

Legal framework workbook

2022

France

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Table of Contents

T0. Summary	3
T1. National profile	3
T1.1. Legal framework	4
T1.2. Implementation of the law	7
T2. Trends	8
T3. New developments	10
T4. Additional information	14
T5. Sources and methodology	14

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 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 since codified in the French Public Health Code (CSP in French).

The penalties incurred by the perpetrators of drug-related offences depend on the severity of the offences committed (see T1.1.1), thus the illicit use of drugs (Art. L.3421-1 of the Public Health Code) is less severely punished than drug trafficking (Art. 222-34 et seq. of the Penal Code) or related offences (money laundering, failure to provide proof of resources corresponding to one's lifestyle, etc.), because the perpetrator is considered by the law to be a delinquent as well as a patient. The criminalisation of drug use is reflected in a wide range of responses: some suspend or cancel prosecution but are still sanctions, such as alternatives to prosecution or fixed penalty notices; others result in legal proceedings, which may lead to a fine or other types of sentence (or even, sometimes, imprisonment).

Although French law makes no distinction between products as some countries do, it distinguishes between the illicit sale and supply of narcotics to a person in light of their personal use and other situations. Repeat offences are more severely sanctioned (see T1.1.2).

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 (See T1.1.3).

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, narcotics-related offences are classed as crimes or offences according to their severity and the penalties incurred:

- **The illicit use of narcotics**

The illicit use of any substance or plant classed as a narcotic is an offence that will result in penalties that may go up to one year in prison and a fine of €3 750 (Art. L.3421-1 of the Public Health Code).

By virtue of the principle of opportunity applicable in French law, the facts must be considered on a case-by-case basis in order to adopt a penal response adapted to the local specificities and to each individual situation, taking into particular consideration the nature of the product used, its quantity, and the personality and criminal record of the individual.

The range of penal responses includes 3 types: the fixed fine which is issued directly by the security forces, alternatives to prosecution which are decided by the public prosecutor and legal proceedings which lead to the decision of a judge.

1/ Criminal fixed fine (AFD)

Created by [Law 2019-222 of 23 March 2019](#) establishing the 2018-2022 justice programme, the criminal fixed fine has been added to the system of criminal responses to illegal drug use since 1 September 2020. This fine is set at an amount of €200 (reduced to €150 and increased to €450 depending on the time taken to pay). It is issued by the police, without recourse to a magistrate, to people caught using a narcotic or being in possession of small quantities. This payment puts an end to legal proceedings but is considered a criminal conviction and is recorded as such in the criminal record. Article L.3421-1 of the Public Health Code provides that any illegal use of drugs may be subject to a fixed fine. In practice, it is reserved for situations in which the use does not appear to require the referral of the user to a health 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.

2/ Alternatives to prosecution

For all offences, including narcotics use, the law provides for alternatives to prosecution: the public prosecutor, instead of referring the case to court, offers one or more alternatives to the individual. If the individual accepts the alternative measure(s) and carries it/them) out, the public prosecutor closes the case with no further action. However, non-compliance, even partial, with these alternatives may result in a summons to appear before the court with a view to a ruling.

Alternatives may or may not be recorded in the criminal record.

Measures not recorded in the criminal record are provided for in Article 41-1 of the Criminal Procedure Code. As far as narcotics use is concerned, they mainly consist of 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: in this context the person is invited to contact a treatment structure; he/she may also be required to complete 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 his/her expense;
- a court-ordered treatment measure.

The measures recorded in the criminal record are fixed penalty notice measures described in Article 41-2 of the Criminal Procedure Code. A fixed penalty notice measure, proposed by the public prosecutor, must be accepted by the individual and approved by a judge. In this context, a fixed penalty fine may be ordered, unpaid community service for a maximum of 60 hours, court-ordered treatment, a drug awareness course at the user's expense.

3/ Proceedings and court trials

If alternatives to prosecution fail or if there is a justification due to the personality of the defendant, the public prosecutor may decide to prosecute. These proceedings can take several procedural forms, which result in a conviction if the defendant is found guilty. The most common procedural routes used for drug offences are:

- A penal order, a simplified procedure allowing the individual to be judged without appearing before the court. The individual can only be sentenced to a fine and/or an additional penalty. No prison sentence can be pronounced in this context;
- A guilty plea: this allows the prosecutor to propose one or more sentences to an individual who recognises the facts of which they are accused. A guilty plea involves a public hearing during which the sentence proposed by the prosecutor and accepted by the individual must be approved by the presiding judge;

Judgement before a criminal court. Once proceedings have been initiated, the judge or court may impose a prison sentence of up to one year and/or a fine of up to €3 750. These sentences may be suspended, and in the case of imprisonment, a probationary suspension with a number of obligations (e.g. compulsory drug treatment or court-ordered treatment).

The judge or the court may also impose alternatives to imprisonment, such as court-ordered treatment, a drug awareness course, community service, suspension of driving licence, a ban on carrying out certain activities.

- **Driving under the influence of drugs**

Driving under the influence of drugs is an offence punishable by 2 years imprisonment and a fine of €4 500 (Art. L235-1 et seq. of the French Traffic Code). It is accompanied by an automatic loss of 6 points of the driving license.

This offence is accompanied by additional penalties which may also be imposed on the driver at fault (suspension or cancellation of the driving licence, day-fine, community service, road safety and/or drug awareness course, etc.).

In the event of an accident, the fact of having used drugs constitutes an aggravating circumstance. The penalties for accidents and associated damage resulting in total inability to work of up to three months are increased to three years' imprisonment and a fine of €45 000 (Article 222-20-1 of the Penal Code).

- **Drug trafficking** (Art. 222-34 et seq. of the French Penal Code)

Drug trafficking covers several offences which are punished differently:

- directing a criminal group with the aim of illicitly producing, manufacturing, importing, exporting, transporting, possessing, offering, transferring, acquiring or using drugs is

a crime punishable by life imprisonment and a fine of 7.5 million euros (article 222-34 of the Penal Code);

- the illicit production and/or manufacture of drugs are also crimes, punishable by 20 years' imprisonment and a fine of 7 500 000 euros, which may be increased to 30 years of imprisonment if committed by an organised gang (article 222-35 of the Penal Code);
- 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 (article 222-36 of the Penal Code);
- the illicit transport, possession, supply, transfer, acquisition or use of drugs (trafficking) are offences punishable by 10 years' imprisonment and a fine of 7 500 000 euros (article 222-37 of the Penal Code);
- Equivalent penalties are provided for in the event that drugs are issued through fictional prescriptions or convenience, or in order to facilitate, by any means whatsoever, illicit drug use (Art. 222-38 of the Penal Code);
- the illicit transfer or offer of drugs to a person for personal consumption is an offence 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 (article 222-39 of the Penal Code). In practice, according to the principle of opportunity, prosecutors and courts take into account the quantity detained and the circumstances of the offence in order to qualify the facts as criminal.

These offences may 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.

A specific investigation regime for drug trafficking cases (Art. 706-80 to 706-106 of the Criminal Procedure Code) is also provided for: extension of police custody to 96 hours with the magistrate's authorisation, night-time searches, sound recordings, controlled deliveries.

- **Other offences related to drug trafficking**

Drug trafficking acts also constitute the customs offence of smuggling, importing or exporting drugs without declaration which, under Article 414 of the Customs Code, is punishable by:

- A prison sentence of a maximum of 10 years;
- The confiscation of the object of fraud, the means of transport and the objects used to conceal the fraud;
- The confiscation of property and assets which are the direct or indirect product of the offence;
- A Customs fine of up to 10 times the value of the fraudulent goods.

Furthermore, the laundering of money from drug trafficking (Article 222-38 of the Penal 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 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.

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

According to Articles 132-9 and 132-10 of the Penal Code, sentences may be doubled in the event of a subsequent offence, 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.

T1.2.1. 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 2020, according to the Ministry of Justice, drug law offence (DLO) convictions for main offences (single or multiple) represented 11.5% of all criminal record convictions, i.e. around 54 000. They decreased in relation to 2019 (66 900) due to the COVID-19 public health crisis, as the different lockdowns led to a general decrease in the activity of legal services. These offences can be broken down as follows: illegal use (54%), possession-acquisition (42%), supply and sale (3%), trade-transport (1%), import-export (32 cases), helping others to use (27 cases) and other DLOs (236 cases). In the majority of possession-acquisition offences (this qualification being retained in case of drug trafficking), offenders were sentenced to prison (85%), while using offences were mainly sanctioned by fines (77%). The

number of fixed penalty notices for offences against the legislation on poisonous substances, narcotics and doping products (Art. 41-2 of the Criminal Procedure Code), which were accepted and executed in 2021 reached 65 501. This is an alternative procedure to prosecution.

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](#)]. Only a few legislative changes have occurred since (see below). Beyond the modifications of the law, the orientations of the penal policy for combating drug use and traffic have been regularly redefined and have led to a quasi-systematization of the 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 trafficking offences 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 (article 131-5-1 of the Penal Code), mandatory and paying (€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.
- It also broadens the scope of application of the court-ordered treatment measure provided for in Articles L. 3413-1 to L. 3413-4 of the Public Health Code: previously an alternative measure to prosecution, court-ordered treatment can now be ordered at all stages of criminal proceedings as a means of enforcing a sentence. 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.
- This law also makes it possible to use the penal order, a simplified procedure allowing the person to be judged without appearing before the court, for the offence of drug use.

In addition, the [Law of 5 March 2007](#) makes being under the influence of drugs an aggravating circumstance for the crime of rape (Art. 222-23 of the Penal Code) and several offences: violence (Art. 222-11 and 222-13 of the Penal Code), sexual assaults other than rape (Art. 222-27 and 222-29 of the Penal Code), sexual offences against a minor of fifteen years of age or under (Art. 222-5 of the Penal Code).

[Law no. 2019-222 of 23 March 2019](#) programming and reforming the 2018-2022 justice programme introduces various measures to improve the effectiveness of the criminal response to drug offences. In addition to the creation of the criminal fixed fine (see T.1.1.1), it extends the possibility of using the penal orders for offences involving the supply and transfer of drugs for personal use, while repealing the probation order and the penal transaction, which were very rarely used. These measures are alternatives to prison that simplify and speed up the criminal response.

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 190 000 in 2021 in metropolitan France. After a decrease between 2014 and 2020, they rose again in 2021, partly due to the entry into effect of the criminal fixed fine procedure (see T.3.1), representing almost 103 000 suspects implicated by the police and gendarmerie in 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). Although rare at the end of the 1990s, in 2021, case dismissals after alternative measures accounted for nearly 18% of measures pronounced against drug users. However, there was a significant drop from 2019 (when they represented 44% of the decisions handed down by the public prosecutor's office) and the adoption of the criminal fixed fine. The entry into effect of the latter measure has had the greatest impact on drug warnings, falling from 41 026 in 2019 to 15 470 in 2021, i.e. a division by more than two and a half. Among these alternatives to prosecution, the decline in court-ordered treatment initiated in the 2010s continued: 2 530 in 2012, compared with 840 in 2021. Similarly, social and healthcare referrals, which had experienced a significant increase from 2004 onwards, have fallen back in the recent period (9 721 in 2012 against 4 222 in 2021). Conversely, there has been a significant increase in drug awareness courses (over 10 000 in 2018).

Litigation relating to driving under the influence of drugs offences accounts for only about 24% of road traffic offences, but its volume more than doubled between 2013 (18 827) and 2020 (43 546).

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 more than nine-fold between 2000 and 2020 (more than 35 000 convictions for a drug use offence). However, these convictions fell in 2020 to more than 29 000 due to the COVID-19 public health crisis, which led to a consequent drop in legal activity, particularly during periods of lockdown. Among these convictions, custodial sentences declined, while fines increased. Fines accounted for 72% of drug convictions in 2019, compared to 41% ten years previously (2008). This increase in convictions, and more specifically in fines, can be explained by the transformation of the procedural routes for dealing with drug use since [Law No. 2007-297 of 5 March 2007](#) on the prevention of criminality, which opens up the possibility of using the penal order for ordinary users; the penal order most often includes a fine. This increase in fines was reinforced in 2020, when they accounted for more than 77% of convictions. The COVID-19 public health crisis gave rise in France to a policy of restricting custodial sentences, particularly for less serious offences. In contrast, in 2000, almost 43% of convictions included a firm or partially suspended prison sentence, compared with 13.5% in 2019 and 8.5% in 2020 (Obradovic *et al.* 2021).

Fixed penalty notices accepted and enforced for offences against the legislation on poisonous substances, narcotics and doping products have seen a very rapid increase (going from 23 measures in 2004 to almost 6 000 in 2021). 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.

Since the introduction of the criminal fixed fine procedure in September 2020, the Ministry of Justice's statistical service has recorded 28 000 defendants who were subject to a criminal fixed fine in the first four months of its implementation. During 2021, this figure rose to almost 103 000, showing the significant growth of this measure. According to a recent report published by the statistical services of the Ministry of the Interior in March 2022 (Fumat *et al.* 2022), the introduction of the criminal fixed fine has led to a sharp increase in the number of suspects for the sole use of drugs (+39%), which is accompanied by a sharp fall in the proportion (-50%) and volume (-5 700) of suspects who were minors in 2021, but also women. However, these trends were very different from one department to another: Bouches du Rhône, Seine Saint Denis and Rhône were the departments where the rate of suspects who were subject to a criminal fixed fine was the highest; conversely, Meuse, Vendée and Finistère, where it was the lowest. 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 year 2020-21 was also characterised by several legislative and regulatory changes:

- **On the issue of therapeutic cannabis**

The launch of the therapeutic cannabis trial

The therapeutic use of cannabis by [Law No. 2019-1446 of 24 December 2019 on the social security financing scheme for 2020](#) and the framework of which has been specified by the [decree No. 2020-1230 of 7 October 2020](#) and by the [order of 16 October 2020](#) began on 26

March 2021. Planned for a two-year duration, it includes 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 are 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 collects data such as dosage distributed, efficacy, adverse effects and impact on quality of life.

In concrete terms, a patient can go to one of the 215 medical facilities in the country to be prescribed cannabis-based medicines, such as oils in oral pipettes or inhalants. As the production of cannabis is still 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.

Regulation of the therapeutic cannabis sector

Through [decree no. 2022-194 of 17 February 2022](#) on cannabis for medical use, the government specifies the conditions and modalities for the cultivation and production of cannabis for medical use, in order to allow the creation of a chain from cultivation to cannabis-based medicinal products for medical use in France. In this sense, it modifies the provisions of Article R. 5132-86 of the Public Health Code which now authorises the cultivation, production and marketing in France of medicinal products containing cannabis or tetrahydrocannabinols (THC) under technical conditions to be specified later by interministerial order. This authorisation concerns cannabis- or THC-based medicinal products with a marketing authorisation (MA), medicinal products authorised in the context of early access (Art. L. 5121-12-1 of the Public Health Code) or compassionate access (Art.

L. 5121-12-1 of the Public Health Code), medicinal products imported in order to deal with, or to protect against, a stock shortage (Art. L. 5124-13 of the Public Health Code) and homeopathic medicinal products based on cannabis or THC (art. L. 5121-13 of the Public Health Code).

- **On the issue of marketing CBD**

On 29 November 2020, in [Judgment C-663/18](#) also known as "KANAVAPE", the Court of Justice of the European Union (CJEU) ruled that France's ban on the marketing of cannabidiol from the whole hemp plant (CBD) is unlawful, finding that CBD extracted from the flowers cannot be considered a narcotic, since it "*does not appear to have any psychotropic effect or any harmful effect on human health on the basis of available scientific data*". The Court of Cassation followed the CJEU's jurisprudence in a [judgment of 23 June 2021](#).

As a result of these decisions, French regulations have been amended to allow, under the law on narcotics, the use of the whole hemp plant to extract CBD or other non-narcotic molecules. Since the [order of 30 December 2021](#), hemp extracts are no longer subject to the Narcotics Law, provided that they have been produced from authorised plant varieties and in accordance with the rules laid down in the order and that their THC content is less than 0.3%. However, the order specifies that flowers and leaves of the authorised varieties may only be harvested, imported or used for the industrial production of hemp extracts and that the sale to users of raw flowers or leaves in any form, alone or mixed with other ingredients, their possession by users and their use remain prohibited. The provision of the order prohibiting the marketing and use of raw flowers and leaves is currently suspended following an appeal on grounds of *ultra vires* before the Council of State [dated 24 January 2022](#).

Finally, a temporary commission of the Economic, Social and Environmental Council (CESE) was set up in the first quarter of 2022 to draw up an inventory of public policies on cannabis. It will include the different types of use (therapeutic, recreational, well-being, useful hemp) and will address the entire product cycle: production (including personal use), processing, transport, distribution, consumption in order to understand all the fields of the economic sector.

- **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 Drug policy 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 or LSH ; LAMPA ; LSA ; LSB ; LSM-775 ; LSZ ; MIPLA ; OML-632 ; PARGY-LAD ; PRO-LAD.
- The [decision of the ANSM](#) of 9 December 2021 makes a modification to the list of substances classed as narcotics by adding the following substances: MDMB-4en-PINACA ; 4F-MDMB-BICA.

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

[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 [2021 HHR workbook](#)).

- **On the issue of the lack of criminal responsibility on the grounds of mental disorder in relation to psychoactive substance use**

[Law No. 2022-52 of 24 January 2022](#) on criminal responsibility and [implementation decree no. 2022-657 of 25 April 2022](#) has reformed the regime of the lack of criminal responsibility on the grounds of mental disorder in relation to psychoactive substance use. It is now provided that the lack of criminal responsibility for the abolition of discernment or control of actions no longer benefits a person whose temporary abolition of discernment or control of actions results from the use, in the time close to the action, of psychoactive substances with the aim of committing the offence or facilitating it being committed. In the same vein, the law provides that the reduction in sentence provided for in the second paragraph of Article 122-1 of the Penal Code is no longer applicable "in the event of temporary impairment of the person's discernment or control of his or her actions at the time of the commission of a crime or an offence when this impairment results from the voluntary, unlawful or manifestly excessive use of psychoactive substances" Three new specific offences have also been created: punishing the voluntary use of psychoactive substances (such as drugs or alcohol) in an illicit or manifestly excessive manner by an individual who was aware that this use was likely to lead them to deliberately endanger others, when this use caused an abolition of discernment during which the person committed voluntary homicide (Art. 221-5-6 of the Penal Code), torture, acts of barbarism and violence (Art. 222-18-4 of the Penal Code) or rape (Art. 222-26-2 of the Penal Code). The maximum penalties for the first of the three offences are up to 15 years imprisonment and a fine of €150 000.

This reform follows the highly publicised case in France of the murder of Sarah Halimi, a member of the Jewish faith, killed by a man in a delirious state caused by cannabis use and judged not criminally responsible for his actions under the application of Article 122-1 paragraph 1 of the Penal Code. This article stated, in its wording prior to the law of 24 January 2022, that a person is not responsible when their discernment or control over their actions was abolished at the time of the events.

In April 2021, in view of the uproar caused by this case and its judicial treatment, a parliamentary mission led by Philippe Houillon and Dominique Raimbourg recommended keeping Article 122-1 of the Penal Code as it stands, concluding that "the abolition of discernment at the time of the act is exclusive of intention within the meaning of criminal law". The mission considered that this principle could not be compromised without calling into question our penal system. The Minister of Justice was nevertheless given the task of reforming the law, resulting in the law of 24 January 2022.

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)

Fumat, V., Gerbeaux, A. and Poulhes, M. (2022). Amendes forfaitaires délictuelles pour usage de stupéfiants : premiers éléments d'évaluation. Document de travail SSMSI. Ministère de l'Intérieur, Paris. Available: <https://www.interieur.gouv.fr/Interstats/Actualites/Document-de-travail-n-2-Amendes-forfaitaires-delictuelles-pour-usage-de-stupefiants-premiers-elements-d-evaluation> [accessed 22/07/2022].

Martinez, M. (2013). Contrôler les NPS : du classement comme stupéfiant à l'utilisation d'autres réglementations. Actal (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 21/07/2022].

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