

Gellért Jám bor

Emergence and spread of new psychoactive substances and possible legal, criminal, criminal procedural and forensic responses to the phenomenon

(doctoral dissertation)

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Doctoral School of Political Science and Law

Budapest

2021

Theses

Part I: Brief summary of the research task

The drug market has undergone a very significant change in the last decade with the introduction of new psychoactive substances in 2008. At the same time, these substances mimic the effects of illegal, already regulated drugs, taking advantage of the current legality through structural changes, but they are not temporarily subject to drug law, including criminal law. Due to this, they are easy to spread and due to their relative cheapness, they have become substitutes for heroin, and other illegal drugs, even though they pose a similar health risk to the human body as drugs already under control. I would like to put it as a hypothesis, that the drug market has changed significantly since the first decade of the millennium. New psychoactive substances that are easy to produce, easy to access and very cheap and cause serious damage to health are widespread, but criminal law alone is not enough, so alternative regulatory solutions need to be introduced for consumer protection, pharmaceuticals and taxation, especially for new psychoactive substances, which are not yet under control.

The aim of the doctoral dissertation is to show how new psychoactive substances have spread in the European Union after a short epistemological introduction and what criminological indicators can support this. This is followed by a presentation of the distribution surface of the new psychoactive substances, specifically the area, place, forum where these substances are sold. The focus here is on online sales, as the development of the internet and the rise of social media have had a positive effect on drug trafficking, as a large number of people have become available relatively quickly as a result of the accelerated flow of information. The dissertation then discusses the tools and methods used in this process, such as the use of anonymity software and cryptocurrencies. The deep-web network, which also sells illegal drugs and partly new psychoactive substances, will be presented separately, with a greater emphasis on the first major cryptographic market to demonstrate the working principle of the “Silk Road”. At the beginning of my dissertation, I would like to formulate my second hypothesis that drug trafficking and the trade in new psychoactive substances are increasingly moving into the online space, as a kind

of criminal innovation. There is a paradigm shift aimed at maintaining anonymity and eliminating the violence that is necessarily associated with a drug exchange transaction by not having to meet sellers and buyers, but almost everything is done online, with only the drugs ordered being delivered in the physical space, for example by post. Since the closure of Silk Road in 2013 and then Silk Road 2.0 in 2014, the number of darknet markets has been growing rapidly, newer darknet sites are also using more and more sophisticated anonymisation techniques, so law enforcement agencies must also use new investigative techniques and tactical tricks to successfully take action against criminal groups, causing them the greatest possible financial loss and damage. Because most crimes today have some technological aspect, authorities often come across evidence in the course of an investigation that is carried by an information technology device, this is called digital evidence.¹ Such digital evidence could be smart or head shops on the surface or deep web interface, or the surfaces of “darknets” pages accessible only with the TOR browser, where electronic messaging takes place in chat rooms, under pseudonyms, about the sale of drugs and new psychoactive substances, and about electronic payments with cryptocurrencies such as bitcoin, about the transactions that take place with them. However, the concept of digital evidence is not defined at the legal level, only legal literature definitions exist. However, this would need to be remedied, which would resolve the uncertainty of interpretation and increase legal certainty.

An EU-wide alert system will help identify new psychoactive substances on the drug market. The alert system also helps Member States to report to the EMCDDA and EUROPOL when new psychoactive substances are identified or when there are indications of organized crime. Here, I briefly present the mechanism of operation of the Early Warning System (EWS) and the form in which information is collected and reported between the Member States and the EMCDDA and EUROPOL. This is also important because the joint EUROPOL-EMCDDA reports are the basis for these information gatherings and reporting obligations, from which conclusions can be drawn on international trade in certain substances and new trends in organized crime.

Then I will present the solutions of the EU and Hungarian drug legislation related to the new psychoactive substances. Here, I would like to highlight in particular the challenges that the rapid proliferation of new psychoactive substances poses to EU Member States and the legal framework that each Member State has put in place to deal with the dangers posed by new psychoactive substances, including criminal law, consumer protection and pharmaceutical, as well as administrative regulatory alternatives. Then I will turn to the substantive criminal law regulation of new psychoactive substances and then I will outline the criminal and forensic responses that may be suitable to curb the further expansion of these substances. I consider it particularly important to emphasize the importance of the method of financial investigation, network analysis, sophisticated electronic monitoring (e.g. monitoring of IP-based communication systems), controlled delivery and mash investigation “rasterfahndung”. However, before using these disguised devices, I consider it important to highlight my third hypothesis that supply-side drug crimes are difficult to detect and prove, especially if they are committed in a criminal organization. Because there are no victims of these types of crimes, there is no whistleblower to seek the help of the authority. Furthermore, the perpetration in a criminal organization is characterized by a high degree of conspiracy, with the additional problem of proving the absence of drugs appearing. It is also problematic to establish and prove a distribution attempt, a criminal association, a criminal organization. Detection, realization, and interception fundamentally determine the classification and evidentiary process. It is really possible to obtain the decisive evidence before the realization and the interception, after that it

¹ Kinga Sorbán: Digital evidence in criminal proceedings. Home Affairs Review 2016/11. Page 83

is only incidental and extremely difficult. Thus, in practice, in these cases, the content of the accusation is still stand on investigation and realization, interception or failure. It is therefore particularly important to have punctual, precise legal regulation of covert intelligence that meets the requirements of normative clarity, and predictability. Because reconnaissance can only be aimed at constitutional purposes, and these can be the protection of national security, public safety, and the enforcement of state criminal claims. It is therefore a matter of concern that the new Code of Criminal Procedure does not define the concept of suspicion and in Section 340 (1) defines the purpose of the preparatory proceedings as nothing more than to establish, whether a criminal offense exists or not. Furthermore, it is also a problem that Section 340 (2) of the new Criminal Procedure Act states that preparatory proceedings may be continued if the available data are not sufficient to establish the criminal offense and there is a reasonable presumption that the preparatory proceedings may be decided to whether there is a suspicion of a crime. Authors with a long professional background and experience in the profession point out that with this regulatory solution, the legislator has entered a swampy ground. The absence of suspicion renders the requirement of both necessity and proportionality incomprehensible. If there are no fact-based suspicions, it is not possible to determine what the missing facts are and whether the disguised devices are needed to know them.² In my view, this could be remedied by defining the concept of suspicion at the statutory level in the new Criminal Procedure Code and allowing the preparatory procedure to be conducted if the legislator proceeds from a law enforcement approach to reconnaissance. This is nothing more than the provision of means of proof and the exploration of all the sources of evidence from which evidence that can be lawfully used in criminal proceedings can be drawn, and as a result the criminal claim of the state can be adjudicated before justice.³ By restoring the concept of suspicion to the rank, most of the concerns raised could be addressed, that is, if it were finally regulated at the legal level.

During the financial investigation, the material base of organized criminal groups, and thus their activity, can be broken and reduced. Asset recovery proceedings play a particularly important role in this.

The network analysis may be suitable for understanding and mapping economic activities, and thus for the structure and structural changes of the illegal drug market, as well as the behavior of market participants, and for capturing the rearrangement of actions and actors. Link analysis is used by investigators, but actual network analysis is rarely performed.⁴ At the same time, the application of this method would enable better knowledge and mapping of criminal organizations dealing with drugs (new psychoactive substances).

Sophisticated electronic surveillance makes it possible to map “darknet” drug markets and shut them down at the right moment, to close them down, to identify administrators, moderators and traders, and to seize and confiscate high-value cryptocurrencies. A specific complementary method is the use of multilingual snapshots on the Internet, developed by the EMCDDA, which regularly monitors the online availability of "legal highs" (new psychoactive substances). The EMCDDA's online multilingual snapshots methodology aims to soften the online availability of ready-to-use psychoactive substances distributed to consumers in the European Union.

² Géza Finszter - László Korinek: In the footsteps of the disappeared suspicion. Home Affairs Review 2018/3., page 115.

³ Endre Bócz- Géza Finszter: Forensics for Law Students, Hungarian Bulletin Newspaper and Book Publisher, Budapest, 2008. Page 288.

⁴ Ildikó Ritter: The great challenge of law enforcement and criminal justice: Detection and proof of supply-side drug crimes in Hungary, Prosecutors on the seesaw. Manuscript. OKRI, Budapest, 2013, p. 59.

Raster investigation as a special and effective crime research method differs from traditional data collection and analysis methods due to the following:

- 1./ In the typical way nowadays, research in data repositories and registers is already carried out with a computer - not in the field - thus more time is spent on the classic data collection work;
- 2./ In addition to the domestic police, the researched data repositories may also include the data repositories of the international police forces;
- 3./ The research covers not only police criminal records, but also other types of records;
- 4./The research can also look at official (state) records outside the police;
5. / The data of individual companies and enterprises (for example, public utility transport-telecommunication-consignment service providers) can also be brought into view;
6. / Some data of individuals may also be included in the scope of the investigation;
- 7./ It also searches for, searches and narrows down persons who meet the criteria systems compiled on the basis of the information obtained during the given investigation.

Seeing the list, it is not surprising that several legal and applicability concerns have arisen since the European and American advances of the investigative method.⁵ At the same time, these concerns can be eliminated by appropriate legal, constitutional guarantees, which I will elaborate on in the relevant part of the dissertation. The point, however, is the principles of expediency, purpose, and legality. Purposefulness means that data management cannot be an end in itself, but must always be a means of performing a task. Legality also means that, on the one hand, only records should be kept, that are required by law, but at least not prohibited, and, on the other hand, personal records can only be linked if explicitly authorized by law. The final guardian and guarantee of expediency, purposefulness and observance of the constitutional principles of legality is the constitutional court of the given country.

At the same time, I consider it important to highlight the results of some international projects that have been carried out in the past against laboratories producing synthetic drugs, but also the experience and knowledge gained there can be used in the fight against the spread of new psychoactive substances. I am thinking here mainly of the results of the Prizma Project, the SYNERGY Project and the Europol Ecstasy Logo System, the Europol Illicit Laboratory Comparison System, the ESDS System and the CHAIN Project, as these results, experience, knowledge, good practice from international criminal cooperation practice can, in my view, be used in the detection and elimination of laboratories used to produce new psychoactive substances. The essence of the new psychoactive substances lies in the fact that they produce new dangerous substances, starting from different precursors or pre-precursors, with only small structural changes, but imitating the effects of controlled drugs and remaining on the ground of legality. At the end of 2010 and the beginning of 2011, the SYNERGY project, operated by Europol, played a key role in coordinating investigations into new psychoactive substances, such as the detection of the mephedrone trade.

As a specific law enforcement method, I consider it important to talk about the geographic information and analysis system, GIS (Geografische Information System, or Geographic

⁵ Csaba Fenyvesi: Principles of Forensics. Jura. Scientific journal of the Faculty of Law of the University of Pécs. Issue 2 of 2013. 40. p.

Information System) in the dissertation. GIS processes and links information from different databases. The result is an optical image of when, where, and what type of crime occurred.

One particular new aspect of crime analysis is wastewater analysis. Wastewater analysis is a rapidly evolving discipline that points to geographical and temporal trends in illicit drug use through a method of monitoring real-time data. Originally used to study the impact of liquid household waste on the environment in the 1990s, the method has since been used to estimate illicit drug use in different cities. This method involves sampling from a specific wastewater source, such as the inflow of wastewater to a wastewater treatment plant. This allows scientists to estimate the amount of drugs consumed by the community by measuring the levels of illicit drugs and their sample metabolites that are excreted in the urine from the human body. The wastewater analysis method is a useful adjunct to detecting the crime of supply-side drug trafficking and the abuse of new psychoactive substances, as it provides investigative maps with the help of investigative authorities to help find hot spots and where, when, new crime hotspots are emerging, and how likely it is to be counted and where it is necessary to apply the “first strike” tactic to the investigating authorities to eradicate these foci.

It is also important to mention the EU-level criminal cooperation, a policy cycle that was laid in the EU in October 2010 and is known as EMPACT. EMPACT is a structured multidisciplinary cooperation platform between the Member States concerned, EU institutions and agencies, and third countries, international organizations and other (public and private) partners to address the priority threats posed by organized and serious international crime. EMPACT translates strategic objectives at European level into concrete operational actions against serious and organized crime. The role of SOCTA, as one of the cornerstones of the EMPACT Project, is to ensure that, from the definition and implementation of strategic priorities to the operational implementation of operations, they are addressed through an intelligence-led approach to serious crime. From strategic priorities to operational actions, SOCTA provides an intelligence-led approach to tackling the most pressing criminal threats facing the European Union. One such action was Operation Archimedes, during which

1,027 individuals were detained, 599 kg of cocaine and 200 kg of heroin were seized, 1.3 tonnes of cannabis plants were also seized, 30 children were rescued from trafficking.

Under Operation Archimedes, law enforcement liaison officers from 34 countries took part in the largest coordinated operation to date against organized crime in the European Union. I also mention the usefulness of Europol's coordinating, evaluating and analyzing activities at EU level, which can help in the fight against drug trafficking, the abuse of new psychoactive substances and related organized crime.

In the rest of the dissertation, I discuss the realization sites of crimes committed with drugs and new psychoactive substances. According to one study, the most common locations for supply-side drug crime occur in the following percentage distributions: motor vehicle (38.3%), house (29.2%), border (9.5%), parking lot (6.7%), airport (6.4%), gas station (3.2%), nightclub (2.8%), post office (1.2%), railway station (1.4%), other (e.g. internet, 1.3 %).⁶ I also consider it important to draw attention to the importance of inspections in the realization of supply-side drug offenses as an urgent investigative act, and to the special features, including the seizure of an illegal laboratory with the involvement of a forensic chemist. The inspection shall be carried out in accordance with the general rules, with one derogation. And the difference is that even before the static phase, the expert examines the chemicals, and those that he or she finds to be

⁶ Ildikó Ritter: The great challenge of law enforcement and criminal justice: Detection and proof of supply-side drug crimes in Hungary, Prosecutors on the seesaw. Manuscript. OKRI, Budapest, 2013, p. 42.

left on site can be life-threatening should be removed immediately by disaster management professionals. When selling new psychoactive substances on the Internet and by post, it is necessary to draw attention to the following features: for example, in the case of crimes committed on the Internet, where the abuse of new psychoactive substances typically takes place, electronic data must be made temporarily inaccessible. For the realization by post, an important connection must be pointed out: the fact that the trafficking of illicit drugs in the “deep web” and “darknets” is closely related to the increasing distribution of illicit drugs through postal and parcel services. An excellent example of this is the Porto operation, which targeted buyers and sellers, who are trading illicit drugs in “darknet” markets. As a result of the operation, 697 investigations were launched against each of the suspects and 35 kg of various drugs were seized in Austria. The operation highlights the close link between drug trafficking and package smuggling on a “darknet” surface. As a result of the control activities carried out as part of the operation, 6,000 packages containing more than 175 kg of drugs were seized in Germany.

At the end of the dissertation, as a summary and outlook, I also formulate one or two *de lege ferenda* proposals to emphasize how the criminal and criminal procedure regulations of supply-side drug offenses and the abuse of new psychoactive substances could be made more effective at Hungarian and EU level. Furthermore, what may be the forensic tactical tools and methods that can be used effectively in the future against the trade in new psychoactive substances in order to curb it. Here I would like to refer briefly to the following: Extensive use of network analysis to map criminal organizations; Expansion of monitoring / interception capacities by the National Service; Improving the budgetary situation of the police, increasing the resources allocated from the budget; Transposition of certain elements of the *Rasterfahndung* into the provisions of the Code of Criminal Procedure; Inclusion of a procedure called the use of a criminal service dog as an act of evidence in the system of the Criminal Procedure Act.

In order to assess, learn about and evaluate the real situation, I examine the indicators related to certain phenomena and components of the drug problem. Crime, market and research indicators play a key role here, that is, criminal statistics on supply-side drug offenses, abuse of new psychoactive substances, the quantity and types of drugs seized, new psychoactive substances seized, as well as the price and purity of drugs, and the prevalence of new psychoactive substances among students and teenagers. The aim of the dissertation is to find adequate, real-time criminal, criminal procedural and forensic responses to curb the abuse of supply-side new psychoactive substances. To this end, I conducted an in-depth interview with an investigator dealing with this type of case, who is an employee of the National Bureau of Investigation. In addition, I have previously reviewed pending criminal files in order to gain practical experience of the scale of the supply-side abuse of new psychoactive substances in Hungary and the extent to which organized criminal groups have switched to distributing these new types of substances, for spreading. In conclusion, I would like to point out that supply reduction must play a key role in curbing new psychoactive substances. However, the role of harm reduction should not be overlooked, which I present in the last chapter of the dissertation.

However, I also consider it important to raise regulatory alternatives for consumer protection, pharmaceuticals, administration and taxation, as the aim is to tackle new psychoactive substances and precursors used in their production that are not yet under control, to weaken the financial base of those who benefit from illicit manufacturing and trade, because they could be subject to significant fines or penalties for non-payment of registration and tax obligations and incomplete or non-compliance with the Protocol, as well as a consumer protection fine for distributors and manufacturers, who market a new psychoactive substance that is not yet

regulated, but at the same time do not indicate on the packaging the components of the substance, its effects on the human body. This was given two separate chapters in the dissertation.

Part II.: Brief description of the performed tests and analyzes, processing methods

In addition to processing the available Hungarian and foreign language literature related to new psychoactive substances, I used the following empirical research methods to prepare the dissertation:

1. / *In the context of content analysis (document analysis)*, I have processed and analyzed the European Council Decision 2005/387 / JHA of 10 May 2005, Framework Decision 2004/757 / JHA, Decision 2007/845 / JHA, Council Regulation (EU) 2017/2101 and Directive (EU) 2017/2103 of the European Parliament and of the Council. From foreign legislation, I have studied and analyzed the provisions of the American Pure Food and Drug Act, the Harrison Narcotics Tax Act and the Marijuana Tax Act, the German Federal Investigation Offices Act, the Bundeskriminalamtgesetz, on net investigation (rasterfahndung) and related decisions of the German Constitutional Court (Bundesverfassungsgericht). I have studied, interpreted and analyzed the following legal acts from the Hungarian legislation: Act C of 2012 on the Penal Code, Act XC of 2017 on Criminal Procedure law, XIX of 1998 on Criminal Procedure law, XXXIV of 1994 on the Police law, CXXII of 2010 on the National Tax and Customs Administration law, XXXVIII of 1996 on Mutual Assistance in Criminal Matters law, CLXXX of 2012 on criminal cooperation with the Member States of the European Union law, of Infringements Act II of 2012 on the Infringement Procedure and Infringement Registration System law, 100/2018. (VI. 8.) Government Decree, a 22/2008. (OT.12.) ORFK instruction, 36/2020. (XII.23.) ORFK instruction, 11/2003 (V. 8.) IM-PM-BM Joint Decree, 20/2018. (V.31.) ORFK instruction, Act XCV of 2005 on Medicinal Products for Human Use and Amendments to Other Acts Regulating the Pharmaceutical Market law, Government Decree 66/2012 (IV.2.), of 55/2014. (XII. 30.) EMMI Decree, CXII of 2011 on the right to information self-determination and freedom of information law, Act LIII of 2017 on the Prevention and Suppression of Money Laundering and Terrorist Financing law, Consumer Protection 1997. CLV. law, Act CXXVII of 2007 on Value Added Tax law, CL of 2017 on the order of taxation the relevant provisions of the law, and the relevant decisions of the Constitutional Court of the Republic of Hungary, such as 144/2008. (XI.26.) AB, 7/1994. (II.18.) AB, 3284/2017. (XI.14.) AB I studied, analyzed, and used.

Within the document analysis, I studied and processed the files of proceedings initiated due to the crime of drug trafficking and the abuse of new psychoactive substances on the supply side - investigative documents, indictments, minutes, court decisions. With the help of this method, the interactions between the law enforcement activity and the acting bodies can also be examined well, without the knowledge of the actors and without any influence on their activities.

2./ *A qualitative method, an in-depth interview (as a direct method)*, provided insight into the work of a supply-side investigator in the detection and investigation of drug offenses, who is an employee of the Drug Crime Division of the International Crime Division of the National Investigation Bureau of the Standby Police. During the in-depth interview, I learned that this is the only special anti-drug unit in Hungary with a total of 29 people. At the other police headquarters, there are only investigators, who also deal with this type of crime. During the in-

depth interview, the investigator in charge of supply-side crime investigation also initiated that the trade in new psychoactive substances committed on the surface web interface, as well as another specific surface of the trade in new psychoactive substances, is located in the so-called deep web domain. Mapping “darknet” is the key. An important point is to map the hidden markets of the hidden web that provide anonymity, which are important arenas for the sale of new psychoactive substances, and in order to identify the perpetrators, the reconnaissance (methodological) version is needed, the integration of the indoor detective on the darknet site, the interception of the communication and the execution of the interception at the right moment.

Also as a qualitative method, I would like to mention that on February 21, 2020, as a participant in the lecture “Judicial Approach to Drug-Related Crimes” at the Hungarian Academy of Justice, I was able to ask questions during and at the end of the lecture to a judge with extensive experience in dealing with this type of crime, who has highlighted that the estimation of missing/ non-seized drugs is not a chemical expert, but a judicial task. In doing so, it is first necessary to take a position on the basis of the other evidence as to what kind of drug it is and what its quantity was, and then to determine the active substance content. In determining the quantity of a drug, it is typically necessary to take into account the substances typically purchased by consumers. Here, the acting judge may be assisted by a table published by the National Center of Experts and Research to determine the active ingredient content of the drug. It is the judge's duty to state reasons for the calculation, and in case of doubt, the most favorable data should be taken into account, based on the principle of *in dubio pro reo*, acting on the basis of the table in favor of the accused, it is reasonable to count on the most favorable data.⁷

Also as a qualitative method, I would like to refer to the fact that February 16, 2022. On February 17, I attended a two-day professional conference organized by the Asset Recovery Office of the National Investigation Bureau of the Standby Police. Here, the practical experience of the asset recovery process, the forces, tools, and methods that can be used to locate, seize, and confiscate the proceeds of a drug offense are presented in detail. The participants of the conference also got an insight into how the Asset Recovery Office is structured and how international criminal inquiries and legal aid are handled in the search for property through the ARO / CARIN offices. The types of cryptocurrencies (Bitcoin, Ethereum, Thether), the principles of operation (the importance of the blockchain), the provision and seizure of virtual currencies were presented. The speakers of the conference were highly qualified investigators of the given investigation area, who also had the opportunity to ask questions about the given investigation area at the end of the lectures. The practical experience gained during the cases by the investigators giving the presentation was also included in the dissertation, in the chapters on financial investigations, and in the chapter on realization by post.

3./ There are a number of other methods used in legal research, such as *frequent secondary analysis of data collected, systematized, and analyzed by others, or examination of official statistics*.⁸ During the preparation of the dissertation, I took into account the scientific research carried out in 2013 by Ildikó Ritter, a researcher and criminologist at the National Institute of Criminology, entitled Detection and proof of drug crimes in Hungary, which examined proceedings for supply-side drug offenses between 2007 and 2011 by studying, analyzing case files, conducting in-depth interviews and conducting a questionnaire survey with prosecutors with expertise in the subject. I mainly took into account the locations of the realization and the applied investigative techniques, along which I built up the individual chapters of the

⁷ Dr. Szabina Martina Sárecz, Judge of the Metropolitan Court of Appeals: Judicial Approach to Drug-Related Crimes, Foundations. Lecture given at the Hungarian Judicial Training Academy on February 21, 2020.

⁸Zoltán Fleck: Empirical research in law. Manuscript. without place, without year, p. 23.

dissertation, researched the literature, studied files, and conducted in-depth interviews with a detective from the National Bureau of Investigation of the Standby Police, and the criminal judge of the Metropolitan Court of Appeals, and I asked my questions to the investigators who conducted the training in Asset Recovery in Practice. I also used the results of the study entitled *The Territorial Distribution of Supply-Side Drug Crimes between 2007-2011* as a starting point, I supplemented it with the criminal statistical data, and with indicators available on the official website of the National Drug Focal Point (<http://drogfokuszpont.hu>), on the official website of the National Center of Experts and Research (nszkk.gov.hu) and with the data found in the ENYÜBS database (http://www.police.hu/statistics/criminal_statistics), indicators available on the official website of the European Monitoring Center for Drugs and Drug Addiction (EMCDDA) (www.emcdda.europa.eu) for the processing and analyzing of these statistics.

Part III.: A brief summary of the scientific results, their utilization and the possibilities of utilization

1./ In the course of my research, an in-depth interview with an investigator specializing in the detection and investigation of supply-side drug offenses by the National Standby Police-National Investigation Bureau and the available literature and indicators - EMCDDA, EUROPOL studies, criminal statistics – found, that the Internet and social media have a huge role to play in the rapid spread of new psychoactive substances. As the investigator of the National Bureau of Investigation of the Standby Police pointed out in an in-depth interview, a certain illegal, deep web segment of the Internet has created a new subculture of the “darknet”, 80% of the young generation now communicates with each other on the Internet, and it also conducts drug transactions on this forum. This is also supported by studies that report the liquidation of the Silk Road darknet site by the FBI in October 2013 and the closure of its successor (Silk Road 2.0) by Interpol in November 2014. On 6 November 2014, according to a Europol report, an internationally coordinated police operation took place in the framework of Operation Onymous, in which law enforcement agencies from all over the world were involved under the auspices of the FBI. In seventeen countries, seventeen arrests have been made and more than a dozen black market websites have been shut down, including Silk Road 2.0, Cloud 9, Hydra, Pandora, Blue Sky and the Black Market. A total of 414 Internet domains were confiscated. All this highlights the fact that the number of these types of illegal darknet sites is increasing very rapidly, which the investigating authorities need to keep up with.

2./ In the course of my research, it was also found that another major sales platform for new psychoactive substances is on the surface of the internet, the so-called Selling on “surface web” surfaces. It is worth looking at the method developed by the EMCDDA in relation to this phenomenon, which monitors the online availability of “legal high” drugs through regular, targeted, multilingual internet “snapshots”

The EMCDDA's online overview methodology (multilingual snapshot) aims to soften the online availability of ready-to-use psychoactive substances distributed to consumers in the European Union. In July 2011, this online survey identified 631 online shops selling new psychoactive substances and shipments to at least one EU Member State. This number is twice the number of online stores identified in January 2011 (when 314 stores were identified) and more than three times as many as were identified in January 2010. Joining the methodology of the online internet overview (multilingual snapshot) developed by the EMCDDA, the National Drug Focal Point conducted a survey in early 2011 on the possibilities of online purchase and

trade characteristics of new psychoactive substances that are legally available on the Internet in Hungary and are not yet on the drug list. The research focused on four predefined agents: GBL, JWH-018, mefildronone (which is a fictitious substance name), and MDPV. According to the results of the research, the most typical sales channels of internet commerce are classified ads and pages created for the sale of specific drugs. The survey identified 19 sites from which any of the four test substances were available (JWH-018: 14, MDPV: 12, GBL: 7, mefildronone: 4).

In the light of the above figures, it can be seen that the number of online stores and sites selling both surface and deep web drugs and new psychoactive substances is increasing rapidly, a phenomenon that must be kept up by the investigating authorities. And this is possible by setting up a separate Internet police unit with investigators and computer experts, usually with 10 to 50 people and an appropriate computer background. Internet police units tend to constantly monitor the Internet and take advantage of anonymity, meaning that they can appear on the World Wide Web and obtain information while keeping their investigative quality hidden. As of September 1, 2012, the National Investigation Bureau has been operating as one of the directorates of the Standby Police. An Anti-Organized Crime Unit has been set up within the National Bureau of Investigation, including an Anti-Drug Crime Unit. It is the only special anti-drug unit in Hungary with a total of 29 employees. At the other county police headquarters, only investigators who also deal with this type of crime. In my view, in addition to the National Bureau of Investigation, cybercrime units dealing with supply-side drug offenses and internet investigations of at least 10 people at county police headquarters would need to be set up to relieve the National Bureau of Investigation. This is also justified by the fact that drug crime in Hungary did not spread exclusively to the capital city, but also to larger rural cities and university towns. According to the 2020 survey of the National Drug Focal Point, in 2019, almost 50% of drug crimes in Budapest (38.8%); or registered in Pest county (6.4%). Among the other counties, the share of Győr-Moson-Sopron county, located along the northern border, was the highest (7%). The change compared to previous years is the high share of Fejér (4.4%) and Baranya (4.1%) counties. The above data do not primarily reflect the prevalence of the phenomenon in territorial distribution, but the activity of the investigating authority arising from its human, technical and material resource capacity and capabilities. In order to improve the detection, however, it is necessary to improve the budgetary situation of the police and to increase the resources allocated from the budget. According to a Danish police researcher, in a developed state governed by the rule of law, the police should receive 5% of the annual budget. Today in Hungary it is 1.5-2%, which indicates underfunding.

3. / *A study of the relevant literature has shown me that that supply-side drug offenses (drug trafficking, distributor-type abuses of new psychoactive substance abuse) are difficult to detect and prove, the use of operational tools is essential. However, the requirements of legal clarity, predictability must be enforced in the legislation, which can be achieved by legally defining the concept of suspicion, substantiated suspicion and redefining the purpose of the preparatory procedure. In my opinion, this could be done by examining and synthesizing legal literature concepts and positions as follows: Suspicion is a probabilistic conclusion based on facts and data that is suitable for initiating criminal proceedings, but does not reach the level of substantiated suspicion. The substantiated suspicion is a conditional logical judgment based on evidence or facts or conclusions drawn from them, which does not have to act with the force of certainty. Section 340 (1) of the Criminal Procedure Act should be reworded as meaning that the purpose of the preparatory procedure is to explore the means of evidence from which evidence lawfully used in criminal proceedings can be drawn, and as a result the state's criminal claim can be adjudicated. Section 340 (2) of the Criminal Procedure Act needs to be reworded as meaning that preparatory proceedings can be initiated if the available data substantiate the*

suspicion of a criminal offense, and using disguised devices, it can be decided on the basis of the conduct of the preparatory proceedings whether criminal proceedings should be instituted.

4./Study of the relevant literature, Hungarian and German legislation, as well as Hungarian and German constitutional court practice suggests that in addition to Internet investigations, the use of a specific detection method, raster or also known as mesh investigation, can be an effective method of tackling both supply-side drug crime and new psychoactive substances. The essence of raster investigation can best be illustrated by the phenomenon of integrated law enforcement. The essence of integrated law enforcement can also be formulated in such a way that the acquisition, coding, transmission and use of information in the vertical and horizontal organizational structure of the police, which is smooth, accessible everywhere, interoperable, transparent and compatible. This includes a centralized data bank and a multitude of local (county, city) data repositories, which are able to communicate and cooperate with each other - surrounded by appropriate guarantees. This integration should be extended to the international relations of the police (Interpol, Europol) as well as to the information bases of bodies cooperating with or related to the police (eg administrative, border, customs and financial, military, national security repositories, etc.) This type of investigation, which means searching, traversing, searching for correlations in data repositories (networks), is also called “raster” (network) investigation. An essential part of integrated law enforcement is the collection of relevant information that can be obtained from criminal, civil and international repositories.

In Hungary, this model, the so-called raster investigation has not actually developed, the concept of this special procedure has not been enshrined in law, the name of the investigation form itself can only be found in scientific dissertations, but in practice law enforcement agencies use this type of investigation methodology primarily when detecting an unknown perpetrator.

Rules similar to the rules of raster investigation are contained in Articles 261-267 of the new Criminal Procedure Act under the headings Data Request, Conditional Data Request and Data Collection. The new Criminal Procedure Act places in a different system from the 1998 Criminal Procedure Act, places in a separate section the activities previously referred to as inquiries, other data-gathering activities of the investigating authority and the data collection referred to in the sectoral legislation governing bodies acting in criminal proceedings. These legal institutions will be replaced by the data request and data collection institutions. The law thus categorizes in a separate part the additional means of the bodies acting in criminal proceedings, which they may use to obtain information or obtain evidence in the performance of their procedural tasks.

A request for data is an open method of obtaining data by which a prosecuting authority may request the provision of data from another controller of the data in question. Section 261 (1) of the Criminal Procedure Act specifies the subjects of the data request, the bodies and organizations that are entitled to request the data during the criminal proceedings or are obliged to provide the data. A conditional data request is a specially named, special case of a data request, which allows the prosecutor's office or, with the permission of the prosecutor's office, the investigating authority and the police during the preparatory procedure to request data from certain data controllers in the event of a future condition. With the conditional data request, the Criminal Procedure Act has created a new legal institution that can make the data requester's procedure more timely. The essence of a conditional data request is that the data subject fulfills the data provision in case and at the time of the occurrence of the condition specified by the data requester. The essence of a conditional data request is that the data subject fulfills the data provision in case and at the time of the occurrence of the condition specified by the data requester. The subject of a conditional data request can only be data that would be handled by

the data subject in the scope of his / her duties or activities (for example, receipt of a real estate registration request, initiation of transfer of ownership in different registers). The Criminal Procedure Act regulates a part of the data collection activities specified in the 1998 Criminal Procedure Act as other data collection activities of the investigating authority, but regulated in substance by the sectoral legislation governing bodies acting in criminal proceedings. In contrast to the data request, the body acting during the data collection ensures the acquisition of the data through its own active activities. Thus, data collection is an activity the purpose of which is to ensure the effective conditions of the procedure, to clarify the circumstances of the act which is the subject of the procedure, the activities of the data subjects and the personal circumstances.

Pursuant to Section 48 (2) - (3) of the BKAG, the request for data transfer must be limited to the name, address, date and place of birth and other characteristics to be determined, as the case may be; does not cover personal data covered by professional or professional secrecy. Personal data not included in the request for transfer may be transferred, if the restriction of the requested data would cause significant technical difficulties or significant loss of time or unnecessary cost, they may also be transferred; however, this data may not be used by the Federal Criminal Police. According to paragraph 3, if the purpose of the operation has been achieved or if this indicates that the purpose cannot be achieved, the data transmitted and related to the operation shall be deleted and the records shall be destroyed, unless the necessary for the procedure. The action taken must be documented. This documentation must be kept separate and provided with organizational and technical measures. The dossier shall be deleted within six months of the notification or within six months of the judicial approval of the final withdrawal. If the privacy check has not yet been completed, the documentation should be kept until it is completed.

A comparison of the called sections of the German Criminal Procedure Act and the Hungarian Criminal Procedure Act shows that the new Hungarian Criminal Procedure Act contains rules similar to raster investigation under the headings of data collection, data request and conditional data request, but the Bundeskriminalamtgesetz (BKAG) specifically states that how it should be stored and separated, and for how long this is possible, however, the Hungarian Criminal Procedure Act only states under the heading of data collection that a record must be made about data collection, it does not provide for the storage or separation of data, nor for how long, and after how long they must be ordered to be destroyed. The conditional request for information also only states that the measure may be requested for a period of 3 months, which may be extended by three months, but may not exceed one year. Pursuant to Section 266 (4) of the Criminal Procedure Act, if the period of the conditional data request expires without the condition occurring, the organization obliged to provide data shall delete the data contained in the request of the data requesting body. However, unlike covert assets, the Criminal Procedure Act does not specify what is the basis for the measure and thus for the calculation of the time limit. As the subject of the conditional data request is data that will be generated in the future, the scope of the application is determined by the criminal offense, the data provided by the ordering party when ordering the conditional data request. In my view, the rules on the handling, storage and destruction of data should be taken over from German law and incorporated into the Criminal Procedure Code, as it increases predictability and legal certainty. It follows from purposefulness that the collection and storage of data for an unspecified future use without a specific purpose is unconstitutional.

5. / *It would also be important* to establish a European register of drug-related crime in the fight against cross-border organized crime. The creation of this register would also be important because of the following phenomenon: With regard to the involvement of organized criminal groups in new psychoactive substances and “darknet” interfaces, it should be noted that the number of drug-related transactions has increased significantly in recent years and the number

and volume of individual sales will continue to increase in the future. While the volume of individual sales in “darknets” markets remains relatively small, the total volume of drugs trafficked online is heavily affected by organized criminal groups that can procure and distribute larger quantities of drugs to individual customers. Nevertheless, there are notable examples of vendors who do not fit the traditional profile of organized crime. Some Member States have observed an increase in the level of professionalism displayed by producers, which indicates the involvement of identified organized criminal groups. It is believed that some organized criminal groups are involved in traditional drug distribution through street vendors, largely using the “darknets” market as a complementary distribution channel and source of revenue for trafficking. This professionalization also leads to the competitive nature of trading on the “darknet,” forcing sellers to innovate and deliver a customer-centric service offering. Recent investigations point to the involvement of organized criminal groups in the large-scale production and distribution of herbal cannabis in the EU to darknet markets. In addition to the obvious reduction in risk and cost of police reconnaissance, this additional distribution platform provides an opportunity for organized criminal groups to gain ground, provide access to an additional client base while maintaining their established distribution network. Regarding organized crime groups, investigators from the Asset Recovery Office of the National Investigation Bureau of the Standby Police pointed out in their professional presentations that there are currently 5,000 organized crime groups in the European Union today, benefiting € 110 billion a year from various types of organized crime. This is 1% of EU GDP. Their main areas of operation are Southern Italy, Southern France, Amsterdam, Rotterdam. The aim is to recover items of property obtained through criminal means in the context of a property recovery procedure. To this end, co-operation with the Asset Recovery Offices in the EU through the ARO / CARIN offices and the Joint Investigation Team (JITs) is important. This is also important because in Hungary the success rate of confiscation of movable property is 2% per year.

6./ Because of the above, *networking analysis* would need to be widely used to map criminal organizations. This method is well suited for understanding and mapping the structure and structural changes of economic activities, and thus of the illegal drug market, as well as the behavior of market participants, as well as for capturing actions and the rearrangement of actors. A detailed mapping of each organized criminal group through network analysis will help us to select the appropriate methodological, investigative version. In this context, *the expansion of surveillance / eavesdropping capacities* by the National Agency would also be essential in order to distribute the quota evenly between the counties and the central region, thus improving the detection rate of supply-side drug offenses, given that the proportion of known drug offenses committed in a criminal organization, in a commercial manner is around 1%.

7./ *In the context of intelligence*, it is important to point out the need to strengthen forensic expertise, in particular through capacity building, which can be achieved through increased budgetary spending. Research conducted by Ildikó Ritter shows that expert opinions are completed extremely slowly, in 8-12 months. The investigation is underway during this period, as it must first be clarified whether a drug, a new psychoactive substance, has been found. It would be desirable to reduce this period by half, for about 4-6 months. However, this would definitely require an increase in the number of experts.

8. / *A foreign lawsuit, the Gözütlök case, shed light on the promising regulatory solution that can be taken from Dutch law*, which drug trafficking, as well as the detection of criminal associations and criminal organizations, can help if the consumer is given unlimited relief by cooperating with the investigating authority. The possibility of unrestricted relief could also be applied to dealers located at the bottom of the distribution network, provided that their cooperation helps to identify the identity of the mid-level distributor and thus facilitates the

detection and prevention of new crimes and the identification of new perpetrators. The aim must be for the judiciary to be able to do as much damage to distribution networks as possible, to withdraw as many drugs as possible from illegal traffic and to cause as much financial loss as possible to organized crime. Therefore, the legal institution of unrestricted relief could also be incorporated into the legal facts of drug trafficking and abuse of new psychoactive substances, in the case of offenses punishable by no more than 5 years' imprisonment. The content elements of Section 180 (3) of the new Penal Code should also be included in the case of new psychoactive substances, as this may help to identify actors at a higher level in the distribution network. Thus, Section 180 of the Penal Code could be supplemented with paragraph (4), which would allow unlimited mitigation even if distributive or consumer-type conduct is committed for a drug in excess of a small amount, but through the co-operation of the perpetrator, for example, a criminal association or criminal organization becomes detectable. Similarly, the provisions on unrestricted mitigation could be applied and a new provision could be introduced in § 184 / D of the Penal Code if the abuse of a new psychoactive substance is committed with in excess of a small amount of a new psychoactive substance, but through the cooperation of the perpetrator, the criminal alliance, criminal organization, can be detected.

9. / *During the study of a criminal file at the Szentendre Police Station, which was still under investigation, I noticed the phenomenon that the drug dealer is also aware that the most important evidence against him or her is the drug, the new psychoactive substance itself. Therefore, the criminal service dog, including the drug-seeking dog, has a prominent role in the search for drugs and new psychoactive substances. However, in my opinion, the role of the criminal service dog in reconnaissance and investigation has not been adequately regulated, therefore it would be necessary to include a procedure called the use of a criminal service dog as an evidentiary act in the system of the Criminal Procedure Act. (For example, when and how a service dog can be used, (the suspect may be required to tolerate what is applied, how and in what form the minutes of the procedural act must be recorded.) The main rules on odor identification, odor detection and the use of a criminal service dog should also be included in the rules of the Criminal Procedure Act as a means of proof (act of proof), having regard to the effectiveness of the drug-seeking dog in detecting drug offenses. On the other hand, the drug-seeking dog is able to search for hidden drugs with 80% efficiency, identify their odor, and the odor samples and odor traces taken and stored in the odor bank can be used as evidence, noting that it is not conclusive evidence, thus, it is necessary to obtain another means of proof. The successful operation of drug-seeking dogs is evidenced by the fact that four-legged helpers in the service of U.S. customs uncovered 8,800 drug shipments in a single year in the early 1980s: 12 tons of marijuana, 2.5 tons of hashish, 20 kg of cocaine and 18 kg of heroin, totaling \$ 64 million. U.S. customs officers claim that a specially trained dog can check a thousand packages and letters in the space of an hour, and it only takes four minutes to check a car. The same operations would be performed by one person in a week. In addition, a drug-seeking dog can be trained to search for any additional drugs after its initial training.*

10./*Study of the relevant literature has revealed that Robotic planes (drones) can play an important role in the detection of drug laboratories, which are producing and manufacturing one of the most dynamically developing industries in the world. These tools would also be used for law enforcement purposes, because in my view it would significantly improve with the exploration of laboratories the efficiency of discovery of drug offenses (drug trafficking) and new psychoactive substance abuse. The recordings of the laboratories may be subject to tangible evidence under Article 204 (1) of the Criminal Procedure Act.*

11./ *Based on a study available on the EMCDDA's official website the method of wastewater analysis is a useful access tool for detecting the crime of abuse of supply-side drug trafficking*

and new psychoactive substances as it gives a crime map into the hands of the detective authorities that helps to find hot spots as well as to the emergence of new crime scars where, when and the likelihood of counting and where it is necessary to apply the tactics of the "first strike" to the detective authorities to eradicate these foci. Also helps to detect illegal drug laboratories, as by assisting the method of enanthomer's profiling, we can get a picture of the location of illegal drug laboratories by finding at which point they are connected to the sewage network.

12./ Based on my experience of attending a criminal trial, I believe that it would also be necessary to improve cooperation between the police and the prosecution. Effective cooperation is based on mutual understanding of each other's activities, how reconnaissance takes place, what kind of criminal engineering and criminalistic devices are used by police, versus what kind of data and evidence needed for a successful prosecution, what evidence stands, there may be consecration agents that can be demonstrated by doubt about supply-side behavior or a criminal organization. It would be important for joint training and conferences to be realized by judges, prosecutors, police officers in this area and it would be necessary to specialize.

13./ Based on the study of the relevant foreign and Hungarian language literature, it would also be necessary to supplement the scope of both the new psychoactive substance abuse and the qualified cases of drug trafficking with a new qualified site, information systems, for example with a spell on the internet. All this should be carried out in view of the evolution of the Internet and social media to spread a positive impact through the online drug trade, due to the accelerated flow of information a lot of people became immediately available. Facebook, YouTube and Twitter, as well as users of these online surfaces have been a way of how social media should be an active player for online drug trafficking.

Due to the above phenomena, the Criminal Code.176. (2) should be supplemented by a new point d) who commit distribution types of behaviors using the information system (Internet). Likewise, it would be necessary to supplement Paragraph 184 (2) of the Criminal Code with a new point (d) if the perpetrator commits the disseminator's behaviors of misuse of new psychoactive substances using the information system (Internet).

14./ Based on studies and health indicators published on the National Drugs Focal Point and the EMCDDA website, it should also take into account the factor and the new psychoactive substance abuse and drug trafficking and the possession of drugs in connection with facts, to the extent to which a harmful drug, new psychoactive substance is committed by the plot. The C-list sample should also be defined here for the list of particularly dangerous drugs and new psychoactive substances to which they are classified in the event of a perpetration and thus more severe punishment could be imposed.

Accordingly, Article 176 (2) of the Criminal Code should be supplemented by a new point (e), while Article 184 (2) of the Criminal Code should also be supplemented by a new point (e), that is, the human body is particularly dangerous, harmful drugs, new psychoactive substance they commit a to the distribution type behaviors. Likewise, this qualified case should also be introduced in the case of consumer-type behaviors, that is Article 178 (2) of the Criminal Code with a new d), while the Criminal Code § 184 /B. (2) also shall also be added to a new point (d). This is justified by the emergence of Mefedron in the summer of 2010 and the emergence of new psychoactive substances in Bika in the summer of 2020, and the death data associated with these two materials. As a reminder, I find it important to recall 21 deadly victims in Hungary, the new drug that has become known as the name Bika at home. The bull is much stronger than the other designers. The material is mixed with a tobacco and is likely to come

from Chinese labs. Most of the deaths occurred in Budapest, but Borsod-Abaúj-Zemplén county is also particularly affected. In addition, Fejér, Szabolcs-Szatmár-Bereg, Nógrád and Tolna County have been causing mortality in the bull, which mainly spreads rapidly due to its cheapness. The hazard of new psychoactive substances and its unpredictability is precisely due to the fact that the structural modification of each compound (altering the location of the base-related position isomers) can significantly increase the strength of psychoactivation, toxicity and thus the possibility of mortality. If the perpetrator's consciousness embraces the dangerous substance to implement the statutory facts and wish that, or it rests in this, it is necessary to evaluate this in the statutory facts of the offense.

15./ Interview with a judge with extensive professional experience in the trial of the relevant literature and drug offenses, based on the practice of the Constitutional Court, it is also necessary to create a new legal unity decision on the part of the Curia in order to distinguish between crimes committed with narcotic drugs and crimes committed with new psychoactive substances, to define precisely the offending behaviors, and to clarify the set issues. It is true 1/2007. Criminal Unity Decision and 57/2007. The opinion of the Criminal Chamber partially satisfies this, however, according to an expert study conducted in 2017, the case law on drug-related crime is highly fragmented, both in terms of the interpretation of the relevant facts and the imposition of penalties. The Curia is responsible for the unification of judicial practice. It also partially complied with the issuance of the 1/2007. Criminal Unity Resolution. However, this decision can only partially orient the case law, as it was issued under the old Criminal Code, which is no longer in force. However, the Curia has not yet taken steps to adapt the decision on legal unity to the law in force and thus to the facts concerning the new drugs. The fact that the cited decision does not provide for the meaning of the offenses and the criteria for their delimitation, which results in a divergence of case-law as regards the determination of the offense committed, makes it even more difficult to achieve legal unity.

The case law on new psychoactive substances, similar to the assessment of drug facts, faces several problems. For example, it is difficult for law enforcement judges to relate the facts of the abuse of a new psychoactive substance to the facts of drugs (§§ 176-177; § 178-180), and the cluster issues that arise during this process are a problem, especially if a substance on the list of new psychoactive substances is transferred to the list of drugs during the procedure. In these cases, it is often the case that the act, which was still a misuse of a new psychoactive substance, is already covered by the facts of drug trafficking or possession at the time of the conviction.

It is possible that one of the drugs seized from the accused is a drug and the other a new psychoactive substance. In this case, the Criminal Jurisdictional Decree 1/2007 only says that a natural unit is formed only by behaviors that contradict the same legal facts; when adjudicating separate legal facts in one proceeding, a set of crimes is realized, therefore, in these cases, there is no place to add up the pure amounts of drugs. Drug trafficking and drug possession and abuse of new psychoactive substances are separate legal facts, it is possible to determine the set, but at the same time it would be necessary to issue a fresh legal unity decision adapted to the current legislation in order to maintain a uniform legal practice regarding set issues, criminal behavior and demarcations.

16./ Finding, securing and seizing illicit wealth from crime has now become one of the most important tools for effective law enforcement to ensure that crime does not become a cost-benefit and, where appropriate, cost-effective business. On 6 December 2007, the Council of the European Union adopted Decision 2007/845 / JHA on cooperation between Asset Recovery

Offices of the Member States in tracing and identifying the proceeds of crime and other property related to crime. The Decision obliges Member States to set up or designate their own national Asset Recovery Office by 18 December 2008. Following the professional training, in early 2009 Decree 329/2007 on the Police Bodies and the Duties and Competences of the Police Bodies. (XII. 13.) of the Government Decree, the Standby Police-National Investigation Office fulfills the obligations set forth in the Resolution. However, financial investigation is a rather time-consuming activity, which the investigating authority is typically unable to solve effectively from its own resources without the involvement of an economic or financial expert. It does not really happen, rather an ad hoc investigation takes place after the capture and realization, which is often exhausted in the review of bank account statements. According to the data of ENYÜBS, in 2013 1, in 2015 3, and in 2016 there was also one charge of money laundering. Therefore, in my opinion, it would be necessary to increase capacity in this area as well, so that in addition to the National Bureau of Investigation, asset detection units of at least 10 people would be set up in county police headquarters to search for drug crime assets. In addition, the use of a technique based on the analysis of bitcoin transactions should play an important role, as the use of cryptocurrencies does not guarantee complete anonymity. There are well-established cash laundering methodologies that are just as easily convertible, untraceable, and anonymous as the cryptocurrencies that are preferred in the digital underworld. In reality, however, cryptocurrencies such as bitcoin are not anonymous (since there is a central ledger) and require money laundering (e.g., using a site like Bitcoin Fog) if they are to be used for a prohibited activity. In other words, in this case, too, electronic communication and data capture are essential.

It is also in the fundamental interest of society that bitcoin and other cryptocurrencies be regulated under civil law, financial law, in order to be able to exercise control over the sale and purchase of this cryptocurrency, as only the central banks have a monopoly on issuing money. On the other hand, through tax legislation (eg an individual engaged in mining is obliged to include the income from extracted bitcoin in the consolidated tax base as income from independent activity) to prevent the bailout and concealment of the entire property. In order for these cryptocurrencies to be enforceable, it would be necessary to introduce a rule that these cryptocurrencies can only be handled by a payment service provider and must be converted into the national currency or other currency of the country concerned.

17./ Based on the searched literature the high prevalence of supply-side new psychoactive substance abuse on the Internet, consideration should be given to the legal formulation and incorporation of digital evidence into the provisions of the Criminal Procedure Code, as a way of combining the benefits of both continental and Anglo-Saxon legal systems. Accordingly, digital evidence: any data (fact, information or concept) which appears in a form suitable for processing by an information system, including a program which ensures the performance of a function by the information system and which can prove that a criminal offense has been committed, or which links the crime to the perpetrator. The introduction of the concept of digital evidence can be beneficial because nowadays the number of crimes committed on computers, on the Internet, in information systems is increasing exponentially - think of a new location for supply-side offenses of supply-side psychoactive substance abuse and drug trafficking offenses - and the evidence obtained from the means of proof obtained here is not substitutable. For example, what has been said and seen by a witness, as these types of crimes typically have no victims, no whistleblowers seek the help of the authorities, are victimless crimes that are not subject to social consensus, and take anonymous form (e.g. cryptocurrencies: use of bitcoins, altcoins), on the illegal, deep web interfaces of the internet, which must first be cracked by investigative authorities. This is true even if the covered detective may be integrated into the given darknet site as a seller or buyer and be interrogated as a witness to the events that took

place there, but at the same time the digitally recorded electronic data will be destroyed and there is no way to recover it. In such a case, only the denial of the accused is opposed to the witness's statement, and a fact which has not been proved beyond a reasonable doubt cannot be assessed against the accused. On the other hand, electronic data is often volatile (for example, data in a computer's direct access memory is stored only as long as the computer is powered on), but permanently stored data can be easily and quickly manipulated, even without a trace or difficult to recognize or delete. By breaking down a particular information system, the data stored in the system can also change. When obtaining information in electronic form as evidence, the integrity, integrity and authenticity of the data must be ensured. A precise but sufficiently broad and flexible definition of the concept of digital evidence and its transposition into criminal procedure law will also make it easier to prove cybercrime on the Internet, which will require the development of background legislation.

18./ My research also confirmed that new psychoactive substances have become widespread in the last decade, changing very rapidly due to structural changes, but society is not prepared for such a rapid transformation of the drug market. The existing and the above-mentioned proposals for amending the substantive law, criminal procedure law, forensic response, as well as the expansion of the budget capacities for law enforcement and drug law enforcement alone are not enough to reduce the phenomenon sufficiently. Therefore, there is also a need for alternative administrative, tax and consumer protection regulations to take more effective action against new psychoactive substances.

In the case of new psychoactive substances that have not yet been controlled, it would also be necessary to introduce appropriate consumer protection rules, so that in the case of new psychoactive substances not yet controlled, the tasks arising from the consumer protection authority procedure are performed by the National Consumer Protection Office, and could be provided by the General Inspectorate of Consumer Protection, a specialized administrative body of government offices, and, if necessary, with the assistance of the police in order to close the business. In my opinion, either the Consumer Protection Act should be supplemented to cover traders selling new psychoactive substances, or a new law should be created for the distribution of psychoactive substances that have not yet been included in List C, and the provisions of the Consumer Protection Act should be applied as a background.

It would also be worth considering that, in the case of the marketing of these new psychoactive substances, the burden of proof should be reversed, according to which the trader must prove that he did not fail to provide adequate, accurate and clear information when purchasing the substance on the packaging or has not been labeled aside. Otherwise, the violation will be identifiable and there will be room for sanctions (consumer protection bureau, shop closure, confiscation of a new psychoactive substance). The aim is to deprive the benefits of this illegal activity as widely as possible.

Another option is to impose tax sanctions on distributors of new psychoactive substances that are not yet under control in such a way that those who trade in psychoactive substances that are not yet under controlled control; in this respect, Act CXXVII of 2007 on VAT (value-added tax) could be extended territorial, material and personal scope of the Act. The tax liability arises at the time of performance. Due to the tax shortfall due to unpaid tax, a tax fine can be imposed on the taxpayer, that is, trading in a new psychoactive substance not yet on the list.

In addition, the provisions of the Marijuana Tax Act could be transposed into EU and national legislation to require manufacturers and distributors of new (not yet controlled) psychoactive substances to be required to do so in both industry and commerce the obligation to register and

that a record must be kept of the materials produced, sales and transfers for the purpose of monitoring compliance with the permit and also for tax purposes. This method could significantly weaken the financial base of those who benefit from illegal production and trade, as they could be subject to significant tax fines or default fines for non-payment of registration and tax obligations and incomplete or non-compliance with the protocol. However, a spectacular reduction in new psychoactive substances would require uniform regulation at EU regulatory level, at least in the field of generic regulation, using closed, coherent, but also adaptable and complementary stock formulas and definitions to changes in the drug market situation. Thus, in my view, it would be possible to prevent distributors from placing new, uncontrolled psychoactive substances on the market to a greater extent, taking advantage of the differences between the legal systems of the various countries, thus gaining a significant financial advantage. While control and legislation can take months or years due to regulatory differences, manufacturers and distributors can conveniently switch to a new structural material that is different from what is already under control. This relatively large time and position advantage could thus be eliminated on the part of manufacturers and distributors.

An additional regulatory tool for tackling new psychoactive substances could be to make the import and export of various precursor substances for scientific, industrial, medical or commercial purposes subject to authorization similar to that in New Zealand, also at EU regulatory level. In order to be authorized, all such precursors and psychoactive substances must undergo a specific authorization procedure, which would involve a clinical trial examining the physiological effects of the substance and determining its level of risk. In order to perform the test, the manufacturer, importer or exporter has to pay a fixed amount of tariff and then, after the test, if the substance has been tested and the use is authorized, the manufacturer should sign a declaration that the substance is only used for scientific, industrial, medical or commercial purposes and it may not be sold to drug users. A record shall be kept of the licenses issued, as well as the details of the licensees, by the body empowered to do so, and which body may subsequently check the observance of the contents of the permit in such a way that it can request data on the use of the substance electronically, examine it within the framework of an on-site inspection, and monitor the transport and processing of the substance.

In summary, the scientific, industrial and commercial use of psychoactive substances and precursors not yet under new control requires an authorization procedure to prevent abuse. Thereafter, in order to ensure continuous monitoring, producers and distributors should be required to register, pay taxes and provide information, and if they fail to do so, they should be subject to a consumer protection fine, a tax fine, may be punishable by a term of imprisonment for repeated or more serious infringements. Tasks related to the tax administration procedure would be performed by the National Tax and Customs Office. The imposition of sanctions separately is not ruled out either, as there is a greater interest in preserving the health of society than in realizing the illegal exploitation of perpetrators. Of course, all this can be implemented in a separate tax administration, administrative (consumer protection) procedure, as well as in a separate criminal procedure.

Part IV.: List of publications on the topic of the work

Gellért Jám bor: The emergence and spread of new psychoactive substances and possible criminal and forensic responses to the new phenomenon. THEMIS, electronic journal of the Doctoral School of Political Science and Law, Eötvös Loránd University, December 2014, pp. 89-151.

Gellért Jámor: The emergence and spread of new psychoactive substances and possible criminal and forensic responses to the new phenomenon II. THEMIS, electronic journal of the Doctoral School of Political Science and Law, Eötvös Loránd University, June 2015, pp. 141-166.

Gellért Jámor: The New Psychoactive Substances and the Internet. THEMIS, electronic journal of the Doctoral School of Political Science and Law, Eötvös Loránd University, December 2015, pp. 104-142.

Gellért Jámor: The Relationship between Organized Crime and Drug Trafficking. THEMIS, electronic journal of the Doctoral School of Political Science and Law, Eötvös Loránd University, June 2016, pp. 63-92.

Gellért Jámor: The role of the criminal service dog in the detection of supply-side drug crimes. THEMIS, electronic journal of the Doctoral School of Political Science and Law, Eötvös Loránd University, December 2016, pp. 5-18.