

PART B. SPECIAL FEATURE

11. Sentencing Statistics.

11.1. Options available in France

Personal possession or use

In the French justice system, drug use and drug possession are considered crimes, leading to a maximum of one year's imprisonment and a fine of €3,750. These two offences are also accompanied by offences concerning preparation for drug use, including for example incitation to use drugs or the glorification of narcotics, subject to a maximum sentence of 5 years' imprisonment and a fine of €75,000. If the incitation to use drugs is directed at a minor, the penalties can rise to 5 years' imprisonment and a fine of €100,000.

Although the applicable law concerning the repression of drug use is the law dated December 31, 1970, the circular from the Ministry of Justice dated April 8, 2005 regarding the fight against drug addiction and dependency recommends that criminal proceedings should be systematically initiated for any use of narcotics in order to "avoid drug use becoming commonplace". However, the text recommends that, as a priority, the courts should refer arrestees to the specialised treatment centres. Consequently, cases brought before the criminal courts and sentences involving imprisonment should remain exceptional. This circular therefore recommends a graduated range of sentencing solutions according to the drug use concerned, including: dismissal of the case with a caution for adults with no previous criminal history and possessing only "very low quantities of narcotics", dismissal with referral to the various health or social organisations for "occasional or regular" users of cannabis, and court-ordered treatment "involving strict medical supervision, for users of hard drugs or poly-drug users". Criminal proceedings before the criminal courts are reserved for "repeat offenders and users refusing to accept alternatives".

This circular also requires strict enforcement concerning the offence of incitation to use drugs. Among others, it particularly targets hemp shops selling cannabis seeds, and clothing featuring cannabis leaves, etc which are seen as contributing to making narcotic use commonplace.

The arsenal of repressive measures has been further bolstered by the delinquency prevention law of March 5, 2007 (and its application decree 2007-1388 of September 26, 2007) which further extends the range of penal sanctions available for the use or the incitation to use narcotics. The aim of this law is to hammer home the message that drug use is illegal, through a combination of more credible penalties and better adapted solutions. Additionally, the law introduces tougher penalties for offences involving minors or carried out in schools, drug use by a police officer or a member of transport staff when performing his duties, and for violence committed under the influence of narcotics or alcohol. It also provides the possibility for the Attorney General to order attendance at an "awareness building course" on the use of cannabis and other illicit drugs. Its purpose is to make the offender aware of the harmful consequences for human health and society of the use of such products. Based on the courses proposed in the road safety field, the course must be completed within the six months following sentencing, and paid for by the offender. The cost may not exceed the maximum fine applicable for class three offences (€450).

Finally, the law of March 5, 2007 extends the use of the simplified Penal Order procedure to cover the simple use of narcotics. Up until this point, the use of such a procedure was only

applicable in the road safety field. This is a fast-track procedure making it possible for the court to grant a judge the power to decide on the penalties to be applied without debate. This procedure makes it possible to avoid the long lead times usually occurring between infractions and sentencing.

Table 11.1. Criminal offences and the resulting legal sanctions concerning the possession and use of narcotics in France.

Offence categories	Penalty (maximum sentences)	Reference text
- The illegal use of narcotics	1 year's imprisonment and a fine of €3,750	Public health code L.3421-1
- Narcotics use observed in an area open to or frequented by the public (hotel, furnished house, boarding house, bar, restaurant, club, dance hall or performance venue)	Closure by order of the local authority or courts + confiscation of the product concerned by the offence	Public health code L.3421-3, L.3422-1 Code of criminal procedure, art.706-33 Penal code, art. 222-49
- Incitement to use narcotics or positive presentation of such infringements - Incitement to contravene the narcotics laws	5 years' imprisonment and a fine of €75,000	Public health code, L.3421-4
- Proposal or transfer of narcotics to a person for his personal use	5 years' imprisonment and a fine of €75,000	Penal code, art. 222-39 1st paragraph
- Proposal or transfer of narcotics to minors or on educational or administrative premises	10 years' imprisonment	Penal code, art. 222-39 2 nd paragraph
- Inciting a minor to use narcotics	5 years' imprisonment and a fine of €100,000	Penal code, art. 227-18 1st paragraph
- <i>Aggravating circumstances</i> : a minor under the age of 15 or offences committed in or near an educational establishment	7 years' imprisonment and a fine of €150,000	Penal code, art. 227-18 2 nd paragraph

N.B.: Attempts to commit the offences mentioned in articles 222-36 to 222-39 are punishable by the same range of penalties (art.222-40 of the Penal code).

Production, dealing or trafficking

Concerning the repression of drug trafficking, the range of sentences is particularly severe in France when compared to other countries of the European Union. The applicable legal framework (which is based on the law dated December 31, 1970 and extended by means of numerous application circulars from the Ministry of Justice), includes a range of penalties clearly aimed at deterring would-be offenders. As an example, it authorises the use of special measures to foil presumed drug traffickers (with extended custody for up to 4 days, and the use of night searches). Additionally, since the late 1990s, around twenty new laws have further reinforced this arsenal of repressive measures, in order to combat local or international drug trafficking. Accordingly, stricter sentences have been introduced for certain categories of narcotics trafficking which can lead to life imprisonment and fines of €7.5 million. New categories of offence have also been created, including the proposal and transfer of drugs for personal use, introduced with the aim of providing a specific response to offences committed by "user-resellers", or laundering, which can be categorised as a criminal offence.

When we consider the policing and legal resources made available to fight drug trafficking, the range of available instruments and measures has been bolstered. Following the

introduction of the law dated January 17, 1986, arrested user-resellers can be sent for immediate trial with no waiting time. The legal measures aimed at fighting laundering activities make it possible to launch action against traffickers based on their outward appearance of wealth. The fact that a person is unable to demonstrate a legal income matching his/her lifestyle while maintaining ongoing contact or dealings with a narcotics user or trafficker is punishable under the law of May 13, 1996 as "drug procurement". Finally, a number of new features have been introduced within the Penal Code to make it easier to identify all levels of drug trafficking networks. The law of March 9, 2004 also provides the possibility of dismissing charges for "penitents" who have helped bring an end to an offence and possibly identified other guilty parties by informing the administrative or legal authorities of drug trafficking activities. The law has also extended the special procedural characteristics related to the fight against drug trafficking, by adding the newly introduced right to carry out infiltration activities to the possibility of holding prisoners in custody for four days or of carrying out night searches (art. 706-82 of the Code of Criminal Procedure).

Additionally, where drug trafficking is concerned, two types of aggravating factors are taken into consideration: a) when the offences are committed on administrative premises or b) when they involve minors or are carried out in or near educational premises. These tougher sentences when minors are involved are enshrined in the delinquency prevention law of March 5, 2007, which introduces sentences of up to 10 years' imprisonment and a fine of €300,000 for "direct incitation to carry, possess, propose or transfer narcotics when directed at a minor or when perpetrated in educational establishments".

Criminal offences and the corresponding penalties for drug trafficking in France.

Table 11.2. List of offences.

- The transportation, possession, proposal transfer, acquisition or illegal use of narcotics - Facilitating drug use	10 years' imprisonment and a fine of €7,500,000	Penal code, art. 222-37 §.1, §.2
- The illegal importation or exportation of narcotics	10 years' imprisonment and a fine of €7,500,000	Penal code, art. 222-36, 1st paragraph
- Inciting a minor to participate in drug trafficking (transportation, proposal and transfer)	7 years' imprisonment and a fine of €150,000	Penal code, art. 227-18-1 1st paragraph
- Aggravating factors: a minor under the age of 15 or offences committed within or near an educational establishment	10 years' imprisonment and a fine of €300,000	Penal code, art. 227-18-1 2nd paragraph
- A failure to provide proof of legitimate income corresponding to the individual's lifestyle while at the same time maintaining regular contact or dealings with a person carrying out illegal activities in the narcotics field, or several persons involved in the use of narcotics.	5 years' imprisonment and a fine of €75,000	Penal code, art. 321-6
- Aggravating factor: (if the person concerned is a minor)	10 years' imprisonment and a fine of €75,000	Penal code, art. 222-39-1, 2nd paragraph
- Simple money-laundering	5 years' imprisonment and a fine of €375,000	Penal code, art. 324-1
- Aggravated laundering activities carried out on a regular basis or using means and resources related to a professional activity,	10 years' imprisonment and a fine of €750 000	Penal code, art. 324-2

or committed as an organised group.

Table 11.3. List of offences (cont.).

- The illegal production or manufacturing of narcotics	20 years' imprisonment and a fine of €7,500,000	Penal code, art. 222-35 1st paragraph
- Aggravating factor: if the offences are committed by an organised group	Prison sentence increased to 30 years	Penal code, art. 222-35 2nd paragraph
- The illegal importation or exportation of narcotics as an organised group	30 years' imprisonment and a fine of €7,500,000	Penal code, art. 222-36 2nd paragraph
- The management or organisation of any group intended to produce, manufacture, import, export, transport, possess, propose, transfer, acquire or illegally employ narcotics.	Life imprisonment and a fine of €7,500,000	Penal code, art. 222-34
- The laundering of money derived from crimes mentioned in the above-mentioned article (222-34, 222-35, 222-36 2nd paragraph)	From 20 years' imprisonment to life imprisonment and a fine of €7,500,000	Penal code, art. 222-38 2nd paragraph

N.B.: Even the attempted perpetration of the offences described in articles 222-36 to 222-39 is punishable by the same penalties (art.222-40 of the Penal Code).

Drug and driving

The law of June 18, 1999 (and its application decree) introduced automatic drug tests for all drivers involved in a fatal road accident, the application requirements for which were stipulated in the law dated February 3, 2003 (and its application decree) concerning the recording of motoring offences carried out under the influence of narcotics. Any driver whose blood test reveals the presence of narcotics faces a sentence of two years' imprisonment and a fine of €4,500. The penalties may be increased to 3 years' imprisonment and a fine of €9,000 if alcohol has also been consumed.

Screening is compulsory for all drivers involved in a fatal accident, and systematic if use is suspected, in all accidents where physical harm is done. Tests may also be carried out on a targeted basis when the driver is suspected of having used drugs, (i.e. when he shows the outward signs of drug use such as sweating, red eyes and incoherent speech, etc). Drivers may also be subjected to testing when they are involved in any road traffic accident or any infraction of the Highway Code, or whenever there are reasonable grounds for presuming that drugs may have been consumed (art. L235-2 of the Highway Code).

The only drug tests used up until 2008 were urine tests which required special equipment. Since August 2008, police drug screening operations are now carried out using saliva tests, the widespread deployment of which in the road safety field was authorised via an order from the Ministry of Health³³, as a modification to the Highway Code. The drivers undergoing testing must provide the security forces with a sample of their saliva taken using a testing stick, and mixed with a chemical substance. After approximately eight minutes, this sample shows whether or not the person has consumed narcotics (cocaine, heroin, cannabis, amphetamines or ecstasy). In the event of a positive test result, blood tests are then carried

³³ Decree dated July 24, 2008 modifying the decree dated September 5, 2001 establishing the terms for drug tests, analyses and examinations via decree no. 2001-751 of August 27, 2001 covering drug tests carried out on drivers involved in a fatal road traffic accident, modifying decree no. 2001-251 of March 22, 2001 regarding the regulatory part of the Highway Code (Decrees in the Council of State) and modifying the Highway Code.

out to confirm the result. The quantities and types of drug detected generally form part of the criteria taken into account by the courts, which may issue a fine of up to €4,500, two years' imprisonment and a driving licence suspension of three years.

Where minors are concerned, the circular dated April 8, 2005 recommends referral to one of the health or social bodies rather than the dismissing of the case and issuing a caution as was previously the norm. This previous solution was seen as unhelpful as it encouraged a feeling of impunity among young drug users. This referral to the health services may also be backed up by referral to the child courts if it is considered that the youngster's drug use is part of a more complex problem or is particularly dangerous in nature.

Table 11.4. Criminal offences and the corresponding penalties for driving after taking drugs in France.

	Sentence (maximum sentence)	Reference text
- The offence of driving after taking drugs	2 years' imprisonment and a fine of €4,500	Highway Code, art. L 235-1, L 235-2, L 235-3
Aggravating factors:		
- The use of narcotics in cases of manslaughter	5 years' imprisonment and a fine of €75,000	Penal code, art. 221-6-1
- Trespass to the person	5 years' imprisonment and a fine of €75,000	Penal code, art. 222-19-1 and 222-20-1

11.2. Data sources and origins

Currently, the French statistical system exhaustively covers all stages of the judicial system (from the arrest through to the enforcement of the sentences) although the level of detail may vary at each stage.

Description of the systems used (data availability lead times, units, the processing of multiple offences, multiple penalties, variables, etc).

Arrests for drug-related offences: the OSIRIS database (Statistical Information and Research Tool for Drug-related Offences (*Outil Statistique d'Information et de Recherche sur les Infractions sur les stupéfiants*))

All drug offence cases initiated by the police and gendarmerie in France (including the overseas *départements*) are recorded in the OSIRIS database (ex FNAILS) maintained centrally by the Central Office for the Repression of Drug-Related Offences (OCRTIS, 2007). The recording process is virtually exhaustive, with the exception of those offences recorded by the Customs Department for which no report was issued (in most cases, this concerns very small quantities of drugs, resulting in other action by the Customs Department. Otherwise, the case is referred to the police).

OSIRIS contains information concerning the arrests (categorised as simple drug use, use-selling, local trafficking and international trafficking), the persons arrested (age, gender, socio-professional category and nationality) and seizures.

The product mentioned is the "dominant drug" i.e. that which is usually consumed by the user or stored in the highest quantities by the dealer. When this rule cannot be applied, it is the "hardest" drug which is entered³⁴.

Following the arrest (intervention), the cases are handled by the public prosecutor's office which decides whether or not to take legal action (prosecution). The statistics related to this stage, which are derived from the activities of the "public prosecution managers", are not particularly detailed (please see below), the planned computerisation of the public prosecution system looks highly promising when it comes to improving our knowledge of the processing activities carried out at this stage by the public prosecutor's office.

Cases processed by the public prosecutor's office: the public prosecution managers

The public prosecution managers list the number of cases (and not the number of people) processed each year by the public prosecutor's offices of the courts of first instance. This statistic provides information concerning the total number of cases presented to the public prosecutor's offices (5th degree misdemeanours, offences and crimes), and the proposed action (legal proceedings, penal agreements, alternative proceedings or dismissal of the case, etc).

At a national level, this data is not detailed on an offence-by-offence basis, which means that it is impossible to know how many narcotics cases are dealt with at this stage of the criminal action procedure. This loss of information is considerable when we bear in mind that for 5 million cases dealt with by the public prosecutor's office in France, only a little over 1 million are referred for criminal proceedings (with the others being dismissed).

Additionally, among these one million cases, approximately 600,000 result in prosecutions before the court (please see "*Use of the national criminal record*") while 400,000 are the subject of alternative measures other than court action with no possibility for us, once again, to match these measures to the specific offences concerned. Consequently, the alternatives to court action proposed to drugs offenders are not detailed (either by type of offence or type of measures taken). Only court-ordered treatment appears clearly within the system and may be linked to specific drug users, (please see 11.2.c).

The computerisation of the data centralisation process for the courts (the Infocentre project) which has already been carried out in a number of regions, will provide detailed information for each offence, for all cases processed, as well as for the alternative measures used.

The Ministry of Justice's "Infocentre" project

This planned computerisation of the activity data from the public prosecutor's office is currently being trialled and should be extended more widely around 2009-2010. The initial detailed data is being supplied by seven courts from the Paris area (which process approximately 25% of all criminal cases in France). This data, which has not been published, makes it possible for us to learn the outcome of narcotics cases, detailed on an offence-by-offence basis, (please see 11.3).

Sentencing: the use of the national criminal record

Sentencing information has been obtained since 1984 thanks to the use of the national criminal record. This use of the criminal record for statistical purposes is carried out by the Ministry of Justice's statistical department. The database contains information from 1984 onwards. The data is exhaustive, and covers the whole of the country. For each sentence issued by the judges, the data from the Ministry of Justice describes the various offences for which penalties were issued, the type of proceedings, the nature of the sentence, the length

³⁴ For a more detailed description, please refer to the OFDT's directory of statistical sources at: <http://www.ofdt.fr/ofdtdev/live/donneesnat/sources.html>

of the sentence or the total fine involved and the characteristics of the individuals sentenced (age, gender and nationality).

As the ruling issued against an offender may be based on several offences, it is important to consider the concept of the main offence which is generally the most serious of the offences committed (it may be the case that the offences are listed in the order in which they are shown in the police report although a consistency check is carried out according to the total sentence imposed). This is the notion most frequently used in the Ministry of Justice's statistics. Other accounting units make it possible to carry out a more detailed analysis. As an example (for the use of narcotics), sentences for drug use as part of a combined offence (in order to examine the most common combinations and the corresponding sentences) or those for drug use as the sole offence.

Sentences should not be confused with the persons being sentenced. A person sentenced twice during the year will be counted twice in the sentencing statistics.

The classification used at this stage of the legal process is based on the NATINF code, used for all offences under the Penal Code. The statistics published for drug offences are classified in six different categories: illegal use, possession-acquisition, trafficking (importation-exportation), production-dealing-trafficking, offer-transfer, assistance to others and other offences (including laundering, and a failure to provide proof of income, etc).

As French legislation does not make it possible to distinguish between sentences according to the product concerned, the sentencing statistics do not mention the product involved in the drug-related offences for which sentences are handed down. These details are only available at the policing stage.³⁵

The data concerning the enforcement of custodial sentences is also provided here for information purposes.

The enforcement of custodial sentences: the national register of detainees and quarterly prison population statistics

Since 1993, the sentence enforcement statistics have been established based on the national register of detainees. This database makes it possible to identify prisoner flows for the year, (i.e. the number of people entering and leaving penal establishments between January 1 and December 31 each year), for each offence. The difference between the entry and exit data makes it possible to calculate the number of people present in the penal establishments on a given date.

A new version of the national register of detainees has been in force since 2003. Unlike the previous version, for each prison sentence issued it takes account of all of the offences resulting in the sentence, whereas previously only the main offence was recorded. However, in its current form, this application does not make it possible to identify the ranking and total number of alleged offences. The data from 2003 is consequently of less interest for the time being. The number of incarcerations for narcotics use as the main offence or sole offence is not yet known.

Furthermore, the categorisation of the offences is more detailed. Drug offences are now broken down into use, transfer, possession, trafficking, assisted use, incitation to use and unspecified drug-related offences, compared to 4 categories used previously (use, transfer, trafficking, other drug-related offences). The transfer of data from the former "trafficking" category to the "possession" category has been reported. Since 2003, when the use of

³⁵ For a more detailed description please refer to the OFDT's directory of statistical sources: <http://www.ofdt.fr/ofdtdev/live/donneesnat/sources.html>

statistics from the national register of detainees ended, the available data concerning incarceration for drugs offences has been obtained using the quarterly statistical report from the headquarters of the Penal Administration, which describes the detainees present in the country's penal establishments on the first day of each quarter. The data is not particularly detailed on an offence-by-offence basis. Only a blanket category makes it possible to identify those persons with drug offences as their main offence.

The case of traffic offences

Where legal proceedings, sentences and incarceration are concerned, the legal processing of drug-related traffic offences is recorded by the statistical system described above (the public prosecution managers or infocentre, the national criminal record, the national register of detainees, etc). The categories are the same as those used when dealing with drunk drivers ((MIAT et al., 2006)):

- Driving after taking drugs
- Refusal to submit to testing
- Unintentional violence (homicide or injury) caused by a driver having used narcotics

At the policing stage, offences related to driving after taking drugs are included in a specific statistic concerning checks and offences related to the Highway Code (the Road traffic and Road Safety Sub-Department - Ministry of the Interior and Regional Planning).

Since 2004, this document has included statistics concerning the checks carried out by the police and gendarmerie, and data concerning offences (infractions and misdemeanours) under the Highway Code recorded by the same departments. This data is supplied to the ministry each month and is published nationally.

The data is detailed for offences related to speeding, driving without a license, drunk driving and (since 2004) drug use (the data from 2003 being only partial).

Where narcotics use is concerned, the number of drug tests and positive test results is given, according to the circumstances justifying the drug test (accidents involving death, bodily injury or property damage, offences, suspected drug use without accidents or infractions, etc). The percentage of positive test results must be interpreted with caution since, in view of the particularly high levels of positive results, it is likely that the drug tests and searches were not carried out on a random basis, but instead targeted those drivers most likely to have taken drugs.

The annual total for the various drug offences is also shown, including driving a vehicle and having taken illegal substances or herbs listed as narcotics, driving a vehicle under the influence of both drugs and alcohol, and the refusal by the driver of the vehicle to undergo analyses or examinations with the aim of establishing whether or not he has driven the vehicle after taking drugs.

All of the data concerning road traffic offences is examined and published each year by the *Observatoire national interministériel de la sécurité routière* in "La sécurité routière en France" (*Road safety in France*).

Links between the systems

Links between the various statistical systems are not in place in the following areas 1/ nomenclature, 2/ accounting units, 3/ data transmission lead times and 4/ product-specific information.

Differences in nomenclature

For classification purposes at the policing level, the categories specific to the OCRTIS are used, which are either based on police procedures or which re-categorise the offences following a reading of the paper version of the procedure. In either case, this classification is not that used by the Penal Code (which is used for sentencing and incarceration). Matching the categorisation used by the police statistics to the statistics used by the Ministry of Justice is no simple matter and a precise match can only be made for cases of drug use alone or for all trafficking offences taken together.

Differences in accounting units

Arrests for drug offences concern one person and one person alone, even if a person arrested several times in the same year is included in the statistics separately on each occasion. This accounting unit is found again where sentencing is concerned (one person sentenced per ruling) even if at this stage the sentence may concern several offences or several penalties. On the other hand, where the public prosecutor's office is concerned, the accounting unit concerned is that of "cases", with it being possible for several people to be covered by the same "case".

Differences in timing and data submission lead times

Not only do the authorities concerned by each of these statistical systems not publish their data within the same lead times (i.e. one year for the police statistics and two years for the sentencing statistics), but moreover the comparison of data from the same year at the various stages of the legal system is not meaningful as an arrest made in year y may be dealt with by the justice system in year y+ 1 or later

Differences concerning product information

As stated above, only the policing data, (which is based on the details contained in the legal procedures), make it possible to distinguish between the various drugs involved in drug-related offences.

Legal measures specific to drugs offences: conditional discharges, alternative measures instead of legal proceedings and additional penalties.

Currently, at a national level, only court-ordered treatments (which for a long time were specifically reserved for drug users under legal supervision, although they were more recently extended to alcohol users) may be distinguished among the various social and healthcare measures offered to drug users under legal supervision. In 2005, 5,227 court-ordered treatments were issued in France. These concerned all drug users. On the other hand, French law allows for other alternatives to legal action for narcotics offenders, and particularly users (please see 11.1). A number of these measures concern social or health care (referral to health or social organisations) while others do not (including in particular the issuing of cautions). Currently, we do not know the number of drug users (or drug use cases) referred to these non-judicial alternative measures.

Generally speaking, we can currently calculate the number of measures announced (whether alternative to or additional to legal action) but it is not possible to match these to specific drug-related offences. The computerisation of the public prosecutor's offices will eventually make it possible to carry out a detailed analysis of this kind.

Another aspect which remains unknown is the outcome of these measures. For some of these, statistical reports summarising the activities of the associations given the task of monitoring alternative measures to legal proceedings make it possible to trace the number of measures received and processed, and occasionally the results of the measures concerned (whether obligations have been met, etc.).

11.3. Sentencing statistics

This section includes the latest results concerning the different stages of the criminal justice process for each of the three categories identified:

- a. Drug use/personal possession
- b. Production, dealing or trafficking
- c. Drug driving

Nevertheless the "possession for personal use" category does not exist within the French justice system and consequently is not found other than in the policing phase. Only offences concerning "drug use" can be identified during the legal proceedings phase.

The provisional data from 2007 does not make it possible to distinguish between arrests for use and dealing and those for trafficking. Consequently, these two categories of arrests are considered together.

Drug use/personal possession

Arrests for drug use:

In 2007, 112,923 arrests for simple drug use were recorded by the Office Central pour la répression du trafic illicite des stupéfiants (OCRTIS - *Central Office for the Repression of Drug-Related Offences*). Most of these arrests concerned the use of cannabis (97,460 arrests, equivalent to 86.3% of all arrests for drug use).

This is followed (much further behind) by arrests for heroin, (6,438 arrests) and for cocaine (4,043 arrests).

Table 11.5. Arrests for simple drug use -2007.

	Use	% in column
Cannabis	97,460	86.3%
Heroin	6,438	5.7%
Cocaine	4,043	3.6%
Others ⁽²⁾	2,969	2.6%
Ecstasy	751	0.7%
Crack	494	0.4%
Medicines ⁽¹⁾	332	0.3%
Amphetamines	294	0.3%
Mushrooms	142	0.1%
Total	112,923	100%

(1) Subutex®, methadone, skenan®, rohypnol®, others.

(2) Khat, methamphetamines, LSD, opium, morphine, solvents, others

Sources: Les grands traits de l'usage du trafic illicite des produits stupéfiants en France (Key aspects of the illegal use of narcotic products in France), Annual report: 2007 – Summary; OCRTIS - 2008

Cases of drug use dealt with by the public prosecutor's offices in the Paris region

Please see tables 11.6 and 11.7 below.

Where narcotics use is concerned, most of the cases dealt with by the public prosecutor's office result in an alternative to prosecution before the courts (77%). These usually involve a caution or a court-ordered treatment.

Sentences for drug use

Totalling 16,341 sentences, drug use is chiefly punished by fines (49.3%), prison sentences (34.2%), of which 32.7% are firm or partially suspended sentences, the average length of which is 5.9 months. Lighter sentences such as alternative penalties (community service or day-fines), and educational measures or penalties account for 15.9% of all sentences for drug use.

Please see table 11.9 below.

Production, dealing, transport

Arrests for transport and use-selling

In 2007, 21,397 arrests for use-selling and trafficking were recorded by the OCRTIS, including 13,154 arrests for the use-selling and transport of cannabis, accounting for 61.5% of the total.

Cocaine and heroin are the second and third most important substances where use-selling and transport are concerned, accounting for 3,116 and 2,952 arrests respectively.

Table 11.6 Arrests for drug use/dealing and trafficking – 2007.

	Use/dealing and trafficking	% in column
Cannabis	13,154	61.5%
Cocaine	3,116	14.6%
Heroin	2,952	13.8%
Ecstasy	388	1.8%
Crack	269	1.3%
Medicines ⁽¹⁾	245	1.1%
Amphetamines	109	0.5%
Mushrooms	10	0.0%
Others ⁽²⁾	1,154	5.4%
Total	21,397	100.0%

(1) Subutex®, methadone, skenan®, rohypnol®, others.

(2) Khat, methamphetamines, LSD, opium, morphine, solvents, others

Sources: Les grands traits de l'usage du trafic illicite des produits stupéfiants en France (Key aspects of the illegal use of narcotic products in France), Annual report: – Summary; OCRTIS - 2008

Drug-related offences (other than use) dealt with by the public prosecutor's offices of the Paris region

The use of alternative measures (other than legal proceedings) is less frequent for drug trafficking than for drug use. Half of the trafficking cases result in the imposition of an alternative measure, but a third of these cases are referred to the judges for the initiation of criminal proceedings. Concerning the nature of the alternative measures used, these are more likely to be cautions than social/health measures, which are chiefly intended for "simple" drug users.

Table 11.7. Drug-related offences dealt with by the public prosecutor's offices of the Paris region in 2005.

	Drug use offences		Other drug law offences		Total	
Cases processed	11233	100%	10198	100%	21431	100%
Non valid cases	406	4%	552	5%	958	4%
Cases closed without proceedings	613	5%	555	5%	1168	5%
Alternative proceedings	8659	77%	5747	56%	14406	67%
Proceeded cases	1555	14%	3344	33%	4899	23%

Table 11.8. Alternative proceedings (alternatives to court action) issued for drug-related offences in 2005 by the public prosecutor's offices of the Paris region.

	Drug use offences		Other drug law offences		Total	
Cautions	6153	71%	4659	81%	10812	75%
Court-ordered treatment	1231	14%	144	3%	1375	10%
Referral orders	689	8%	324	6%	1013	7%
Penal agreements	333	4%	101	2%	434	3%
Other	253	3%	519	9%	772	5%
Total	8659	100%	5747	100%	14406	100%

Sentences for drug-related offences (other than drug use)

Sentences for use-selling and trafficking are chiefly divided between the possession/acquisition of narcotics (12,967 sentences), the trading, processing³⁶ and transportation of narcotics (7,079 sentences), and the trafficking of narcotics (importation-exportation), 1,961 sentences. Possession/acquisition chiefly results in the imposition of prison sentences (78.8%), of which 54.2% are firm or partially suspended, for an average period of 10.7 months, and by fines (9.9%). Minor trafficking (trading, transportation, and dealing in narcotics) and trafficking offences (importation/exportation) tends to receive heavier sentences. In the case of retail trafficking, 89.1% of the sentences issued are prison sentences, of which 59.1% are firm or partially suspended, for an average period of 15.1 months. Drug offences concerning trafficking (importation/exportation) are punished by prison sentences in 97.5% of cases, of which 79% are firm or partially suspended, for an average period of 26.6 months.

³⁶ Narcotics based processing refers to the use of narcotics in the making of other substances. This category was issued in the 1994 revision of the original law of 1970. Although considered as an official code in the Ministry of justice statistics, it does not appear as such in the police recordings.

Table 11.9. Sentences for drugs offences: main offence and type of sentence issued - 2006.

Sentence type	Including				Including						
	All sentences	All prison sentences.	Detention / imprisonment (firm or part. susp.)	Average length	Fines	Alternative penalties ^o	Comm. service	Day-fines	Educational measures	Dismissal of charges	Educational penalties
Offence types	Nb	Nb	Nb	Average length	Nb	Nb	Nb	Nb	Nb		Nb
Total drug offences	40,225	25,427	13,205	13.0	9,906	3,105	1,041	1,741	1,538	225	24
Use of narcotics	16,341	5,589	1,827	5.9	8,059	1,796	596	916	785	100	12
Possession/acquisition of narcotics	12,967	10,223	5,536	10.7	1,287	836	288	521	529	83	9
Drug trafficking (import/export)	1,961	1,911	1,509	26.6	21	25	6	19	3	1	0
Trading, processing, transport of narcotics	7,079	6,309	3,731	15.1	361	269	73	186	115	23	2
Proposition/transfer of narcotics	1,728	1,296	553	8.2	150	167	73	93	98	16	1
Assisting others in the use of narcotics	40	32	16	3.8	4	1	0	1	3	0	0
Other drug-related offences	109	67	33	30.7	24	11	5	5	5	2	0

Drug driving

Arrests:

In 2006, 20,902 drug tests were carried out by the police resulting in 6,552 drug-related misdemeanours being recorded.

Sentencing:

In 2006, 5,207 sentences were issued for driving after taking drugs. Offences for drug driving can be broken down into four types of offence:

- 4,021 offences for driving a vehicle under the influence of drugs
- 934 offences for driving a vehicle under the influence of both drugs and alcohol
- 201 offences for injury and manslaughter caused by drivers under the influence of drugs
- 51 offences for a refusal on the part of the driver having used narcotics to submit to analyses or tests, in cases involving injury or manslaughter.

These offences are chiefly punished by means of prison sentences (49%) and fines (34.5%).

A driver found to have used drugs can be sentenced to imprisonment (42.5% of the sentences issued in 2006, of which 9.7% were firm or partially suspended), a fine (34.5% in 2006) or an alternative penalty (community service or day-fine, etc.), which in 2006 accounted for 15.8% of the sentences issued. If the driver is found to have driven the vehicle under the influence of both drugs and alcohol, he faces a heavier sentence, chiefly involving imprisonment (68.8% of sentences in 2006, of which 11.2% were firm or partially suspended).

Bodily injury or manslaughter committed by a driver having taken drugs is punished by means of prison sentences (87.6%, of which 27.8% are firm or partially suspended).

The nature of the sentence is likely to be more serious according to the scale of the injuries committed, with the average length of imprisonment being 9 months in cases involving sentences for manslaughter caused by persons driving under the influence of drugs.

Table 11.10. Sentences in 2006 for drug-related driving offences (sentence based on the main offence).

Sentence type	<i>Including</i>				<i>Including</i>					
	All sentences	All prison sentences.	<i>Detention / imprisonment (firm or part. susp.)</i>		Fines	Alternative penalties ^o	Comm. service	<i>Day-fines</i>	Educational measures	Dismissal of charges
Offence types	Nb	Nb	<i>Nb</i>	<i>Average length</i>	Nb	Nb	<i>Nb</i>	<i>Nb</i>	Nb	Nb
All offences committed by drivers under the influence of drugs	5,207	2,556	306	4.2	1,795	823	105	191	16	17
Driving a vehicle under the influence of drugs	4,021	1,708	165	3.0	1,613	676	86	145	11	13
Driving a vehicle under the influence of drugs + alcohol	934	643	85	3.6	162	124	16	41	4	1
Bodily injury + manslaughter caused by drivers under the influence of drugs	201	176	49	9.0	11	11	2	3	1	2
Bodily injury + manslaughter caused by drivers under the influence of narcotics. <i>Refusal by the driver to submit to analyses or tests</i>	51	29	7	4.7	9	12	1	2	0	1