

The Vice-President of the European Commission  
Mr. M. Šefčovič  
European Commission  
B-1049 BRUSSELS  
BELGIUM

## COURTESY TRANSLATION

*date* 13 December 2013  
*Subject* COM(2013)618 and COM(2013)619  
*our reference* 154154u

Dear Mr Šefčovič,

The Standing Committee for Immigration & Asylum / Justice and Home Affairs Council (I&A/JHA Committee) of the Senate of the States General discussed the European proposal for a Directive amending the Framework Decision as regards the definition of drug and the proposal for a Regulation on new psychoactive substances (NPS) on 19 November and on 3 and 10 December 2013. Having taken note of this Directive and Regulation and of the Dutch government's assessment of the two proposals, the members of the SP parliamentary party now wish to put a number of questions to the European Commission.

The European Commission states in the proposal for a Directive to amend the Framework Decision that the functioning of the market has been distorted by differing legislation concerning NPS. It puts this forward as one of the reasons for regulating the criminalisation of NPS at European level. To what extent does criminalisation support the objective of the legislation, namely improving the functioning of the market? Does this also mean, the members of the SP parliamentary party wonder, that ultimately the Member States may no longer themselves decide on criminalisation?

If a substance poses a severe health risk, the Commission may intervene and prohibit the substance. However, the Member State itself has no means of intervening. In what situations will the Commission consider the situation sufficiently severe to warrant intervention? Could this be when a substance poses a risk to a single Member State or only when there are signs of this from several Member States? The members of the SP parliamentary party wonder whether a substance might also be prohibited on an EU-wide basis as a precautionary measure because it is judged to pose a health risk.

NPS are used for many purposes. Although NPS can be harmful to health, the members of the SP parliamentary party do not consider this to be a reason for criminalisation. Drugs policy in the European Member States is extremely varied. Intervening in this market to improve its functioning is only a small part of the regulation. Does the Commission regard this measure as

*date* 13 December 2013  
*our reference* 154154u  
*Page* 2

proportionate? And can the Commission give examples of severe and large-scale disruptions of the functioning of the market?

The Standing Committee for Immigration & Asylum / Justice and Home Affairs Council would be grateful to receive the answer of the European Commission within three months.

Yours sincerely,

Dr G. ter Horst  
Chair of the standing committee for Immigration & Asylum / Justice and Home Affairs (JHA)  
Council