

NATIONAL DRUG POLICY: FRANCE

**PREPARED FOR THE SPECIAL SENATE COMMITTEE
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NATIONAL DRUG POLICY: FRANCE

INTRODUCTION

This paper provides a brief introduction to the national drug policy in France. It presents:

- a review of the Government's triennial plan for the fight against drugs and the prevention of addiction for the years 1999-2001;
- highlights of key reports and studies that have influenced the drug policy and legislative framework in France;
- the French legislation with respect to illicit drugs;
- the agencies involved in law enforcement;
- statistical data related to drug use and drug-related offences; and
- the costs of the national drug policy.

This paper forms part of a series of country pictures that is being prepared by the Parliamentary Research Branch of the Library of Parliament for the Special Senate Committee on Illegal Drugs.

NATIONAL DRUG POLICY

A. The Government's Plan for the Fight Against Drugs and the Prevention of Addiction 1999-2001

Until 1995, the French public policy towards drug users was distinct from other European countries such as Great Britain, Holland, Germany, Switzerland and Spain, and to a certain extent, Italy; in the mid- to late 1980s, these countries implemented a harm reduction approach focused on addressing the social and medical consequences of drug use. The focus of

France's public health policy, on the other hand, was on curative treatments aimed at abstinence and on repression of drug use and drug trafficking via the criminal justice system. Drug addiction was regarded mainly as a psychological issue that could be treated and cured through psychotherapy inspired by psychoanalysis, whereas key players in other European countries perceived drug addiction to be essentially the result of a biological/neurobiological deficiency. Adopting a biological/neurobiological perspective led these countries to realize that: the road to abstinence may be extremely difficult for some drug addicts; and there was a need to address the medical consequences of drug misuse and to develop measures to reduce the harm done to these individuals (such as needle exchanges and methadone treatment).⁽¹⁾

The shift towards a harm reduction policy only occurred in France in 1995 following three years of deep controversy and demonstrations from a group of actors – hospital physicians concerned with AIDS, members of NGOs (non-governmental organizations), drug addicts, experts, etc. – who criticized the knowledge base that guided the major aims of the French drug policy. One key issue in that debate was the provision of methadone treatment to drug addicts. In February 1994, only 77 drug users had access to a methadone treatment in France; at that time, the population of heroin users was estimated to be 160,000. In 1998, substitution treatments (Methadone and Subutex) were provided to as many as 70,000 drug users in France. This shift clearly indicates that the French authorities now consider harm reduction as a core element of the drug policy in France.⁽²⁾

On 16 June 1999, the French government presented its triennial plan, which clearly reflects this paradigmatic change, as palliative and preventive measures become legitimate goals of French policy. With respect to penal policy, the main legislative framework – the Law of 1970 – was not modified and drug use remains an offence. However, a circular letter from the Minister of Justice invited prosecutors to avoid incarceration and promote treatment in cases of drug use.

The plan is based on European and international data as well as on recent reports, broadly-based inter-ministerial consultations, and scientific studies that made a number of core observations about drug policies and drug use in France. The emergence of new usage patterns

(1) Henri Bergeron and Pierre Kopp, "Policy paradigms, ideas and interests: the case of the French public health policy toward drug abuses," *Annals of the American Academy of the Political and Social Sciences*, in press.

(2) Henri Bergeron, "Comment soigner les toxicomanes?" *Sociétal*, June-July 1998, pp. 45-49.

such as multiple drug use (licit and illicit), increased cannabis and alcohol use among youth, and increased availability of synthetic drugs were a significant source of concern. The systems and knowledge base were also criticized for:

- the lack of coordination between prevention programs and their limited availability (i.e., school prevention programs with respect to drugs are offered to less than 40% of students and with respect to alcohol and tobacco, to less than 20%);
- the lack of social and professional support;
- the lack of a shared culture between the various players (law enforcement, social welfare, education and public health);
- the excessive focus of the specialized drug treatments on heroin users at the same time as usage among this user group has stabilized; and
- the difficulty in reconciling law enforcement with a public health approach.⁽³⁾

Application of the criminal law with respect to drug users has been constantly marked by the difficulties inherent in reconciling suppressive activities with public health imperatives. The number of users who have been questioned by the authorities has doubled over the last five years, whereas judicial procedures have not enabled adequate and effective co-operation with physicians and social workers.⁽⁴⁾

Furthermore, elected representatives and the general public expressed concerns that the number of arrests for trafficking at the local level had declined since 1996 and found this fact difficult to understand considering the importance they thought should be attached to controlling the supply of drugs. Finally, the lack of reliable indicators had prevented in-depth and simply meaningful evaluations of existing programs.

In view of all the above observations, the government developed a three-year plan that defined priorities for action, objectives and specific measures to achieve these objectives.

(3) Mission interministérielle de lutte contre la drogue et la toxicomanie (MILDT), *Three-year plan to combat drug use and to prevent dependence (1999-2001)*. Retrieved on 13 August 2001 at http://www.drogues.gouv.fr/uk/what_you_need/whatyouneed_intro.html.

(4) Mission interministérielle de lutte contre la drogue et la toxicomanie (MILDT), "An Information Booklet Summarising the Government's Plan for the Fight against Drugs and the Prevention of Addiction 1999-2000-2001," *Drugs Know More*, MILDT, December 1999, p. 6. Available online at <http://www.drogues.gouv.fr/uk/index.html>.

The government chose the following action priorities: research; communication; prevention; training; the welcoming, counselling, care and rehabilitation of users of psychoactive substances; the law and its applications; national and local coordination; and actions outside France. Here are the objectives that were set along with some specific measures as presented in the information booklet summarizing the government's plan.⁽⁵⁾

1. Research: Investigation, Knowledge and Understanding

- The objective: To improve monitoring methods, studies and research, enabling French authorities to better anticipate developments, and take the right decisions at the right time.
- Measures: Development of a research program; generation of permanent survey machinery to evaluate the prevalence of the use of psychoactive products; establishment of a permanent watch-dog scheme for the real-time assessment of ongoing drug abuse habits and substances; development of a permanent network of programs for evaluating public policy in this area; and concentration of the currently dispersed instruments for measurement and knowledge under a central reference point and steering group (French Monitoring Centre for Drugs and Drug Addiction).

2. Communication: Informing the General Public and Creating a Common Frame of Reference

- The objective: To make valid and reliable information available to the general public, in order to improve the development of appropriate responses.
- Measures: Commitment to a long-term voluntary communications and information policy; engagement in more targeted activities directed at specific populations; launch of an Internet site; creation of a network of regional centres for information and resources concerning drugs and addiction; and re-organization of the drugs information service.

(5) MILDT, 1999.

3. Prevention: Systematizing and Widening the Field of Prevention, Taking Account of Legally Imposed Restrictions

- The objective: Building on the most recent studies and experiences, to facilitate an approach to prevention based on behaviour modification rather than specific products, and distinguishing between “simple” use, abuse and addiction.
- Measures: Definition of a national prevention program accompanied by a “best practice” guide, an evaluation guide and a commission for evaluation of preventative measures; development of a departmental program of prevention in schools (including out-of-school hours); professional training of those involved in prevention programs; widespread application of the “Health Education and Citizenship Committees” (CESC, Comités d’éducation pour la santé et la citoyenneté) in schools; implementation of prevention programs; development of welcome centres and counselling programs for youth; and the re-affirmation of legal policy with respect to the judicial response to those who use banned substances. Departmental structures are to be in line with the above objectives, which are to be harmonized across all departments (decentralization of funding for public health and social measures for offenders).

4. Training: Harmonizing the Knowledge of all Those Directly Involved

- The objective: To create a common culture for all prevention, education, health care and policing professionals, based on validated data.
- Measures: Training of all non-specialized professionals who may find themselves dealing with drug users or those who consume excessive quantities of alcohol; establishment of a common training program for all those engaged in prevention; extending additional competencies to those specialized personnel who may require them; more targeted training for policing personnel; and improvement of initial and follow-up training for physicians and pharmacists.

5. Welcoming, Counselling, Care and Rehabilitation of Users of Psychoactive Substances: Profile of Users of Psychoactive Substances

- The objective: To re-orientate health care approaches towards earlier action with respect to those who engage in multiple substance abuse.

- Measures: Regional and departmental assessment and programs will be undertaken to ensure that no regional disparities exist; professional networks will be developed and invited to develop appropriate competencies; hospital liaison teams will be set up; specialized care facilities will be developed; risk reduction policies to reach marginalized users will be established; continuity of care for users in police custody or in penal institutions will be set up; ensuring that drug users have access to the rehabilitation facilities provided by law; reinforcement of the social support of persons undergoing substitution treatment; early management of pregnant women with problematical drugs, alcohol or tobacco use; and to gain experience in managing adolescent substance abusers.

6. Law and its Applications:

Applying Law and Reinforcing Suppression of the Traffic in Drugs

- The objective: To redefine public legal policy with respect to the application of the Law of 1970, which has led to a large increase in arrests of those who use drugs, stability in the area of international drug trafficking, and a relative reduction in the number of arrests for local trafficking.
- Measures: The Minister of Justice has sent a circular to public prosecutors with the aim of making the suppression of international and local drug trafficking more effective; improvement of local coordination in the fight against drug trafficking; and adaptation of their juridical and administrative processes to the massive and constant availability of new synthetic drugs (i.e., develop a new method of classification, put in place a flexible system of provisional classification, and make chemical industrial companies aware of the risks of diversion of their products).

7. National and Local Coordination

- The objective: To make the MILDT a body capable of expanding interministerial work and experimenting with and evaluating competencies and knowledge.
- Measures: Enabling the mission to function over the long term and redefining the missions of local coordinating bodies to enable them to play a key role in developing and implementing the program.

8. Actions Outside France

- The objective: To redefine French geographical priorities as a function of the flow in drug traffic, and to prioritize cooperation with central and South-East Asian countries, Russia and the Ukraine. While efforts to reduce supply must remain of paramount importance, further activities to reduce demand, and especially to reduce risk, must be developed.
- Measures: Re-equilibration of their activities, based on a clear definition of geographical priorities; conduct activities designed to reduce demand; help to develop risk-reduction programs in countries close to France (i.e., Russia and Ukraine); and prepare for the French presidency in the European Union.

B. Legislative Framework

French law related to illicit drugs is drawn from many sources including four codes: the Code of Public Health (code de la santé publique), the Penal Code, the Code of Penal Procedure, and the Customs Code. The main legislative framework is the law of 31 December 1970,⁽⁶⁾ which amended the Code of Public Health and created a legislative framework based on both the application of repressive measures and health-related dispositions. The objectives of the Law of 1970 were to severely repress trafficking, prohibit the use of narcotics, and yet propose alternatives to the repression of use, as well as to ensure free and anonymous care for users seeking treatment.⁽⁷⁾

This law has not been fundamentally modified since then but many ministerial directives (i.e., circular letters) have been issued and new law has been enacted to: exercise more control over trafficking; create new offences; and increase penalties for trafficking while diverting users of soft drugs such as cannabis away from the criminal justice system. It must be noted that most articles of the Law of 1970 (originally written into the Public Health Code) have since been integrated into the new penal code that came into force in 1994 except for infractions related to drug use, which are still sanctioned through the Public Health Code. French law is also governed by international law since France has ratified the UN conventions related to drugs:

(6) *Loi N° 70-1320 du 31 décembre 1970 relative aux mesures sanitaires de lutte contre la toxicomanie et de l'usage illicite des substances vénéneuses.*

(7) French Monitoring Centre for Drugs and Drug Addictions/Observatoire Français des Drogues et des Toxicomanies (OFDT), *Drugs and Drug Addictions: Indicators and Trends*, 1999 Edition, p. 20. May be consulted online at <http://www.drogues.gouv.fr/uk/index.html>.

Single Convention on Narcotics (1961); Convention on Psychotropics (1971); and Convention against Illicit Trafficking of Narcotics and of Psychotropics (1988). We will only give a broad overview of the main legislative framework in France, as the complexity of this system would require a detailed analysis that is beyond the scope of this paper.

1. Classes of Drugs

French law does not distinguish between illicit substances and thus, an offence such as drug use is prosecuted and judged in the same way regardless of the illicit substance involved. However, judicial authorities may take into consideration the nature of the substance, the quantity and any prior criminal records in their decision to prosecute, reduce the charges or not prosecute an offender. Illicit substances are listed in an annex to Decree Law of 22 February 1990 and include the following:

- List I: narcotic substances such as heroin, cocaine, cannabis, methadone, opium, etc.;
- List II: substances such as codeine, propiram, etc.;
- List III: psychotropic substances such as amphetamines, Ecstasy, LSD, etc.; and
- List IV: synthetic drugs such as MBDB, 4-MTA, Ketamine, Nabilone, THC, etc.⁽⁸⁾

2. Offences and Penalties

Public or private drug use in France is prohibited and criminalized by the Law of 1970 (article L3421-1 of the Code of Public Health). The penalty for illicit drug use is up to one year in prison or a fine of 25,000 French Francs, or diversion to a court-ordered treatment program (therapeutic injunction – in French, “injonction thérapeutique”). This article of the Code of Public Health applies to all users without any distinction as to the type of illicit substance used.

The Code of Public Health also provides for the monitoring of drugs users by health authorities (article L3411-1). Prosecutors may not undertake legal action against an offender if that person can provide medical certification that he has undertaken some form of therapy or has submitted himself to medical supervision since the commission of the infraction.

(8) European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)/European Legal Database on Drugs (ELDD), *France Country Profile, French Drug Legislation*. Retrieved on 8 August 2001 at http://eldd.emcdda.org/databases/eldd_national_reviews.cfm?country=FR.

However, if the offender does not supply a medical certificate to that effect, prosecutors may request that an individual who has made use of illicit drugs follow a drug addiction treatment program or be placed under medical monitoring (article L3423-1). The involvement in a court-ordered treatment program suspends legal proceedings and these will not be pursued if the individual completes the detoxification program.⁽⁹⁾ It is not uncommon for a repeat offender to be subjected to more than one court-ordered treatment program as more repressive measures are rarely used for simple drug use, particularly cannabis use.

As mentioned above, the Ministry of Justice – in a directive dated June 1999 – asked prosecutors to prioritize treatment over incarceration for small-time offenders and problematic drug users. Practice has shown that therapeutic alternatives are used mainly for simple users and that most cases of simple drug use receive a warning with the request to contact a social or health service. When legal proceedings are undertaken, the magistrate may also force, and not simply order, the accused to undertake a detoxification program but in this case, judicial authorities take charge of the case rather than health authorities. In these cases, if the user completes the treatment, no penalties may be imposed on the individual but the use of such measures are extremely rare.⁽¹⁰⁾ As well, a detoxification treatment may be a condition attached to a conditional prison sentence, parole or judicial supervision. In France, the delinquent user is thus seen mostly as a sick person to whom therapy must be offered.⁽¹¹⁾

On the drug trafficking side, the Law of 1970 has been modified on several occasions, creating new offences such as selling or supplying drugs for personal use (17 January 1986) and drug-related money laundering (31 December 1987), or enacting new procedures such as the confiscation of drug trafficking profits (14 November 1990) to comply with Article 5 of the United Nations Convention (19 December 1988).⁽¹²⁾ Currently, trafficking offences include selling or supplying drugs for personal use with a penalty of up to five years and a fine of up to 500,000 F (articles 222-39 of the Penal Code) and a more serious offence for transportation,

(9) National Consultative Ethics Committee, *Reports on drug addiction*, report n. 43, 23 November 1994, p. 17. Retrieved 14 August 2001 at <http://www.ccne-ethique.org/english/start.htm>.

(10) EMCDDA/ELDD, *France Country Profile*, 2001.

(11) National Consultative Ethics Committee, 1994.

(12) United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 19 December 1988: Article 5, Confiscation, 1. Each Party shall adopt such measures as may be necessary to enable confiscation of: (a) Proceeds derived from offences established in accordance with article 3, paragraph 1, or property the value of which corresponds to that of such proceeds; (b) Narcotic drugs and psychotropic substances, materials and equipment or other instrumentalities used in or intended for use in any manner in offences established in accordance with article 3, paragraph 1.

possession of, supply, sale and illicit purchase of narcotics with a penalty of up to 10 years and a fine up to 50 million F (article 222-37). Illicit imports and exports of narcotics are also punishable by 10 years' imprisonment and a fine up to 50 million F but when the offence is committed by a criminal organization, the penalty increases to 30 years of imprisonment (article 222-36). Furthermore, trafficking in narcotics might also be punishable as a customs offence (contraband and similar offences) with a maximum sentence of three years' imprisonment and fines equalling two-and-one-half times the value of the illegal merchandise. Prosecutions under the Customs Code do not exclude penal prosecution, and customs sanctions can be added to penal sanctions.⁽¹³⁾

Other offences include the illegal production or manufacturing of narcotics punishable by 20 years in prison and a fine of 50 million F. Here again, when a criminal organization commits the offence, the penalty increases to 30 years' imprisonment (article 222-35). Drug-related money laundering defined as "facilitating by any means, false justification of the source of assets or revenues of the author of an infraction to narcotics legislation"⁽¹⁴⁾ is punishable by 10 years imprisonment and a fine of 5 million F (article 222-38). Incitement to drug use or to commit any offence sanctioned by articles 222-234 to 222-239 of the Penal Code or to present these offences in a favourable light is punishable by five years in prison and a fine of 500,000 F (article L3421-4 of the Code of Public Health). This offence is aimed at the media and literary or artistic works.⁽¹⁵⁾ Inciting a minor to use narcotics is punishable by five years' imprisonment and a fine of 700,000 F and in the case of a minor under the age of 15 years or if the offence is committed in or around an educational establishment, the penalty increases to 7 years in prison and a fine of 1 million F (article 227-18). Finally, heading or organizing a group engaged in the production, manufacturing, import and export, transportation, possession, supply, sale, purchase or use of narcotics can lead to a life sentence and a fine of 50 million F (article 222-34).

C. Key Reports and Studies

The implementation of the Law of 1970 which included both legal and health measures was not easy. It led to the publication of many administrative documents,

(13) EMCDDA/ELDD, *France Country Profile*, 2001.

(14) National Consultative Ethics Committee, 1994.

(15) *Ibid.*

implementing decrees, circular letters and notes. Numerous legal questions were raised dealing with such issues as the distinction between use and trafficking, the notion of use and court-ordered treatment. Health authorities also had to devise practical ways of treating drugs users.⁽¹⁶⁾ The implementation of the law and public policies related to fighting drugs and drug use were assessed in 1978 by the Pelletier Commission, in 1990 in the Trautmann Report, and again in 1995 by the Henrion Commission. The conclusions of these three reports are briefly discussed below.

1. The Pelletier Report

The first assessment of the Law of 1970 and of the French policies with respect to drugs and drug addiction was completed in 1978 by a commission presided by Monique Pelletier who studied the issue at the request of the President of France Giscard d'Estaing.

The Pelletier report⁽¹⁷⁾ stated that the difficulties encountered in the implementation of the Law of 1970 were the result of inequalities in handling drug users due in part to the fact that the law did not include an intermediate category between a drug user and a trafficker. The report also attributed the implementation problems to the difficulties encountered in getting legal and health authorities to work together.⁽¹⁸⁾ Doctors were particularly sceptical about the principle of court-ordered treatment and of forcing an individual into treatment. The Pelletier commission noted as well that legal consequences were used more often than treatment alternatives. Members of the Pelletier Commission believed that the Law of 1970 deserved a second chance. They suggested that it could benefit from the institution of clear implementation guidelines (circular letters) and the establishment of structural and financial resources to ensure the successful implementation of therapeutic alternatives, both at the judicial and medical level. The report proposed, among other suggestions, that drug users should be differentiated according to the type of illicit substance they use.⁽¹⁹⁾ Officially today, the law still does not distinguish between illicit substances but in practice many circular letters over the past 20 years have invited

(16) OFDT, 1999, p. 24.

(17) Monique Pelletier, *Rapport de la mission d'étude sur l'ensemble des problèmes de la drogue*, Paris, La Documentation française, janvier 1978.

(18) Centre d'Aide et d'Accueil en Toxicomanie (CAAT), *La mise en application de la loi*. Retrieved on 7 August 2001 at http://caat.multimania.com/info/app_loi.htm.

(19) OFDT, 1999, p. 25.

prosecutors and judges to differentiate between cannabis use and use of other drugs such as heroin and cocaine. For example, a circular letter (7 May 1978) suggested that cannabis users should not be considered “true” drug addicts, that detoxification treatment may not be the appropriate measure for this type of user, and that they should receive a simple warning. It also invited judges to encourage drug users to contact a drug addiction centre and to only use court-ordered treatment for repeat offenders. This circular letter has been perceived by many as a decriminalization of cannabis use. However, it must be noted that circular letters express the intentions of the Ministry of Justice but can be enforced diversely by prosecutors.⁽²⁰⁾

The 1978 circular letter was a point of reference until 12 May 1987 at which time a Justice-Health circular repealed preceding letters and introduced a new distinction for drug use based on the frequency of use.

For all cases involving drug use, a report had to be sent to the prosecution and dealt with by a specialized judge. “Occasional” users, who were well integrated into society were to be given a simple warning. The letter recommended court-ordered treatment or prosecution for “habitual” users. Illegal foreign users were to be immediately tried and banned from the French territory. Lastly, user-dealers or delinquent users were to be prosecuted as a head dealer or for harming others of goods. This letter also marked a will to revive court-ordered treatment and clarified how it should be enforced.⁽²¹⁾

This circular letter was a turning point towards more repressive measures for habitual users and users-dealers⁽²²⁾ and the basis of the orientation of legal policy between 1990 and 1995, which focused on reviving court-ordered treatment and distinguishing between occasional users, habitual users, and users-dealers.⁽²³⁾

2. The Trautmann Report

The second report was commissioned in 1989 from Catherine Trautmann who, at the time, was the president of the Interministerial Mission for the Fight against Drugs and Drug Addiction. The Trautmann report, submitted in 1990, included a review of available data on

(20) *Ibid.*

(21) OFDT, 1999, p. 26.

(22) CAAT, 2001, p. 3.

(23) OFDT, 1999, pp. 26-27.

drug use and drug addiction, the main difficulties in the fight against drugs, and the drug policy in France from 1978 to 1988.⁽²⁴⁾

The report did not recommend any changes to the Law of 1970. Rather, it highlighted the need for more effective actions against drug trafficking, with a particular focus on developing better cooperation between the three main national services involved in the fight against drug trafficking: the police, the gendarmerie, and customs – each of which have a different jurisdiction (urban areas for the police, rural areas for the gendarmerie, borders for customs). It suggested that the policing of French outer borders should be reinforced. The report further proposed that more should be done to deal with the demand side of the drug issue by developing strategies aimed at preventing drug use and drug addiction, particularly among young people. Suggestions related to the care of drug addicts and their integration and reintegration into the community revolved around three main axes: improving health and social services; taking into consideration problems associated with AIDS; and establishing a solid financial management system to support specialized units providing services to drug addicts.⁽²⁵⁾

Finally, with respect to the issue of decriminalization or legalization of drugs, in particular cannabis, the Trautmann report was clearly against such propositions. The report stated that the issue is one of preventing drug use and caring for drug addicts, and that decriminalization of cannabis would trivialize drug use and promote earlier and more frequent use of hard drugs.⁽²⁶⁾

3. The Henrion Report

The Henrion Commission produced in 1995 a third report on the drug situation in France.⁽²⁷⁾ It is interesting to note that the Commission comes to similar conclusions as the two previous reports with respect to the lack of coordination and cooperation between judicial and health authorities and the difficulties in implementing a policy based on both repressive and public health measures. The Commission made note of the limited use of court-ordered

(24) Catherine Trautmann, *Lutte contre la toxicomanie et le trafic de stupéfiants*, rapport au premier ministre, La Documentation française, 1990.

(25) *Ibid.*

(26) *Ibid.*, Annex 10, pp. 252-253.

(27) Roger Henrion, *Rapport de la commission de réflexion sur la drogue et la toxicomanie*, ministère des Affaires sociales, de la Santé et de la Ville, Paris, La Documentation française, mars 1995.

treatment and the increasing number of arrests for simple drug use. It recommended first and foremost the development of an evaluation policy to assess the drug situation in France and suggested that French drug policy should give priority to preventing drug use. As well, the report criticized the lack of consistency in law enforcement and inequalities in handling drug users throughout France and recommended that the existing agencies and structures involved in the repression of drug trafficking be given the necessary financial and human resources to successfully achieve their mandate.⁽²⁸⁾

However, the Henrion Commission distinguished itself in proposing a reform of the Law of 1970. Members of the Commission debated the issue of decriminalizing cannabis, expressing diverging opinions on the issue. A minority of members (8 out of 17) opposed the idea of decriminalizing the use of cannabis mainly because they thought it would be difficult to maintain a moral interdiction without a legal prohibition. However, a small majority of members (9 out of 17) were in favour of decriminalizing the use of cannabis and possession of small quantities of such substance. They suggested proceeding gradually without effecting any changes to the existing measures sanctioning the supply of cannabis in the hope of better controlling and assessing the consequences of decriminalizing drug use. They also recommended that decriminalization should be accompanied by the enactment of regulations limiting use of cannabis to certain locations and forbidding its use by young people under the age of 16. Regulations would also repress being intoxicated in public places, create an offence of driving under the influence of cannabis, and would prohibit the use of cannabis by certain professionals for safety reasons (i.e., air traffic controllers; pilots, drivers of public transit, etc.). All these measures had to be accompanied by a prevention campaign focusing on the potential negative consequences of using cannabis, an ongoing evaluation not only of cannabis use but of opiates, cocaine and crack as well, and ongoing neurobiological research on the effects of cannabis use. Finally, the offence of incitement to drug use was to be maintained and applied.⁽²⁹⁾

The Commission suggested that if such a reform was applied and there was no deterioration of the situation within two years, the government should then consider a regulation of the commerce of cannabis under the strict control of the state. It should be noted, however, that some members of the Commission thought that such a regulation should be implemented

(28) *Ibid.*

(29) Henrion, 1995, pp. 82-83.

concurrently with the decriminalization of cannabis and that there should not be any trial period.⁽³⁰⁾ These recommendations have yet to be implemented.

The Henrion Commission also recommended the adoption of a harm reduction policy that would not limit itself to minimizing the health risks related to drug use, but would be grounded in a public health perspective that would rigorously crack down on specific problem behaviours such as discarding needles in a public place.⁽³¹⁾ The French government had already recognized the importance of harm reduction in a 1993 plan related to: improving treatment of drug addiction in specialized structures and the general health sector; developing harm-reduction measures; and offering treatments of substitution to drug addicts.⁽³²⁾ The Henrion Commission particularly reinforced the urgency of implementing the last two aspects of that plan. Today, the emphasis of the French drug policy remains on prevention, harm reduction and treatment for addicted persons in a context of diversion of drug users away from the criminal justice system.

D. Administration

The Interministerial Mission for the Fight against Drugs and Drug Addiction (Mission interministérielle de lutte contre la drogue et la toxicomanie – MILDT) was instituted in 1982 and has operated under various names since its creation. This body coordinates government action in the fields of prevention, health and social care, law enforcement, training, communication, research, and international cooperation. The MILDT prepares the government's plans for the fight against drugs and monitors their application. Since 16 June 1999, its mandate includes not only illicit substances, but also abuse of alcohol, tobacco and psychotropic medicines. This change is particularly important in understanding the direction of French public policy, as addressing alcohol abuse has become the main priority of the French government in recent years. The MILDT also oversees the activities of 17 ministries involved in the fight against drugs and the prevention of dependencies, and supports the work of other state and private partners. Its budget comes from a number of ministries and it is responsible for funding public interest groups such as the “French Monitoring Centre for Drugs and Drug Addiction”

(30) *Ibid.*, p. 83.

(31) *Ibid.*, p. 89.

(32) OFDT, 1999, p. 29.

(OFDT – Observatoire Français des Drogues et des Toxicomanies), an organization responsible for collating available data on drugs and dependencies.⁽³³⁾

With respect to local structures, Departmental Committees for the Fight against Drug Addiction were created in 1985 but this new structure was unable to find its place in many departments. An assessment of these committees concluded that only 30% of the departments had such a committee in place in 1994. It also noted that departmental councils on the prevention of delinquency were used as a forum for discussing drug-related problems. A circular letter written by the Prime Minister on 9 July 1996 confirmed this development and provided a new framework for fighting drugs and drug addiction consisting of three levels:

- *management level*: the prefect and a project leader were responsible for implementing government policy;
- *coordination level*: a small committee was to be created which would involve the departmental heads of State services and legal representatives; and
- *cooperational level*: the departmental councils on prevention and delinquency were obligated to include a section on fighting drugs in each meeting.⁽³⁴⁾

The French public policy for the fight against drugs and drug addiction also relies on the work of state agencies charged with law enforcement. The national police force under the supervision of the Ministry of the Interior and the national gendarmerie under the supervision of the Ministry for Defence are two key players in law enforcement. With respect to drug trafficking, the Ministry of the Interior is also home to the Central Office for Illegal Drug Trafficking (L'office central pour la répression du trafic illicite des stupéfiants – OCRTIS), the agency responsible for centralizing relevant information from the police, the criminal investigation department, and social and medical services. The Central Office has 12 out-stations located throughout the world and its work leads to the arrests of more than 200 dealers annually and the seizure of almost 10 tons of illicit drugs (cannabis, cocaine, heroin, Ecstasy, etc.).⁽³⁵⁾

(33) MILDT, 1999.

(34) OFDT, 1999, pp. 23-24.

(35) Ministry of the Interior website, *Drug Trafficking*, Retrieved on 13 August 2001 at <http://www.interieur.gouv.fr/traductions/dcpj/dcpj11.htm>.

Criminal justice is rendered according to the nature of the offence by the police court (contraventions), the “Tribunal Correctionnel” (délits) or the “Cour d’assises” (crimes). “Contraventions” are considered less serious offences and include only infractions punishable by a fine of up to 10,000 F (20,000 F in cases of recidivism) and other penalties such as the suspension of a driver’s license. “Délits” are offences that can lead to a maximum of 10 years’ imprisonment, fines and other sanctions such as deprivation of civic rights, confiscation of assets, and prohibition from entering national territory for foreigners. Crimes are considered the most serious offences and are sanctioned by longer terms of imprisonment and fines.⁽³⁶⁾

The “Tribunal Correctionnel” handles offences (délits) and may render decisions involving prison sentences, fines, and alternative sentences to imprisonment. This tribunal is made up of a Presiding Judge and two judges, the public prosecutor or one of the assistant prosecutors and a court clerk. A single judge may judge certain offences. The “Cour d’assises” judges the most serious offences under law including all drug offences that may be sanctioned by 10 years or more in prison. This court is made up of a Presiding Judge assisted by two associate judges, a popular jury of nine people drawn from the French population, and a court clerk. The prosecution is represented by a judge of the Prosecutor’s Office referred to as “Avocat general” (Solicitor General). Decisions of the “Cour d’assises” can strictly be appealed on points of law. The only further action possible is before the “Cour de cassation” which has the mandate to verify that decisions of judges are in compliance with the law. This court does not re-examine facts of the case, but fixes the interpretation according to which the legal rules must apply. When a decision involves a violation of the law, the decision is quashed and the case is referred back to a court of second instance to be retried.

E. Statistics on Use and Offences

1. Use

The following is from a 1999 document entitled *Drugs and Drug Addictions: Indicators and Trends* prepared by the French Monitoring Centre for Drugs and Drug Addictions, which synthesized available data and analyzed drugs and drug addiction in France.⁽³⁷⁾

(36) République française, Ministère de la Justice website at <http://www.justice.gouv.fr/anglais/europe/acourass.htm>.

(37) Observatoire Français des Drogues et des Toxicomanies, *Drugs and Drug Addictions: Indicators and Trends*, 1999 Édition. Available online at <http://www.drogues.gouv.fr/uk/index.html>.

The current trends observed in this report are as follow:

- a strong decrease in overdose-related deaths (554 in 1994, 143 in 1998) and AIDS deaths associated with injection drug use (1,037 in 1994, 267 in 1997);
- an important drop in heroin use since 1996 possibly attributable to an increase in use of substitution treatments;
- normalization of the use of cannabis as its use is becoming more and more commonplace particularly amongst young people;
- cultivating cannabis is a developing phenomenon;
- synthetic drugs have become much more widely available although these drugs still represent a very small percentage of drug consumption;
- cocaine use is increasing; and
- multiple drug use including licit substances such as alcohol, is an emerging phenomenon especially among youth – 54% of young people in care in rehabilitation units are users of at least two products.

Surveys conducted in 1995 amongst a representative cross-section of French adults revealed that almost 25% of 18- to 44-year-olds declared having experimented with cannabis and 7.7% stated that they used it on an occasional or regular basis. Surveys conducted amongst conscripts in army selection centres in 1996 also showed that a large percentage (40%) of young men 18-23 years old had experimented with cannabis and 14.5% had used it during the past month.⁽³⁸⁾ Whereas adolescents are concerned, it is estimated that in the second half of the 1990s more than one-third of all 15- to 19-year-olds had experimented with drugs, mostly cannabis. Surveys also showed an important increase in the frequency of use of cannabis as “the share of young people who had used cannabis at least ten times during the year increased by over one-half from 1993 to 1997.”⁽³⁹⁾ It was further found that boys are more likely than girls to use illicit substances and at much higher risk of repeated use. A 1998 survey indicated that 33% of the boys declared that they had experimented with cannabis, compared to 23% of the girls.⁽⁴⁰⁾

(38) OFDT, 1999, pp. 62-63.

(39) *Ibid.*, p. 83.

(40) *Ibid.*, pp. 82-84.

During the second half of the 1990s, the number of “problem” opiate users (drug use that may result in treatment in the health and social system and/or contact with law enforcement agencies) was estimated between 142,000 and 176,000.⁽⁴¹⁾

2. Offences

The report from the French Monitoring Centre indicates that the number of arrests for drug-related offences has increased from 45,206 to 85,507 over the period 1993-1998. The most important increase was in the number of individuals arrested for cannabis use (30,344 in 1993 compared to 72,281 in 1998) whereas the number of arrests for heroin use has actually decreased (14,959 in 1993, 7,469 in 1998, following a peak at 17,356 in 1995). Cannabis, in fact, accounted for 85% of drug-related arrests in France in 1998 compared to 63% in 1993. However, it must be noted that a little less than half of the individuals arrested for using drugs (45%) were retained for questioning and the vast majority of persons (97.2%) held for questioning were freed in 1997.⁽⁴²⁾

Studies in France have emphasized that the statistics on arrests of drug users should be used with caution as it is difficult to ascertain how much of noted changes reflect variations in the population of drug users and how much of these changes are linked to modifications of police and gendarmerie services. For example, data on arrests for use between 1993 and 1998 indicated a significant growth of 30% in use-related arrests in 1997 and 9% in 1998.⁽⁴³⁾ Many factors may explain such an increase including changes in the behaviour of police and gendarmerie services, the reorganization of police departments, and the normalization of cannabis use. One explanation suggests that a circular letter on court-ordered treatment issued in 1995 by the Ministry of Justice has led public prosecutors to instruct the police and gendarmerie to “systematically report users.”⁽⁴⁴⁾ It may be assumed that such instructions may have led to the notable increase in drug use-related arrests recorded in 1997.

With respect to trafficking, the number of arrests decreased between 1996 and 1998 from 8,412 to 5,541. Slightly more than half of dealers (52%) arrested in 1998 were

(41) *Ibid.*, p. 64.

(42) *Ibid.*, pp. 112-113. It must be noted that “(freeing the individuals in question does not simply mean that proceedings will be dropped. Some may be called into later to be judged.”

(43) *Ibid.*, p. 112.

(44) *Ibid.*, p. 114.

trafficking cannabis, 24% were involved in dealing heroin, and 17% trafficked cocaine and crack. The main development was observed in the number of arrests of heroin traffickers which decreased from 3,395 in 1993 to 1,356 in 1998. Arrests for trafficking cocaine increased from 383 to 972 during the same period whereas arrest related to cannabis trafficking increased slightly from 2,456 to 2,920.⁽⁴⁵⁾

The total number of convictions for drug use as the main offence went from 7,434 in 1992 to 6,530 in 1997, with a low of 4,670 convictions in 1995. In 1997, 3,368 convictions were for use only. Of these, 14% were sentenced to imprisonment with an average length of 2.4 months, 35% received a deferred sentence (often associated with probation and court-ordered treatment), 33% were fined, 7% were given an alternative sentence, and 6% were sentenced to an educational measure. The number of convictions for use and transporting increased from 761 in 1991 (6.6% of convictions) to 3,478 in 1997 (22.2%). Convictions for use and trafficking also increased from 475 in 1991 to 1,501 in 1997 (4.1% compared to 9.6% of convictions related to drug offences). In 21% of the convictions for use and other drug-related offences, a prison sentence was given out. In 37% of cases involving drug use and trafficking and 21% of drug use and transporting, individuals received a partially deferred sentence (prison time and deferred sentence). The average length of imprisonment was 16.8 months in 1997.⁽⁴⁶⁾ For a breakdown of convictions for use, out of all convictions related to drug offences in 1991, 1996 and 1997, see Appendix A.

In 1998, the number of cannabis seizures was 40,115, up from 27,320 seizures in 1996. However, the quantities seized were smaller in 1998 than in 1996 (55,698 kg compared to 66,861 kg). For a breakdown of seizures by drugs between 1996 and 1998, see Appendix B.

F. Costs

In 1995, the public budget devoted to implementing the French drug policy was 4.7 billion francs. Out of the total expenses (specific budget and interdepartmental credits), approximately 1536.56 million francs were spent on Justice, 1260.54 million F on police services, 469.55 million F on the gendarmerie, and 450.25 million F on customs expenses. The

(45) *Ibid.*, pp. 164-165.

(46) OFDT, 1999, pp. 121-123.

amount spent on enforcement was considerably higher than that spent on health (656.3 million F) and social affairs (28.58 million F). For a breakdown of these expenses, see Appendix C.

More recent figures on interministerial credits indicated that for 1998, the expenditures of health and social affairs were set at 47.9 million francs, those of Justice at 18.9 million F, the Ministry of the Interior (police) at 18.5 million F and Defence (gendarmerie) at 10.7 million F. For a breakdown of all interministerial credits for that year, see Appendix D.

APPENDICES

Appendix A

Convictions for use, out of all convictions related to drug offences

Types of offence	1991		1996		1997 (1)	
	Number of convictions	Number of % convictions	Number of convictions	Number of % convictions	Number of convictions	Number of % convictions
Use	11,505	100	15,493	100	15,685	100
Use alone	4,242	36.9	3,019	19.5	3,368	21.5
Use and drug-related offence	5,063	44.0	10,081	65.0	10,075	64.2
Use and trafficking	475	4.1	1,741	11.3	1,501	9.6
Use and transporting	761	6.6	3,109	20.0	3,478	22.2
Use and supplying	1,431	12.4	2,505	16.2	2,377	15.1
Use and holding	2,242	19.5	2,683	17.3	2,677	17.1
Use and other narcotics	154	1.4	43	0.2	42	0.2
Use and non drug-related offence	2,199	19.1	2,393	15.5	2,242	14.3

(1) Temporary data

Source: French Monitoring Centre for Drugs and Drug Addictions/Observatoire Français des Drogues et des Toxicomanies (OFDT), *Drugs and Drug Addictions: Indicators and Trends*, 1999 Edition, p. 123. May be consulted online at <http://www.drogues.gouv.fr/uk/index.html>.

Appendix B

Seizures of narcotic substances

Types of substance	1996		1997		1998	
	Seized quantities	Number of seizures	Seized Quantities	Number of seizures	Seized Quantities	Number of seizures
Cannabis*	66,861	27,320	55,122	34,266	55,698	40,115
Heroin	617	4,865	415	3,924	344	3,113
Cocaine	1,742	1,213	844	1,471	1,051	1,688
Crack	11	244	16	228	25	334
LSD	74,780	190	5,983	171	18,680	154
Ecstasy	349,210	644	198,941	628	1,142,226	608
Amphetamines	128	91	194	163	165	158

Quantities are given in:

- kg for cannabis, heroin, cocaine, crack and amphetamines
- doses for LSD and Ecstasy

* includes cannabis plant and resin: 52.2 tons of resin and 3.5 tons of plant accounted for the 55.7 tons of cannabis seized

Source: French Monitoring Centre for Drugs and Drug Addictions/Observatoire Français des Drogues et des Toxicomanies (OFDT), *Drugs and Drug Addictions: Indicators and Trends*, 1999 Edition, p. 169. May be consulted online at <http://www.drogues.gouv.fr/uk/index.html>.

Appendix C

Cost of the French Drug Policy (in millions of French francs)

NATURE OF THE EXPENSES (Ministry involved)	EXPENSES own budget	EXPENSES Interdepartmental credits	TOTAL EXPENSES
Justice	1,520	16.56	1536.56
of which:			
Judiciary services	200		
Prison service	1,320		
Legal Protection of young people			
Police	1,235.7	24.84	1260.54
Gendarmerie	459.2	10.35	469.55
Customs	430	20.25	450.25
Health	630.2 (1)	26.1	656.3
Social affairs	14	14.58	28.58
<i>DIV</i>	22	9.45	31.45
<i>MILDT</i>	(2)	45.36 (3)	45.36
Education	2	9.9	11.9
Youth and sport	17.7	8.28	26
Research	42	2.43	44.43
Foreign Affairs	14	7.2	21.2
Cooperation	18	1.8	19.8
Work, employment and professional training		0.81	0.81
Contribution to the European Union drug budget	30		30
Total	4,434.8	197.9	4,632.7
AIDS prevention among drug users (risk reduction)	40		

Source: French Monitoring Centre for Drugs and Drug Addictions/Observatoire Français des Drogues et des Toxicomanies (OFDT) website, *Towards an analysis of the cost of illegal drugs: an attempt to measure the cost of the state drug policy and a few comments on the measurement of other costs*, summary, 1998. May be consulted online at <http://www.drogues.gouv.fr/uk/professional/studies/cost.html>.

Appendix D

Breakdown of interministerial credits for 1998 expenditures (in millions of francs)

Ministerial sectors	1992	1994	1996	1998
Health, Social Affairs	59.5	45.9	68.1	47.9
National Education and Research	11.9	12.9	12	19.5
Youth and Sports	10.1	9.2	17.2	13.7
Interministerial Delegation to cities	2.8	9.2	10.5	13.2
Justice	22.8	18.4	18.4	18.9
Interior (police)	23.8	27.6	19	18.5
Defence (gendarmerie)	9.8	11.5	8.8	10.7
Economy and Finance (customs)	24.1	22.5	16	15.6
Foreign Affairs	10.8	9.2	6	5.8
Cooperation	2.5	2.7	2	1.6
Other	0.8	0.9	-	6
Specific MILDT Activities	55.1	48	52.5	77.7
Total	234	218	230.5	249.1

Source: French Monitoring Centre for Drugs and Drug Addictions/Observatoire Français des Drogues et des Toxicomanies (OFDT), *Drugs and Drug Addictions: Indicators and Trends*, 1999 Edition, p. 49. May be consulted online at <http://www.drogues.gouv.fr/uk/index.html>.