Council Implementing Decision (EU) 2017/2170 of 15 November 2017 on subjecting N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide (furanylfentanyl) to control measures

COUNCIL IMPLEMENTING DECISION (EU) 2017/2170

of 15 November 2017

on subjecting *N*-phenyl-*N*-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide (furanylfentanyl) to control measures

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Decision 2005/387/JHA of 10 May 2005 on the information exchange, risk-assessment and control of new psychoactive substances[(1)], and in particular Article 8(3) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament[(2)],

Whereas:

(1) A risk-assessment report on the new psychoactive substance *N*-phenyl-*N*-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide (furanylfentanyl) was drawn up in accordance with Decision 2005/387/JHA by a special session of the extended Scientific Committee of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), and was subsequently submitted to the Commission and to the Council on 24 May 2017.

(2) Furanylfentanyl is a synthetic opioid and is structurally similar to fentanyl, a controlled substance widely used in medicine for general anaesthesia during surgery and for pain management. Furanylfentanyl is also structurally related to acetylfentanyl and acryloylfentanyl, which were both the subject of an EMCDDA–Europol Joint Report in December 2015 and November 2016.

(3) Furanylfentanyl has been available in the Union since at least June 2015 and has been detected in 16 Member States. In most cases, it was seized in powder form, but also in liquid form and as tablets. The detected quantities are relatively small. However, such quantities should be seen in the context of the potency of the substance.

(4) Twenty-two deaths associated with furanylfentanyl have been reported by five Member States. As regards at least ten of those deaths, furanylfentanyl was the cause of death or is likely to have contributed to the death. In addition, 11 acute non-fatal intoxications associated with furanylfentanyl were reported by three Member States.

(5) There is no information suggesting the involvement of organised crime in the manufacture, distribution (trafficking) and supply of furanylfentanyl within the Union.

The available data suggest that furanylfentanyl is produced by chemical companies based in China.

(6) Furanylfentanyl is sold online in small and wholesale amounts as a 'research chemical', typically as a powder and as ready-to-use nasal sprays. Information from seizures suggests that furanylfentanyl may have also been sold on the illicit opioid market.

(7) Furanylfentanyl has no recognised human or veterinary medical use in the Union. There are no indications that furanylfentanyl may be used for any other purpose apart from as an analytical reference standard and in scientific research.

(8) The risk-assessment report reveals that many of the questions related to furanylfentanyl are due to the lack of data on the risks to individual health, risks to public health, and social risks, and could be answered through further research. However, the available evidence and information on the health and social risks that the substance poses, given also its similarities with fentanyl, provide sufficient grounds for subjecting furanylfentanyl to control measures across the Union.

(9) Furanylfentanyl is not listed for control under the 1961 United Nations Single Convention on Narcotic Drugs or under the 1971 United Nations Convention on Psychotropic Substances. The substance is not currently under assessment by the United Nations system.

(10) Given that ten Member States control furanylfentanyl under national drug control legislation and three Member States control furanylfentanyl under other legislation, subjecting this substance to control measures across the Union would help avoid the emergence of obstacles in cross-border law enforcement and judicial cooperation, and would help protect the Union from the risks that its availability and use can pose.

(11) Decision 2005/387/JHA confers upon the Council implementing powers with a view to giving a quick and expertise-based response at Union level to the emergence of new psychoactive substances detected and reported by the Member States, by subjecting those substances to control measures across the Union. As the conditions and procedure for triggering the exercise of such implementing powers have been met, an implementing decision should be adopted in order to subject furanylfentanyl to control measures across the Union.

(12) Denmark is bound by Decision 2005/387/JHA and is therefore taking part in the adoption and application of this Decision, which implements Decision 2005/387/JHA.

(13) Ireland is bound by Decision 2005/387/JHA and is therefore taking part in the adoption and application of this Decision, which implements Decision 2005/387/JHA.

(14) The United Kingdom is not bound by Decision 2005/387/JHA and is therefore not taking part in the adoption of this Decision, which implements Decision 2005/387/JHA, and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The new psychoactive substance *N*-phenyl-*N*-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide (furanylfentanyl) shall be subject to control measures across the Union.

Article 2

By 19 November 2018 Member States shall take the necessary measures, in accordance with their national law, to subject the new psychoactive substance referred to in Article 1 to control measures and criminal penalties, as provided for under their legislation, in compliance with their obligations under the 1971 United Nations Convention on Psychotropic Substances.

Article 3

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Decision shall apply in accordance with the Treaties.

Done at Brussels, 15 November 2017.

For the Council

The President

J. AAB

(**1**) OJ L 127, 20.5.2005, p. 32.

(**2**) Opinion of 24 October 2017 (not yet published in the Official Journal)

Status:
Point in time view as at 15/11/2017.

Changes to legislation:
There are currently no known outstanding effects for the Council Implementing Decision (EU) 2017/2170.