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SECURITY OF SOCIETY: NARCOTICS AND DRUG ADDICTION IN LATVIA AND LITHUANIA

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Abstract. With the collapse of the Soviet Union the control over the production and sales of narcotic substances in Latvia and Lithuanian decreased significantly. In 1992 the law that stipulated compulsory treatment for drug addiction was abolished. At about the same time relationships among drug addicts underwent a drastic change. In the 70's and the 80's drug addicts acquired and produced narcotics themselves but in the 90's with the start of economic growth, organised crime started to flood the market of our countries with cocaine, Ecstasy, LSD and amphetamines which took over the traditional homemade narcotic substances.

The recent illegal market trends are connected with the flow of new psychoactive substances also through internet resources. Consequently the states intensified its legislative initiative in this field. In addition there is a current trend related to the use of smuggled controlled substances and new psychoactive substances, illegal cultivation of marijuana as well as the involvement our countries citizens in the trafficking of narcotic substances.

The problem of drug addiction has become very topical as an ever increasing number of youth who are involved in narcotics could become a threat to each and every one of us and security of society as a whole when they become addicted to their daily dose as the crave for the dose is so strong that they are ready to commit the most meaningless and cruellest crimes to get their daily dose. Today the use of narcotics is a threat to every young person irrespective of whether he/she comes from a normal or socially disadvantaged family.

The aim of the paper is to analyse the latest trends and the current situation in Latvia and Lithuania with regards to the possibilities of resolving drug addiction issues and put forward various solutions based on the forecasts for the near future. Analytical methods, theoretical studies and specific legal research methods shall be primarily used and applied.

Keywords: narcotics, drug addiction, trends, prospects, laws, security of society

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1. Introduction

Security of society is one of preconditions and driving factors of sustainable development (Lankauskienė, Tvaronavičienė 2012; Zahars, Stivrenieks 2015; Stańczyk 2011). One of contemporary society insecurity factors is drug addiction. There was a special furore created in Latvia country with the uncontrolled production of new psychoactive substances and their sale at freely accessible outlets posing a very serious and dangerous problem

for the country.

The sale of new psychoactive substances and measures taken by competent authorities for enhancing tools and mechanisms for the control of their sale has been the characteristic feature of illegal trade market in Latvia since 2013. In response to the speed of uncontrolled production of new psychoactive substances and the countless modifications in their formula, the scope of classification of substances was stipulated as of 14th February 2013 in accordance with the generic system (the basic principle of the generic system – simultaneous prohibition of several related substances) introduced in the List of controlled narcotic substances, psychotropic substances and precursors in Latvia as a result of which more than 200 new psychoactive substances were simultaneously prohibited (Amendments to the law “On entering...2013).

Within a year after the amendments to the law that envisaged the prohibition of more than 200 psychoactive substances in Latvia new psychoactive substances or “legal” drug sales outlets were fully eliminated; before these amendments the number of such legal sales outlets exceeded 40.

On the other hand as of 17th October 2013 temporary prohibitions on the sales of new psychoactive substances was introduced in the normative enactments on sales of controlled substances within the framework of which the centre for disease prevention and control can by its decision prohibit or restrict for a period of 12 months from the date of entering into force of the decision the production, purchase, storage, transportation, transfer or distribution/sales of such new psychoactive substances or such items containing these substances which are not included in the List but information regarding their acknowledgement as psychoactive substances has been received through the European early warning system or through forensic institutions (Amendments to the Law “On procedure for legal...2013).

The necessity for the amendments were dictated by the fact that the speed of uncontrolled production of new psychoactive substances and the countless modifications in their formula led to the failure in terms of the effectiveness of the existing regulatory framework of narcotic (psychotropic) substances and new psychoactive substances in circulation as well as failure of monitoring them using traditional methods. However starting from 9th April 2014 the Criminal law was appended with the section 248¹ on the unsanctioned production, purchase, storage, transportation, transfer or distribution/sales of new psychoactive substances or items containing these. The violation of this section foresees a penalty of deprivation of liberty for a term of two years or temporary deprivation of liberty, or community service, or a fine with probation for up to a term up to three years. In turn for offences that could lead to serious consequences the punishment foreseen is the deprivation of liberty for a term of five years or community service and probation for up to a term up to three years (Chemical precursors that are used...2014).

It should be noted that since the introduction of criminal liability in the law for the sales of these substances, no new derivatives of these substances have appeared in the market. However, trade in these substances has fully “gone underground” as is often the case with drug trafficking.

2. Results achieved by Law enforcement agencies of the Republic of Latvia in combating illegal trade in narcotic substances, psychotropic substances, new psychoactive substances and precursors in 2014

2995 criminal offences were registered in Latvia in 2014 related to the sales of narcotic substances, psychotropic substances, new psychoactive substances and precursors, which was 31.42% more than in 2013 and amounted to 5.92% of all registered criminal offences (50541) committed in the country (Report of Latvian State Police...2015).

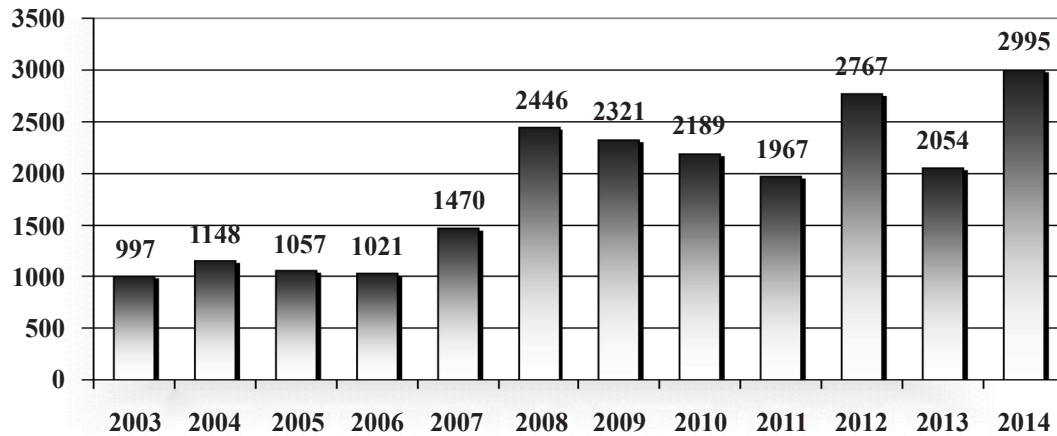


Fig. 1. Number of criminal offences related to the illegal sales of narcotic (psychotropic) substances.

Source: compiled by the authors

The jump in statistical data for 2014 can be primarily explained by the increase in the number of registered criminal offences related to the illegal use of narcotic (psychotropic) substances committed by persons who had been previously warned regarding criminal liability for the purchase, storage and use of narcotic (psychotropic) substances.

Out of the total registered criminal offences:

- 25.8% – related to the illegal production, purchase, storage, transportation, or transfer of narcotics (psychotropic) substances without the intent of selling them;
- 21.1% – related to the illegal production, purchase, storage, transportation, or transfer of narcotics (psychotropic) substances with the intent of selling them and their illegal trading as well as the illegal sales of narcotics (psychotropic) substances in small amounts;
- 45.8% – related to the illegal purchase and storage of narcotics (psychotropic) substances in small amounts without the intent of selling them or the illegal use of narcotics (psychotropic) substances if such were committed by persons who had been previously warned regarding criminal liability for the purchase, storage and use of narcotic (psychotropic) substances as well as the illegal production, purchase, storage, transportation, or transfer of narcotics (psychotropic) substances in small amounts with the intent of selling them or the illegal sales of narcotic (psychotropic) substances in small amounts;
 - 4.7% – related to the trafficking of narcotics (psychotropic) substances;
 - 1.3% – related to the illegal production, purchase, storage, transportation, or transfer of new psychoactive substances with the intent of selling them or their sale as well as related to the illegal production, purchase, storage, transportation, or transfer of new psychoactive substances without the intent of selling them and their illegal use committed by persons who had been previously warned regarding criminal liability for illegal production, purchase, storage, transportation, transfer or illegal use of new psychoactive substances or items containing these substances whose trade has been prohibited or restricted.

3910 administrative violation charge sheets were registered in Latvia in 2014, which was 21.5% less when compared to 2013 (4982).

2.1. Description of persons called for administrative liability:

- by gender:
 - male – 3344 persons;
 - female – 514 persons.

- by age bracket:
 - under the age of 18 – 122 persons;
 - from 18 – 20 years – 317 persons;
 - from 21 – 30 years – 1547 persons;
 - from 31 – 40 years – 1507 persons;
 - from 41 – 50 years – 301 persons;
 - over 50 years of age – 36 persons.

1272 persons were subject to criminal liability in Latvia in 2014 for crimes committed related to the illegal sales of narcotic (psychotropic) substances which was 19.6% less than in 2013 (1582 persons).

2.2. Description of persons subject to criminal liability:

- by gender:
 - male – 1052;
 - female – 220.

- by age bracket:
 - under the age of 18 – 14 persons;
 - from 18 – 20 years – 59 persons;
 - from 21 – 30 years – 486 persons;
 - from 31 – 40 years – 530 persons;
 - from 41 – 50 years – 136 persons;
 - above 50 years – 47 persons.

1025 persons were convicted in 2014 for illegal activities related to narcotic (psychotropic) substances which was 13.6% more than in 2013 (886 persons).

2.3. The amount of illegal narcotic substances, psychotropic substances, new psychoactive substances confiscated by the state

The following amounts of illegal narcotic substances, psychotropic substances, new psychoactive substances and precursors were confiscated in Latvia in 2014: 423.6 kg, 5766 tablets, 2 capsules, 7355.5 ml, 181 brands, as well as 2 saturated papers containing 25C-NBOMe (Report of Latvian State Police...2015).

Table 1. The amount of narcotic substances, psychotropic substances, new psychoactive substances (individual samples) confiscated:

	2007	2008	2009	2010	2011	2012	2013	2014
Methamphetamine g	11863.26	32271.09	7899.53	8264.4929	52200.22	20467.5	44332.09	8972.62
Amphetamine g	6162.15	5020.45	2390	185.78	107.54	9502.8	1698.01	7450.11
Marijuana g	52,340	199,759	52.154	60.7 (dried); 17 (not dried)	34.3 (dried), 496.7 (not dried)	73.9 (dried), 335 (not dried)	29.2 (dried), 344.4 (not dried)	26.8 (dried), 11.5 (not dried)
Hashish g	253.65	7005.46	1452.34	23833.1	364589.3	117295.4	105459.56	29502.59
Heroin g	1750.50	1715.56	2143.74	1128.27	444.1	1395.4	719.91	771.13
Cocaine g	11913.90	5159.16	439.32	286163	1319.9	1077.8	575.48	7863.43
New psychoactive substances total (g/tab.):	-	-	130.7 g, 2985 tab.	25709,84 g, 684 tab.	27683,84 g, 127 tab.	8994.51 g, 310 tab.	10348.51 g, 21 tab., 245 brands	17596.26 g, 30 tab., 176 brands, 2 saturated papers, 2 capsules
Ecstasy group substances g, tab.	102798	36668	1239	0.72 g, 35 tab.	3592 tab.	MDMA containing substances – grams (210.27 g); MDMA containing substances (1023.52 g); MDMA containing substances (87 tab.)	MDMA containing substances – 2.59 g, 22 tab.	MDMA containing substances (12.06 g), MDMA containing tablets grams (331.01 g), MDMA containing substances (119 tab.)
Drugs containing narcotic/psychotropic substances ml/g/tab.	982.2351 g, 18.5 ml, 4256.5 tab.	5109.33 g, 13 ml, 7858 tab.	3596.03 g, 9 ml, 4881 tab.	25543.602 g, 6518 tab.	2691.8 g, 7452 tab.	2554.5 g, 7894 tab.	2077.84 g, 6210 tab.	1262.66 g, 5352 tab., 498 ml

Source: compiled by the authors

3. Characteristic factors of Latvia's illegal market of narcotic substances, psychotropic substances, new psychoactive substances and precursors

3.1. Trafficking

Trafficking of narcotic (psychotropic) substances is one of the characteristic features of the illegal narcotic (psychotropic) substances market in Latvia. Well- developed highways, air, rail and sea transport infrastructure in combination with internal and external factors confirm the fact that Latvia is basically used as a transit state for narcotic substances and substances for internal market come through the transit route.

Characteristic entry routes for narcotic (psychotropic) substances into Latvia in 2014:

- cocaine – imported from South America in transit through EU countries (Germany, France) by land and air traffic routes;
- heroin – from Central Asian countries through Russia;
- cannabis group of substances – from EU countries (Spain, Netherland, England, Czech Republic, Portugal, Germany, Hungary, Finland) by vehicles, postal service as well as air traffic;
- amphetamines, methamphetamine, MDMA – from EU countries (Lithuania, Netherland, Belgium, Germany) by vehicles as well as through postal services;
- new psychoactive substances – from China and EU countries using postal services and courier services as well as vehicles.

Latvia is used as a transit for:

- cocaine from South America to Russia;
- cannabis group of substances (hashish, marijuana) from Western Europe to Russia and Scandinavia;
- amphetamine group of substances from Western Europe to Russia and Scandinavia.

Trafficking techniques:

- the majority of narcotic (psychotropic) substances are hidden in travel bags, suitcases, person's clothes (under the cloth lining, in socks, pockets) and personal items;
- in the case of trafficking by post it was found hidden in letters mainly greeting cards as well as in sweet packets, CD covers, electrical nodes;
- in the case of small mail packages or courier posts where narcotics (psychotropic) substances were found, the shipping documents categorised them as chemical substances, cleaning aids or samples of cosmetics generally of very low value;
- narcotics were also found hidden on the human body;
- in transport vehicles narcotics (psychotropic) substances were often hidden in such a way that it was possible to easily get rid of them (thrown away) in case of necessity or were hidden in vehicle under their decorative linings.

The actual risks have also been identified – the rapid increase in the trade of narcotics using internet resources through so called hidden online outlets where you can purchase any kind of narcotic substance delivered through couriers. There is also a rapid increase in trade through postal enterprise services as an intermediary (mainly from China and the Netherlands as well as Great Britain, France, Ireland, Belgium, Czech Republic etc.) which hinders the possibilities of identification of shipments of narcotic substances (Ivančiks 2014).

3.2. Marijuana cultivation trends

In 2014 a sharp increase in the number of cases of marijuana cultivation was discovered in Latvia. 29 cases of marijuana cultivation were discovered – 37.9% more than in 2013. (18 nurseries) (Gailāna 2015).

An analysis of the situation indicates that marijuana cultivation is done outside the premises in open air as well as inside. 15 cases of marijuana cultivation on the premises were discovered and in 10 cases special equipment was used. On the other hand 14 cases of cultivation in the open air were discovered: 6 cases of cultivation in open air without special equipment, 8 cases in green houses without the use of special equipment to help the growth process. In accordance with the data of Criminal department of the State police a total of 14.8 kg of dried marijuana as well as 10.8 kg of green marijuana were confiscated from these marijuana nurseries.

The increasing trend in marijuana cultivation is clearly determined by issues related to the decriminalisation of marijuana trade which is being popularised in the mass media and the worldwide trend regarding aspects of legalisation of marijuana as well as the accessibility to information on internet resources related to the cultivation of marijuana which potentially fosters the involvement of people not connected to the criminal environment, in particular the youth, in illegal activities related to cannabis group of products.

3.3. Trends in the distribution of new psychoactive substances

The involvement of persons in illegal activities related to the distribution of new psychoactive substances which is estimated to further develop in the near future is defined by the easy access to unrestricted purchase of new psychoactive substances through the internet and postal/courier services, free accessibility to trade outlets (pharmacies etc.) for purchasing basic components (Salvia, raspberry leaves, other herbal substances) required to produce herbal extracts containing new psychoactive substances, simplicity of the production processes without the necessity of investing huge monetary resources, using traditional trafficking channels and criminal connections or applying special knowledge as well as by opportunities available to make a significant profit (Latvian National development plan for 2014–2020).

3.4. Couriers

25 Latvian citizens were arrested abroad in 2014 for the illegal trafficking of narcotic (psychotropic) substances which was 26.5% less than in 2013. It should be mentioned in this context that despite the steady decrease in the number of Latvian narcotic couriers during the period 2011–2014: (65 Latvians arrested in 2011, 37 in 2012 and 34 persons in 2013), this illegal trade feature however remains topical taking into account the free mobility of Latvian citizens in the European Union area, socio economic instability that concerns certain layers of the society and the potential profit opportunities provided by illegal activities of the aforesaid nature.

In accordance with the information at the disposal of law enforcement agencies the recruitment of narcotic couriers generally takes place overseas. The classical narcotic courier route is from South American countries to Europe (by air) with the narcotics being distributed in European countries. At the same time it should be mentioned that factual figures maybe higher as information is only available about those arrested couriers who agree to have information officially published (Report of Latvian State Police...2015).

4. Amendments to the normative enactments in 2014

4.1. Amendments in Criminal law

- the section 248.1 of the Criminal law was appended as of 3rd April 2014, which foresees criminal liability for the illegal production, purchase, storage, transportation or transfer for sales or the sale of new psychoactive substances or items containing these substances, whose distribution is restricted or prohibited;
- amendments in the sections 251 and 252 as of 15th May 2014 applying the sections also to new psychoactive substances thereby foreseeing criminal liability for inciting persons to use new psychoactive substances or items containing these substances whose distribution is restricted or prohibited, for renting premises for the use of these substances as well as administering to other persons or attaching other persons against their will or without their knowledge to systems or equipment foreseen for the use of new psychoactive substances or items containing these substances whose distribution is restricted or prohibited;
- the section 248.2 of the Criminal law was appended as of 25th September 2014, which foresees criminal liability for the illegal purchase, storage, transportation, or transfer without the intent of selling of new psychoactive substances or items containing these substances whose distribution is restricted or prohibited or for the use of new psychoactive substances or items containing these substances whose distribution is restricted or prohibited by persons who have been warned about criminal liability for the illegal purchase, storage, transportation, transfer and use of new psychoactive substances or items containing these substances whose distribution is restricted or prohibited as well as for the illegal production without the intent of sale of new psychoactive substances or items containing these substances whose distribution is restricted or prohibited (Amendments to the Criminal Law 2014).

4.2. Amendments in the Latvian Administrative Violations Code

- the section 45.4 of the Latvian Administrative Violations Code was appended as of 5th June 2014, stipulating administrative liability for allowing the use of immovable or movable property which is in their possession for the illegal production, storage, transportation or sales of new psychoactive substances or items containing these substances, if the violation was carried out within a period of one year after the person has been informed in written about the fact that illegal production, storage, transportation or sales of new psychoactive substances or items containing these substances was fixed on the aforesaid property;
- the wording of the section 46. of the Latvian Administrative Violations Code was amended as of 30th October 2014 thereby envisaging administrative liability for the illegal purchase, storage, transportation, or transfer without the intent of selling of new psychoactive substances or items containing these substances whose distribution is restricted or prohibited or for the illegal use of new psychoactive substances or items containing these substances whose distribution is restricted or prohibited at the same time warning the persons in written regarding criminal liability if they repeatedly within a year of imposition of administrative penalty purchase, store,

transport, transfer or use new psychoactive substances or items containing these substances whose distribution is restricted or prohibited (Amendments to the Latvian Administrative Violations Code 2014).

5. Actualities of activities of narcotics control and legal responsibility in Lithuania

The issues of the drug control and responsibility have always been highly ideology-driven and politicized. This is due to different approaches to the drug problem and to the role of the government in its solutions. Thus, the formation of policies is not always related to some reasonable scientific argumentation, but is often driven by a conscientious objection, emotions or an intention to please the electorate. This often finds expression in introducing harsher penalties for drug use or distribution without going into details about the consequences that could affect the health of society and public security. As laid down in the Law on the Basics of National Security of the Republic of Lithuania (Republic of Lithuania Law on the Basics...1997), the determined and effective fight against crime, in particular organised crime, underground economy, corruption and drug addiction is an important direction of the public security policy of the Republic of Lithuania. Preventing addiction (drug addiction, alcohol abuse, addiction to toxic substances, etc.) is designated as one of the most important public health policies. In the National Security Strategy (Lithuanian Seimas decision “Due to Lithuanian...2012), *“international organised crime and other cross-border crimes – human trafficking, smuggling, illicit trade in drugs, arms, dual-use items, money laundering, illegal immigration, cybercrime and other criminal acts“* are identified as one of the main external risk factors, dangers and threats that may have a significant impact on the national security, and *“deterioration of the public health condition – spreading of dangerous diseases (including AIDS), alcohol abuse, addiction to toxic substances, drug addiction“* is mentioned as one of the main internal risk factors, dangers and threats, having a significant impact on the national security.

By identifying objectives and priorities of the enforcement of internal security, as well as by maintaining and reinforcing public security, it is decided to focus on the eradication of the economic basis of drug and arm trafficking, money laundering, smuggling and criminal gangs; to develop cooperation with the EU Member States and other countries and to ensure the security of the EU external frontier and the protection of public health – to prevent addiction (alcohol abuse, drug and psychotropic substances addiction).

It is noted that drug control issues are crucial for criminological policy in general, therefore, countries where harsh punishments prevail are tend to severely punish for drug-related offences. Lithuania is no exception in this respect.

The objectives of Lithuanian national policy on drug control are set in the National Drug Control and Drug Addiction Prevention Programme 2010–2016 (Lithuanian Seimas decision “Due to national drug...2010). As stated in Paragraph 31, the goal of the Programme is: *“to impede and reduce illicit supply and demand of drugs and psychotropic substances and their precursors, the spread of drug addiction through the strengthening of individual and public education, health and safety“*. The Programme’s priorities laid down in Paragraph 32 are as follows:

- 1) *supply reduction;*
- 2) *demand reduction, among children and youth in particular;*
- 3) *strengthening of international and national cooperation and coordination among public and local government institutions and organisations, associations, business entities, the civic society in the area of drug control and prevention of drug addiction;*
- 4) *Development of information systems and scientific research.*

As may be seen, the main goals are impeding and reducing illicit supply and demand of drugs. The measures provided in the programme address those issues.

As regards the assessment of the prevalence of drug use, Lithuania does not stand out from other European countries. For instance, the number of drug related deaths amounts to 15, 3 million inhabitants in the population

as a whole. In comparison with other countries, this number is much lower in the Netherlands – 5,7; France – 5,6; the Czech Republic – 5,2; Portugal – 4,9; Latvia – 3,1. On the other hand, the figures are much higher in such countries as Estonia (in 2013 in this country the highest number of such deaths was fixed – 75,4), in Norway – 58,7; Ireland – 45,4; Denmark – 40,1; the United Kingdom – 37,6 (Table DRD – 5...2010). According to the evaluation of drug use prevalence among the population, the figures are also low. Based on the 2012 data, 11,9% of inhabitants have tried cannabis, 0,5% – cocaine, 1,6% – amphetamines at least once in their lives. As a comparison: in Denmark, France, Spain, Italy, the United Kingdom and Czech Republic more than 30% of inhabitants were abusing cannabis, while in the liberal Netherlands in 2012 there were 25,7%, and in Portugal, where drug use was decriminalized, similarly as in Lithuania, 11,7%. Cocaine consumption indicators in the Western European countries are higher than in Lithuania, in Spain the figure for 2012 was 10,2%, in the United Kingdom – 7,7%, Italy – 7,0%, Ireland – 6,8%, the Netherlands – 5,2% (Table GPS – 1...2010). According to the evaluation of the statistical data, in Lithuania the drugs problem is not as big as in other countries, particularly in relation to Western Europe, consumption level is not high. Although, the average number of drug related deaths is a little higher than in most countries.

According to the chosen legal regulation of drug control in the context of the European model, Lithuania is not unique and is attributable to the countries applying combined drug control model as the drug distribution is severely punished, and the users are viewed more leniently, if they dispose a small amount of drugs for their own use, they are not threatened with imprisonment. The interesting point is that the use of drugs for personal use generally is not decriminalized in Lithuania. Drug users, depending on the circumstances, are administratively or criminally responsible. More lenient legal regime also does not provide use of cannabis in case of personal use or cultivation.

5.1. Issues of legal regulation of Criminal responsibility

Depending on the nature of the offenses for drug disposal, Lithuanian law establishes *criminal* or *administrative* liability. Chapter XXXVII “Crimes and Misdemeanours Relating to Possession of Narcotic or Psychotropic, Toxic or Highly Active Substances“ of the Criminal Code (CC) (Criminal Code of the Republic of Lithuania 2010) contains provisions on criminal liability for offenses related to narcotic drugs and psychotropic substances. The following activities are distinguished:

- Unlawful possession of narcotic or psychotropic substances for the purpose other than distribution (Article 259);
- Unlawful possession of narcotic or psychotropic substances for the purpose of distribution thereof or unlawful possession of a large quantity of narcotic or psychotropic substances (Article 260);
- Distribution of narcotic or psychotropic substances among minors (Article 261);
- Production of installations for the production of narcotic or psychotropic substances or development of technologies or specifications for the production of narcotic or psychotropic substances (Article 262);
- Theft, extortion or other unlawful taking possession of narcotic or psychotropic substances (Article 263);
- Inducing the use of narcotic or psychotropic substances (Article 264);
- Illegal cultivation of poppies or hemp (Article 265);
- Unlawful possession of category I precursors of narcotic or psychotropic substances (Article 266);
- Unlawful possession of highly active or toxic substances (Article 267);
- Violation of the regulations governing lawful possession of psychotropic, highly active or toxic substances (Article 268).

Liability for toxic, highly active, narcotic or psychotropic substances or precursors of narcotic or psychotropic substances (precursors) smuggling is established separately (Article 199 (2)). The Criminal Code does not specifically denote what is considered to be narcotic or psychotropic substances, though Article 269 (1) of the Criminal Code contains a reference to the lists of narcotic and psychotropic substances approved by the Ministry of Health of the Republic of Lithuania. The 2nd part of the same Article points out that the quantity of narcotic or psychotropic substances to be considered as small, large and very large shall be determined based on the recommendations approved by the Ministry of Health of the Republic of Lithuania.

As stated by Article 2 (1) of the Law on the Control of Narcotic and Psychotropic Substances (Republic of Lithuania Law on the Control of Narcotic...1998): “*narcotic and psychotropic substances means the biological and synthetic substances included in the lists of controlled substances, approved by the Ministry of Health, the harmful effects or misuse whereof, give rise to serious deterioration of human health, marked by mental and physical dependence on them, or pose danger to human health*“. In Article 4 such principles for classification of substances are provided: – according to their harmful effect upon human health, when they are misused, and according to the fact whether they can be used for health care purposes. The law also states that based upon Republic of Lithuania international agreements, the Ministry of Health shall classify and include narcotic and psychotropic substances in the three lists according to the control regime applied to them (The Law of Minister of Health...2000).

The I list is comprised of narcotic and psychotropic substances the use whereof is prohibited in health care, II consists of narcotic and psychotropic substances, used for health care purposes, and III includes psychotropic substances used for health care purposes. Most of the listed substances are transferred from the United Nations Conventions (The 1961 UN Single Convention on Narcotic Drugs, The 1971 UN Convention on Psychotropic Substances and the commentaries on these conventions). Lithuanian legal regulation feature is that belonging to the I list narcotic and psychotropic substances the use whereof is prohibited in health care are not divided according to their harmfulness, therefore, both cannabis and heroin are included into the list, although the dangers and damage to health of these drugs and certainly different.

Criminal liability is differentiated depending on the disposable type of drug, whereas, according to Health Minister approved recommendations on determination drugs or psychotropic substances in large or very large quantities (The Law of Minister of Health...2003) that designates what precisely is meant by small, large and very large quantities. *For instance*, the corresponding figures of disposition of heroin are less than 0.02 g, more than 2 g and more than 10 g;

- hemp (or its parts) – less than 5 g, more than 500 g and more than 2500 g;
- amphetamine – less than 0,2 g, more than 20 g and more than 100 g;
- LSD – less than 0,0005 g, more than 0,05 g and more than 0,25 g;
- Cocaine – less than 0,2g, more than 20 g and more than 100 g.

As can be seen, ratios of less dangerous materials are larger than those of more dangerous. It should be noted that a “small quantity” is defined in the lists as a certain quantity, and “high” or “very high” quantity is defined as a quantity that exceeds the set points. Attention is drawn to the fact that the Ministry of Health lists are recommendatory in nature and the court case by case basis, having regard to the circumstances, have the power to decide whether the limits established in the lists were exceeded.

Criminal liability is differentiated depending on the quantity of drugs, and it depends on the type of drug what quantity is considered to be not large, large or small. Such system of classification and responsibility is not unique in the European context. Lithuania does not qualify for the countries with a liberal drug policy, thus providing a distribution system like one in the Netherlands (acceptable risk and unacceptable risk substances) is not justified as it would require a whole change of drug control policy.

The penalties provided are quite severe, except for Article 259 (2) of the CC, according to which unlawful producing, processing, acquiring, storing, transporting or forwarding of narcotic substances shall be considered to have committed a *misdemeanour* and shall be punished by community service or by restriction of liberty or by a fine or by arrest. According to Article 259 (1) of the CC, for analogous offenses, when drug quantity exceeds not large, crime is alleged and stronger sanctions like fine, arrest or imprisonment for a term of up to two years are provided. However, in the 3 part of the same Article there is an exclusion, when a person shall be released from criminal liability for these conducts, in case when a person voluntarily applies to a health care establishment for medical aid or addresses a state institution in order to submit the narcotic or psychotropic substances which have been unlawfully produced, acquired, stored for the purpose other than distribution.

The other rule of the CC, Article 260 (1) provides for a penalty (imprisonment from 2 to 8 years old) for drug distribution. It should be noted that it does not matter what amount of the drug was distributed (if distributed in a large quantity, then Article 260 (2) shall be applied). It also does not provide for alternative sanctions, and on the basis of Article 75 (1) of the CC, suspending the sentence is not possible as long as offense provided in Article 260 (1) is serious (according to Article 11 (5) of the CC).

According to Article 199 (2) of the CC, smuggling of drugs or psychotropic substances or precursors of narcotic or psychotropic substances provides for the punishment of imprisonment for a term of three up to 8 years. In this case, it does not matter what quantity and what kind of prohibited substances a person transported through the border of the Republic of Lithuania. In all cases, it is considered to be a serious crime and alleged execution cannot be delayed, although in individual cases it can be clearly disproportionate and in conflict with the principle of justice.

5.2. Some issues of legal regulatory of Administrative responsibility

Certain confusion in the legal regulation lugs the fact that the responsibility for the disposal of narcotic and psychotropic substances in Lithuania is also provided in the Code of Administrative Offences (CAO) (The Code of the Republic of Lithuania of Administrative Offences 1985). Article 44 (1) of the Code 1 provides that: *“illicit drugs or psychotropic substances acquisition or possession in small quantities without the purpose of selling or otherwise distributing incurs a penalty of up to one thousand litas along with psychotropic drugs or narcotics confiscation or administrative arrest up to thirty days along with narcotic drugs or psychotropic substances confiscation”*. Comparing the disposition if this Article with Article 259 (2) of the CC, it can be seen that they are virtually identical. They share the same purpose (*without a purpose of selling or otherwise distributing*) and the quantity of drugs (not large). However, the CC covers wider possible circle of action, it mentions production, processing, transportation or sending, when the CAO refers only to acquisition and storage. It follows that there is a conflict between Article 259 (2) of the CC and Article 44 (1) of the CAO to the extent that the liability for acquisition and storage of narcotic and psychotropic substances in small quantities. Bearing in mind that, according to recommendations of the Ministry of Health only an upper limit of a small quantity is identified, it is clear that the court's review of the circumstances could decide what kind of liability shall be applied. Nevertheless, there may be cases in the case law when persons may be treated differently in identical circumstances, ones may be sanctioned administratively and others prosecuted. This casts doubts on the conformity of equality of all persons before the law and the principle of legal certainty.

After analysing the liability of sanctions, it can be seen that in practice, criminal liability for possession of narcotic substances without the purpose of distribution is applied much more frequently than administrative. According to the Police Department under the Ministry of information, according to Article 259 of the CC, the number of qualified offenses per 2009 was 965, in 2010 – 1042, 2011 – 1313, 2012 – 1318, 2013 – 1240 (2014 National Report to the EMCDDA...). Meanwhile, Article 44 (1) of the CAO was rarely applied: in 2009. 144 administrative offenses were explored, in 2010 – 101, 2011 – no data, 2012 – 86 and in 2013 – 54. It should be noted that individuals are more often prosecuted by the administrative procedure under Article 44 (2) of the CAO, i.e. for drugs or psychotropic substances without a doctor's appointment or persons detained for administrative offenses (except for offenses under Article 126 of the Code, fourth and sixth paragraphs and Article 129) and suspected of being influenced by drugs or psychotropic substances or avoiding the intoxication check. In 2009 there were investigated 1,661 of such infringements, 2010 – 1098, 2011 – no data, 2012 – 4590 and 2013 – 2860 (2014 National Report to the EMCDDA...). As can be seen, administrative responsibility is more frequently applied in the administrative procedure for drug consumption (CAO, Art. 44 (2)) than for acquisition or possession (CAO, Art. 44 (1)). In the latter case, offense is normally classified according to Article 259 of the Criminal Code. In addition, according to the Article 9 (2) of the CAO, administrative responsibility for offenses occurs in this Code if these violations in nature do not incur criminal liability by applicable law.

5.3. Some possible steps in improving the legal regulation

In order to avoid confusion in the application of these standards and ensuring legal certainty, the legal regulation shall be improved. As the change of regulation is related not only with a specific legal solution of the problem, but also to drug control policy in general, the method chosen depends on what are the objectives pursued. For example, if the purpose is to strengthen the responsibility for drug use, conflict can be destroyed by eliminating administrative responsibility for acquisition and storage of narcotic and psychotropic substances and by disposal of CAO Article 44 (1) (thereby these offenses would be classified only according to the Criminal Code 259 Article (2)). This regulatory model is proposed in the new Code of Administrative Violations Code (CAV) project (The Code of the Republic of Lithuania of Administrative Offences project 2012), where Article 61 provides for administrative liability for narcotic and psychotropic substances without a doctor's appointment (expected sanction – a fine from 30 to 145 Euro), while this type of liability is removed for the disposition of a small quantity for individual needs, leaving only the criminal responsibility. It is not clear on what basis legal regulation is changed, since the explanatory notes of the amendment do not specify the reasons. In this context, it is pointed out that criminal responsibility is a coercive measure of the state that should be used and weighed up very carefully because it leads to quite serious consequences to persons for whom it is customizable. There is no reason to say that strengthening of responsibility will give any tangible results because the rigor or gentleness of legal regulation has only limited influence on the extent of drug use and mitigation of liability could have positive effects from the point of view of those consuming drugs. It is also noted that the offense is not directed against a specific person (i.e. so-called crime without a victim), thus harsh punishment is not justified by a reward ambition. Another possible solution to the problem – the destruction of criminal responsibility for a small quantity of narcotic or psychotropic substances, acquisition or possession, however, leaving it for the production, processing, transportation or shipping of those substances, thus for the first two offenses offenders would respond administratively. However, it is also not the most appropriate option, since acquisition, possession, production, processing, transportation, sending, selling aimlessly or otherwise distribution of small quantities of narcotic or psychotropic substances are considered similar in relation of hazards. In this case, it comes to a small amount of drugs for using them for individual needs, thus it is not clear why the acquisition or possession should be considered as more or less dangerous than other offenses provided in Article 259 of the CC. If such legal regulation would be chosen when the acquisition and possession would face only administrative responsibility, and for the production, processing, transporting or sending – criminal responsibility, there should appear the basis, according to which offenses could be differentiated.

Compromise solution is also possible, for instance, to eliminate criminal liability (or set only administrative) only for some, less dangerous and harmful to health, narcotic or psychotropic substances in the acquisition, possession, manufacture, processing, transportation or shipping.

Such legal regulation would help to differentiate the responsibility depending not only on existing quantities of drugs, as it is at present, but also depending on their type. However, to achieve this, it is necessary to create the appropriate drugs and psychotropic substances classification and categorization system. Pečkaitis (2003) has proposed such a system:

- 1) Extremely strong narcotic or psychotropic substances that pose a risk to human life (cocaine, opium, LSD and others);
- 2) Narcotic or psychotropic substances, dangerous to human life and health (hemp and parts thereof, amphetamine and others);
- 3) Narcotic or psychotropic substances detrimental to human health – the so-called soft drugs (marijuana, some of morphine derivatives, etc.).

Thus, the system proposed is largely similar to the British used three classes (A, B, C) system. Without calling into question about the criteria according to which the drugs are divided into the following categories, there is the whole issue of different approach to the “light” and “heavy” drug users, since in that case the person who causes much more harm to his own health, would be even more severely punished for it. It should be noted that in the case of distribution such differentiation would be logical, since the distribution of dangerous drugs causes

more harm to the society. On the other hand, it is difficult to say whether it should be of practical significance, since the usual distributors engaged in a variety of drugs, both light and heavy, distribution. Therefore, such a regulatory change must be rejected as difficult to implement in practice and vacuous.

Previously discussed ways to solve the existing conflict are not the best. In one case, the responsibility would be unduly strengthened without any compelling reason, in the other case the newly established regulation would not be enough equivalent and systematically consistent, and in the third case, there arouses the problem with the practical implementation and the creation of a new classification system. It is therefore considered a fourth option - to delete Article 259 (2) of the CC and Article 44 of the CAO (or the relevant articles of the ANC project draft) and to establish, in addition, the administrative responsibility for production, processing, transport and shipping of small quantity of narcotic or psychotropic substances. This would help to avoid criminal and administrative responsibility for similar offenses towards duplication and consumers who mitigated the responsibility, the former would be treated humanely, focusing mainly on drug dealers. By discussing the first, related to the tightening of responsibilities, alternative, there appears a partial reply to the question on what basis the responsibility would be mitigated. It should be noted that this regulatory amendment is consistent with the CAO Article 44 (2), which provides for administrative liability for drug use without a doctor's appointment. Article 44 of the CAO would combine less dangerous drug-related offenses, from the use, acquisition and possession located there now, to other, currently provided in 259 Article (2) activities. All of them share the same ultimate goal (individual consumption) and low availability of prohibited substances. This is consistent with criminal law, as an *ultima ratio* measure, function in general, since the Criminal Code should not include acts that do not cause significant risk to the person or to the public. Moreover, this would reduce law enforcement and judicial costs and would make it possible to direct resources to other, more serious crimes.

Conclusions

With respect to the trends in sale of new psychoactive substances it should be mentioned that the legislative initiatives in the sphere of enhancement of controlling mechanisms against the circulation were one of the characteristic features of combating illegal trade of narcotic (psychotropic) substances in Latvia in the period 2013–2014.

The specifics of Latvian geopolitical situation will continue to be exploited by Latvian and international crime organisations interested in the trafficking of narcotic (psychotropic) substances as well as new psychoactive substances and also by persons not connected to organised crime but who see a stable source of profit in performing the above mentioned illegal activity.

Information at the disposal of State law enforcement agencies clearly indicate that the global computer network system is used for the circulation of new psychoactive substances through post and courier post by organised groups as well as by persons not connected to criminal groups.

The popularisation of new psychoactive substances in mass media is dangerous and definitely causes heightened interest including about methods/techniques of their use among the youth. The easy accessibility of psychoactive raw materials, simplicity production and sale of herbal mixtures and the potential profits can further the involvement of Latvian inhabitants in the production and distribution of mixtures containing new psychoactive substances in the illegal market.

Heightened interest must be paid to the fact that the socio economic situation of the society is still under the impact of the consequences of the global financial crisis and prompts people to turn to trafficking of narcotic (psychotropic) substances opting to become narcotic couriers and potential stability is forecasted in the above mentioned trend also in the future.

Attention should be paid to the distribution of “laughing gas” (*nitrous oxide*) in the country that was observed at

the end of 2014. The novelty of the event denies any credible forecasts regarding the stability of the new trend but definitely indicates the continuous changing nature of the market for intoxicating substances in reaction to measures carried out by the relevant authorities responsible for the control of dangerous substances by finding and offering more and more alternatives for supply and demand in order to achieve one's goals.

The spread of drug use in Lithuania is nothing special in the European context. There are doubts on the state of scientific validity of drugs classification system in Lithuania, because it is not clear what scientific studies and methodologies are in the basis of the detection of the relevant quantities of drugs and how reasonable is the current size table in the light of the latest scientific achievements, individual drug-induced damage to the physical health, the potential of causing addiction, social consequences and other criteria. Bearing in mind that the severity of the sanctions depends on these values, the list should be based on clearly defined in the legislation criteria and the results of the latest research on the effect of particular drugs on the human body.

Lithuanian legal regulation is not exclusive, drug dealers are punished quite severely and the liability is softer in respect of consumers. Depending on the availability of the quantity of drugs, the consumers may be brought to civil or criminal liability. In small consumption cases, criminal liability is considered to be too strict, a measure of questionable efficiency and, in some cases, the penalty imposed can be clearly disproportionate. In this case, it might be considered to provide for appropriate reservations and alternatives in order to avoid strict punishment for relatively minor offenses.

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