Monitoring intra-EU trade in drug precursors

2012/0261(COD) - 15/05/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Anna HEDH (S&D, SE) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 273/2004 on drug precursors.

The committee recommends that the European Parliament's position adopted at first reading, following the ordinary legislative procedure, should amend the Commission proposal as follows:

Definitions: Members redefine the term 'user' so that it shall mean any natural or legal person **who is not an operator** under the terms of the Regulation.

Registration regime: Members make a number of amendments to ensure that **operators should be discouraged from "shopping around" in the EU for the competent authorities with the lightest licensing/registration regime.**

Database: the proposal seeks to establish a European Database on drug precursors to simplify the reporting by Member States with regard to seizures and stopped shipments, **where possible in an aggregated and anonymised manner and in the least intrusive way as regards the processing of personal data**. The Commission and the competent authorities shall take all necessary measures to ensure the security, confidentiality and accuracy of the information contained in the European Database. The rights of data subjects are protected in accordance with that Directive 95/46/EC.

Exchange and processing of personal data: Regulation (EC) No 273/2004 envisages the processing of information, including the processing of personal data, for the purposes of enabling the competent authorities to monitor the placing on the market of drug precursors and to prevent the diversion of scheduled substances. Members consider that the processing of personal data should be carried out in accordance with Union law on data protection and, in particular, with requirements relating to **data quality, proportionality, purpose limitation, and rights to information, access, rectification of data, erasure and blocking, organisational and technical measures and international transfers of personal data**. Data should be adequate, accurate, relevant and not excessive in relation to the purpose for which it is collected. It should not be processed for longer than necessary in relation to the purpose for which it is collected and its accuracy should be regularly reviewed.

Operators shall not disclose personal data processed pursuant to this Regulation other than to the competent authorities.

It is stipulated that a data subject shall be provided with information concerning the purposes of the processing and retention of data, the categories of data processed and retained, the identity of the controller of the data, the identity of the recipients of the data, information regarding the right of access, rectification or erasure of the data subject's personal data, the administrative and judicial remedies available and the contact details of the supervisory authority. Some or all of that specific information may be withheld only in so far as it would compromise administrative or judicial investigations or procedures, hamper the prevention, investigation, detection or prosecution of criminal offences or jeopardise public or national security.

Data protection law, the various elements of processing personal data, including the exercise of rights by data subjects, must be specified in **delegated acts**.

As regards the processing of data, this should be carried out **under the supervision of the European Data Protection Supervisor**, as regards the processing of personal data carried out by the Commission within the framework of Regulation (EC) No 273/2004.

Access by law enforcement agencies to personal data: in order to enable law enforcement authorities to detect, prevent, investigate or prosecute drug trafficking criminal offences, Members call on Member States should to adopt legislative measures to grant their competent authorities access to personal data processed in so far as is necessary, proportionate and subject to adequate safeguards. Such processing should only take place on a case-by-case basis and provided that the competent law enforcement authorities have reasonable grounds for believing that it will substantially assist them in preventing, detecting, or investigating drug trafficking criminal offences.

Delegated acts: the Commission shall be empowered to adopt delegated acts in respect of :

- **the categories of personal data to be processed** for the purpose of the European Database,
- the **retention period for personal data processed**,
- the procedures by which data subjects can exercise their rights to access, rectify, erase and, where appropriate, object and block data.

Before developing delegated acts, the Commission shall consult the European Data Protection Supervisor.

Review: by 66 months after the date of entry into force of this Regulation (and not 78 as proposed by the commission), the Commission shall submit a report to the European Parliament and to the Council on the implementation and functioning of Regulation (EC) No 273/2004, and in particular on the **possible need for additional action** to monitor and control suspicious transactions with non-scheduled substances.