

Legal framework workbook

2020

France

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T0. Summary

Please provide an abstract of this workbook (target: 500 words) under the following headings:

- Summary of T.1.1.1 on the characteristics of drug legislation and national guidelines for implementation within your country (are offences criminal; what is the range of possible penalties; are there alternatives to punishment)?
- Summary T1.1.2: on how do the penalties vary by drug / quantity / addiction / recidivism?
- Summary T1.1.3: are there distinct laws for controlling NPS?

In France, the illegal use of any substance or plant classified as a narcotic is an offence punishable by sentences of up to one year in prison and a fine of €3 750 (Article L.3421-1 of the French Public Health Code - CSP). The sentences incurred may be up to five years in prison and a fine of €75 000 when the offence is committed by a public authority, a person responsible for public services or personnel in a company carrying out duties calling into question transport safety. Persons prosecuted for these offences also face additional penalties such as a compulsory awareness course on the dangers of drug and alcohol use, in accordance with the provisions set forth in Article 131-35-1 of the French Penal Code.

Since the 2018-2022 Programming Act for Justice of 23 March 2019, a lump-sum criminal fine of 200 euros, issued by the law-enforcement services, has been made possible for the offence of drug use. Its experimentation initially forecast in 4 cities (Créteil, Boissy-Saint-Léger, Reims and Rennes) began in June 2020. This new procedure applies to all drugs but is primarily aimed at cannabis users. It was extended to Lille and Marseille in mid-July before gradually covering the whole of mainland France. Its generalisation should take place in the coming months.

Aside from the sentences issued by the courts in compliance with Article L.3421-1 of the CSP, an awareness course may also be proposed by the public prosecutors as an alternative to prosecution or simplified procedure (fixed penalty notice, criminal order). In this context, this measure is particularly intended for occasional narcotics users who do not appear to present health or social integration problems. The course applies to all individuals aged over 13 years. When circumstances show that the respondent requires health care, the legal authorities may require them to undergo court-ordered treatment (Article L.3413-1 of the CSP). Public action is not taken once it has been established that the individual has undergone court-ordered treatment, following the events of which s/he was accused (Article L.3423-1 of the CSP).

Illegal transport, possession, proposal, sale, acquisition or use and the fact of facilitating the illegal use of narcotics are punishable by a maximum of ten years in prison and a fine of €7.5 million (Article L.222-37 of the French Penal Code). The illegal proposal or sale of narcotics to a person with a view to personal use is punishable by five years in prison and a fine of €75 000; however, the prison sentence is extended to ten years when narcotics are proposed or sold to minors, in learning or educational establishments or on government premises, and at or very close to the time when students or the public are entering or leaving these establishments premises, in the vicinity of these establishments or premises (Article L.222-39 of the French Penal Code). The maximum penalties incurred for trafficking are life imprisonment and a fine of €7.5 million (Article L.222-34 of the French Penal Code). The law itself does not distinguish between possession for personal use or for trafficking, nor by type of illegal substance.

With regards to cannabis, French regulations stipulate that all activities concerning it (production, possession, use) are prohibited (Art. R.5132-86 I -1° of the Public Health Code). Some forms of hemp without psychoactive properties may, however, be used for manufacturing and commercial purposes, provided that the variety is authorised, the plant contains less than 0.2% THC, and that only the seeds and fibres are used (with the use of the resin, flowers and leaves of the plant being prohibited). Cannabidiol may be advertised if it is addressed through one of the pharmaceutical specialities with a marketing authorisation (art. R.5132-86 III CSP) and if it complies with the relevant drug regulations (CSP, Book 1, Title II, Chapter II, R.5122-1 to 8).

In addition, experimentation with cannabis for therapeutic use was included in the Social Security Financing Act for 2020, enacted on 24 December 2019. It will run for two years from January 2021 and will be implemented by the ANSM. A report to Parliament is planned 6 months before the end of the experiment in order to consider the possible follow-up.

There are no specific laws regulating new psychoactive substances (NPS). The rationale for classifying a NPS on the list of narcotics is both individual (each prohibited substance is named on the list) and generic.

T1. National profile

T1.1. Legal framework

The purpose of this section is to summarise the basic penalties and other responses to the offences of use, possession for personal use, supply (including production) of illicit drugs.

T1.1.1. Please describe the characteristics of drug legislation and national guidelines for implementation within your country (are offences criminal; what is the range of possible penalties; are there alternatives to punishment)?

In France, the illegal use of any substance or plant classified as a narcotic is an offence punishable by sentences of up to one year in prison and a fine of €3 750 (Article L.3421-1 of the French Public Health Code - CSP). The sentences incurred may be up to five years in prison and a fine of €75 000 when the offence is committed by a public authority, a person responsible for public services or personnel in a company carrying out duties calling into question transport safety. Persons prosecuted for these offences also face additional penalties such as a compulsory awareness course on the dangers of drug and alcohol use, in accordance with the provisions set forth in Article 131-35-1 of the French Penal Code.

Public prosecutors can also decide to implement alternative measures to prosecution, such as a drug warning, an onward referral to a health or social facility or they may make it compulsory to attend an awareness course on the dangers of drug and alcohol use. These measures are particularly intended for occasional narcotics users who do not appear to present health or social integration problems. The course applies to all individuals aged over 13 years. When circumstances show that the respondent requires health care, the legal authorities may require them to undergo court-ordered treatment (Article L.3413-1 of the CSP). Offenders may also be prosecuted in accordance with the simplified procedures for a fixed penalty notice or criminal order, meaning they will be sentenced to pay a fine and/or take an awareness course.

In 2012 a directive establishing a criminal policy strategy for drug crimes reiterated that, when sentencing, courts should take account of factors suggesting a simple use or drug addiction, the principle of proportionality with respect to the seriousness of the alleged offence, calls for systematic penal responses and increasingly effective judicial measures [[Circulaire CRIM 2012-6/G4 du 16 février 2012 relative à l'amélioration du traitement judiciaire de l'usage de stupéfiants](#)]. Hence, the legal authorities are invited to pass the measure relating to awareness courses for simple first use and to systematically envisage court-ordered treatment measures when circumstances reveal drug addiction and a need for treatment. With regard to minors, the response by the legal authorities should remain predominantly educational and health-based.

The 2018-2022 Programming Act for Justice and Reform of 23 March 2019 [[Law No. 2019-222](#)], which aims in particular at simplifying judicial procedures and taking better account of the rights of victims, entered into force on 24 May 2019 ([Decree No. 2019-507](#)). It provides, inter alia, for a lump-sum criminal fine in the case of the offence of drug use. The fine is issued by a police officer or French military police officer [*gendarme*] and is set at 200 euros. This can be reduced or increased depending on the time taken to pay the fine (from 150 to 450 euros). This payment puts an end to legal proceedings; otherwise, the offender may be brought before a criminal court risking the penalties set out in Article L.3421-1 of the Public Health Code. However, the system is not systematic, the assessment of its applicability being left to the law enforcement services.

Illegal transport, possession, proposal, sale, acquisition or use and the fact of facilitating the illegal use of narcotics are punishable by a maximum of ten years in prison and a fine of €7.5 million (Article L.222-37 of the French Penal Code). The illegal proposal or sale of narcotics to a person with a view to personal use is punishable by five years in prison and a fine of €75 000; however, the prison sentence is extended to ten years when narcotics are proposed or sold to minors, in learning or educational establishments or on government premises, and at or very close to the time when students or the public are entering or leaving these establishments premises, in the vicinity of these establishments or premises (Article L.222-39 of the French Penal Code).

The maximum penalties incurred for leaders of criminal narcotic trafficking groups are increased in view of the scale of the penalties. Hence, the fact of leading or organising a group which aims to illegally produce, manufacture, import, export, transport, hold, propose, sell, purchase or use narcotics is punishable by life imprisonment and a fine of €7.5 million (Article L.222-34 of the French Penal Code).

Furthermore, Article L.321-6 of the French Penal Code makes it possible to implicate “the fact of not being able to justify resources corresponding to one's lifestyle or not being able to justify the origin of goods in one's possession, while normally associating with one or more persons [having committed a crime or offence punishable by at least five years in prison]” (which includes narcotic trafficking) ».

In addition, money laundering operations relating to narcotic trafficking are punishable by a sentence of ten years in prison and a fine of €750 000 (Article L.222-38 of the French Penal Code).

With regards to cannabis, French regulations stipulate that all activities concerning it (production, possession, use) are prohibited (Art. R.5132-86 I -1° of the Public Health Code). Some forms of hemp without psychoactive properties ([arrêté modifié du 22 août 1990 portant application de l'article R.5181 pour le cannabis](#) [amended legislative order of 22 August 1990 implementing Article R.5181 for cannabis]) may, however, be used for manufacturing and commercial purposes, provided that the variety is authorised, the plant contains less than 0.2% THC, and that only the seeds and fibres are used (with the use of the resin, flowers and leaves of the plant being prohibited). Cannabidiol may be advertised if it is addressed through one of the pharmaceutical special cases with a marketing authorisation (Art. R.5132-86 III Public Health Code) and if it complies with the relevant regulations on prescription drugs (Public Health Code, Book 1, Title II, Chapter II, R.5122-1 to 8). Outside this framework, so far it cannot be presented as having therapeutic virtues, even if an experiment on cannabis for medical use will soon be launched (see section T3).

T1.1.2. How do the penalties vary by drug / quantity / addiction/recidivism?

The law itself does not distinguish between possession for personal use or for trafficking, nor by type of illegal substance. However, it differentiates between the illegal sale and supply of narcotics to an individual for personal use and other situations. In practice, the prosecutors and courts take into account the quantity in their possession and the circumstances of the offence when defining the events in criminal terms. According to Article 132-10 of the penal code, sentences may be doubled in the event of a subsequent offence within 5 years, although this does not specifically concern drug law offences (DLO).

T1.1.3. What, if any, legislation within your country is designed to control New Psychoactive Substances (NPS)?

There are no specific laws regulating new psychoactive substances (NPS). The legal framework relating to narcotics applies to NPS, as soon as they are included on the list of substances classified as narcotics. The rationale for classifying a NPS on this list is both individual (each substance is named) and generic: it "starts with a basic molecular structure (not necessarily psychoactive) and stipulates the variants affected by the ban" (Martinez 2013). The decision is taken by the Ministry of Health further to the proposal by the French National Agency for Medicines and Health Products Safety (ANSM).

T1.1.4. *Optional. If available provide information in a separate paragraph on other topics relevant to the understanding of the legal framework for responding to drugs in your country, such as: drug driving, workplace regulations, drug testing, precursor control, organised crime legislation relevant to drug trafficking, issues focused on minors. Regulatory aspects of treatment and harm reduction are also of interest.*

T1.2. Implementation of the law

The purpose of this section is to

- Summarise any available data on the implementation of legislation.
- Provide any additional contextual information that is helpful to understand how legislation is implemented in your country.

T.1.2.1. Is data available on actual sentencing practice related to drug legislation?

Please provide a summary and a link to the original information or state if no information is available.

In 2018, according to the Ministry of Justice, DLO convictions for main offences (single or multiple) represented 12% of all criminal record convictions, i.e. around 67 000. These offences can be broken down as follows: illegal use (52 %), possession-acquisition (44 %), supply and sale (2.4 %), trade-transport (0.7 %), import-export (53 cases), helping others to use (52 cases) and other DLOs (228 cases). In the majority of possession-acquisition offences, offenders were sentenced to prison (85%), while using offences were mainly sanctioned by fines (72 %). The number of successful fixed penalty notices amounted to 8 558.

T.1.2.2. Is data available on actual sentencing practice related to legislation designed to control NPS?
Please provide a summary and a link to the original information or state if no information is available.

Actual court practices on the penal response to NPS cannot be documented at present. They may have recourse to the article on inciting use, but no detailed statistics according to type of substances are available.

Furthermore, when suspect goods are detected by the services, particularly Customs, in order to remove it from the market, the substance may be assimilated to a "medication by function". The public prosecutor may decide to initiate an investigation and, if appropriate, to prosecute the offenders in court.

T1.2.3. *Optional. If possible, discuss why implementation might differ from the text of laws (e.g. political instructions, resource levels, policy priorities).*

T2. Trends

The purpose of this section is to provide a commentary on the context and possible explanations of trends in legislation and the implementation of the legislation within your country.

T2.1. Please comment on any changes in penalties and definitions of core offences (offences of use, possession for personal use, supply (including production) of illicit drugs) in the legal framework since 2000.

If possible discuss the possible reasons for change (e.g. political philosophy, changes in the drug situation, public debate, policy evaluation).

The framework of the French policy for combating illicit drugs is set forth in the 1970 French law on narcotics [[Loi n°70-1320 relative aux mesures sanitaires de lutte contre la toxicomanie et à la répression du trafic et de l'usage illicite des substances vénéneuses](#)]. However the orientations of the penal policy for combating drug use and traffic are regularly redefined, leading to the creation of a systematic penal response to the use of narcotics (see T1.1.1).

The law of 9 March 2004 [[Loi n°2004-204 portant adaptation de la justice aux évolutions de la criminalité](#)] allows to reduce by half sentences handed down to offenders in particular for offences ranging from drug dealing to all forms of trafficking (production, import-export, traffic) if, "by having informed the administrative or legal authorities, the offender has made it possible to put an end to the offence and possibly identify other guilty parties". This possibility for "penitents" to get a reduced sentence for trafficking is a new feature in the French penal process.

The "delinquency prevention law" of 5 March 2007 [[Loi n°2007-297 relative à la prévention de la délinquance](#)] provided for a wider range of law enforcement measures that could be taken against drug users. It introduced a new penalty: a mandatory awareness course on the dangers of drug and alcohol use (€450 maximum, the amount of a third class contravention). Its aim is to make offenders fully aware of the danger and harm generated by the use of narcotic substances, as well as the social impact of such behaviour. The drug awareness course may be proposed by the authorities as an alternative to prosecution and to fixed penalty notice. An obligation to complete the drug awareness course may also be included in the criminal ruling as an additional sentence. It applies to all individuals over the age of 13.

This 5 March 2007 law expands the scope of court-ordered drug treatment measures, which now can be ordered at any stage of criminal proceedings: originally conceived as an alternative to prosecution (resulting in a suspension of the legal process), court-ordered treatments can now be ordered as a sentence enforcement measure. The application directive issued by the Ministry of Justice on 16 February 2012 [[Circulaire CRIM 2012-6/G4 relative à l'amélioration du traitement judiciaire de l'usage de stupéfiants](#)] invites the legal authorities to systematically envisage a drug treatment order when circumstances reveal that the suspect needs treatment. The "delinquency prevention law" also provides for more severe penalties in the event of "directly inciting a minor to transport, possess, propose or sell narcotics" (up to 10 years imprisonment and a fine of €300 000).

Lastly, the law of 9 July 2010 (the so-called "Warsmann law") established a new penal procedure enabling assets of individuals undergoing prosecution to be seized to ensure that they are confiscated if the suspects were eventually found guilty [[Loi n°2010-768 visant à faciliter la saisie et la confiscation en matière pénale](#)]. The scope of this law is broader than drug law offences, but applies to these offences in particular.

The National Plan for Mobilisation against Addictions (MILDECA 2018) provided for a revision of the 1970 French law on narcotics, advocating "adopting the principle of the criminal fine procedure" with regards to using. (see. This flat-rate fine was recently adopted by the [loi de programmation 2018-2022 et de réforme pour la justice du 23 mars 2019](#) [2018-2022 Programming Act for Justice of 23 March 2019] (see section T3). The measure was to be implemented after the adoption of an implementing decree ([Décret n° 2019-507 du 24 mai 2019](#)) Since June 2020, its implementation has been initially under way in the cities of Créteil, Boissy-Saint-Léger, Reims and Rennes for a period of two months. From mid-July 2020, it is planned to test the measure in two other French cities (Lille and Marseille). The measure will apply to all French territory in the coming months, with the exception of French Polynesia, Mayotte and New Caledonia, as officially announced by the Minister of the Interior.

- T2.2. Please comment on how the implementation of the law has changed since 2000. If possible discuss the possible reasons for change (e.g. new guidelines, availability of alternatives to punishment).

In the past 20 years, the number of arrests for simple use has more than doubled, increasing from around 77 000 to almost 151 300 persons taken to court in 2019. In 2010, (since 2010 national statistics no longer provide details of arrests for each substance), 90% concerned simple cannabis use, 5% heroin use and 3% cocaine use.

In response to this rapid increase in arrests, alternatives to prosecutions (drug warning, referral to a health and social centre, drug treatment order, etc.) have been systematically applied (see T2.1). Rare in the late 1990s, in 2018, almost 44% of the offenders referred to public prosecutors' offices for drug use will be classified as having taken no further action after alternative measures. Furthermore, the penal response to these cases of use is characterised by the increasingly frequent recourse to court convictions during the 2000s. Although the number of annual convictions remained below 5 000 in the 1990s, these increased almost nine-fold between 2000 and 2018 (around 33 000 convictions for a single drug use offence). Among all drug law offences the proportion of convictions for drug use only, to the exclusion of any other offences, reaches today more than 50%: this was three times lower in 2000 (15%) (unpublished data from the ministry of Interior).

As regards trafficking, the number of arrests by the police and *Gendarmerie* has almost doubled since the 2000s (approximately 17 000 individuals accused in 2019).

T3. New developments

The purpose of this section is to provide information on any notable or topical developments observed in legislation, the implementation of legislation, evaluation, and the political position on drug legislations **since your last report**. T1 is used to establish the baseline of the topic in your country. Please focus on any new developments here.

If information on recent notable developments have been included as part of the baseline information for your country, please make reference to that section here. It is not necessary to repeat the information.

T3.1. What, if any, laws have changed in the last year?

Please use the following table to structure your answer, providing the title of the law, a hyperlink if available and a short summary of the change and explanatory comments.

The Social Security Financing Act for 2020 ([Law n° 2019-1446 of 24 December 2019](#)), enacted on 24 December 2019 provides for experimentation with the use of cannabis for therapeutic purposes for a period of two years, which will be implemented by the ANSM. It should be noted that due to the mobilisation of health authorities on the management of the COVID-19 epidemic, the start of the experiment, initially planned for September 2020, has been postponed to January 2021. A report to Parliament is planned 6 months before the end of the experiment in order to consider the possible follow-up.

The basis of the specifications includes in particular:

- Securing the quality of products, to the extent that cannabis intended for patients will be in the form of finished products subject to precise specifications imposed on suppliers.
- Securing distribution, since supplying French pharmacies during the experiment will include mandatory administrative procedures.
- Securing patients, who will be registered in an electronic registry. It will include different modules to assess the feasibility of the circuit and its acceptability (e.g. time to obtain an appointment, distribution time after presentation of the prescription, ease of finding a pharmacy, etc.). The registry will also collect data such as dosage distributed, efficacy, adverse effects and impact on quality of life. It will be updated by prescribers, pharmacists and patients (with the possibility of including nursing staff). In addition to the registry, a complementary study involving a smaller number of patients (but included in the registry) will be set up and carried out by a research team.
- In order to prescribe and distribute medical cannabis during the experimental phase, health professionals will need to have undergone dedicated training beforehand. Validation of this training will be a mandatory requirement for physicians and pharmacists to be included in the experimental patient follow-up registry. The committee considered that a 3.5 hour e-learning course with validation modules would be the most appropriate.
- City and hospital pharmacists are expected to distribute medical cannabis as part of the experiment.
They will order, distribute and advise patients. They will also be required to update the registry at the time of distribution, which will allow them to follow the patient's progress and report any adverse effects that may occur during treatment.

The amendment to the specifications for drug consumption rooms (DCR), by the [legislative order of 15 July 2019](#) extends DCR access to users by inhaling or smoking. Previously, these users, could only access an inhalation station after having injected a product during an earlier visit to these rooms.

In addition, a briefing note ([DGS/SP3 No. 2019-166](#)) of 7 June 2019 strengthens partnership opportunities between Youth Addiction Outpatient Clinics (CJC) and schools. Discussions are also under way on how to prevent the use of nitrous oxide/laughing gas, with a [proposal for a law to protect minors from the dangerous uses of nitrous oxide](#) (Senate - Committee text number 170 filed on 4 December 2019 and adopted by the Social Affairs Committee).

T3.2. How was the law implemented in the last year? What, if any, changes have occurred? Please provide sentencing or other outcome data, or provide the link to any relevant reports or information.

See T1.2.1 of this workbook.

T3.3. Has there been an evaluation of the law in the last year, or other indications as to its effects? Please specify and provide links to the original report.

No recent evaluation of the law in France.

T3.4. **Optional.** Summarise any major political discussions in the last year relating to legislation or its implementation that you feel is important in understanding the current legal framework within your country.

The regulatory document subjected to amendments / Initial version of the text	The amended regulatory document / Current version of the text		
Title. Hyperlink	Title. Hyperlink	Summary of change	Comments

T4. Additional information

The purpose of this section is to provide additional information important to understanding drug legislation in your country that has not been provided elsewhere.

T4.1. **Optional.** Please describe any additional important sources of information, specific studies or data on the legal framework. Where possible, please provide references and/or links.

T4.2. **Optional.** Please describe any other important aspect of the legal framework that has not been covered in the questions above. This may be additional information or new areas of specific importance for your country (e.g. money laundering, tobacco, alcohol legislation, new/changing organisations/structures, regulations related medical or industrial cannabis, and regulatory framework of opioid substitution treatment).

T5. Sources and methodology

The purpose of this section is to collect sources and bibliography for the information provided above, including brief descriptions of studies and their methodology where appropriate.

T5.1. Please list notable sources for the information provided above.

Legislative sources used are mainly the Public Health Code and the Penal Code. All information provided herein is based on permanent monitoring of legislation by the OFDT and on the following data:

- *Etat 4001*, Ministry of the Interior (for data on accused individuals)
- National criminal record, Ministry of Justice (for convictions)

Martinez, M. (2013). Contrôler les NPS : du classement comme stupéfiant à l'utilisation d'autres réglementations. *ActaI* (13) 62-66.

MILDECA (2018). Alcool, tabac, drogues, écrans : Plan national de mobilisation contre les addictions 2018-2022 [Alcohol, tobacco, drugs, screens: National plan for mobilisation against addictions 2018-2022]. Mission interministérielle de lutte contre les drogues et les conduites addictives, Paris. Available: <https://www.drogues.gouv.fr/la-mildeca/le-plan-gouvernemental/mobilisation-2018-2022> [accessed 17/06/2020].

T5.2. Where studies or surveys have been used please list them and where appropriate describe the methodology?