

Supreme Court decriminalises procuring of products with psychoactive effects for personal use

In late 2018, the Romanian Supreme Court issued an unexpected ruling decriminalising the procuring of products with psychoactive effects, by a final consumer, for personal use. In its ruling, the Supreme Court held that the act of procuring products suspected of having psychoactive effects, by an individual, exclusively for his/her own use, as a final consumer, would not be deemed as an activity incriminated by Law No. 194/2011.

In brief, in the underlying case, the defendant purchased 0.42 grams of vegetal material, which included a synthetic cannabis substance [5F-MDMB-PINACA (5F-ADB)], for 50 lei (approx. 10 Euro) and was indicted for “performing ‘operations’ of products suspected of having psychoactive effects, without authorization” (Law No. 194/2011 article 16 paragraph 1). This offence is punishable by imprisonment from 6 months to 2 years or by criminal fine.

The first instance criminal court initially convicted the defendant of the criminal offence but decided to waive any criminal punishment given the small amount involved. The prosecutor appealed and the appellate court asked the Supreme Court for the proper interpretation of the word “operations”, as used in Law No. 194/2011. Under the Civil Procedure Code, effective as of 15 February 2013, such Supreme Court legal interpretations will be binding towards all third parties, and will become part of the Supreme Court’s binding case law.

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