



JOINT PRESS RELEASE OF

- **NATIONAL MONITORING CENTRE FOR DRUGS AND DRUG ADDICTION**
 - **CENTRE FOR ADDICTOLOGY OF THE PSYCHIATRIC CLINIC OF THE 1ST FACULTY OF MEDICINE AND THE GENERAL TEACHING HOSPITAL OF CHARLES UNIVERSITY IN PRAGUE, AND**
 - **NATIONAL DRUG SQUAD OF THE CRIMINAL POLICE AND INVESTIGATION SERVICE OF THE CZECH POLICE**
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Date: 15. 12. 2009, 10:00

TITLE

The Criminal Code and government decrees set forth new regulations on unauthorised handling of drugs

TEXT

As of 1 January 2010 a new Criminal Code and government decrees came into effect providing more precise definitions of types and quantities of narcotic and psychotropic substances (“NPSs”) for the purposes of the Criminal Code. Amendments have been made in regard to definition of criminal liability for unauthorised handling of NPSs, i.e. the field of so-called (primary) drug offences.

In the context of these amendments the National Monitoring Centre for Drugs and Drug Addiction, the National Drug Squad of the Czech Police and the Centre for Addictology of the Psychiatric Clinic of the 1st Faculty of Medicine of Charles University in Prague have decided to issue a joint statement for the media and the public at large in order to avoid any misinterpretations of the newly defined legal framework, particularly in relation to “legal”, “permitted” or “unpunishable” quantities of drugs:

- Unauthorised possession of drugs for personal use is illegal and subject to legal sanctions at all times: if the drug is in a small quantity, the sanction is defined under the Act on Misdemeanours; in a quantity greater than small, under the Criminal Code. The law defines those entities authorised to possess drugs (among these are, e.g., medical facilities, pharmacies, laboratories etc.). It is therefore always an illegal act for a drug user or an addict (or anyone) to possess any amount of drugs.
- For unauthorised possession of a small quantity of any drug for personal use a fine of up to CZK 15,000 may be imposed in misdemeanour proceedings.
- For unauthorised possession of cannabis-based drugs for personal use in a quantity greater than small, penalties may be imposed of imprisonment for a term of up to one year, of prohibition of business activity, or of forfeiture of an item of property or other asset.
- For unauthorised possession of a narcotic or psychotropic substance other than a cannabis-based drug in a quantity greater than small penalties may be imposed of imprisonment for a term of up to two years, of prohibition of business activity, or of forfeiture of an item of property or other asset
- Unauthorised cultivation of plants or mushrooms containing drugs for personal use is unlawful and subject to legal sanctions at all times: in a small quantity, under the Act on Misdemeanours; in a quantity greater than small, under the Criminal Code.

- For unauthorised cultivation of plants or mushrooms containing drugs for personal use in a small quantity a fine of up to CZK 15,000 may be imposed in misdemeanour proceedings.
- For unauthorised cultivation of the cannabis plant for personal use in a quantity greater than small, penalties may be imposed of imprisonment for a term of up to six months, of a fine, or of forfeiture of an item of property or other asset.
- For unauthorised cultivation of a mushroom or plant other than cannabis for personal use in a quantity greater than small, penalties may be imposed of imprisonment for a longer term - up to one year - of a fine, or of forfeiture of an item of property or other asset.
- The law applies the discrimination between cannabis-based drugs and other drugs, or, as the case may be, between cannabis plants and other plants and mushrooms containing drugs only in cases of possession and cultivation for personal use in a quantity greater than small. All other forms of unauthorised handling of drugs (e.g. sale, import, export) are punished without consideration to the type of drug.
- The quantities deemed to be “quantities greater than small” are stipulated by the government in a decree. Likewise, a government decree also stipulates those plants or mushrooms containing drugs in connection with cultivation for personal use. The government decrees have the same binding effect for all persons without exception as the Criminal Code, i.e. also for criminal justice authorities, including courts.

The precise wording of selected sections of the Criminal Code relating to unauthorised handling of NPSs is given in Annex No. 1 to this press release.

The quantities greater than small for selected NPSs stipulated by government decree are given in Annex No. 2.

A list of the plants or mushrooms deemed to be plants and mushrooms containing an NPS for the purposes of the Criminal Code stipulated by government decree and the quantities greater than small thereof is given in Annex No. 3.

More detailed information from each of the institutions can be obtained from the following:

- **for the National Monitoring Centre for Drugs and Drug Addiction:** MUDr. Viktor Mravčík (e-mail: mravcik.viktor@vlada.cz, tel. 724 192 017),
- **for the Centre for Addictology:** MUDr. Tomáš Zábranský, Ph.D. (email: twz@adiktologie.cz) and Mgr. Hana Gajdošiková (e-mail: gajdosikova@adiktologie.cz, tel. 224 965 098),
- **for the National Drug Squad of the Criminal Police and Investigation Service of the Czech Police:** Col. Mgr. Jakub Frydrych and Cpt. Bc. Michal Hammer (e-mail: npdc@mvcz.cz, tel. 974 836 531)

SELECTED PROVISIONS OF ACT NO. 40/2009 COLL., THE CRIMINAL CODE, RELATING TO UNAUTHORISED HANDLING OF NARCOTIC AND PSYCHOTROPIC SUBSTANCES

**SECTION 283
UNAUTHORISED PRODUCTION AND OTHER HANDLING OF NARCOTIC AND PSYCHOTROPIC SUBSTANCES AND POISONS**

(1) Whoever without authorisation produces, imports, exports, transports through the country, offers, traffics in, sells, or otherwise procures or holds in its possession for another a narcotic or psychotropic substance, a preparation containing a narcotic or psychotropic substance, a drug precursor or a poison, shall be punished by imprisonment for a term of between one and five years, or by a fine.

(2) Offenders under subsection 1 above shall be punished by imprisonment for a term of between two and ten years, or by forfeiture of an item of property or asset, if they committed such a crime

- a) as a member of an organised group,
- b) despite having been convicted of or punished for such a crime in the three years preceding,
- c) on a substantial scale, or
- d) on a significant scale in relation to a child, or involving a quantity greater than small in relation to a child of below the age of fifteen.

(3) Offenders shall be punished by imprisonment for a term of between eight and twelve years, or by forfeiture of an item of property or asset, if

- a) they caused by a crime under subsection 1 severe injury to health,
- b) they committed such a crime with the intention of obtaining substantial benefit for themselves or for another,
- c) they committed such a crime on a large scale, or
- d) they committed such a crime on a significant scale in relation to a child of below the age of fifteen.

(4) Offenders shall be punished by imprisonment for a term of between ten and eighteen years, or by forfeiture of an item of property or asset, if

- a) they caused by a crime under subsection 1 severe injury to the health of at least two persons or death,
- b) they committed such a crime with the intention of obtaining large-scale benefit for themselves or for another, or
- c) they committed such a crime in association with an organised group operating in several states.

(5) Preparation is a punishable offence.

**SECTION 284
POSSESSION OF NARCOTIC AND PSYCHOTROPIC SUBSTANCES AND POISONS**

(1) Whoever without authorisation possesses for their own use in a quantity greater than small the narcotic substance cannabis, cannabis resin (hashish), or a psychotropic substance containing in any form tetrahydrocannabinol, or an isomer or a stereochemical variant thereof (THC), shall be punished by imprisonment for a term of up to one year, by prohibition of business activity, or by forfeiture of an item of property or asset.

(2) Whoever without authorisation possesses for their own use a narcotic or psychotropic substance other than that stated in subsection 1 or a poison in a quantity greater than small shall be punished by imprisonment for a term of up to two years, by prohibition of business activity, or by forfeiture of an item of property or asset.

(3) Offenders under subsections 1 or 2 above shall be punished by imprisonment for a term of between six months and five years, or by a fine, if they committed such a crime on a significant scale.

(4) Offenders under subsections 1 or 2 above shall be punished by imprisonment for a term of between two and eight years if they committed such a crime on a substantial scale.

SECTION 285
UNAUTHORISED CULTIVATION OF PLANTS
CONTAINING NARCOTIC OR PSYCHOTROPIC SUBSTANCES

(1) Whoever without authorisation cultivates, for their own use and in a quantity greater than small, the cannabis plant shall be punished by imprisonment for a term of up to six months, by a fine, or by forfeiture of an item of property or asset.

(2) Whoever without authorisation cultivates, for their own use and in a quantity greater than small, a mushroom or a plant other than that stated in subsection 1 containing a narcotic or psychotropic substance shall be punished by imprisonment for a term of up to one year, by a fine, or by forfeiture of an item of property or asset.

(3) Offenders under subsections 1 or 2 above shall be punished by imprisonment for a term of up to three years, or by a fine, if they committed such a crime on a significant scale.

(4) Offenders under subsections 1 or 2 above shall be punished by imprisonment for a term of between six months and five years if they committed such a crime on a substantial scale.

SECTION 286
PRODUCTION AND POSSESSION OF ARTICLES FOR THE UNAUTHORISED PRODUCTION OF
NARCOTIC AND PSYCHOTROPIC SUBSTANCES AND POISONS

(1) Whoever produces, procures for themselves or another, or holds in their possession a drug precursor or other article designed for the unauthorised production of a narcotic or psychotropic substance, a preparation containing a narcotic or psychotropic substance, or a poison, shall be punished by imprisonment for a term of up to five years, by a fine, by prohibition of business activity, or by forfeiture of an item of property or asset..

(2) Offenders shall be punished by imprisonment for a term of between two and ten years if

- a) they committed a crime under subsection 1 as a member of an organised group,
- b) they committed such a crime on a substantial scale,
- c) they committed such a crime on a significant scale in relation to a child, or
- d) they obtained substantial benefit for themselves or another from such a crime.

SECTION 287
SPREADING OF DRUG ADDICTION

(1) Whoever induces another to abuse an addictive substance other than alcohol, or abets another in so doing, or who otherwise instigates or spreads abuse of such a substance shall be punished by imprisonment for a term of up to three years, or by prohibition of business activity.

(2) Offenders under subsection 1 above shall be punished by imprisonment for a term of between one and five years, or by a fine, if they committed such a crime

- a) as a member of an organised group,
- b) in relation to a child, or
- c) via print media, film, radio, television, a publicly accessible computer network, or in some other manner of similar effect.

(3) Offenders under subsection 1 above shall be punished by imprisonment for a term of

between two and eight years if they committed such a crime in relation to a child of below the age of fifteen.

SECTION 289 JOINT PROVISIONS

(1) The law stipulates those substances deemed to be narcotic substances, psychotropic substances, preparations containing a narcotic or psychotropic substance, and drug precursors used for the unauthorised production of narcotic or psychotropic substances.

(2) Under a decree the Government stipulates those substances deemed to be poisons in the meaning of sections 283, 284 and 286 and what quantity is deemed to be a quantity greater than small as regards narcotic substances, psychotropic substances, preparations containing the same, and poisons.

(3) Under a decree the Government stipulates which plants or mushrooms are deemed to be plants or mushrooms containing a narcotic or psychotropic substance pursuant to section 285 and what quantity thereof is deemed to be a quantity greater than small in the meaning of section 285.

(4) Under a decree the Government stipulates those substances deemed to be substances with an anabolic or other hormonal effect, what quantity is deemed a significant quantity in the meaning of section 288, and what constitutes a method consisting in the enhancement of oxygen transfer in the human organism and other methods with doping effect in the meaning of section 288.

EXTRACT FROM GOVERNMENT DECREE NO. 467/2009 COLL., STIPULATING FOR THE PURPOSES OF THE CRIMINAL CODE THOSE SUBSTANCES DEEMED TO BE POISONS AND WHAT QUANTITY IS DEEMED TO BE A QUANTITY GREATER THAN SMALL FOR NARCOTIC SUBSTANCES, PSYCHOTROPIC SUBSTANCES, PREPARATIONS AND POISONS

For the sake of greater clarity, the list of narcotic and psychotropic substances (“NPSs”) given in the Government Decree has been abridged, the columns showing the “International Non-proprietary Name (INN)” and the “Active psychotropic substance” have been omitted, and only those NPSs found most frequently in the Czech Republic have been chosen. The unabridged list in the Government Decree contains all the NPSs detailed in Act No. 167/1998 Coll., on Addictive Substances.

The central column shows the total quantity of each NPS, i.e. the quantity of the whole drug mixture, including both the active substance and admixtures. The column on the right shows the smallest quantity of the active substance which must be present in the mixture for the quantity of the whole mixture to be deemed greater than small. For example, if a person is in possession of 3 g of pervitin and a laboratory analysis shows that the weight of the active psychotropic substance is e.g. 0.5 g, then this is not a criminal offence but a misdemeanour (i.e. an administrative offence).

The following table contains a selection of the NPSs most frequently encountered as drugs on the drug scene in the Czech Republic. The quantities greater than small for NPSs contained in pharmaceutical preparations (such as buprenorphine, methadone, and even benzodiazepines, which are not shown in this abridged version of the table) are set at seven times their standard daily therapeutic dosage, i.e. their quantities for a period of about one week.

Type of substance/name in general usage (active substance)	Quantity greater than small	Smallest quantity of the active psychotropic substance which a substance designated as a drug must contain in order for the quantity thereof under examination to be deemed greater than small
Pervitin (methamphetamine)	more than 2 g	0.6 g of base 0.72 g (hydrochloride)
Heroin (diacetylmorphine)	more than 1.5 g	0.2 g of base 0.22 g (hydrochloride)
Cocaine (benzoylecgonine methylester)	more than 1 g	0.54 g of base 0.6 g (hydrochloride)
Subutex®, Suboxone®, other medicines containing buprenorphine (buprenorphine)		52 mg of base 56 mg (hydrochloride)
Methadone (methadone)		500 mg of base 560 mg (hydrochloride)
Ecstasy (MDMA/MDA/MDEA)	more than 4 tablets/capsules or more than 0.4 g of the substance in powder or crystal form	0.34 g of base 0.40 g (hydrochloride)
LSD (LSD-25, (+) Lysergide)	5 paper tabs, tablets, gelatine capsules or “crystals” impregnated with the active substance	0.000134 g of base 0.000250 g (tartrate)
Marihuana (delta-9-THC)	more than 15 grams of dry matter	1.5 g of delta-9-THC
Hashish (delta-9-THC)	more than 5 grams	1 g of delta-9-THC

Psilocybin mushrooms and other mushrooms containing psilocin and/or psilocybin (psilocin/psilocybin)	More than 40 fruiting bodies of the mushroom	0,05 g of base (psilocin) or a corresponding quantity of psilocybin (phosphate ester of psilocin)
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EXTRACT FROM GOVERNMENT DECREE NO. 455/2009 COLL., STIPULATING FOR THE PURPOSES OF THE CRIMINAL CODE THOSE PLANTS OR MUSHROOMS WHICH ARE DEEMED TO BE PLANTS AND MUSHROOMS CONTAINING A NARCOTIC OR PSYCHOTROPIC SUBSTANCE AND WHAT QUANTITY THEREOF IS DEEMED TO BE A QUANTITY GREATER THAN SMALL IN THE MEANING OF THE CRIMINAL CODE

List of those plants and mushrooms which for the purposes of the Criminal Code are deemed to be plants and mushrooms containing a narcotic or psychotropic substance

a) plants

- Cannabis plants
- (all species and varieties which contain more than 0.3 % of substances from the tetrahydrocannabinols group in the total weight of the plant),
- Plants containing DMT,
- Plants containing 5-methoxy-DMT,
- Plants containing mescaline,
- Coca (*Erythroxylum coca*).

b) mushrooms

- Mushrooms containing psilocybin and psilocin.

Quantity values determining a quantity greater than small for plants and mushrooms containing a narcotic or psychotropic substance for the purposes of the Criminal Code

a) plants

Species of plant	Number of plants
	Quantity greater than small
The plants listed under point (a) above	more than 5

b) mushrooms

Species of mushroom	Number of mushrooms
	Quantity greater than small
Mushrooms containing psilocybin and psilocin	more than 40