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EUROPOL

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union in the 69th session of the Commission on Narcotic Drugs on the scheduling of substances under the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol, and the Convention on Psychotropic Substances of 1971

COUNCIL DECISION (EU) 2026/...

of ...

**on the position to be taken on behalf of the European Union
in the 69th session of the Commission on Narcotic Drugs
on the scheduling of substances under the Single Convention
on Narcotic Drugs of 1961, as amended by the 1972 Protocol, and the Convention
on Psychotropic Substances of 1971**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular
Article 83(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The United Nations (UN) Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol (the ‘Convention on Narcotic Drugs’), entered into force on 8 August 1975.
- (2) Pursuant to Article 3 of the Convention on Narcotic Drugs, the Commission on Narcotic Drugs (CND) can decide to add substances to the Schedules to that Convention. When the World Health Organization (WHO) notifies the CND to add substances to the Schedules, the CND can make changes in the Schedules only in accordance with that notification of the WHO, but it can also decide not to make the changes so notified.
- (3) The UN Convention on Psychotropic Substances of 1971 (the ‘Convention on Psychotropic Substances’) entered into force on 16 August 1976.
- (4) Pursuant to Article 2 of the Convention on Psychotropic Substances, the CND can decide to add substances to the Schedules to that Convention or to remove them. It has broad discretionary powers to take into account the recommendations of the WHO, as well as economic, social, legal, administrative and other factors, but the CND is not empowered to act arbitrarily.

- (5) Changes to the Schedules of the Convention on Narcotic Drugs and the Convention on Psychotropic Substances have direct repercussions on the scope of application of Union law in the area of drug control. Council Framework Decision 2004/757/JHA¹ applies to substances listed in the Schedules to those Conventions. Thus, any change to the Schedules to those Conventions is directly incorporated into common Union rules. It is therefore necessary for the Council to authorise the Member States to express the position of the Union on the scheduling of substances under those Conventions, because decisions on the addition of new substances to those Schedules fall under the exclusive competence of the Union.
- (6) The CND is to decide, during its 69th session planned to take place from 9 to 13 March 2026 in Vienna, on the addition of three new substances to the Schedules to the Convention on Narcotic Drugs and to the Convention on Psychotropic Substances.
- (7) The WHO has recommended the addition of two new substances to Schedule I to the Convention on Narcotic Drugs, and one new substance to Schedule II to the Convention on Psychotropic Substances.

¹ Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking (OJ L 335, 11.11.2004, p. 8, ELI: http://data.europa.eu/eli/dec_framw/2004/757/oj).

- (8) All substances reviewed by the WHO Expert Committee on Drug Dependence (ECDD) and recommended for scheduling by the WHO are monitored by the European Union Drugs Agency (EUDA) as new psychoactive substances under Regulation (EU) 2023/1322 of the European Parliament and of the Council².
- (9) According to the assessment by the ECDD, *N*-pyrrolidino isotonitazene (Isotonitazepyne) (IUPAC name: 5-nitro-2-({4-[(propan-2-yl)oxy]phenyl}methyl)-1-[2-(pyrrolidin-1-yl)ethyl]-1*H*-1,3-benzimidazole) is a synthetic opioid belonging to the class of benzimidazoles or nitazenes. *N*-pyrrolidino isotonitazene has not previously been formally reviewed by the WHO. *N*-pyrrolidino isotonitazene has no known therapeutic uses or marketing authorisations. There is sufficient evidence that *N*-pyrrolidino isotonitazene is being, or is likely to be, abused and can constitute a public health and social problem that warrants placing it under international control. Thus, the WHO recommends that *N*-pyrrolidino isotonitazene be listed in Schedule I to the Convention on Narcotic Drugs.
- (10) *N*-pyrrolidino isotonitazene has been detected in nine Member States, and is controlled in at least two Member States. *N*-pyrrolidino isotonitazene is under intensive monitoring by the EUDA. A total of at least three deaths with confirmed exposure to *N*-pyrrolidino isotonitazene have been reported by two Member States. At least one acute poisoning with suspected exposure to *N*-pyrrolidino isotonitazene has been reported by a Member State.

² Regulation (EU) 2023/1322 of the European Parliament and of the Council of 27 June 2023 on the European Union Drugs Agency (EUDA) and repealing Regulation (EC) No 1920/2006 (OJ L 166, 30.6.2023, p. 6, ELI: <http://data.europa.eu/eli/reg/2023/1322/oj>).

- (11) Therefore, the position of the Union should be to support adding *N*-pyrrolidino isotonitazene to Schedule I to the Convention on Narcotic Drugs.
- (12) According to the assessment by the ECDD, *N*-desethyl etonitazene (IUPAC name: 2-[2-[(4-ethoxyphenyl)methyl]-5-nitro-benzimidazol-1-yl]-*N*-ethyl-ethanamine) is a novel synthetic opioid belonging to the class of benzimidazoles or nitazenes. It is a metabolite of etonitazene, another benzimidazole opioid that is controlled under Schedule I to the Convention on Narcotic Drugs. *N*-desethyl etonitazene has not been formally reviewed by the WHO. *N*-desethyl etonitazene has no known therapeutic uses or marketing authorisations. There is sufficient evidence that *N*-desethyl etonitazene is being, or is likely to be, abused and can constitute a public health and social problem that warrants placing it under international control. Thus, the WHO recommends that *N*-desethyl etonitazene be listed in Schedule I to the Convention on Narcotic Drugs.
- (13) *N*-desethyl etonitazene has been detected in four Member States, and is controlled in at least six Member States. *N*-desethyl etonitazene is under intensive monitoring by the EUDA.
- (14) Therefore, the position of the Union should be to support adding *N*-desethyl etonitazene to Schedule I to the Convention on Narcotic Drugs.

- (15) According to the assessment by the ECDD, MDMB-FUBINACA (IUPAC name: methyl 2-[[1-[(4-fluorophenyl)methyl]indazole-3-carbonyl]amino]-3,3-dimethyl-butanoate) is a potent synthetic cannabinoid. MDMB-FUBINACA has not been previously reviewed by the WHO. MDMB-FUBINACA has no known therapeutic uses or marketing authorisations. There is sufficient evidence that MDMB-FUBINACA is being, or is likely to be, abused and can constitute a public health and social problem that warrants placing it under international control. Thus, the WHO recommends that MDMB-FUBINACA be listed in Schedule II to the Convention on Psychotropic Substances.
- (16) MDMB-FUBINACA has been detected in 14 Member States, and is controlled in at least eight Member States. MDMB-FUBINACA is under intensive monitoring by the EUDA. At least one acute poisoning with suspected exposure to MDMB-FUBINACA has been reported by a Member State.
- (17) Therefore, the position of the Union should be to support adding MDMB-FUBINACA to Schedule II to the Convention on Psychotropic Substances.
- (18) It is appropriate to establish the position to be taken on behalf of the Union in the CND, as the decisions on listing the aforementioned three substances will be capable of decisively influencing the content of Union law, namely the scope of Framework Decision 2004/757/JHA.

- (19) The Union is a party neither to the Convention on Narcotic Drugs nor to the Convention on Psychotropic Substances. It has an observer status with no voting rights in the CND, of which 14 Member States³ are members with the right to vote at its 69th session. The position of the Union is to be expressed by those Member States, acting jointly in the interest of the Union.
- (20) Denmark is bound by Framework Decision 2004/757/JHA and is therefore taking part in the adoption and application of this Decision.
- (21) Ireland is bound by Framework Decision 2004/757/JHA and is therefore taking part in the adoption and application of this Decision,

HAS ADOPTED THIS DECISION:

³ Belgium, Germany, Spain, France, Italy, Lithuania, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Slovenia and Finland.

Article 1

The position to be taken on behalf of the Union in the 69th session of the Commission on Narcotic Drugs (CND), from 9 to 13 March 2026, as regards the adoption of decisions on the addition of substances to the schedules to the United Nations Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol, and to the United Nations Convention on Psychotropic Substances of 1971, is set out in the Annex to this Decision.

Article 2

The position referred to in Article 1 shall be expressed by the Member States that are members of the CND, acting jointly in the interest of the Union.

Article 3

This Decision is addressed to the Member States in accordance with the Treaties.

Done at ..., ...

For the Council

The President
