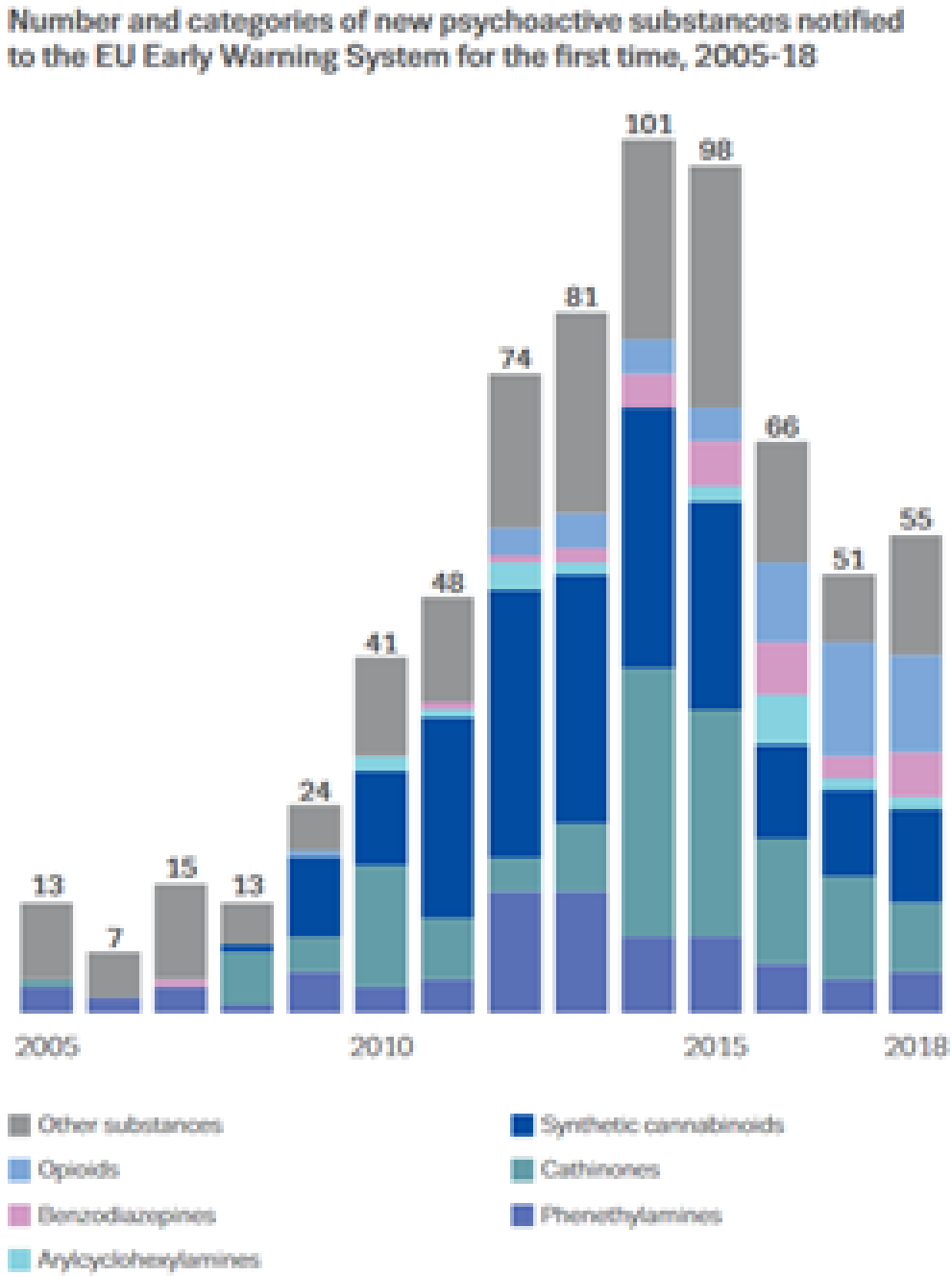
EUDA
EUROPEAN UNION DRUGS AGENCY

NPS control in national laws across Europe

6 JUNE 2025

The problem – open sale of NPS. How to stop it?



The policy challenges of NPS

Public health risks justify punitive control measures	BUT	New substances have little evidence of health risks
Need some months to update a law		Suppliers only need weeks to have a replacement ready
A clear list of controlled drugs is information to suppliers about exclusions from their range		A very broad definition can be difficult for prosecutors to prove
Adding more substances to a list obliges law enforcement to test for them		Resources for testing are not always available

Open sale of NPS – how to stop it?

Fast procedures

Group definitions

New NPS-specific laws

Faster Procedure? Three factors:

Procedure for alteration

➢Explicitly defined / referred to in the main Drug Law
➢Standard national procedure for amending any legislation

Nature of the list

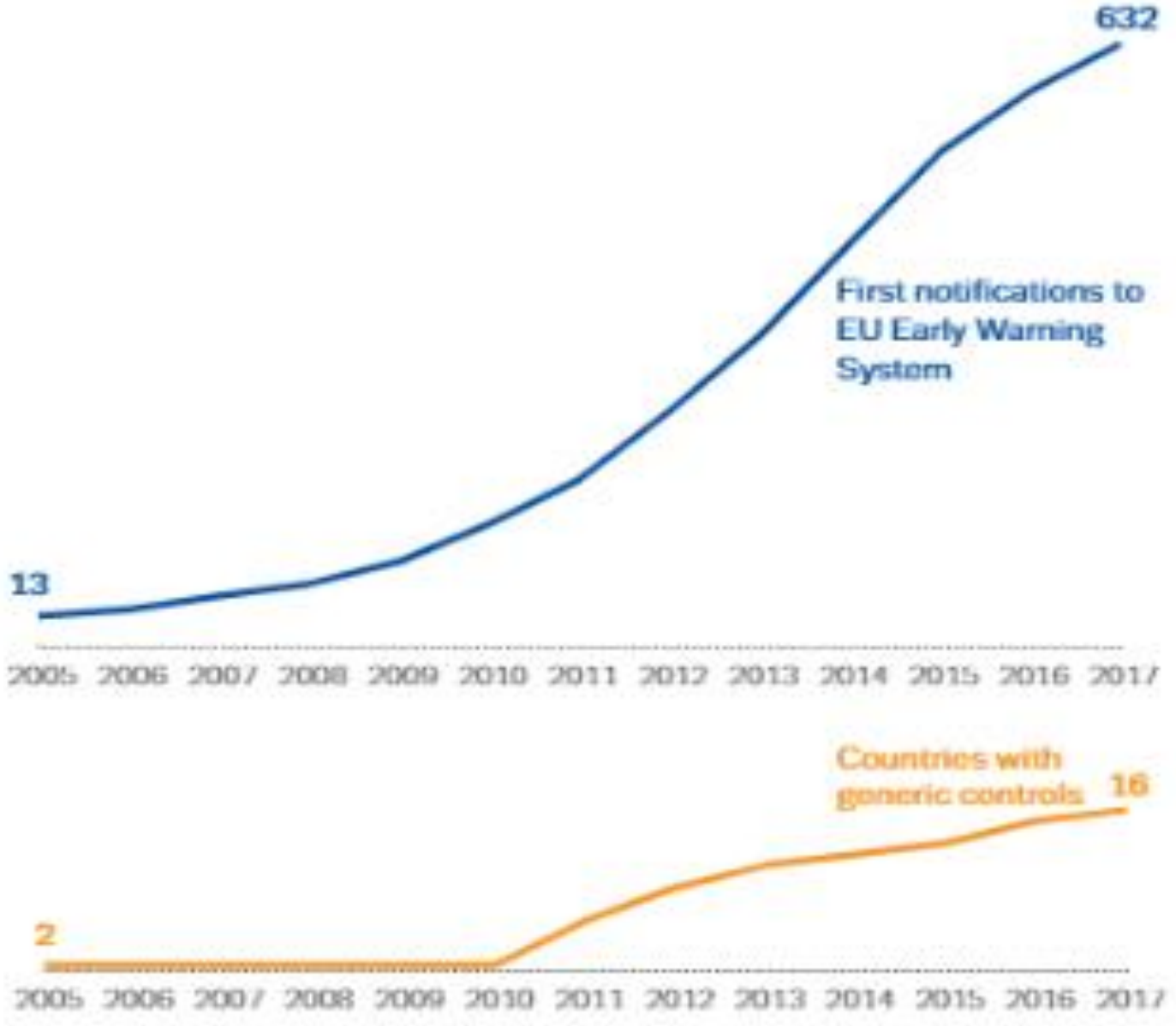
➢Annexed to the main Drug Law
➢Established in separate Decrees / Orders

Level of final approval

✓One Minister / Govt Agency;
✓2 Ministers;
✓Government;
✓Parliament, which may include signature by the Head of State

Group definitions:

Appearance of NPS and introduction of generic group controls in Europe, 2005-2017



Generic systems: legislation includes a precise definition of a family of substances (such as describing substitution patterns in a parent molecule).

European Drug Report 2017, Figure 1.13

NPS specific laws – how specific?

	AT	FI	HU	IE	LV	PL	PT	RO	SK	SE	UK TCDO	UK PSA
Defining psychoactive effects	X		X	X			X	X				X
Motive (abuse or intoxication)	X	X				X			X		X	X
Harm or threat to health	X	X	X	Add		X	X	Dep	X		X	

General laws may exclude products (alcohol, tobacco, medicines, food…)

Precise laws may exclude purposes (industrial, pharmaceutical, research…)

Definitions of “psychoactive”…

ACTION + **CAUSATION** + **MENTAL OR PHYSICAL EFFECTS** + **SIZE**

Stimulate or depress (AT, IE, RO)
Affect (HU, PT)

…the central nervous system

Resulting in (AT)
provoking (RO)
it affects (UK)
it can (HU)
capacity to (IE)
ability to (PT)

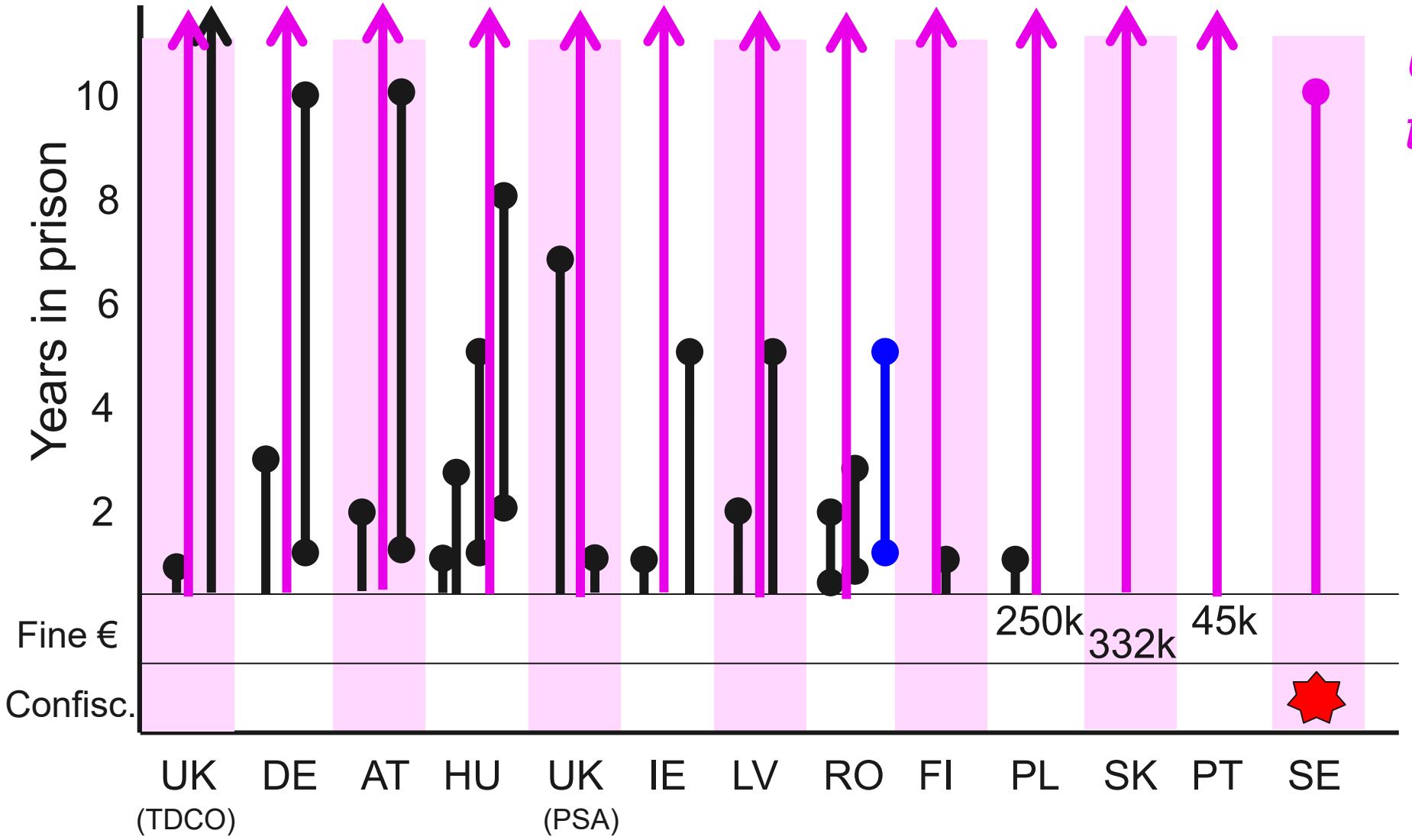
Behaviour (AT, HU, IE, PT, RO)
mental function (PT, UK)
mental processes (RO)
thinking (IE)
mental state (HU)
hallucinations (AT, IE, PT)
motor functions (AT, IE, PT)
perception (AT, IE)
mood (AT, IE),
emotional state (UK)
dependence (IE, PT, RO)

As serious as (HU)
comparable to (PT)
similar to (RO)
significant (IE, PT)

NPS specific laws – who updates the list?

Ministry of Health or similar	Government or similar	Other	No list
AT – Health DE - Health FI – Social Affairs and Health HU – Human Capacities PT – Health SK – Health	UK (TCDO) – Home Office approved by Parliament	LV – Centre for Disease Prevention and Control SE – Medical Products Agency, NIPH	IE PL (“substances with similar effects”) RO UK (PSA)

NPS specific laws – what max (supply) penalties?



Usually lower than drug laws…

Inconsistencies in the assumptions regarding cannabis and NPS control?

"While policymakers seem reluctant to decriminalize personal possession of cannabis, the phenomenon of new psychoactive substances (NPS) in the European Union (EU) has elicited a different legal approach to drug users.

…by late 2017 12 EU countries had developed innovative responses to punish NPS supply — and supply only [16]. Reducing penalties for cannabis use remains controversial in some of these countries, yet 11 have passed NPS control legislation that does not create any offence of personal possession at all, even if some police have the power to confiscate."

EU laws: Smoking low-THC cannabis? Tobacco Products Directive (2014/40/EU)

Cannabis-related products (low-THC) have been reported in *over 20 Member States*, particularly 2019-2020.

TPD 'herbal product for smoking' -

- a product based on plants, herbs or fruits which contains no tobacco and that can be consumed via a combustion process;
- manufacturers and importers need to submit to the national competent authorities a list of ingredients and respective quantities by brand name and type.

[E-cigarettes: "a product that can be used for consumption of nicotine-containing vapour via a mouth piece".]

Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety

Art 3(2): ‘safe product’ means any product which, under normal or reasonably foreseeable conditions of use, including the actual duration of use, does not present any risk or only the minimum risks compatible with the product’s use, considered acceptable and consistent with a high level of protection of the health and safety of consumers;

Regulation (EU) 2023/988 …on general product safety

Art 6 - *Aspects for assessing the safety of products*

(a) the characteristics of the product, including its …packaging, …;

(d) the presentation of the product, the labelling, including the labelling regarding age suitability for children, any warnings and instructions for its safe use and disposal, …;

(e) the categories of consumers using the product, in particular by assessing the risk for vulnerable consumers such as children, older people and persons with disabilities, …;

(f) the appearance of the product where it is likely to lead consumers to use the product in a way different to what it was designed for, and in particular:

(i) where a product, although not foodstuff, resembles foodstuff and is likely to be confused with foodstuff …and might therefore be placed in the mouth, sucked or ingested by consumers, especially by children;

(ii) where a product, although neither designed nor intended for use by children, is likely to be used by children or resembles an object commonly recognised as appealing to or intended for use by children because of its design, packaging or characteristics;

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Thank you

Acting today, anticipating tomorrow.

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