Monitoring intra-EU trade in drug precursors

2012/0261(COD) - 23/10/2013 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 575 votes to 34 with 54 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 273/2004 on drug precursors.

Parliament adopted its position in first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between Parliament and Council.

Scope and objectives: the Regulation established harmonised measures for the intra-Union control and monitoring of certain substances frequently used for the illicit manufacture of narcotic drugs or psychotropic substances with a view to preventing the diversion of such substances.

Definitions: several definitions were clarified, including the definition of "placing on the market' of scheduled substances within the meaning of the Regulation.

The meaning of 'user' has also been clarified so that it cannot be confused with an operator within the meaning of the Regulation.

Registration: operators and users shall obtain a licence from **the competent authorities of the Member State in which they are established** before they may possess or place on the market scheduled substances.

It is also provided that competent authorities may require operators and users to **pay a fee for the application for a licence or for registration**.

Where a fee is levied, competent authorities must consider adjusting the level of the fee depending on the size of the enterprise. Such a fee must be levied in a non-discriminatory manner and **shall not exceed the cost of processing the application**.

Database: the proposal provided for the creation of a European database to simplify the reporting by Member States with regard to seizures and stopped shipments. Data should, where possible, **be in an aggregated and anonymised manner and in the least intrusive manner as regards the processing of personal data**, taking into account the state of the art of privacy-enhancing technologies and the principle of data limitation.

The kind of data which can be stored in the European database would be established through delegated acts.

The Commission must make publicly available, in a clear, comprehensive and understandable manner, information concerning the European database.

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. However, the amended text specified that the processing of personal data should be carried out in a manner compatible with EU legislation 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.

Operators must not disclose any personal data collected pursuant to this Regulation other than to the competent authorities.

Seizure of certain substances: competent authorities will have the power where necessary, to detain and seize consignments to prevent the use of **specific non-scheduled substances** for the illicit manufacture of narcotic drugs or psychotropic substances.

Communication from Member States: to permit any necessary adjustments to the arrangements for monitoring trade in scheduled substances and non-scheduled substances, the competent authorities in **each Member State shall communicate to the Commission** in electronic form via the European database all relevant information on the implementation of the monitoring measures laid down in the Regulation, in particular as regards substances used for the illicit manufacture of narcotic drugs or psychotropic substances and methods of diversion and illicit manufacture, and their licit trade.

The Commission will be empowered to adopt delegated acts specifying the conditions and requirements concerning the information to be provided in this context. .

Delegated acts regarding the processing of personal data: the scope of the delegation of power has been redefined so that the Commission would also be empowered to adopt delegated acts on:

- the categories of personal data which can be processed by Member States and operators pursuant to Regulation (EC) No 273/2004;
- the categories of personal data which can be stored in the European database, and
- the safeguards for the processing of personal data.

The Commission should seek the opinion of the European Data Protection Supervisor when preparing delegated acts relating to the processing of personal data.

The power to adopt delegated acts will be conferred on the Commission for a period of five years and shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Review: the Commission must submit a report to the European Parliament and to the Council on the implementation and functioning of the Regulation, and in particular on the possible need for additional action to monitor and control suspicious transactions with non-scheduled substances.

Annex: the list of scheduled substances has been amended.