

On Certain Problems Relating to Control and Combating of Illegal Movement of Narcotic Drugs and Psychotropic Substances in Republic of Moldova

The Republic of Moldova in 1995 acceded to three United Nations (UN) Conventions against Illicit Traffic in Narcotic Drugs and Psychotropic Substances:

- UN Single Convention on Narcotic Drugs of 30 March 1961 as amended by the Protocol of 25 March 1972¹;
- UN Convention on Psychotropic Substances of 21 Feb 1971²;
- UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 Dec 1988³.

Controlling the circulation of narcotic drugs, psychotropic substances and precursors, as well as combating their illegal circulation in the Republic of Moldova are based on the provisions of a number of legal acts, including:

- Law of the Republic of Moldova No 382 of 6 May 1999 on Circulation of Narcotic and Psychotropic Substances and Precursors (Law No 382/1999);
- Moldova Government Decision 1088 of 5 Oct 2004 on Approval of Tables and Schedules of Narcotic Drugs, Psychotropic Substances and Their Precursors Subject to Control (GD no. 1088/2004);
- Government Decision no.79 of 23 Jan 2006 on Approval of the Schedule of Narcotic and Psychotropic Substances and Plants Containing Such Substances Detected in Illicit Trafficking, as well as Their Quantities (GD no. 79/2006);
- Contravention Code of the Republic of Moldova no.218 of 24 Oct 2008 (No.218/2008);
- Criminal Code of the Republic of Moldova No.985 of 18.04.2022 (No.985/2022).

Despite this, the Republic of Moldova has been facing a number of problems related to the control of the circulation of narcotic and psychotropic substances and combatting of their illegal circulation. The starting point for such problems is the imperfection of the national regulatory framework and, as a result, the divergence between national rules and the regulations of the above-mentioned UN Conventions.

The problems faced by the Republic of Moldova in this area are mainly the following:

- According to the Law no. 382/1999, in the field of control of circulation of narcotic and psychotropic substances in the Republic of Moldova there are essentially three public entities: National Anti-Drug Commission; Agency for Medicines and Medical Devices; and its Standing Committee for Drug Control. However, these public entities do not take full responsibility for the unsatisfactory situation in the field, and there are ambiguities, contradictions or conflicts of interest.
- The national law does not regulate:
 - ✓ A clear mechanism to amend/complete the tables/schedules of narcotic and psychotropic substances;
 - ✓ Principles and criteria for controlling the circulation of narcotic and psychotropic substances;
 - ✓ Criteria for determining small, large and particularly large quantities of narcotic and psychotropic substances, according to which criminal or contravention liability is regulated;

¹ https://www.incb.org/documents/Narcotic-Drugs/1961-Convention/convention_1961_en.pdf. Effective for Republic of Moldova as from 17 March 1995.

² https://www.incb.org/documents/Psychotropics/conventions/convention_1971_en.pdf. Effective for Republic of Moldova as from 16 May 1995.

³ https://www.incb.org/documents/PRECURSORS/1988_CONVENTION/1988Convention_E.pdf. Effective for Republic of Moldova as from 16 May 1995.

- ✓ Regular or as needed amendments/additions to the schedules of narcotic and psychotropic substances.
- Despite the fact that the Republic of Moldova has acceded to the three UN Conventions, a number of narcotic and psychotropic substances in the 1961 UN Convention Schedule of Narcotic Substances and the 1971 UN Convention Schedule of Psychotropic Substances are not included in the Tables/Schedules of Narcotic/Psychotropic Substances approved by Government Decision and are therefore not recognized in the territory of the Republic of Moldova.
- Many narcotic and psychotropic substances are indicated in the Tables/Schedules only with abbreviated names, without any other names or chemical formula, which gives possibilities for misinterpretation.
- Many substances are repeated under different headings under the same or different names of the same substance, and in many cases the same substances are listed both as narcotic substances and psychotropic substances, for which different ranges of low, high and particularly high quantities are regulated.
- Many psychotropic substances are included in the Schedules of Narcotic Substances and, similarly, some narcotic substances are included in the Schedules of Psychotropic Substances.
- The schedules of narcotic/psychotropic substances include some substances which are not narcotic/psychotropic substances as they are not addictive and have a different intended use.
- Some narcotic/psychotropic substances are included in the schedules of substances under other names, but not under the internationally recognized names.
- Law no. 382/1999, Contravention Code no.218/2008 and Criminal Code no.985/2022 stipulate so-called “narcotic or psychotropic analogue substances” which are not regulated and contravene the three UN Conventions of 1961, 1971 and 1988. The national legislation rules on “narcotic or psychotropic substances analogues” are unpredictable and their application may have serious consequences for human rights and freedoms.
- In several aspects related to the control of circulation of narcotic and psychotropic substances and combating their illegal circulation, there are contradictions between national legislation and the provisions of the UN Conventions of 1961, 1971 and 1988, to which the Republic of Moldova is a party.

The situation in the field of controlling the circulation of narcotic and psychotropic substances and combating their illegal circulation is alarming. In order to address these issues, a package of regulatory measures has been put forward for implementation.

In the context of the above, we consider it necessary to collaborate with the International Narcotics Control Board whose support could help overcome the above-mentioned problems and bring national legislation in line with UN standards.

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