

Legal framework workbook

2021

France

Contributors

Caroline Protais, Margaux Blanchon (OFDT)

2021 National report (2020 data) to the EMCDDA by the French Reitox National Focal Point

Supervision: Julien Morel d’Arleux

Coordination and editorial: Marc-Antoine Douchet

Contribution to the workbooks

- 1. *Drug Policy*: Cristina Díaz-Gómez, Marc-Antoine Douchet
- 2. *Legal Framework*: Caroline Protais, Margaux Blanchon
- 3. *Drugs*: Olivier Le Nézet, Magali Martinez, Clément Gérôme, Michel Gandilhon, Eric Janssen
- 4. *Prevention*: Carine Mutatayi
- 5. *Treatment*: Christophe Palle, Anna Ndiaye, Clément Gérôme
- 6. *Best Practice*: Anna Ndiaye, Carine Mutatayi
- 7. *Harms and Harm Reduction*: Anna Ndiaye, Christophe Palle, Magali Martinez
- 8. *Drug Market and Crime*: Michel Gandilhon, Magali Martinez, Caroline Protais, Victor Detrez
- 9. *Prison*: Caroline Protais, Anna Ndiaye, Julien Morel d’Arleux
- 10. *Research*: Maitena Milhet, Isabelle Michot

Proofreading (French version): Julien Morel d’Arleux, Nicolas Prisse, president of the Interministerial Mission for Combating Drugs and Addictive Behaviours, and the project managers of the MILDECA.

Proofreading (English version): Anne de l’Eprevier

Bibliographic references: Isabelle Michot

Legal references: Margaux Blanchon, Anne de l’Eprevier

Table of contents

T0. Summary 3

T1. National profile 4

T1.1. Legal framework 4

T1.2. Implementation of the law 7

T2. Trends 8

T3. New developments 10

T4. Additional information 12

T5. Sources and methodology 12

The text **highlighted in blue** is new compared to the 2020 WB.
This file is intended solely for EMCDDA staff experts.
Please do not disseminate this working version.

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). 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 or treatment order, which is a care measure involving monitoring by a relay practitioner.

Instead of taking the case to court, the prosecutor can implement alternative measures to prosecution, as provided for in Article 41-1 of the French Criminal Code, including a reminder of the law, referral to a health or social structure, a course to raise awareness on the dangers of drug and alcohol use or a court-ordered treatment. If the measure is accepted and carried out by the respondent, the prosecutor does not prosecute. The drug awareness course measure is aimed particularly at occasional drug users who do not appear to have any health or social integration problems.

Since the 2018-2022 Programming Act for Justice of 23 March 2019, a criminal fixed fine of 200 euros, can be issued by the police without recourse to a magistrate, to people arrested for drug-related offence. The implementation of this new procedure started in June 2020. It applies to cannabis, cocaine and MDMA.

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 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). However, the fibres and seeds of certain hemp varieties with a THC content of less than 0.2% can be used for industrial and commercial purposes. Hemp may also be authorised if it is incorporated into a pharmaceutical product with a marketing authorisation (art. R.5132-86 III CSP). In addition, the experimentation of cannabis for therapeutic use started on 26 March 2021. It includes 3 000 patients, for 2 years 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 regime applicable to acts of drug use and trafficking was established by [Law no 70-1320 of 31 December 1970 on health measures to fight drug addiction and combat the trafficking and use of poisonous substances](#). The provisions of this law were codified in the French Public Health Code by the Order of 22 June 2000.

Illegal use of drugs is an offence punishable by one year's imprisonment and a fine of 3 750 euros (Article L.3421-1 of the French Public Health Code - CSP). These penalties, which are applicable maximums, are incurred whether the consumption is occasional or habitual, in public or in the private sphere. 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.

Other penalties may be imposed by the Court as an alternative to or in addition to prison sentences and fines:

- The treatment order sentence, which is a court-ordered care measure provided for in Article L.3423-1 of the French Public Health Code;
- The penalty of a drug awareness course, introduced in 2007 and provided for since the [Law no 2019-222 of 23 March 2019 on Programming Act for Justice 2018-2022](#) by Article 131-5-1 of the French Penal Code. This measure is particularly aimed at occasional drug users who do not appear to have any health or social integration problems. The course is available to all individuals over the age of 13. The duration of an awareness course is limited to one month. Unless the court decides otherwise, it is stipulated that the course, the cost of which may not exceed that of 3rd class fines (i.e. 450 euros), is to be paid by the convicted person. It must be carried out within six months of the date on which the sentence becomes final.
- Community service order, in accordance with the terms of Article 131-8 of the French Penal Code and the conditions laid down in Articles 131-22 to 131-24 of the same Code;
- various penalties restricting rights, listed in Article 131-6 of the French Penal Code, such as suspension or cancellation of a driving licence, confiscation of a vehicle, a ban, for a period of up to three years, from appearing in certain places where the offence was committed or from associating with the perpetrators or accomplices of the offence, a ban, for a period of up to five years, from practising a commercial or industrial profession, from managing a commercial or industrial enterprise or a commercial company.

The sentence can be imposed under a simplified procedure that does not require the person to appear in court, the '*ordonnance pénale*' (criminal order). Only fines and awareness courses can be imposed in this context.

The law also allows the Public Prosecutor to order alternative measures to prosecution, which allow prosecution to be avoided if these measures are accepted and carried out. The measures, provided for in Articles 41-1 and 41-2 of the French Code of Criminal Procedure, are, in the case of drug use, mainly the following:

- a reminder of the law by a judicial police officer or by a delegate of the public prosecutor;
- referral to a healthcare, social or professional organisation: this may involve completing an internship or training course at a healthcare, social or professional organisation, in particular, a course to raise awareness on the dangers of drug and alcohol use carried out at the user's expense;
- court-ordered treatment measure;
- the fixed penalty notice which must be validated by a judge. In addition to the measures mentioned above, the fixed penalty notice makes it possible to order the voluntary payment of a fine or unpaid work for a community for a maximum of 60 hours.

In 2012, a directive sets out new criminal policy guidelines for drug offences. While emphasising the need to systematise the criminal response and reinforce the effectiveness of judicial measures the circular on improving the judicial treatment of drug use ([Circular CRIM 2012-6/G4 of 16 February 2012 on improving the judicial treatment of drug use](#)), invites the judicial authorities to impose, for a user who is not dependent on drugs, the measure of drug awareness course following their first use of drugs or a fine within the framework of the criminal order procedure and, for users with a drug dependence, a treatment order. With regard to minors, the response by the legal authorities should remain predominantly educational and health-based.

Since the [Law no. 2019-222 of 23 March 2019 on Programming Act for Justice 2018-2022](#) came into force on 24 May 2019 ([Decree no. 2019-507 of 24 May 2019](#)), the criminal fixed fine procedure is applicable to drug use offences. A fine of 200 euros, reduced or increased according to the time taken to pay (from 150 to 450 euros), is issued by a police officer or gendarme, without recourse to a judge, who only intervenes in the event of a dispute by the person concerned. This payment puts an end to the legal proceedings. The fixed fine is reserved for situations in which consumption does not appear to require referral to a healthcare facility. Criminal policy instructions issued by the Public Prosecutor, specifying the nature and quantities of products that may be affected by the procedure, provide a framework for the action of law enforcement officers.

Drug trafficking offences, as provided for and punished by Articles 222-34 et seq. of the French Criminal Code, are punishable by high penalties on the French sentencing scale:

- the illicit transport, possession, supply, transfer, acquisition or use of drugs (trafficking) is punishable by 10 years' imprisonment and a fine of 7 500 000 euros.
- the illicit production and/or manufacture of drugs are crimes, punishable by 20 years' imprisonment and a fine of 7 500 000 euros, which may be increased to 30 years if committed by an organised gang.
- the illicit export and/or import of drugs is punishable by a maximum of 10 years' imprisonment and a fine of 7 500 000 euros, which may be increased to 30 years if committed by an organised gang.
- directing a criminal group with the aim of illicitly producing, manufacturing, importing, exporting, transporting, possessing, offering, transferring, acquiring or using drugs is punishable by life imprisonment and a fine of 7.5 million euros.
- the illicit transfer or offer of drugs to a person for personal consumption may be punishable by 5 years' imprisonment and a fine of 75 000 euros, with the prison sentence being increased to 10 years when the drugs are, in particular, offered or sold to minors

These offences also lead to the confiscation of all or part of the offender's property or property at his freewill, even if it has not been bought from the proceeds generated by drug trafficking.

Furthermore, the laundering of money from drug trafficking (Article 222-38 of the French Criminal Code) is punishable by 10 years' imprisonment and a fine of 7 500 000 euros. The maximum sentence is increased to 20 years for laundering of drug production/manufacture and 30 years for importing or producing drugs in an organised gang.

Finally, Article L.321-6 of the French Penal Code makes it an offence not to be able to justify resources corresponding to one's lifestyle, or not to be able to justify the origin of property held, while being in habitual relationships with one or more persons engaged in the commission of crimes or offences, in particular relating to drug trafficking, and providing the latter with a direct or indirect profit. The penalty is 3 years' imprisonment and a fine of 75 000 euros.

All these penalties, which are not exhaustive, may be accompanied by various measures involving deprivation or restriction of liberty, professional bans, residence bans or inadmissibility for foreigners.

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). Certain plant varieties, listed restrictively and with a THC content of less than 0.2%, ([amended order of 22 August 1990 implementing article R.5181 for cannabis](#)) may however be used for industrial and commercial purposes, provided that the operations concern only the seeds and fibres of the plant (the use of the resin, flowers and leaves of the plant being prohibited) [Decision C-663/18 "KANAVAPE" of 19 November 2020](#) of the Court of Justice of the European Union (CJEU) (see T3.1).

Cannabidiol may be authorised if it is incorporated in a pharmaceutical product with a marketing authorisation (Art. R.5132-86 III of the 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). Outside this framework, it cannot be presented as having therapeutic virtues (only medicines can) (see T.3.1 of the Policy workbook).

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?

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, drug law offence (DLO) convictions for main offences (single or multiple) represented 12% of all criminal record convictions, i.e. around 67 000 (Obradovic *et al.* 2021). 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 in 2019 amounted to 7 766.**

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). Finally, this law extends the '*ordonnances pénales*' (simplified sentencing for lesser offences where the defendant is not obliged to be present) to drug use offences.

[Law no. 2019-222 of 23 March 2019 on Programming Act for Justice 2018-2022](#) introduces various measures impacting the criminal response to drug law offences. In addition to the creation of the fixed fine, it extends the possibility of using the '*ordonnances pénales*' (criminal orders) to the supply and transfer of drugs for personal use, while repealing the '*contrainte pénale*' (criminal constraint) and the '*transaction pénale*' (penal transaction).

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).

Most of the drug law offence proceedings concern the use of drugs, which therefore constitute a mass case. Over the past 20 years, the number of arrests for simple use has more than doubled from about 77 000 to almost 131 400 in 2020. However, the trend in user arrests is on the decline (-4% per year on average between 2014 and 2020). This decline can be linked to the official abandonment of the 'policy of numbers', for a few years (from 2013), which had previously led to optimising the search for offences revealed by the services in order to meet performance targets at the police stations (Obradovic *et al.* 2021). 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. Among these alternatives to prosecution, there has been a decline in measures with a health dimension since 2010: treatment orders are now at their lowest level (5% of cases dismissed after alternatives to prosecution in 2012, compared with 1.5% in 2020). Similarly, social and healthcare referrals, which had experienced a significant increase from 2004 onwards, have fallen back in the recent period (18.5% in 2012 against 15% in 2020). Conversely, there has been a significant increase in drug awareness courses (over 10 000 in 2018). The increase in this type of measure, coupled with the decrease in alternatives to prosecution with a health dimension, seems to indicate a new trend in the criminal response to drug use, gradually abandoning the dichotomous logic of treatment or punishment, in favour of hybrid measures, combining penalties and educational aims, sometimes with an opening onto treatment, more in line with an ideal of making users responsible (Obradovic *et al.* 2021).

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). Among these convictions, custodial sentences are declining, while fines are increasing. Fines accounted for 72% of drug convictions in 2018, compared to 41% ten years earlier (2008). This increase in convictions, and more specifically in fines, can be explained by the transformation of the procedural channels for dealing with drug use since [Law no. 2007-293 of 5 March 2007 reforming child protection](#). This law opens up the possibility of resorting to a criminal order for simple users; however, the criminal order most often includes a fine. In contrast, in 2000, 14.5% of convictions included a firm or partially suspended prison sentence, compared with 6.5% in 2018 (Obradovic *et al.* 2021).

Fixed penalty notices have increased very rapidly (from 23 measures in 2004 to 8 493 in 2018). Initially mostly in the form of fines, they seem to have been refocused in recent years on measures which are more targeted towards rehabilitation and community service.

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 year 2020-21 was characterised by the entry into force throughout France of the criminal fixed fine (see T.3.1 of the National Policy and Strategy workbook). The figures provided by the French National Agency for Automated Offence Processing (ANTAI), allow us to draw up an initial assessment of its implementation in the jurisdictions of the five experimental courts (Rennes, Reims, Créteil, Lille and Marseille). It reports that 647 drug offences were detected in two and a half months (16th June 2020 to 31st August 2020 inclusive), of which 566 (87%) had resulted in the notification of a fixed penalty fine (AFD) by 1st February 2021. Since the introduction of the AFD, almost 27 300 fines have been issued in four months (from 1st September to 31st December 2020), i.e. more than 220 fines per day, with a sharp increase in the first month. Most of them were recorded in urban areas (72% by the police and 28% by the gendarmerie). Most of the fines relate to the use of cannabis (almost 98%), far ahead of cocaine (less than 2%), with other products accounting for virtually no share. The implementation of the AFD reveals significant territorial variations.

The year 2020-21 was also characterised by several legislative and regulatory changes:

- **The launch of the therapeutic cannabis experiment**

Law [no 2019-1446 of 24 December 2019 on the financing of social security for 2020](#), enacted on 24th December 2019, provided for the experimentation of the use of therapeutic cannabis for a period of two years. Decree [no. 2020-1230 of 7 October 2020 on the experimentation of the medical use of cannabis](#) completes the law by authorising experimentation in a controlled and limited context with patients suffering from serious illnesses. It was shortly followed by the [Order of 16 October 2020](#) which stipulates the specifications of the medicinal products used, the conditions of their availability as well as the therapeutic indications or clinical situations in which they may be used.

After being postponed due to the COVID-19 epidemic, the experiment finally started on 26 March 2021. It included 3 000 patients suffering from neuropathic pain, refractory to therapy (drug or non-drug); certain forms of drug-resistant epilepsy; certain rebellious symptoms in oncology related to cancer or anticancer treatment; palliative situations (end of life); painful spasticity (exaggerated reflex muscle contraction) in multiple sclerosis or other central nervous system pathologies. Patients will be included in an electronic register, allowing the feasibility of the circuit and its acceptability to be assessed (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.

In concrete terms, a patient will be able to go to one of the 215 medical facilities provided for this purpose in France. The patient may be prescribed medication in the form of oil to be taken orally and dried flowers to be sprayed and inhaled. As the production of cannabis is prohibited in France, the authorities rely on foreign producers to supply and distribute the product in a secure environment. Regulatory work is under way to allow its cultivation in France.

- **On the issue of CBD**

Article R. 5132-86 I-1 of the French Public Health Code (CSP) states that “*the production, manufacture and transport [...] of cannabis, its plant and resin, products containing them or those obtained from cannabis, its plant or resin, are prohibited*”. By the [Decision C-663/18 "KANAVAPE" of 19 November 2020](#) the Court of Justice of the European Union (CJEU) ruled that the ban on the marketing of cannabidiol (CBD) in France was illegal. The CJEU considers that CBD extracted from flowers cannot be considered a narcotic, as it contains a very low level of THC (0.2%): “*CBD does not appear to have any psychotropic effects or any harmful effect on human health on the basis of the available scientific data*”. In addition, the Court of Cassation issued a [decision of 23 June 2021](#) of general application in accordance with the KANAVAPE case law of the CJEU and based on the principle of free movement of goods within the European Union. However, it specifies that it does not settle the substantive question of “*whether or not France can validly rely on the objective of protecting public health to prohibit the possession and marketing of CBD on its territory*”. The French government is expected to finalise new regulations in the summer of 2021 to take account of the CJEU decision.

- **On the issue of nitrous oxide**

The [Law no. 2021-695 of 1st June 2021 to prevent the dangerous use of nitrous oxide](#) has been passed (see T.3.1 of the 2021 National Policy and Strategy Workbook). It supplements the French Public Health Code with the following provisions: the act of inducing a minor to misuse a product of everyday consumption to obtain psychoactive effects is punishable by a fine of € 15,000 (art. L. 3611-1); it prohibits the sale or offer to a minor of nitrous oxide, whatever its packaging (art. L. 3611-3) (the trader must specify the prohibition on sale to minors in a conspicuous manner); it prohibits the sale or offer of nitrous oxide, including to an adult, in pubs and tobacco shops; it also prohibits the sale and distribution of any product specifically intended to facilitate the extraction of nitrous oxide in order to obtain psychoactive effects, and the law now requires that a notice indicating the dangerousness of the misuse of nitrous oxide be affixed to each packaging unit of products containing this gas (Art. L. 3621-1). Violation of the above prohibitions is punishable by a fine of € 3 750.

- **Some NPS newly classified as narcotics**

The [legislative order of 18 May 2021](#) adds the following substances: Isotonitazene or N, N-diethyl-2-[[4-(1-methylethoxy)phenyl]methyl]-5-nitro-1H-benzimidazol-1-éthanamine.

The [legislative order of 20 May 2021](#) adds the following substances: 1B-LSD ; 1P-ETH-LAD ; 1P-LSD ; ALD-52 ; AL-LAD ou ALLY-LAD ; ECPLA ; EIPLA ; ETH-LAD ; LAH ou LSH ; LAMPA ; LSA ; LSB ; LSM-775 ; LSZ ; MIPLA ; OML-632 ; PARGY-LAD ; PRO-LAD.

- **Regulation of the supply of certain medicines classified as narcotics**

[Order of 6 July 2020](#) applying part of the narcotics regulations to buprenorphine-based medicines administered by injection.

[Order of 12 February 2021](#) applying part of the narcotics regulations to pregabalin-based medicines and setting their prescription period (see T.1.1.2 of the HHR workbook).

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.

Obradovic, I., Protais, C. and Le Nézet, O. (2021). Cinquante ans de réponse pénale à l'usage de stupéfiants (1970-2020). *Tendances*. OFDT (144). Available: <https://www.ofdt.fr/BDD/publications/docs/eftxio2b4.pdf> [accessed 21/07/2021].

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