



LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

AUSTRIA

Communicated by the Government of Austria

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

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Narcotic Drugs Act *

Narcotic Drugs Act, 1951 (Federal Law Bulletin No. 234), as amended by the Narcotic Drugs Amendment Act, 1971 (Federal Law Bulletin No. 271), the Penal Code Adaptation Act (Federal Law Bulletin No. 1974/422) and the Narcotic Drugs Amendment Acts, 1977 (Federal Law Bulletin No. 1978/532), 1/ 1980 (Federal Law Bulletin No. 319) ^{2/} and 1985 (Federal Law Bulletin No. 184).

Section 1

(1) Narcotic drugs within the meaning of this Federal Act are substances and preparations which are subject to restrictions on production (extraction and manufacture), possession, trade, import, export, conveyance in transit, handling or use under the Single Convention on Narcotic Drugs of 30 March 1961, done at New York (Federal Law Bulletin No. 1978/531), as amended by the Geneva Protocol of 25 March 1972 (Federal Law Bulletin No. 1978/531).

(2) The substances and preparations to which this Federal Act applies as narcotic drugs within the meaning of paragraph (1), as well as new psychotropic substances within the meaning of paragraph (3), shall be listed in an Order.

(3) The following substances, their salts and all of their preparations are also narcotic drugs for the purposes of this Federal Act:

- (a) d-lysergic acid diethylamide [(+)-lysergide, LSD, LSD-25];
- (b) 3,4,5-trimethoxyphenethylamine (mescaline);
- (c) 2-amino-1-(2,5-dimethoxy-4-methyl) phenylpropane (STP, DOM);

1/ Note by the Secretariat: E/NL.1979/26

2/ Note by the Secretariat: E/NL.1980/99

* Note by the Secretariat: This text is a direct reproduction of the text communicated to the Secretariat.

- (d) 3-(2-dimethylaminoethyl) indol-4-yl-dihydrogenphosphate (psilocybine);
- (e) 3-(2-dimethylaminoethyl)-4-hydroxyindol (psilocine);
- (f) N,N-diethyltryptamine (DET),
- (g) N,N-dimethyltryptamine (DMT);
- (h) 3-(1,2-dimethylheptyl)-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran (DMHP);
- (i) 3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran (parahexyl);
- (k) 1-hydroxy-3-pentyl-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran (tetrahydrocannabinols, all isomers);
- (l) 3-methyl-2-phenylmorpholine (phenmetrazine);
- (m) 2-phenyl-2-(2-piperidyl)acetic acid methyl ester (methylphenidate).

(4) In accordance with the provisions of the Single Convention on Narcotic Drugs and this Federal Act, poppy straw and cannabis plants are likewise subject to the restrictions set forth in paragraph (1).

Section 2

The production and processing, acquisition, possession and distribution of narcotic drugs as well as their import, export and conveyance in transit shall be permitted only for medical, veterinary or scientific purposes and only in accordance with the particular provisions of this Federal Act.

Section 3

(1) The production, processing, conversion, acquisition and possession of narcotic drugs shall not be permitted except:

1. Under a special permit issued by the Federal Ministry of Social Administration, and in the maximum quantities fixed by the said Ministry, to producers of chemical and pharmaceutical preparations who are in possession of a licence under section 15 paragraph (14) of the Trade Regulations and to wholesale druggists who either do not carry on any retail trade whatever or carry on such a trade in totally separate locations;
2. To scientific institutes or public educational, experimental, research or other technical establishments in accordance with a certificate issued by the competent supervisory authority and stating that they require the narcotic drugs for the performance of their tasks.

(2) The cultivation of plants for the purpose of extracting a narcotic drug shall be forbidden, except for scientific purposes by the institutes and establishments referred to in paragraph (1), subparagraph 2.

(3) The federal supervisory bodies and the authorities responsible for executing this Act shall be allowed to acquire and possess narcotic drugs even without a permit in so far as they need them for educational or training purposes, or in so far as narcotic drugs come into their possession in execution of this Act.

(4) The medical units of the Federal Armed Forces shall be allowed to process, acquire and possess narcotic drugs even without a permit in so far as they need them for the medical treatment of members of the Federal Armed Forces.

(5) The persons or establishments authorized under paragraph (1), subparagraph 1, must not issue narcotic drugs except to persons or establishments authorized under paragraphs (1), (3) and (4), as well as to public and institution pharmacies.

Section 4

(1) In accordance with the regulations governing pharmacies and subject to the restrictions set forth in the executive regulations issued for applying this Act, pharmacies may issue medicaments containing narcotic drugs to one another and against prescriptions to hospitals, medical doctors, veterinary surgeons and dentists for the requirements of their practice and also to persons for whom such medicaments have been prescribed.

(2) The provisions of section 3, paragraph (1) shall not apply to the acquisition and possession of medicaments containing narcotic drugs by persons to whom they have been issued under paragraph (1).

Section 5

Medicaments containing narcotic drugs may be prescribed only if their use is based on the principles of medical or veterinary science, and if other medicaments do not suffice.

Section 6

The stocks of narcotic drugs held by persons entitled to possess such drugs under section 3, paragraphs (1) to (4), as well as in public and institution pharmacies, the medicine chests of medical doctors and veterinary surgeons, and also in hospitals, must be secured against theft by suitable arrangements, according to the circumstances, such as separate storage in securely lockable cupboards, the burglar-proof locking of the doors and windows of the storage rooms, and the installation of alarm systems. The district administrative authorities may issue more detailed instructions for the safeguard of theft-proof storage, according to the type and quantity of the narcotic drugs held.

Section 7

So far as may be necessary to prevent risk to human life or health menacing through the abuse of narcotic drugs, and for the purpose of controlling the regular trade in and handling of narcotic drugs, more detailed provisions regarding the following shall be issued by Order:

1. The import, export and conveyance in transit of narcotic drugs and poppy straw;
2. The production and processing, the limitation of production to certain quantities and sources of supply, and any other trade in and handling of narcotic drugs;
3. The issue of supply permits and requirement certificates in respect of narcotic drugs;
4. The keeping of registers and the submission of continuous information on manufacture and processing, import, export and conveyance in transit of narcotic drugs, on other trade operations, existing stocks of narcotic drugs and deliveries of such drugs;
5. The prescription and issue of medicaments containing narcotic drugs.

Section 8

Persons who require medical treatment or health supervision as a consequence of the abuse of narcotic drugs have to undergo treatment or supervision to the extent to which it is necessary and possible as well as reasonable in consideration of the circumstances, as long as the said situation prevails. In the case of a minor the parents or other persons responsible for the upbringing shall secure, within the framework of their duties as to rearing and education, that the minor undergoes medical treatment or supervision to the extent to which it is necessary and possible as well as reasonable in consideration of the circumstances.

Section 9

(1) In case certain facts indicate that a person is abusing narcotic drugs, the district administration board acting as health authority shall obtain medical expert opinion on him or her by a doctor sufficiently conversant with problems of drug abuse. The person concerned has to subject himself or herself to the medical examination necessary to this end.

(2) If the expert opinion results in the finding that a person is addicted to the abuse of narcotic drugs and that medical treatment is unavoidable due to that drug addiction, the district administrative authority shall order the detoxication treatment of the drug addict to the extent to which it is possible and reasonable in consideration of the circumstances, and shall secure as well as supervise the effectuation of that treatment. In the case of other persons where medical treatment or health supervision because of drug abuse also appears to be advisable, the district administrative authority shall order, with the consent of the person concerned, medical treatment or health supervision to the extent to which it is possible and reasonable in consideration of the circumstances. In the case of a minor the consent of the person responsible for the upbringing is also necessary.

(3) If, in addition or by itself, any advice or attention provided by a recognized institution or association (section 22) appears to be suitable, the district administrative authority shall take the appropriate measures to secure such advice or attention.

Section 10

(1) In case certain facts indicate that a pupil is abusing narcotic drugs, the head of the school shall bring him or her to the school doctor's examination. If the assumption is thus verified, without an adequate medical

treatment being guaranteed, or if either the pupil or the person in charge for the pupil's upbringing refuse the medical examination by the school doctor, the head of the school shall inform thereof the district administrative authority. Schools within the meaning of this provision are the public and private schools, as defined in the School Organization Act, Federal Law Bulletin No. 1962/242, the public schools for agriculture and forestry, and all other private schools.

(2) If the medical entrance test for persons liable to military service upon their being recruited (section 24 of the Military Act 1978, Federal Law Bulletin No. 150), or if a medical examination of conscripts performing their basic military service indicates drug abuse, the recruiting commission or the commander of the military unit in which the conscript is serving shall inform the district administrative authority about this circumstance, in lieu of filing a criminal charge.

(3) In the aforementioned cases the district administrative authority shall apply the procedure set forth in section 9.

Section 11

(1) If - as a consequence of the medical expert opinion - medical treatment or health supervision or the attention by a recognized institution or association (section 22) is initiated (section 9 paragraphs (2) and (3)), and if the circumstances indicate that the conditions of section 17 are met, the district administrative authority shall submit without delay a comment in the sense of section 17 paragraph (3), subparagraph 2, in lieu of filing a criminal charge.

(2) The security authorities shall inform the district administrative authority of the charges submitted by them to the public prosecutor concerning the suspicion of an offence punishable under sections 12, 14a or 16.

Section 12

(1) Any person who produces, imports, exports or distributes narcotic drugs in large quantities, in violation of the existing regulations, shall be sentenced in court to a term of imprisonment not exceeding five years. A quantity of narcotic drugs shall be considered large if the passing on of such quantity would be apt to constitute to a great extent danger to human life or health.

(2) A term of imprisonment of from one to ten years shall be imposed on any person who commits the offence referred to in paragraph (1) regularly for gain or as member of a gang. However, persons who are themselves addicted to the abuse of a narcotic drug and who commit the offence exclusively for the purpose to obtain either a narcotic drug or the means for its purchase in order to use the drug for themselves, shall be liable to punishment only in accordance with paragraph (1).

(3) A term of imprisonment of from one to fifteen years shall be imposed on any person who commits the offence referred to in paragraph (1)

1. as member of a gang and who has already been convicted once for a criminal offence referred to in paragraph (1),
2. as member of an association of a major number of persons, organized for committing such criminal offences, or
3. in respect of a narcotic drug the quantity of which at least amounts to the twentyfivefold quantity of that referred to in paragraph (1).

(4) A term of imprisonment of from ten to twenty years shall be imposed on any person who commits the offence referred to in paragraph (1) and who is involved in a leading position in an association of a major number of persons, organized for committing such criminal offences.

(5) In the cases covered by paragraphs (1) to (4), a fine not exceeding 1,000,000 Shillings may be imposed in addition to imprisonment. The amount of the fine shall be so assessed as to exceed the profit which was derived

or was intended to be derived by the offender from the criminal offence. If the maximum fine imposable by law does not suffice to this end, it may be exceeded in the cases covered by paragraphs (2) to (4), but shall not exceed the amount of 2,000,000 Shillings. In so far as a fine thus to be assessed would jeopardize the resocialization of a convict addicted to the abuse of a narcotic drug, that fine shall not be imposed. The term of imprisonment imposed in default of payment of the fine must not exceed eighteen months.

Section 13

(1) The narcotic drug which was the object of the offence punishable under section 12 shall be confiscated unless a person not involved in the offence is legally entitled to the drug and guarantees that it will be handled in accordance with the existing regulations.

(2) If the narcotic drug cannot be confiscated although confiscation would be admissible under paragraph (1), the court shall declare the proceeds forfeited. If the proceeds are not seizable either, a fine equal to the value or the proceeds shall be imposed (value compensating punishment). Section 12 paragraph (5), sentence 4, applies correspondingly. The term of imprisonment imposed in default of payment must not exceed one year; together with the term of imprisonment imposed in default of payment of the fine provided for in section 12 paragraph (5), it must not in the aggregate exceed a total of two years. The fine shall be imposed in the judgement, but if it only subsequently transpires that the forfeiture cannot be enforced, the fine shall be imposed by court decree without oral argument. The parties shall be informed of the decision, and appeal may be lodged within 14 days.

(3) The vehicles used for transport of a narcotic drug, other than vehicles owned by a public transport undertaking, shall be declared forfeited if the owner of the vehicle was aware that it was to be misused for the unlawful purpose. A vehicle shall not be declared forfeited if such measure would be strikingly disproportionate to the significance of the offence.

(4) Sections 443 and 444 of the Code of Criminal Procedure fully apply to these proceedings; sections 445 and 446 of the said Code apply correspondingly. The foregoing provisions do not prejudice other legal regulations which may comprise farther-reaching possibilities of forfeiture or confiscation.

Section 13a

(1) The organs of the public security service are entitled to search the clothes, vehicles and containers - such as suitcases, bags and the like of persons at the borders of the federal territory, at frontier railway stations, at airports as well as at such vessel landing places where goods are permanently subjected to customs proceedings, if a concrete indication or other certain facts lead to the strong suspicion that this place is being used, in violation of section 12, for the import and export of narcotic drugs. Prior to such action, the local customs authorities with venue for the place of the intervention shall be informed thereof; if they so desire, a joint action shall be taken.

(2) For searches in accordance with paragraph (1), section 142 paragraph (1) of the Code of Criminal Procedure applies correspondingly.

Section 14

(1) Any person who enters into an agreement with another for the purpose of jointly committing the criminal offence referred to in section 12 (criminal plot), shall be sentenced in court to a term of imprisonment not exceeding five years.

(2) In the same manner punishment shall be imposed on anybody who associates with two or more other persons with the intent that one or several members of that association shall be involved in the continuous perpetration of the criminal offence referred to in section 12 (organization of a gang).

(3) Sections 277 paragraph (2) and 278 paragraph (2) of the Penal Code apply correspondingly.

Section 14a

Any person who acquires or possesses a large quantity (section 12 paragraph (1)) of narcotic drugs with the intent of having it distributed, shall be sentenced in court to a term of imprisonment not exceeding three years, if the offence is not punishable under section 12.

Section 15

Any person who encourages the abuse of narcotic drugs in print, in a moving picture or in any other public manner, or who approves such abuse in a manner likely to suggest it, shall be sentenced in court to a term of imprisonment not exceeding six months, or to a fine not exceeding 360 day fines.

Section 16

(1) Any person who - in cases not covered by sections 12 and 14a, but in violation of the existing regulations produces, imports, exports, acquires or possesses a narcotic drug or who delivers a narcotic drug to or obtains it for another person, shall be sentenced in court to a term of imprisonment not exceeding six months, or to a fine not exceeding 360 day fines.

(2) The offender shall be sentenced to a term of imprisonment not exceeding three years

1. if he, by the offence referred to in paragraph (1), enabled a minor to use a narcotic drug and if he himself is of full age and more than two years older than the said minor, or

2. if he commits the offence referred to in paragraph (1) regularly for gain or as member of a gang. However, persons who are themselves addicted to the abuse of narcotic drugs and who commit the offence exclusively for the purpose to obtain either a narcotic drug or the means for its purchase in order to use the drug for themselves, shall be liable to punishment only in accordance with paragraph (1).

(3) In the cases covered by paragraph (2), subparagraph 2, a fine not exceeding 250,000 Shillings may be imposed in addition to imprisonment. Section 12 paragraph (5), sentences 2 and 4, apply correspondingly. The term of imprisonment imposed in default of payment of the fine must not exceed six months. In the cases covered by paragraphs (1) and (2), the narcotic drug, as far as it is still existent, shall be confiscated. In this respect section 13, paragraphs (1) and (4), applies correspondingly.

Section 17

(1) If a person is charged exclusively for having acquired or possessed a small quantity of narcotic drugs for his or her own use in violation of the existing regulations, the public prosecutor shall provisionally shelve the charge for a probation period of two years, subject to the following provisions and conditions.

(2) If a person is charged exclusively for having committed another offence punishable under section 16 paragraph (1) in respect of a small quantity of narcotic drugs, the public prosecutor may provisionally shelve the charge for a probation period of two years subject to the following provisions and conditions, if such measure appears better apt than a conviction to prevent the charged person from committing criminal offences under this Federal Act.

(3) The provisional shelving of the charge presupposes

1. that an information has been obtained from the Federal Ministry of Health and Environmental Protection , as prescribed in section 25, and
2. that a comment of the district administration in their capacity as health authority has been obtained on the question whether
 - a) the charged person requires medical treatment or health supervision, and
 - b) a necessary treatment or supervision is possible and is obviously not hopeless in consideration of the circumstances.

(4) Before delivering their comment, the district administrative authority shall take the necessary steps to obtain from a doctor sufficiently conversant with problems of drug abuse a medical expert opinion on the charged person under due consideration of the quantity of narcotic drugs which was acquired or possessed by that person.

(5) The public prosecutor shall make the provisional shelving of the charge dependent on the charged person's agreement - in case this person has a legal representative: with the representative's consent -

1. to undergo the necessary medical treatment or supervision, or
2. to accept being attended to by a probation officer or by a recognized institution or association (section 22) to the extent to which this is possible and reasonable.

(6) The district administrative authority and the charged person shall be informed of the shelving of the charge. The charged person shall simultaneously be instructed about the meaning and the legal consequences of the shelving of the charge. The probation period is not included in the period of statutory limitation.

(7) The authorities shall comply at any time with a motion of the charged person to institute criminal proceedings.

Section 18

(1) If the provisional shelving of the charge depends on the question whether the charged person undergoes medical treatment or supervision, it is for the district administrative authority to state whether or not the charged person complies with this precondition. If the charged person persistently evades medical treatment or supervision, the district administrative authority shall report this to the public prosecutor.

(2) If the provisional shelving of the charge depends on the charged person's acceptance of being attended to by a probation officer, the head of the competent department for probation (section 24 paragraph (2) of the Probation Act, Federal Law Bulletin No. 1969/146), upon request of the public prosecutor, shall order such an attention. For this attention section 52 paragraph (1) of the Penal Code as well as sections 20 and 24 to 26 of the Probation Act apply correspondingly.

(3) If the provisional shelving of the charge depends on the charged person's acceptance of being attended to by a recognized institution or association (section 22), the public prosecutor may instruct the charged person to present in regular intervals a certificate, issued by the institution or association, that the person has been attended to.

Section 19

If a motion for punishment has already been filed against the charged person, sections 17 and 18 apply correspondingly for the provisional termination of the criminal proceedings by the court. Such termination of the criminal proceedings may also be made dependent on the accused person's consent to comply with certain instructions (section 51 of the Penal Code).

Section 20

(1) Criminal proceedings shall be either instituted or continued if within the probation period

1. a motion for punishment is filed against the charged person because of another criminal offence under this Federal Act or because of a criminal offence committed in connection with that person's drug addiction, or
2. the charged person persistently evades medical treatment or supervision or the influence of either the probation officer or the recognized institution or association.

(2) However, in the case covered by paragraph (1), subparagraph 1, the criminal proceedings which were either instituted or continued shall be terminated if the proceedings instituted because of the newly committed criminal offence are ended in another manner than by verdict of guilt.

Section 21

(1) The costs of medical treatment and supervision according to sections 17 to 19, as well as the costs for the treatment of a criminal offender who was instructed, in connection with a conviction under this Federal Act, to undergo a necessary medical treatment, especially a detoxication treatment (section 51 paragraph (3) of the Penal Code), shall be borne by the Federation if the offender is not entitled to corresponding disbursements on the grounds of provincial statutes or legal claims based on social security, and if the obligation to pay the expenses would impede his personal progress. However, the Federation bears the costs only to that extent to which the Social Security Company of Civil Servants would pay for expenses if the offender were insured in the Civil Servants' Health Insurance. The offender does not need to pay any contribution for treatment (section 63 paragraph (4) of the Civil Servants' Health and Accident Insurance Act, Federal Law Bulletin No. 1967/200).

(2) The decision about the taking over of the costs lies within the competence of the court which issued the instruction referred to in paragraph (1) or which provisionally terminated the criminal proceedings according to section 19 or which, in the cases covered by section 17, would be competent for the institution of the criminal proceedings.

Section 22

(1) The Federal Minister of Health and Environmental Protection shall promulgate by Order the institutions and associations which are recognized for the advising of and the attending to persons with respect to the abuse of narcotic drugs.

(2) The activities of the institutions and associations referred to in paragraph (1) may be supported by the Federation. This promotion shall be effected by granting contributions in accordance with the federal means available for this purpose under the relevant Federal Budget Act, with the proviso that the support shall be dependent on contributions out of the means of other territorial authorities. As far as territorial authorities are the upholders of the said institutions or associations, any support by the Federation is subject to the condition that other territorial authorities pay contributions which are at least equally high.

(3) Contributions according to paragraph (2) may be granted to physical and juridical persons only for the establishment and operation of such agencies of the kind referred to in paragraph (1) which appear to be appropriate and economical, taking into consideration the number of persons making use of the assistance offered there. Each supported institution or association shall have a doctor at their disposal who is sufficiently conversant with problems of drug abuse.

(4) Prior to the grant of contributions the receiver shall oblige himself towards the Federation to comply with measures of supervision in respect of the use of the contributions in accordance with their dedication, and

thus to permit organs of the Federation to control the implementation by an audit of the books and receipts as well as by an inspection on the spot, and to render all necessary informations to those organs. Furthermore, the receiver has to declare his obligation to pay back the contributions in case they are not being used in accordance with their dedication.

Section 23

(1) If an offender who has abused narcotic drugs is convicted in accordance with section 16 for an offence punishable by imprisonment not exceeding six months, the conviction, as from the day when it became final, is subject to the limitations on information within the meaning of section 6, paragraphs (1) and (2), of the Extinction Act 1972. Section 6, paragraphs (4) to (6), of the aforementioned Federal Act applies.

(2) If the conditions of paragraph (1) are met, the court shall establish that fact in the judgement, and shall inform thereof the Federal Police Headquarters in Vienna (section 3 of the Penal Register Act 1968).

Section 23a

(1) Subject to the general provisions and conditions stipulated in section 6 of the Act on the Enforcement of Penal Sentences, suspension for a maximum period of two years of the enforcement of a term of imprisonment not exceeding two years, imposed in accordance with this Federal Act, shall also be granted to a convict addicted to the abuse of a narcotic drug, as far as such measure is requisite for enabling the convict to undergo a necessary medical treatment.

(2) If an offender, addicted to the abuse of a narcotic drug, successfully underwent a medical treatment after a penal judgement passed against him had become final, the court, upon receiving knowledge thereof, shall

examine ex officio whether or not a subsequent mitigation, under section 410 of the Code of Criminal Procedure, of the term of imprisonment imposed on the offender in accordance with this Federal Act should be effected by the grant of probation.

Section 24

(1) Any person who acts in violation of the provisions of sections 2 to 6, or in violation of an Order issued in accordance with section 7, commits - unless the offence is subject to more severe punishment in accordance with another provision - a misdemeanour under administrative law and shall be sentenced by the district administrative authority - within the venue of a federal police authority by the latter - to a fine not exceeding 60,000 Shillings, in case of default of payment to a term of imprisonment not exceeding three months.

(2) The judgement may comprise the decision that the objects of the criminal offence (section 13 paragraph (1)) be forfeited. In cases worthy of consideration the proceeds of the forfeited objects shall be returned to the owner.

Section 24a

If the offender has committed, by the same act, an offence punishable in court under sections 12 paragraph (1), 14a or 16 of this Federal Act, as well as a fiscal offence, the fiscal offence ceases to be punishable if the offender was convicted under this Federal Act or if either the charge was provisionally shelved or the proceedings were provisionally terminated in accordance with sections 17 and 19 of this Federal Act.

Section 25

(1) The Federal Ministry of Health and Environmental Protection , which is the competent authority for supervising the trade in and handling of narcotic drugs, shall also be the special administration under article 17 of the Single Convention on Narcotic Drugs.

(2) The reports and information needed for implementation of the Single Convention on Narcotic Drugs and this Federal Act shall be submitted to the Federal Ministry of Health and Environmental Protection , in particular:

- a) from the courts, the findings (convictions and terminations of proceedings) relating to proceedings instituted in respect of criminal offences under this Federal Act, and decisions and orders relating to stocks of narcotic drugs seized or declared forfeited;
- b) from the district administrative authorities (federal police authorities), the penal decisions issued under section 24 of this Federal Act;
- c) from the competent authorities and organs, all charges filed with the public prosecutor under sections 12 to 16 of this Federal Act;
- d) from the public prosecutors, notifications of the shelving of charges filed under sections 12 to 16 of this Federal Act;
- e) from public and private hospitals as well as from the district administrative authorities, information concerning the addicts entered on the registration form issued by the Federal Ministry of Health and Environmental Protection . This obligation to notify does not apply to addicts who voluntarily turn to public or private hospitals.

(3) The Federal Ministry of Health and Environmental Protection is not entitled to pass on the reports and informations received in accordance with paragraph (2), nor any other personal data which came to their knowledge in execution of this Federal Act, except to

- a) the authorities and offices competent for the execution of this Federal Act, as far as for them, in the individual case, the said data constitute an essential precondition for performing their tasks conferred on them by law,
- b) the Federal Ministry of Defence and the competent military headquarters, as far as the said data are essential for the assessment whether persons liable to military service are apt for that service and whether they are fit for duty during their service,
- c) the Federal Ministry of the Interior, as far as the said data are essential for the assessment whether persons liable to civilian service are apt for that service and whether they are fit for duty,
- d) the Federal Ministry of Education and Arts and all other school authorities, as far as the said data are essential, in the individual case, for the assessment of the physical and mental aptitude for school attendance,
- e) the UN-Narcotics Control Board and the UN-Commission on Narcotic Drugs, as far as is required according to the obligations expressly stipulated in international agreements.

(4) A transfer of data obtained in accordance with paragraph (3), by the agencies referred to in paragraph (3), subparagraphs a to d, to third parties is not admissible, unless it is permitted by other provisions of federal law.

(5) The Federal Ministry of Health and Environmental Protection shall erase all records concerning a certain person, drawn up in accordance with paragraphs (2) and (3), if in the course of five years they did not receive any reports or informations from which further violations of this Federal Act could be inferred.

(6) The Federal Minister of Health and Environmental Protection shall take the appropriate steps to ensure the planning and execution of a concept for health education with the aim of informing the public about the hazards of drug abuse and the possibilities of treatment and care for addicts.

Section 26

(1) This Federal Act came into force, in its original version, simultaneously with the Executive Order issued pursuant thereto (Federal Law Bulletin No. 1947/19), i.e. on 30 January 1947. At the same time, all the regulations relating to narcotic drugs previously in force were repealed.

(2) As far as the provisions of that Federal Act were amended by the Federal Act of 24 November 1948 (Federal Law Bulletin No. 1949/31) (First Narcotic Drugs Amendment Act), the provisions which had been thus amended came into force on 4 February 1949.

(3) Section 361 of the Penal Code of 1945 was repealed on the date referred to in paragraph (1).

Section 27

The authorities responsible for the execution of this Federal Act are the following:

1. with respect to sections 12 and 13, sections 14 to 16, section 17 paragraphs (1) to (3) and (5) to (7), section 18 paragraphs (2) and (3), sections 19 to 21, section 23 paragraph (2), and sections 23a as well as 24a, the Federal Minister of Justice, with respect to section 17 paragraphs (1) to (3), (5) and (6), and section 18 paragraphs (2) and (3), the Federal Minister of Justice by agreement with the Federal Minister of Health and Environmental Protection , and with respect to section 24a the Federal Minister of Justice by agreement with the Federal Minister of Finance,

2. with respect to section 10 paragraph (2), the Federal Minister of Defence by agreement with the Federal Minister of Health and Environmental Protection ,

3. with respect to sections 13a and 23 paragraph (1), the Federal Minister of the Interior, with respect to section 13a, the Federal Minister of the Interior by agreement with the Federal Minister of Finance and the Federal Minister of Justice,

4. with respect to section 25 paragraph (4) - within the frame of their competences - the Ministers of Health and Environmental Protection , of the Interior, of Justice, of Defence and of Education and Arts ,

5. otherwise the Federal Minister of Health and Environmental Protection ; to be more precise:

a) with respect to section 1 paragraph (4) and section 3 paragraph (2), by agreement with the Federal Minister of Agriculture and Forestry,

b) with respect to section 3 paragraph (1), subparagraph 1, and section 7, paragraphs 2, 3, and 4, by agreement with the Federal Minister of Trade, Commerce and Industry,

- c) with respect to section 3 paragraph (1), subparagraph 2, by agreement with that Federal Minister who has competence as supervisory authority, as the case may be,
- d) with respect to section 3 paragraph (3), section 24 and section 25 paragraph (2), subparagraphs b and c, by agreement with the Federal Minister of the Interior, with respect to section 3 paragraph (3) and section 25 paragraph (2), subparagraph c, also by agreement with the Federal Minister of Finance,
- e) with respect to section 3 paragraph (4), by agreement with the Federal Minister of Defence,
- f) with respect to section 7 paragraph 1, by agreement with the Federal Minister of Finance and the Federal Minister of Agriculture and Forestry,
- g) with respect to section 10 paragraph (1), as far as schools of agriculture and forestry are concerned, by agreement with the Federal Minister of Agriculture and Forestry,
- h) with respect to section 10 paragraph (1), as far as schools of agriculture and forestry are not concerned, by agreement with the Federal Minister of Education and Arts,
- i) with respect to section 17 paragraph (4), and section 18 paragraph (1), by agreement with the Federal Minister of Justice.

E/NL.1987/38

ORDER BY THE FEDERAL MINISTER OF HEALTH AND THE ENVIRONMENT
OF 18 DECEMBER 1986 AMENDING THE NARCOTIC DRUGS ORDER 1979
(NARCOTIC DRUGS ORDER AMENDMENT 1986)

On the basis of the Single Convention on Narcotic Drugs, Bundesgesetzblatt No.531/1978, and of sections 1 and 7 of the Narcotic Drugs Act 1951, Bundesgesetzblatt No.234, as last amended by Federal Act, Bundesgesetzblatt No.184/1985, and in agreement with the Federal Minister of Finance and the Federal Minister of Agriculture and Forestry, the following Order is hereby made in respect of Article I (3):

Article I

The Narcotic Drugs Order 1979, Bundesgesetzblatt No.390, as amended by the Orders Bundesgesetzblatt Nos.469/1980, 248/1983, 202/1984, and 365/1985, shall be amended as follows:

1. Section 6 shall read:

"Section 6 (1) The producers and wholesale druggists (stockists) referred to in section 2, paragraph 1 shall by 31 January of each year submit to the Federal Ministry of Health and the Environment a return in triplicate relating to trade in narcotic drugs as well as to production, processing and transformation of narcotic drugs during the past calendar year.

(2) The producers and wholesale druggists (stockists) referred to in paragraph 1 shall further by 31 March of each year submit to the Federal Ministry of Health and the Environment an estimate in triplicate of the narcotic drugs which they intend to import or to produce during the following calendar year.

(3) The returns referred to in paragraph 1 shall contain the following data:

1. name or company and place of the producer or wholesale druggist (stockist),
2. stock,
3. utilization,
4. additions, including imports into Austria, and
5. disposals, including exports from Austria.

(4) The estimates referred to in paragraph 2 shall contain the following data:

1. name or company and place of the producer or wholesale druggist (stockist), and
2. intended utilization.

(5) For the returns referred to in paragraph 1 and the estimates referred to in paragraph 2, the appropriate official forms shall be used, which can be obtained from the Austrian State Printing Office."

2. The following subparagraph 7 shall be added to section 15 paragraph 5:

"7. Preparations of Tramadol."

3. Section 23 shall read:

"Section 23 (1) For the import, export and transit of poppy straw, sections 18 to 22 shall be applied mutatis mutandis."

(2) Poppy straw shall not be used for purposes other than floral, and may be imported into Austria only if accompanied by a certificate from the public authority of the exporting country confirming that morphine alkaloids have been removed."

4. Schedule V shall read:

"Cathinone

DET

DMA

DMHP

DMT

DOB

DOET

Eticyclidine, PCE

Levamphetamine

Levomethamphetamine

LSD, LSD-25,
(+)-Lysegide

MDA

MDMA

Mescaline

MMDA

Parahexyl

PMA

Psilocine, Psilotin

Psilocybine

Rolicyclidine, PHP,
PCPY

STP, DOM

Tenocyclidine, TCP

Tetrahydrocannabinol,
the following isomers:
Δ 6a(10a), Δ 6a(7),
Δ 7, Δ 8, Δ 9, Δ 10,
Δ 9(11) and their
stereochemical
variants

THCA

TMA

the isomers of the drugs listed in this Schedule;

the esters, ethers and molecular compounds of the drugs listed in this Schedule;

the salts of the drugs listed in this Schedule, including the possible salts of the above mentioned esters, ethers and molecular compounds and salts of the isomers;

all preparations of the drugs listed in this Schedule, unless they serve exclusively diagnostic or analytic purposes without being applied to humans or animals, and their contents of one or each of several of the substances coming under the narcotic drugs regulations does not exceed 0.001 %."

5. Models 1 and 2 of the Annex to the Narcotic Drugs Order shall no longer apply.

6. Models 3 and 4 of the Annex to the Narcotic Drugs Order shall be modified as shown in the annex to the present Order.

Article II

(1) This Order shall enter into force 1 February 1987.

(2) The form sheets (models 3 and 4 of the Annex to the Narcotic Drugs Order) already supplied by the Austrian State Printing Office before the official announcement of this Order may stay in use also after 1 February 1987.

Kreuzer