.

2. The use of the sample within the receiving Member State shall be agreed between the sending and receiving Member States, it being understood that samples can only be used for prevention, detection, investigation and prosecution of criminal offences, ***or for the analysis of samples.***

Justification

It is important to stipulate that the use of the drug sample must also be purely and simply for analysis, and need not always be systematically linked to the purpose of preventing, detecting, investigating or prosecuting offences.

Amendment 21
Article 7, paragraph 1

1. This Decision shall be subject to evaluation before

1. This Decision shall be subject to evaluation ***at least two and no more than four years after its entry into force.***

Justification

As there are no precedents for the possible impact of this law, there is not enough objective evidence to forecast its advantages or disadvantages. So it is essential to evaluate its operation. The evaluation should take place no earlier than two years and no later than four years after its entry into force. This leaves enough time to allow it to run in and not an excessively long period to take such corrective measures as may be needed. It also allows for a discretionary period of up to two years to decide on the best moment for conducting the evaluation.

Amendment 22
Article 7, paragraph 2

2. For the purpose of the said evaluation the national contact point of each sending

2. For the purpose of the said evaluation the national contact point of each sending

Member State shall hold in archive a copy of every sample transmission form issued during at least the previous **five** years.

Member State shall hold in archive a copy of every sample transmission form issued during at least the previous **ten** years.

Justification

For practical reasons, and in order to permit an evaluation to look at a long period, the forms must be archived for ten years.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the initiative of the Kingdom of Sweden with a view to the adoption of a Council decision on the transmission of samples of illegal narcotic substances (14008/2000 – C5-0734/2000 – 2000/0826(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the initiative of the Kingdom of Sweden (14008/2000¹),
 - having regard to Article 34(2)(c) of the EU Treaty,
 - having been consulted by the Council pursuant to Article 39(1) of the EU Treaty (C5-0734/2000),
 - having regard to Rules 106 and 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0121/2000),
1. Approves the Kingdom of Sweden initiative as amended;
 2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 3. Asks to be consulted again if the Council intends to amend the Kingdom of Sweden initiative substantially;
 4. Instructs its President to forward its position to the Council and Commission, and the government of the Kingdom of Sweden.

¹ OJ C 10, 12.1.2001, p. 4.

LEGISLATIVE PROPOSAL

Initiative of the Kingdom of Sweden with a view to the adoption of a Council decision on the transmission of samples of illegal narcotic substances (14007/2000 – C5-0737/2000 – 2000/0825(CNS))

The initiative is amended as follows:

Text proposed by the Kingdom of Sweden¹

Amendments by Parliament

Amendment 23
Recital -1 (new)

(-1) The situation as to the illicit production of synthetic drugs within the European Union and the trafficking of such drugs world-wide requires immediate and concerted action at EU level.

Justification

The rise in drug consumption and cross-border trafficking in drugs in general, combined with the worrying increase in the production of synthetic drugs, require and justify concerted measures at European level, since it is clear that no country will be able to solve the problem on its own.

Amendment 24
Recital 2

(2) The production process in terms of recipes and production techniques gives synthetic drugs certain common characteristics allowing ***synthetic drugs which are seized at different occasions and places to be traced to the same origin, that is to say to establish matches between them.***

(2) The production process in terms of recipes and production techniques gives synthetic drugs certain common characteristics ***or parameters which might allow the identification of links between drugs*** seized on different occasions and in different places.

¹ OJ C 10, 12.1.2001, p. 4.

Justification

Amended to improve comprehension, clarifying the points being made.

Amendment 25
Recital 2 a (new)

2(a) Joint Action 97/396 JHA of 16 June 1997 concerning the information exchange, risk assessment and the control of new synthetic drugs¹; Joint Action 96/750 JHA of 17 December 1996 concerning the approximation of the laws and practices of the Member States of the EU to combat drug addiction and prevent and combat illegal drug trafficking²; and the Council Resolution of 16 December 1996 on measures to combat and dismantle the illicit cultivation and production of drugs within the EU³ have been taken into account.

¹ ***OJ L 167, 25.6.1997.***

² ***OJ L 342, 31.12.1996.***

³ ***OJ C 389, 23.12.1996.***

Justification

The measures cited were fundamental elements in the fight against drug trafficking and the prevention of drug use. This decision is an essential complement to them, to fulfil the objectives that they set out. So they should be referred to.

Amendment 26
Recital 3

(3) Some national forensic laboratories in the European Union have developed specialised techniques in the analysing of

(3) Some national forensic laboratories in the European Union have developed specialised techniques in the analysing of

synthetic drugs enabling the identification of such common characteristics.

some synthetic drugs, *thereby* enabling the identification of such common characteristics.

Justification

To clarify the meaning.

Amendment 27

Recital 4

(4) *Such* characteristics provide *new* information in *addition* to traditional criminal intelligence or investigative data. *Their* combination could establish or reinforce links between ongoing or finalised criminal investigations and thereby facilitate the identification of illicit centres or networks involved in the production and distribution of synthetic drugs.

(4) *Those* characteristics *may* provide information *which*, in *combination with* traditional *information and* intelligence, could establish or reinforce links between ongoing or finalised criminal investigations and thereby facilitate the identification of illicit centres or networks involved in the production and distribution of synthetic drugs.

Justification

Greater clarity and precision.

Amendment 28

Recital 5

(5) The harmonisation of data provided by the specialised techniques developed is not *technically possible in the short term*. Laboratories having developed such techniques should be designated and tasked with the specialised physical and chemical characterisation and the impurity profiling of synthetic drugs.

(5) The harmonisation of data provided by the specialised techniques developed *at present* is not *sufficiently developed to allow operational exchange of forensic data and the* laboratories having developed such techniques should be designated and tasked with the specialised physical and chemical characterisation and the impurity profiling of synthetic drugs.

Justification

At the moment the harmonisation of such data is not developed, although it is thought to be technically possible.

Amendment 29
Recital 5 a (new)

(5a) It is not likely that the exchange of forensic data can ever fully replace the exchange of samples. The exchange of forensic data instead of samples, with regard inter alia to effectiveness aspects, is desirable in the long term. Research and development in the area of such data exchange should be encouraged.

Justification

It is still not possible to replace the exchange of samples with the exchange of data from police forensic departments. However, in the long term, with the aim of improving police effectiveness we need to investigate the methods that would make it possible to do so.

Amendment 30
Recital 6

(6) The collation, combination and analysis of forensic and ***criminal*** intelligence or investigate data in real time is of crucial importance to achieve operative results, ***the transmission of samples of seized synthetic drugs to designated laboratories and criminal intelligence or investigative data to Europol must take place immediately after seizure.***

(6) The collation, combination and analysis of forensic data and information and intelligence in real time is of crucial importance to achieve operative results.

Justification

The second sentence is superfluous.

Amendment 31
Recital 6 a (new)

(6a) It is essential to design the process in such a way as to allow the European Parliament to participate in the further development of the network.

Justification

Since Parliament represents the people it must cooperate closely with the Union's other executive institutions in the democratic development and scrutiny of the system comprising the laboratory network.

Amendment 32
Recital 6 b (new)

(6b) The purpose of the network is to establish a level of competence throughout the European Union in this field.

Justification

It is important to spell out the purpose of the decision as creating a network of laboratories with competence to analyse synthetic drugs throughout the European Union.

Amendment 33
Article 1, paragraph 1

1. A European system ***of laboratories*** shall be set up with the aim of carrying out special forensic profiling analyses, hereafter referred to as “special analyses”, on samples of seized synthetic drugs for the purpose of the prevention, detection, investigation and prosecution of criminal offences.

1. A European ***Union-wide*** system, ***including the operational participation of the candidate countries***, shall be set up with the aim of carrying out ***and comparing*** special forensic profiling analyses ***according to reliable and well-defined standards***, hereafter referred to as “special analyses”, on samples of seized synthetic drugs for the purpose of the prevention, detection, investigation and prosecution of criminal offences, ***by identifying, inter alia, the links between the manufactured product and its source. The system shall include forensic laboratories.***

Justification

To combat the illegal production of synthetic drugs we need to set up a system that includes the whole EU territory and also allows for the operational participation of the candidate countries, as they are major producers and consumers of synthetic drugs.

In order to identify and define scientifically the existing links between the drug sample and its production source, we need to set up a network of forensic science laboratories that will make this possible. They will need to work according to pre-established standards to safeguard their results and enable them to be compared.

Amendment 34 Article 1, paragraph 2

2. For the purposes of this Decision,
“synthetic drugs” means amphetamines,
MDMA and other ecstasy analogues
(amphetamine-type stimulants).

2. For the purposes of this Decision,
“synthetic drugs” means amphetamines
and amphetamine-type stimulants.

Justification

The specific names are superfluous because the generic term ‘amphetamine-type stimulants’ includes them and leaves open the possibility of including new types of drugs that may be illegally synthesised in future.

Amendment 35 Article 1, paragraph 2 (new)

‘Special analyses’ means the measurement of parameters which are not included in routine analyses, by physical or chemical characterisation or any other method such as impurity profiling of synthetic drugs, with the principal aim of finding links between seizures of such drugs and/or their source.

Justification

It is essential to define the concept of special analyses to which the decision repeatedly refers.

Amendment 36
Article 3, paragraph 1, subparagraph (a)

1. The designated laboratories shall have two main tasks:
(a) to perform a special analysis of synthetic drugs of the samples transmitted to them on behalf of all Member States;

1. The designated laboratories shall have two main tasks:
(a) to perform a special analysis of synthetic drugs of the samples transmitted to them on behalf of all Member States **and disseminate the results to the relevant parties;**

Justification

It is clear that the laboratories' essential task will be to perform forensic analyses. But they will have no effect unless the results are announced and disseminated to all concerned.

Amendment 37
Article 3, paragraph 1, subparagraph (b)

(b) to determine whether the samples analysed match with other samples analysed **by that laboratory.**

(b) to determine whether the samples analysed match with other samples analysed **within the European Union-wide system referred to in Article 1.**

Justification

What is being set up is a Union-wide system for the forensic analysis of synthetic drug samples. So it makes sense to ensure that the laboratories can determine whether the samples analysed present elements comparable not only with other samples analysed by the same laboratory but also those analysed by the other laboratories, whether they already exist or will be set up in future.

Amendment 38
Article 3, paragraph 2

2. The designated laboratories shall apply the best possible **chemical** processes for the special analysis and shall keep a record of all samples analysed in order to allow checking to be made as to whether a match exists between samples.

2. The designated laboratories shall apply the best possible chemical processes for the special analysis and shall keep a record of all samples analysed in order to allow checking to be made as to whether a match exists between samples.

Justification

The laboratories will need to apply all known techniques, now and in the future, to carry out the best possible analysis of the samples, including those in use at present which are mainly

chemical processes. Hence the deletion of ‘chemical’, which would cut out any other possible techniques.

Amendment 39
Article 3, paragraph 2 a (new)

(2a) The designated laboratories shall also cooperate with other EU forensic laboratories with a view to developing and improving methods for special analyses of synthetic drugs as well as the exchange of data from such analyses. This cooperation shall in particular aim at preparing the evaluation as referred to in Article 8.

Justification

It is important to ensure that not only the laboratories designated to carry out the special analyses but also the other forensic science laboratories cooperate and exchange data.

Amendment 40
Article 4

The designated laboratories shall, for the work carried out on the basis of this Decision, be funded by the Member State in whose territory they are located.

The designated laboratories shall, for the work carried out on the basis of this **Council** Decision, be funded by the Member State in whose territory they are located.

Justification

Although Article 34(2) of the EU Treaty specifies that it is the Council that adopts the legal form known as ‘Decisions’, and so any ‘Decision’ implies that it has been adopted by that institution, this is not a reason not to spell it out clearly in the interest of sound legislative practice.

Amendment 41
Article 5, paragraph 2

2. Member States shall furthermore take samples of synthetic drugs seized at locations other than production sites and transmit these samples to the designated laboratories in cases where a seizure is of a quantity larger than:

- (a) for tablets or doses, **500**;
- (b) for liquid, **1000** ml;
- (c) for powder or other forms of bulk, **1000** grams.

2. Member States shall furthermore take samples of synthetic drugs seized at locations other than production sites and transmit these samples to the designated laboratories in cases where a seizure is of a quantity larger than:

- (a) for tablets or doses, **250**;
- (b) for liquid, **500** ml;
- (c) for powder or other forms of bulk, **500** grams;

and in any other case felt appropriate by the Member State concerned.

Justification

For combating drug trafficking, the quantities of seized synthetic drugs of which Member States are required to send samples for special analysis by the designated laboratories as the decision requires are considered excessive. They should be halved, as there will otherwise be a significant area left unpunished.

Amendment 42 Article 5, paragraph 4

4. The taking and subsequent transmission of samples shall take place ***as soon as possible*** and can only be refused if taking and/or transmission of samples would mean:

- harming essential national security interests, or
- jeopardising the success of a current investigation or the safety of individuals,
- involving information pertaining to organisation or specific intelligence activities in the field of State security.

4. The taking and subsequent transmission of samples shall take place ***without delay*** and can only be refused if taking and/or transmission of samples would mean:

- harming essential national security interests, or
- ***seriously*** jeopardising the success of a current investigation, ***the successful prosecution of the defendant to whom the seizure pertains***, or the safety of individuals,
- involving information pertaining to organisation or specific intelligence activities in the field of State security.

Justification

Seizures of drug samples must be dispatched immediately so they can be speedily analysed by the laboratories. However, in cases where there is clear and objective evidence that to do so would be likely to lead to the collapse of a current investigation, it must be refused.

Similarly the dispatch of samples must be refused when they are needed for use as evidence in the prosecution of the owner charged with the offence.

Amendment 43
Article 5, paragraph 5

5. The transmission of samples shall take place in accordance with Council Decision 2001/.../JHA of ..., on the transmission of samples of **illegal** narcotic substances(3). Neither the sending nor the receiving Member State may refuse to fill out the necessary sample transmission form referred to in Article 4 of the aforementioned Decision in cases where a sample is transmitted on the basis of this Article.

5. The transmission of samples shall take place in accordance with Council Decision 2001/.../JHA of ..., on the transmission of samples of **controlled** narcotic substances(3). Neither the sending nor the receiving Member State may refuse to fill out the necessary sample transmission form referred to in Article 4 of the aforementioned Decision in cases where a sample is transmitted on the basis of this Article.

Justification

‘Controlled’ replaces ‘illegal’ because it correctly qualifies the noun ‘narcotic substances’ within the specific context of the Council Decision to which reference is made.

Obviously the drug has been seized in an illegal production or distribution centre. However, when a Member State sends a sample of this seized drug for analysis by the relevant laboratory in accordance with the legal procedure laid down, the word that best defines the present situation is ‘controlled’.

Amendment 44
Article 6, paragraph 1

1. The laboratory shall inform the sending Member State **as soon as possible** of the results of the special analysis and of possible matches with other samples.

1. The laboratory **designated** shall inform the sending Member State **without delay** of the results of the special analysis and of possible matches with other samples **previously analysed**.

Justification

Efficiency requires the samples to be dispatched immediately. The success of many operations will depend solely on the speed of dispatch and the laboratory’s analysis of the samples without delay.

Clearly, the nature of the samples must be compared with that of other samples it and other competent laboratories have analysed previously.

Amendment 45
Article 7, paragraph 1

1. In accordance with Article 4(4) of the Europol Convention and without prejudice to Article 4(5) thereof, **criminal intelligence or investigative data** related to a seizure that is to be transmitted in accordance with Article 5 of this Decision for special analysis shall be transmitted to Europol at the same time as the transmission of the sample itself to a designated laboratory.

1. In accordance with Article 4(4) of the Europol Convention and without prejudice to Article 4(5) thereof, **information and intelligence** related to a seizure that is to be transmitted in accordance with Article 5 of this Decision for special analysis shall be transmitted to Europol at the same time as the transmission of the sample itself to a designated laboratory.

Justification

Same reasons as Amendment 1.

Amendment 46
Article 7, paragraph 2

2. In accordance with Article 4(4) of the Europol Convention and without prejudice to Article 4(5) thereof, Europol shall be informed of all matching samples **as soon as possible**. It shall receive information on the nature of the drugs as well as the origin of the samples giving rise to the match.

2. In accordance with Article 4(4) of the Europol Convention and without prejudice to Article 4(5) thereof, Europol shall be informed of all matching samples **without delay**. It shall receive information on the nature of the **synthetic** drugs as well as the origin of the samples giving rise to the match.

Justification

For reasons of strict efficiency and bearing in mind that the success of police operations depends mainly on their speed of intervention, Europol must always be informed immediately.

Similarly for reasons of legislative rigour and to prevent later interpretation problems there is a need to specify that the drugs are synthetic.

Amendment 47
Article 7 a (new)

Article 7a

It shall be possible to exchange and compare data on tested samples with the relevant designated national authorities in third countries if it is considered that such contacts could help in the prevention, detection, investigation and prosecution of criminal offences related to the illegal production, distribution and sale of 'synthetic drugs' either within or outside the European Union.

Justification

The fight against illegal drugs is not only an issue to be tackled at EU level. There must be the possibility of developing this system internationally and exchanging relevant data and information on matching samples with, for example, the authorities in the United States.

Amendment 48
Article 8, paragraph 1

1. This Decision shall be subject to evaluation within the Council of the European Union ***before*** ...(4).

1. This Decision shall be subject to evaluation within the Council of the European Union ***at least two and no more than four years after its entry into force.***

Justification

As there are no precedents for the possible impact of this law, there is not enough objective evidence to forecast its advantages or disadvantages. So it is essential to evaluate its operation. The evaluation should take place no earlier than two years and no later than four years after its entry into force. This leaves enough time to allow it to run in and not an excessively long period to take such corrective measures as may be needed. It also allows for a discretionary period of up to two years to decide on the best moment for conducting the evaluation.

Amendment 49
Article 8, paragraph 1 a (new)

1a. This decision shall in any case be revised when forensic science allows the data from special analyses to be exchanged without any loss of forensic quality in the data to which the exchange

pertains.

Justification

The substance of this decision is based on the assumption that only a few national forensic science laboratories have developed specialised techniques for the analysis of synthetic drugs, and that it will not be possible in the short term to harmonise the data provided by the new techniques in all the EU Member States.

So it makes sense to provide for the content of the decision to be reviewed when the circumstances that prompted it have ceased to exist.

Amendment 50
Article 8, paragraph 2

2. For the purpose of the evaluation, the designated laboratories shall keep a record of all special analyses carried out for a period of at least **five** years.

2. For the purpose of the evaluation, the designated laboratories shall keep a record of all special analyses carried out for a period of at least **ten** years.

Justification

For practical reasons, and in order to permit an evaluation to look at a long period, the results of the special analyses must be archived for at least ten years.

Amendment 51
Annex

Laboratory 1 : **MDMA and other ecstasy analogues**

Laboratory 2 : Amphetamines

Laboratory 1 : **Amphetamine-type stimulants**

Laboratory 2 : Amphetamines

Justification

Both MDMA and other synthetic drugs of the ecstasy type are amphetamine-type stimulants. So it broadens the scope and covers further opportunities for special analysis if the laboratory's competence is specified by reference to the generic term.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the initiative of the Kingdom of Sweden with a view to the adoption of a Council decision establishing a system of special forensic profiling analysis of synthetic drugs (14007/2000 – C5-0737/2000 – 2000/0825(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the initiative of the Kingdom of Sweden (14007/2000¹),
 - having regard to Article 34(2)(c) of the EU Treaty,
 - having been consulted by the Council pursuant to Article 39(1) of the EU Treaty (C5-0737/2000),
 - having regard to Rules 106 and 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0121/2000),
1. Approves the Kingdom of Sweden initiative as amended;
 2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 3. Asks to be consulted again if the Council intends to amend the Kingdom of Sweden initiative substantially;
 4. Instructs its President to forward its position to the Council and Commission, and the government of the Kingdom of Sweden.

¹ OJ C 10, 12.1.2001, p. 4.

EXPLANATORY STATEMENT

I. INTRODUCTION

The increase in drug trafficking and the crime to which it gives rise, whether organised or not, are considered by 70% of European citizens to be the greatest of their concerns.

The fight against the drugs problem is today more than ever a fundamental requirement of all modern societies, and one of the main problems facing the European Union.

People want to live in a Union in which fundamental rights are fully respected. They also want to be able to move freely within the European Union's territory without facing any threat to their personal safety.

However, criminal activities, especially those related to drug-trafficking, cross national frontiers. For this reason the European Union must be able to guarantee the protection its citizens require throughout its territory and provide them with a high level of safety and protection of human health.

For many people drugs are a source of pain, poverty, isolation and death. The scourge of drugs reaches every sector of society irrespective of sex, race or age, although it hits young people hardest.

There are essentially two main groups of drugs:

- (a) those derived from vegetable species and consumed in their natural or processed state: opium and heroin (from the opium plant); cocaine (from coca leaves); and marijuana (cannabis);
- (b) those known as synthetic or designer drugs: these are produced in laboratories from chemical substances (the precursors) and are not natural products. There are three main groups: amphetamines; ecstasy (MDMA or methylenedioxymethamphetamine) and other amphetamine-type stimulants; and finally LSD (lysergic acid diethylamide).

All of them have terrible characteristics: they are a threat to human health and a danger to individuals.

Illness and death are usually linked to what are known as hard drugs and are less often thought to be the consequences of synthetic drugs, particularly of the ecstasy type. However, the latest report for the year 2000, from the European Monitoring Centre for Drugs and Drug Addiction, says that 'possible long-term neural damage linked to heavy use of ecstasy is a growing concern', and points out that the use of GHB (gamma-hydroxybutyrate) 'can cause potentially fatal intoxications'.

II. THE NEED TO CONTROL SYNTHETIC DRUGS

Both the above report by the EMCDDA, on the state of the drugs problem in the European Union, and the report of the United Nations Office for Drug Control and Crime Prevention (UN-ODCCP) on drugs throughout the world in the year 2000, confirm that large quantities of new synthetic drugs are being produced every year in the European Union Member States. This production supplies not only the domestic market but also part of the United States, Mexico and other countries.

The consumption of these drugs is continuing, particularly amongst young people, posing a serious threat to their health and their lives, as well as causing concern to society as a whole, which expects the European Union to intervene to deal with the problem.

The manufacture of synthetic drugs requires the use of certain chemical precursors. Of the 22 substances controlled by Community legislation under the 1988 United Nations Convention on Narcotic Drugs and Psychotropic Substances, eight can be directly used for the manufacture of synthetic drugs. But other substances or precursors that are not on the list can also be used.

Synthetic drugs have a very similar chemical structure, which means that they can easily be modified by exchanging certain molecules, which result in a different end-product.

These changes may be due to various factors:

- (a) a deliberate intention to evade the law on the control of chemical precursors;
- (b) the possibility of using precursors that do not appear on the lists that are subject to control;
- (c) the deliberate manufacture of amphetamine-type stimulants which are not covered or are banned by national legislation or international convention.

Generally speaking, both amphetamines such as ecstasy and LSD do enormous harm to human health. But since their manufacture and sale are illegal, consumers do not know exactly what substance they are consuming nor what dosage, which involves a further risk.

In the case of the new synthetic drugs known as designer drugs which are continually coming on to the market to sidestep current prohibitions, neither their effects nor their risks are known, either in the short or the long term.

For this reason the European Union must make it a priority to combat drugs and, amongst other measures, put an end to domestic production and trafficking in synthetic drugs between Member States.

Since the entry into force of the Maastricht and Amsterdam Treaties the European Union and its Member States have had at their disposal a range of instruments and options to respond rapidly and effectively amongst themselves in order to combat the risk from drugs, with especial attention to the new synthetic drugs.

The European Union must be steadfast in this fight and set an example in this area if it wishes to maintain its credibility in the eyes of the international community, which is making

considerable efforts to eradicate the growth and production of drugs throughout the world.

III. THE KINGDOM OF SWEDEN INITIATIVE

In June 2000 Europol published a document entitled 'European Union situation report on drug production and trafficking'. The report points out that in spite of all the measures taken to combat production and illicit trafficking in synthetic drugs they are increasing to the point where today the European Union has become the world's leading producer of ecstasy and other synthetic drugs.

The Kingdom of Sweden initiative should be seen as part of the determined action that is needed to effectively control the international and organised trafficking in drugs.

The rapporteur unreservedly congratulates the present Council Presidency for presenting the two decisions that are the subject of this report, which are ultimately intended to facilitate police operations against production centres and distribution channels for synthetic drugs, and the criminal organisations behind them.

This is the first time that the European Union has adopted laws that are enforceable throughout the 15 Member States of the European Union for combating drug-trafficking, using the instruments and options which the European Union Treaty legally permits.

It is therefore important to underline the relevance of this initiative by the current Council Presidency held by the Kingdom of Sweden, presented in the legal form of decisions, because it is the beginning of a new European Union-wide approach, requiring the creation of a solid legal foundation for tackling the difficult fight against drug-related crime.

The initiative is in fact a package, comprising two complementary legislative proposals.

(a) The first is a proposal for a Council decision on the transmission of drug samples.

With this proposal the current Council Presidency, under the Kingdom of Sweden, is again breaking new ground and taking a giant step forward in the fight against drugs. The European Union has not hitherto adopted any legislation on drug samples that is binding on the Member States. Once again the rapporteur is compelled to look at the facts objectively, and must wholeheartedly compliment the current Council Presidency for putting forward this important, innovative and courageous initiative, which fills a legal vacuum throughout the Union.

With the entry into force of this legislation all the Union Member States will have to permit the passage through their territory of samples of any kind of drug (whether of natural or synthetic origin) deriving from illegal activities, when one Member State sends them to another, to enforce the law, for legal purposes or analysis. So this act will substantially improve the fight against drug-related criminal activity.

Of the amendments that the rapporteur proposes, some seek to improve the precision of the wording, by substituting terms that better reflect the reality to which they refer, such as Amendments 1, 2, 3, 4, 6, 7, 11 and 16.

Others are tabled with the aim of removing terms that are considered superfluous or may lead to misinterpretation in future, as in the case of Amendments 5, 8, 10, 12 and 13.

Finally, the remainder take account of other important matters. These include insistence on the immediate sending of the drugs (14); the need to enable other national authorities, which may not exclusively be contact points, to participate (9); the vital need for evaluation that must take place within an appropriate period, to assess the measure's effectiveness, any deficiencies in the light of experience and hence suitable measures to put them right (19); and the need to archive the transmission documents accompanying the transport of samples for an extended period, bearing in mind that most of them will be connected with criminal offences, the prosecution of which will take a considerable time (20).

(b) The second is a proposal for a Council decision establishing a system of special forensic profiling analysis of synthetic drugs.

The result of this analysis will enable police forensic experts to ascertain whether two samples of synthetic drugs share the same origin when they present similar features. This can be of vital importance, when combined with conventional real-time police data, to successfully combat organised international drug trafficking and production. This is the purpose of Amendments 21, 24 and 38.

At the moment only a few laboratories in a few Member States have the technical facilities required to carry out analyses of this kind. This being so, the rapporteur considers it would be wise to ensure that, in the initial period, two specialist laboratories should operate, one dealing with amphetamines and the other with amphetamine-type drugs, to avoid problems with the comparability of data. But clearly the laboratory system needs to develop into a much more closely-knit network of laboratories throughout the European Union, to permit technically comparable data to be obtained from analyses carried out in laboratories situated in various European Union countries, and indeed allow for the operational participation of the countries applying for accession. For the same reason there will need to be an evaluation to assess the system in operation, and propose suitable corrections in the light of technical development in the various Member States. This is the purpose of Amendments 22, 23, 27, 28, 29, 30, 32, 40 and 41.

The rapporteur would also like to point out that, although she does not consider that the financial burden is fairly or equally distributed, it is desirable to take this first step, accepting that the costs of the activities and analyses will be borne by the Member States in which the laboratories are located.

The rapporteur would advocate that, after due evaluation of operation of the system laid down in the decision, a method of financing is adopted in future with funds from the European Union's general budget.