Country report on New Psychoactive Substances in the Netherlands

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1 NPS definition

In the Netherlands, several different definitions of New Psychoactive substances (NPS) have been used. Oftentimes, the definition used by international bodies, mostly the European Union and the Council of Europe, is applied. Sometimes the legal status of the substances is part of the definition, but more recently the legal status has not been part of the definition. The legal status of NPS has changed rapidly in the past few years and several substances now fall under the ‘Opiumwet’ (see above).

The following definitions have been used:

- “Synthetic substances with a psychoactive effect only recently found in the drug market and not yet covered by the Opium Act (such as 4-fluoro-amphetamine, 4-FA).” (Van der Gouwe, 2015);
- “A new psychoactive substance or a new psychotropic substance, in pure form or as a preparation, that are not regulated by the Single Convention of the United Nations of 1961 concerning narcotics or the United Nations convention of 1971 considering psychotropic substances respectively, and that form a comparable threat for public health to the substances that are listed in these conventions.”1.
- “Substances with a psychoactive effect that can be harmful to public health. Some of these substances are also used for industrial or commercial purposes.”2.
- “NPS are substances with a psychoactive effect that have recently been introduced into the drug user market and/or of which the use has recently started. It can concern a substance that has been synthesised for the first time a longer time ago and that is appearing on the drug market only now, but it can also concern substances that recently have specifically been developed for psychoactive use.” (Goossens et al., 2013) This is the definition that the DIMS (see below) is using.

Among users, the terms designer drugs and research chemicals are much more common. This is an issue that will be discussed in the report of our survey as well.

2 Drug policy framework

Traditionally, Dutch drug policy is a combination of judicial control and socio-medical control, especially since 1976. The basis for the Dutch legislation concerning drugs has been laid by means of the “Opiumwet” (Opium Act) in 1919, in which it was made illegal to prepare, process, transport, sell, supply and possess in order to deliver opium, opium derivatives and cocaine within the Dutch kingdom within Europe. The central objective of the Dutch drug policy as formulated in 1974 was to limit the risks of drug use for the individual, for his or her immediate environment, and for society as a whole.1 In 1976, the law was revised to make a distinction between drugs with “unacceptable risks” (placed on Schedule I) and “hemp products” (placed on Schedule II). Today, these two categories are known as “hard drugs” (e.g. heroin, cocaine, ecstasy) and “soft drugs” (e.g. marijuana and hashish). In addition, a distinction was made between the sale of drugs and the use of drugs; while possession still remained illegal, the use of a

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1 Decision of the European Council 2005/387/JBZ.
drug was stricken from the law. However, since possession – and not use – was often the crime for which users were accused, not much changed in practice. The maximum punishment for drug use and possession of up to 30 grams of cannabis was lowered, while that for possession of hard drugs and drug trade increased. This change in policy had as a goal to avoid forcing young people who experiment with cannabis to be stigmatised, criminalised and marginalised, responses which – indirectly – could increase the risk that they would start using more dangerous drugs, and subsequently be drawn into a criminal subculture. In this manner drug users would be able to be functional, ‘normal’ citizens, who participate in society, regardless of their drug use.

In the Guidelines for Prosecution published in 1978 by the Public Prosecution Office (Openbaar Ministerie) a special position was created for cannabis dealers in youth centres, who were allowed by the staff of the youth centre to sell cannabis there. A memorandum on drug policy appeared in 1995, in which the toleration of coffee shops and drug use was discussed in a positive light. However, three problems had been identified: a relatively small group of hard drug users was the source of substantial nuisance; criminal organisations were involved in the production, supply and sales of drugs; and internationally the Netherlands were subject to criticism. A more repressive policy was proposed. In September 2009, a new ministerial Drugs Letter was published. Motive for this Letter was the imminent evaluation of the Dutch drug policy in the previous fifteen years and an advice on the future of drug policy that had been requested. Before publication of the Drugs Letter, two issues were considered to be of importance: public health and public order. Now, a third issue was put forward: the social impact of alcohol and drug use (i.e. damage to health, to personal development and drug use as part of a wider range of problematic behaviour). Also, alcohol became to play a more prominent role in Dutch drug policy than before. The 2009 Letter announced a new drug policy memorandum, which appeared in December 2011. In this Letter, emphasis was placed on the use of alcohol and drugs by minors, large scale coffee shops and combating organised crime. NPS were not yet a theme for the legislators, although mephedrone was placed on Schedule I (the schedule of hard drugs) in the same year, together with GHB. In a new Letter of 2015, written by the Ministry of Health, NPS were mentioned but only shortly; it was mentioned that the use of NPS seemed restricted to a small group of users and did not seem to gather momentum.

3 Legislative framework & implementation

In the Netherlands, the Coordination point Assessment and Monitoring (CAM) is responsible for the risk assessment regarding drugs. The Ministry of Health, Welfare and Sport can decide to ask the CAM to assess the risks of a certain (type of) drug. Usually the Ministry will do so when the network of the CAM signals that more attention should be paid to a drug. When is it unclear whether a risk assessment is needed, the CAM can do a quick scan to determine whether it is needed. The CAM is the coordinator; the actual risk assessment will be performed by the Committee Risk Assessment New Drugs. During this risk assessment, fixed protocols and criteria are used. The committee members use their own network and data, and deliver this information to the CAM. If necessary, the CAM can decide to consult external experts or organize a hearing with external experts. Then, the CAM writes up a report on the risk assessment and formulates recommendations for the Minister.

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4 Hoofdlijnenbrief drugsbeleid d.d. 11 September 2009. VGP/ADT 2955486.
There are several ways in which NPS can be abolished (Van Amsterdam, 2012):

1. **Opium Act**: place NPS on the schedule of controlled substances.
2. **Emergency procedure Opium Act**: accelerated by Ministerial regulation. This procedure is especially relevant to NPS because it is the quickest way to ban certain drugs (i.e. to define as controlled substance).
3. **Medicines Act**: individuals are not allowed to trade the substances on this schedule. When an NPS falls under the Medicines Act and is therefore registered as a medicine, it is de facto abolished for recreational use.
4. **Food and Drugs Act**: safety net legislation for substances that do not fall under the Opium Act nor the Medicines Act. This can be used when NPS are sold for human consumption and do no adhere to such regulations as labelling food products.

There also is a European procedure: "If a substance is reported by one of the Member States all Member States must provide information on trade, production and use of the drug to the EMCDDA and Europol. If a risk assessment is subsequently carried out, the Commission may decide that the drug is monitored in all Member States of the European Union; that is to say that it is placed under the regime of the national Opium Act. The level of criminalization is left to the individual States, just as is the case for the UN conventions. Incidentally, individual member states may still decide to incorporate a substance in their national legislation." (Koning & Niesink, 2013, pp. 50-51)

Netherlands uses Schedules I and II of banned substances. All substances are separately incorporated and named in a schedule. Because the Schedule model has the disadvantage that it is time consuming to get a new drug to be placed on the schedule, the Netherlands also has the possibility of an emergency procedure. A substance may be banned by ministerial regulation in that way if it forms an acute danger to public health. The measure applies for a year, after a year it loses its effect if no further steps are taken of the standard procedure to ban a substance. Other legislative opportunities that exist in the Netherlands (Van Amsterdam, 2013):

1. **Labelling**: In the EU labelling requirements according to European directives apply to all goods.
2. **Pharmaceutical legislation**: ‘substances intended for human consumption shall and with pharmacological effects are not to be traded or processed by individuals (making pharmaceutical formulations, capsules, tablets).
   a. Monitoring by Health Inspectorate in cooperation with the Public Prosecution Service and the Customs
   b. **Enforcement**:
      i. Art. 18 and 40: preparatory actions are prohibited (such as producing tablets)
      ii. Art. 115: Substance can be seized within a few days, and imports could be banned
      iii. The maximum fine because of breach of the Medicines Act can be up to 450,000 euros
3. Product and food safety: products and foodstuffs must comply with EU and national rules for product and food safety.

   a. In the Netherlands, this involves the Food and Drugs Act.

4. Age limits: sales impose licensing or age restrictions similar to the arrangements for the sale of alcohol and tobacco. In the Netherlands this is already the case with coffee shops and cannabis sales. Violation of these laws can lead to imprisonment, regulatory fines and/or revocation of the marketing authorization.

The following text can be read on the website of the Health Care Inspection of the Ministry of Health, Welfare and Sports: “The Dutch Medicines Act prohibits the sale, distribution or supply of any medicinal product which has not been registered and granted a marketing authorization. However, the act provides for a number of exceptions in certain specific circumstances. Anyone wishing to supply an unregistered product must apply for permission to do so from the Health Care Inspectorate (IGZ). Permission will be granted only if a qualified medical practitioner determines that it is not possible to provide the treatment required by a patient using alternative, registered medicines which are readily available in the Netherlands. He or she must provide a written statement, known as the Doctor’s Declaration, to this effect. The Inspectorate will carefully assess each application, whereupon permission to supply the unregistered product will be granted, dismissed as regards content or declined on procedural grounds. The criteria and procedures for the assessment are set out in Article 3.17 of the Regeling Geneesmiddelenwet (Medicine Law Regulation) which accompanies and underpins the act itself. In each case, the Inspectorate will assess whether all conditions stated in the article have been met in full. The Inspectorate is authorized to impose compelling measures or corrective measures if this is not the case.”  

<table>
<thead>
<tr>
<th>Month &amp; year</th>
<th>Substance(s) added to the Opium Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2015</td>
<td>25B-NBOMe</td>
</tr>
<tr>
<td></td>
<td>25C-NBOMe</td>
</tr>
<tr>
<td></td>
<td>JWH-018</td>
</tr>
<tr>
<td></td>
<td>AM-2201</td>
</tr>
<tr>
<td></td>
<td>methylone</td>
</tr>
<tr>
<td>March 2015</td>
<td>4,4’-DMAR</td>
</tr>
<tr>
<td></td>
<td>5-IT</td>
</tr>
<tr>
<td></td>
<td>AH-7921</td>
</tr>
<tr>
<td></td>
<td>MDPV</td>
</tr>
<tr>
<td></td>
<td>methoxetamine</td>
</tr>
<tr>
<td></td>
<td>MT-45</td>
</tr>
<tr>
<td>February 2013</td>
<td>4-methylaminorex (4-MA)</td>
</tr>
<tr>
<td>May 2012</td>
<td>Qat</td>
</tr>
<tr>
<td>October 2011</td>
<td>4-hydroxybutyric acid (GHB)</td>
</tr>
<tr>
<td></td>
<td>4-methylmetcathinon (mephedrone)</td>
</tr>
<tr>
<td></td>
<td>tapentadol</td>
</tr>
<tr>
<td>April 2008</td>
<td>oripavine (3-O-demethylthebaine)</td>
</tr>
<tr>
<td></td>
<td>several magic mushrooms</td>
</tr>
</tbody>
</table>

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6 retrieved on December 9th 2015 from: http://www.igz.nl/english/medicines/medicines_without_marketing_authorization
4 NPS drug market description

While the branch organisation of smart shops discourages the sale of NPS that are not yet prohibited, some smart shops do sell them under the counter. These products have been falsely labelled, with brand names on the products and without any indication of its content, apart from the oral information provided by the smart shop sales person.

Also, NPS are sold through web shops, aimed at an international audience or at Dutch residents specifically.

In a study by Van Amsterdam et al. (2015), 25 experienced NPS users were asked about their use of NPS and other NPS-related issues. These users all had used NPS in the past year. Many of these NPS users purchased NPS through friends, where the friends did not make a profit. Only a few had ordered NPS online and two had bought NPS from a dealer.

A study into 4-Fluoramphetamine (Linsen et al., 2015), 249 life time users of 4-FA filled out a questionnaire through the Internet. Almost half of the users procured their 4-FA through friends (44.6%), while 28.1% bought it through a website.

5 NPS demand side description

There are no prevalence rates known for the general population in the Netherlands or Amsterdam, nor for the general school population (Van Laar & Van Ooyen-Houben, 2016). There are, however, figures available for visitors of night life. In 2014, a Flash Eurobarometer was carried out in the entire European Union, including the Netherlands. Persons aged between 15 and 24 years old were asked to participate in the study by telephone. During this study, 6% indicated they had ever used NPS.

The drug 2C-B has been drifting about in the Dutch market since the 1990s and has been a scheduled substance since 1997 (Nabben, Benschop & Korf, 2016). A market for 2C-B remains, judging from the increase in submitted samples at drug testing facilities. The phenylethylamines 5-APB and 6-APB are less widely known. The market for NPS in Amsterdam began expanding in 2009 during a slump in the ecstasy market. Since then, almost a dozen such novel substances have surfaced in Amsterdam nightlife. Their market success has varied. In 2014, 4-FA was the most popular NPS among trendsetters (Nabben, Benschop & Korf, 2014). The drug was also the most up-and-coming NPS among pubgoers in a survey (Benschop, Nabben & Korf, 2015), with 12% reporting lifetime use, 12% recent use and 5% current use. The rate of recent use equalled that of lifetime use, indicating that 4-FA only appeared in the market in recent years. The other two phenethylamines are less commonly used than 4-FA, though they have been in the market for longer.

In the category of synthetic cathinones, methedrone (4-MMC) is best known. In Amsterdam, methedrone has never much caught on; currently it is taken in very few networks and it has completely disappeared from the testing service radar (Nabben, Benschop & Korf, 2016). The variants 3-MMC, 2-FMC and 4-FMC are spotted sporadically. Methylone has virtually disappeared. Distribution of MXE, akin to ketamine, has stabilised at a low level.

In 2013, a national study was done among night life visitors. Through the internet, (frequent) visitors of night life venues were asked to fill out a questionnaire, which 3.335 participants between 15 and 35 years
of age did (Goossens et al., 2013). These participants were not a representative sample of all night life visitors. Almost half of the participants (45%) visited parties or festivals at least monthly and two thirds preferred techno or hard house above other types of music. The percentage of night life visitors that had used NPS ever, in the past year or in the past month, is quite low generally speaking. Exceptions are 2C-B and 4-FA (table 1). One in six participants had ever used 2C-B and one in ten 4-FA. Percentages of recent use of 2C-B (10%) and 4-FA (9%) are close to the percentages of recent users of the more ‘regular’ substances like magic mushrooms (11%), GHB/GBL (12%) and ketamine (13%).

In a survey of clubbers and ravers in Amsterdam in 2013, people who had tried novel psychoactive drugs at some time in their lives were found: 2C-B (19%), 4-FA (15%), mephedrone (9%), 6-APB (5%), methylone (4%) and MXE (3%). Current use of 2C-B increased from 1% to 6% in the 2008-2013 period. Other NPS showed more modest numbers of current users (1% or less) (Nabben, Benschop & Korf, 2014).

<table>
<thead>
<tr>
<th></th>
<th>I. The Netherlands</th>
<th>II. Amsterdam</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Life time</td>
<td>Last year</td>
</tr>
<tr>
<td>2C-B</td>
<td>15.8%</td>
<td>9.4%</td>
</tr>
<tr>
<td>4-Fluoramphetamine</td>
<td>9.9%</td>
<td>8.5%</td>
</tr>
<tr>
<td>Mephedron</td>
<td>5.2%</td>
<td>2.5%</td>
</tr>
<tr>
<td>Methylene</td>
<td>4.2%</td>
<td>2.2%</td>
</tr>
<tr>
<td>Methoxetamine</td>
<td>3.0%</td>
<td>2.3%</td>
</tr>
<tr>
<td>6-APB</td>
<td>2.9%</td>
<td>2.1%</td>
</tr>
<tr>
<td>Spice</td>
<td>2.3%</td>
<td>1.3%</td>
</tr>
</tbody>
</table>

I. (frequent) visitors of parties, festivals and clubs (15-35 years), recruited primarily through websites for night life and social media (Goossens et al., 2013).
II. Clubbers en ravers (16-35 years, average age 24), recruited on site (Nabben et al., 2014).

In the study among 25 experienced NPS users (Van Amsterdam et al., 2015) the users all had used NPS in the past year. Around half of the NPS they had used (52%) could be categorized as stimulants, while around one third could be categorized as a psychedelic (39%). One in five of the used NPS would be another type of NPS, and only once synthetic cannabinoids were mentioned. For most participants (23 out of 25) the legal status of NPS played no role in their consideration to use NPS. Almost all of the users had used only cannabis previously to NPS use, and almost all avoided the use of addictive street drugs such as heroin and crack.

In the 4-Fluoramphetamine study (Linsen et. al., 2015), 249 life time users of 4-FA filled out a questionnaire through the Internet. Around half had used 4-FA in the 12 months before the survey, while 27.3% had used it in the month before the survey. Over three quarters of the users had used 4-FA for its specific effects (77.1%), and only 17.7% indicated they had used it because of its legal status. Almost all users (92.8%) had swallowed the 4-FA, while only 7.2% had snorted. Around half of respondents had used 50-100 mg (42.2%), around on in five had used more than 150 mg (19.2%) and some less than 50 mg (17.6%).
These figures notwithstanding, there are indications that 4-FA is becoming a mainstream substance nationally. Apart from the increases in health related incidents with 4-FA, this also can be seen from the strong increase of the 4-FA samples that are submitted to drug test services; in 2015 4-FA samples made up almost 10% of all submitted samples (Van der Gouwe, 2016). 4-FA is currently the most popular NPS in the Netherlands (Linsen et al., 2015).

Figures from specific groups of people who regularly attend parties and clubs show that 4-FA has been the most used NPS since 2013 (Nabben & Korf, 2016; Croes et al, 2016). Between 2013 and 2015, 1% to 5% of pubgoers, clubbers, ravers and coffeeshop visitors in Amsterdam used 4-FA in the last month. And 12% to 15% had ever used 4-FA. Users are mainly Western men under 30 years.

5.1 Reports associated with use of 4-FA

The NVIC (National Poisonings Information Center) were first consulted about the use of 4-FA in 2011. The number of reported exposures has increased yearly since then: 31 in 2012, 11 cases in 2013, 27 cases in 2014 and 44 in 2015 (Spijkerboer et al., 2015). Considering the growing popularity the expectation is that the number of reported exposures will increase further.

The Monitor Drug related health incidents (MDI) also reports a strong increase in the number of 4-FA intoxications in 2015. Participants reported 187 incidents where 4-FA was involved (MND Jaarrapportage 2015). Before 2012, no incidents were reported, but in the years after the number rises from 3 in 2012, to 18 in 2013 and 55 in 2014. The portion 4-FA incidents entails 3.9% of all registered incidents (first aid posts, hospitals and event) in 2015. Most 4-FA incidents are reported at large scale events, of which 6.8% of all drug incidents are 4-FA related. In almost three quarter of the cases, 4-FA was used in combination with other drugs (mostly MDMA). Intoxications were less severe with patients that had only used 4-FA, sometimes with alcohol than they were with poly drug users. Reported symptoms during a suspected 4-FA intoxication are: (extreme) headaches, high blood pressure, vomiting, hyperthermia and tachycardia. The preliminary results of the MDI on 4-FA incidents show a further strong increase of the incidents at first aid posts at large scale events; in the period January to July 132 incidents were reported.

6 Prevention activities

The Dutch drug policy focusses on reducing the use of drugs, more specifically the health and social consequences of drug use and drug production (VWS, 2010). Prevention aims to avoid and reduce the use of drugs, to postpone the first use of drugs and problematic use and, in relation to this, to prevent and reduce the risks for the user and the environment of the drug user. Prevention activities focus on the drug user, parents and caretakers, (children of) drug addicts, users of recreational drugs, professionals involved in night life, coffee shops owners and organisers of events.

The use of drugs is discouraged in several ways (Croes & Van Gageldonk, 2009). Some prevention activities focus on one substance specifically but there also is general prevention. There is also a variety of activities involved:

1. Regulations, enforcement and policy
2. Awareness raising and education
3. Monitoring, advice and support from health care
4. Influencing the social and physical environment.

Regarding the first, there is the Opium Act and the scheduling of drugs, separating hard drugs and soft drugs. In addition, there are several legal provisions for hospitality companies, coffee shops owners and organisers of events.

Regarding the second, Awareness raising and education, there are several lifestyle campaigns regarding drugs. Since 2010, these are integrated with campaigns regarding tobacco smoking and alcohol. On the one hand they are focused on youth and handling group pressure, on the other hand they are focused on parents. These campaigns are often in settings such as schools, night life and youth centres. Information about drugs and the use of drugs is also offered through websites, as is online treatment, with or without contact with a clinician.

Regarding the third, monitoring, advice and support from health care, GPs and similar professions are responsible for early detection and providing information about the use of drugs and the harmful consequences.

Regarding the fourth, there is a national project, “Night life, alcohol & drugs”, that provides information to support municipalities, institutions for addiction treatment and general health institutions to work on a safe and healthy night life circuit. In addition to providing information to night life visitors through flyers and a website, there are also courses for people working in night life. Also, there are several monitors following night life and drugs use. The Netherlands have several interventions focused on limiting the risks of drug use for the users and their environments. For instance, there are needle exchange programmes, users of ecstasy can have their drugs tested anonymously and free of charge. These projects not only provide information to the users, but also monitor the quality of the drugs in order to react adequately to dangerous drugs on the market.

Other harm reduction measures are user rooms, hostels, peer support and several health programmes aimed at preventing high occurrence diseases such as Hepatitis B (Kerssemaekers et al., 2008). There are also several prevention programmes aimed at negative social consequences of drug use, for instance by reducing dropping out of school, homelessness and child abuse (Hammink et al., 2012).

There are several organisations in the Netherlands that are aimed at providing information for users and that also offer information about treatment. NPS are one of the many topics that they give information about on their websites. Some organisations also visit clubs and parties and inform drug users on the spot about the harm of drug use, but also how to avoid adverse side effects of drugs. Next to the websites of these official organisations, many websites by users can be found. Here, different types of information are provided; next to information about the harms and avoiding adverse effects, one can also find descriptions of experiences.

A different type of prevention is the drug test facilities. On several locations users can bring a sample of the drug they bought to have it tested. The samples can be brought and after paying a small amount, it will be tested anonymously. The active ingredient(s) and the amount of the ingredient(s) can be provided for pills and powders. These data are also used for monitoring and information is provided to DIMS (see above); for instance, in this way recently high amounts of MDMA in pills were detected and used to inform users.
Organisers of parties and festivals, and club owners or event organisers are obliged to have first aid workers present at their events. They are also obliged to have a so-called ‘Black box’ present, in which visitors can deposit drugs – among other banned objects such as weapons. In addition, organisers are obliged to provide drinking water when individuals ask for it. The number of health incidents at events, including those caused by drug use, is registered and published annually.

Peer prevention is also available at some locations, where an organisation is present for users with questions about drug use. The information is given by peers who have used or still use drugs themselves. They are trained prevention workers and are provided with up-to-date information about all drugs, including NPS.

In the Letter of the Minister of Health from 2015, the following prevention measures were mentioned with regards to drug prevention activities that are carried out in the Netherlands:

- Helping parents by providing them with information and by stimulating parents to talk to their children about the use of drugs;
- Informing youth through a school programme for secondary education and by developing a prevention programme for vocational schools and university students;
- Cooperation with municipalities by providing information about the possibilities to regulate and how to act when festivals are organised;
- Cooperation with the nightlife sector, by organising prevention activities on the spot such as the current Celebrate Safe campaign;
- Cooperation with the health sector; and
- Intensifying and expanding monitoring, for instance expanding to prevention activities at test centres.

With regards to supply reduction, no specific activities regarding NPS were developed. NPS are included in the standard drug detection activities by the police and by customs. One part of police activities that are more focussed on NPS are the checks of smart shops by police. The smart shops are visited by police, who check their finances and stock-in-trade for irregularities, including banned substances. The national organisation of smart shops (VLOS) has advised their members not to sell some types of NPS that are legal, such as 4-FA. Smart shops that are a member of this organisation also provide information through flyers with their products. They are obliged to provide not only a brand name but the active ingredients as well. However, not all smart shops in the Netherlands are a member of this organisation and adherence to these rules are voluntary.

7 References


MND jaarrapportage 2015 (2016)


