

Salvia Divinorum – Part 1



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SUMMARY: *This paper presents comprehensive information about Salvia Divinorum and criminal proceedings instituted in the years 2007 to 2008 against two persons who offered it for sale. At the time of the criminal proceedings, Salvinorin A (its main psychotropic ingredient) was not scheduled as an addictive or psychotropic substance by the law on addictive substances. The concept of an addictive substance was defined in a very vague and imprecise manner in the Criminal Code of 1961. The aim of this paper is to describe Salvia Divinorum and the procedures applied by law enforcement agencies in giving evidence, especially with regard to the results of the expert opinion, which had a major impact on the decisions of both the trial and appellate courts. The purpose is not to judge or challenge the procedure followed by the law enforcement agencies, but to summarise and present their legal opinions. The legislative measures concerning the cultivation and sale of Salvia Divinorum underwent significant changes in 2011. By virtue of Act No. 106/2011 Coll., its active ingredient, Salvinorin A, was included in the list of narcotic and psychotropic substances (Schedule No. 4) as a psychotropic substance. Until then it was considered an addictive substance for the purposes of criminal proceedings, and criminal proceedings, if applicable, could not be conducted according to the “standard drug provisions” of the Criminal Code.*

KEY WORDS: SALVIA DIVINORUM – PROMOTION OF DRUG USE – SALVINORUM A – CRIMINAL PROCEEDINGS

Note: The article deals with a case study that was considered and legally finalised at a time when Act No. 140/1961 Coll. (the Criminal Code), as amended, was still in effect. Any references made in this article to a “Criminal Code” are thus to be understood as being made to Act No. 140/1961

Coll. (the Criminal Code), as amended. The activity described above remained a criminal offence even after the recodification of the material criminal law. The criminal offence of promoting drug use currently falls under Section 287 of the Criminal Code.

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