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Legal approaches to drugs and driving

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Introduction

Drug use can reduce the ability to drive a motor vehicle safely on the public road. European countries have developed various legal mechanisms to address this issue, using laws on road traffic or on drug control. This topic overview briefly describes the national laws in EU Member States and Norway, along with EU legislation, on drugs and driving. Here you can find out for each country whether the legal provisions exist in drug control laws or road traffic laws, the substances addressed, the levels of penalties, any blood-drug or impairment levels established ([1](#)), and whether drivers can be stopped and tested at any time or if the police require some form of suspicion beforehand.

EU level

European Union level

The topic of drugs and driving is addressed by EU legislation and initiatives in both road traffic safety and drug use.

Driving licences

Member States of the European Union issue driving licences in accordance with the Third Driving Licence Directive ([2006/126/EC](#) [2]). The directive recast the preceding Council Directive ([91/439/EEC](#) [3]), but did not change the text relevant to drugs. Under the sub-heading 'Abuse', it states that 'Driving licences shall not be issued to or renewed for applicants or drivers who are dependent on psychotropic substances or who are not dependent on such substances but regularly abuse them?'. Under the sub-heading 'Regular use?', it states that 'Driving licences shall not be issued to, or renewed for, applicants or drivers who regularly use psychotropic substances, in whatever form, which can hamper the ability to drive safely where the quantities absorbed are such as to have an adverse effect on driving. This shall apply to all other medicinal products or combinations of medicinal products which affect the ability to drive.'

The references to psychotropic substances are aimed at all psychoactive substances (other than alcohol,

which is addressed separately). However, the provision to restrict driving licences to persons not dependent on certain substances may be interpreted to restrict licences of substitution treatment clients, which may limit their social reintegration if they cannot reach a place of employment.

Political agreements

The [Council Resolution of 27 November 2003 on combating the impact of psychoactive substances use on road accidents](#) [4] underlined the importance of 'taking any appropriate measures, which may include sanctions, in respect of vehicle drivers who are under the influence of psychoactive substances, which reduce their capacity to drive'. The European Commission, in successive EU action plans on drugs (2000-04, 2005-08, 2009-12 and 2013-16), has called for research and prevention in the area of drugs and driving. The [EU road safety action programme 2003-2010](#) [5] (COM (2003)311, s.5.1.1) encouraged further work on the effects of drugs and medicines, with appropriate labelling of relevant medicines. There was no mention of drugs and driving in the Commission's subsequent Communication [Policy orientations on road safety 2011-2020](#) [6], though the [interim evaluation of that Communication](#) [7] recognised that it was a growing problem, even if 'no reliable figures are available on the number of fatal crashes caused by drug-driving in the EU'. The Cross Border Enforcement Directive ([2011/82/EU](#) [8]), which facilitates the cross border exchange of information on road safety traffic offences, identifies a number of key road traffic offences for enforcement, one of which is driving under the influence of drugs.

Research findings

A number of EU research projects on drug-driving have been completed, and these culminated in the DRUID (Driving under the influence of drugs, alcohol and medicines) project 2006-2011. The DRUID project was carried out to gain new insights into the degree of impairment caused by psychoactive drugs and their impact on road safety, in order to provide a solid evidence base for harmonised, EU-wide regulations. A summary of the DRUID findings is available online ([here](#) [9]), and the full reports and deliverables can be accessed on the [project website](#) [10].

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National level

National level

Defining the offence

National legislators consider various factors when addressing drug-driving, such as the availability of practical and reliable drug testing, the impact of drugs and driving on public safety, and countries' attitudes towards consuming illicit drugs. Yet the law should be enforceable and credible. It is not easy to prove scientifically that a person was under the influence at the time of driving, i.e. their skills were affected. Leaving a driver unpunished following detection of a low level of illicit drugs might appear to condone use of those drugs. But to penalise a driver regardless of the level of drugs detected (the 'zero tolerance' approach) means that there may have been no threat to public safety, as some metabolites may be detected in urine for days or even weeks after taking the drug.

This has resulted in quite different approaches across Europe, whereby national law may separate or combine the objectives of road safety and control of illicit drugs. For example, in some countries, such as Finland, drivers found with traces of illicit drugs in their bodily fluids might be prosecuted for illicit drug consumption. In other countries, such as Belgium and the United Kingdom, the results of drug tests carried

out under road traffic laws cannot be used for any other criminal charge. In addition, there is the matter of interpretation; while a law may define the offence as a driver being under the influence, this may be interpreted as having any trace of a substance in the blood, or even urine. Finally, some laws provide for a driver to be adversely affected, whereas others may simply mention being under the influence ? this latter clause could theoretically justify punishment of a person who has taken a controlled substance such as an anti-convulsant in order to be well enough to drive a vehicle.

Stopping and testing drivers

In most EU Member States, police have the authority to stop drivers at random, for example to check documentation, though approximately half will require some sort of suspicion before testing a driver for drugs. In about half of the countries, saliva from the driver will be collected and tested on the spot, while the remaining countries will assess physical or behavioural signs, such as pupil dilation or ability to walk in a straight line. Nearly all countries require a confirmatory blood test, usually performed in a hospital, in order to prosecute the driver.

Substances specified

Most countries prohibit driving under the influence of any substance. However, a few countries refer to a list of substances that drivers may not use, which may exclude some psychoactive substances such as medicines or new psychoactive substances which are not yet under control. An increasing number of countries have a two-tier system, prohibiting impairment by any drug but also setting upper limits in the blood for certain substances, which might be set close to levels of detection or close to levels of impairment. Laws controlling blood-drug limits are sometimes known as 'per se' laws; a driver found to have a higher than permitted level of a drug in the blood will be automatically in breach of the law, without requiring any proof of intoxication. In Norway, two limits may be specified, recognising lower and higher levels of intoxication equivalent to the national blood-alcohol limits.

Penalty ranges

The punishments for drug-driving offences vary greatly between countries. Licence suspension may be for a maximum of a few months in one country but a minimum of a year in others. Fines range from a few hundred to several thousand euros. Some offences are not punishable by a prison sentence, while for others maximum prison sentences, even for offences that are not strictly comparable (for example, when death or injury was caused), vary from days to years.

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Country data

Country data

	Legal basis	Police power to stop / test:	Oral fluid testing at roadside?	Evidentiary test	Substances to which law applies	Offence impairment level	Blood drug limits ng/ml (THC, amphetamine, cocaine, morphine)
Austria	Road Traffic Act, Arts.5, 99 Driving Licence Act, Art. 26	Stop at random. Test with suspicion.	No	Blood, at hospital	"Suchtgift"; generally drugs under UN61 and Schedules I+2 of UN71	Impairment	No limits specified
Belgium	Law on traffic circulation, Arts.35, 37 bis Royal decree of 27 November 2015 concerning saliva and blood analysis	Stop at random. Test at random	Yes	Blood, at hospital	(Art.37bis) 7 named substances (Art.35) Any	(Art.37bis) Impaired per se (Art.35) Impairment	(Art.37bis) THC=1 amphetamine=25 cocaine=25 Morphine=10
Croatia	Law on Safety in Road Traffic (LSRT) (OG 67/08, 48/10, 74/11, 80/13, 158/13, 92/14, 64/15), Art. 199(1), 282. Criminal Code (CC) (OG,125/11, 144/12, 56/15, 61/15), Art.226	Stop at random. Test at random.	Yes ? before physical test	Blood, at hospital	Any	(LSRT) Impairment (under influence) (CC) Impairment (not capable of driving, causing danger)	No limits specified

	Legal basis	Police power to stop / test:	Oral fluid testing at roadside?	Evidentiary test	Substances to which law applies	Offence impairment level	Blood drug limits ng/ml (THC, amphetamine, cocaine, morphine)
Cyprus	Motor vehicle and Road Traffic Law of 1972, s.9. Usually prosecution under the Narcotics Law of 1977, since use and possession is a criminal offence under that law anyway. No need to prove that the ability to drive safely was affected under the Narcotics Law.	Stop at random. Test at random	Yes	Second roadside sample sent as evidence	Any controlled under Narcotics Law	Impairment	No limits specified

	Legal basis	Police power to stop / test:	Oral fluid testing at roadside?	Evidentiary test	Substances to which law applies	Offence impairment level	Blood drug limits ng/ml (THC, amphetamine, cocaine, morphine)
Czech Republic	Road Traffic Act (RTA) (361/2000), s. 125c						
	Criminal Code (CC) (40/2009), s. 274 (Endangerment under the influence of an addictive substance)						
	Government Regulation No. 41/2014 Coll., on the determination of other addictive substances and their threshold quantities which will be considered as impairing a person's ability to drive when reached in their blood sample	Stop at random. Test at random	Yes	Blood, at hospital	(RTA) Any (clear limits provided for 6 substances) (CC) Any	(RTA) Impairment and impaired per se (CC) Impairment	(RTA) THC=2 amphetamine=25 cocaine=25 Morphine=10

	Legal basis	Police power to stop / test:	Oral fluid testing at roadside?	Evidentiary test	Substances to which law applies	Offence impairment level	Blood drug limits ng/ml (THC, amphetamine, cocaine, morphine)
Denmark	Road Traffic Act (LBK 1079 of 14 November 2005), ss.54, 55, 117d, 125, 126, 128. Act 524 of 6 June 2007, BEK 655 of 19 June 2007	Stop at random. Test at random	Yes ? after physical test	Blood, at hospital	Any, except if in accordance with medical prescription	Impairment and impaired per se	THC=1 amphetamine=20 cocaine=20 morphine=10
Estonia	Traffic Act: §91 (removal from driving a vehicle) Use of drugs is punishable according to the Act on Narcotic Drugs and Psychotropic Substances and Precursors thereof: §15 ¹ Criminal Code (CC): §50, §424 Law Enforcement Act: §36, §37, §41	Stop with suspicion. Test at random	Possible	Blood, at hospital	Any	(Traffic Act) If drug detected (?reason to believe substance use?) (CC) Impairment	No limits specified

	Legal basis	Police power to stop / test:	Oral fluid testing at roadside?	Evidentiary test	Substances to which law applies	Offence impairment level	Blood drug limits ng/ml (THC, amphetamine, cocaine, morphine)
Germany	Road Traffic Code (StVG) s.24a(2) Criminal Code (CC) (StGB) ss.315c, 316,	Depends on Land	Depends on Land	Blood, at hospital	(Road Traffic Code) 7 named substances (CC) Any	(Road Traffic Code) If drug detected (CC) Impairment	No limits specified. Recommended analytical limits (in serum): THC=1 amphetamine=25 cocaine=10 morphine=10
Finland	Criminal Code Ch.23, s.3, 4, 8	Stop at random. Test with suspicion.	Yes ? after physical test	Blood, at hospital or police station	(Ch.23 s.3) Narcotic substance other than medicinal product which a person has a right to use (Ch.23 s.4) Any	(Ch.23 s.3) impaired per se (Ch.23 s.4) Impairment	

	Legal basis	Police power to stop / test:	Oral fluid testing at roadside?	Evidentiary test	Substances to which law applies	Offence impairment level	Blood drug limits ng/ml (THC, amphetamine, cocaine, morphine)
France	Law 2016-41 of 26 Jan 2016, law 2003-87 of 3 Feb, law 99-505, (Art.L. 235-1 and L. 235-2 of code de la route), decree 2016-1152 of 24 Aug 2016, decree 2001-751 of 27 Aug (Art. R-235-1 and following of code de la route)	Stop at random. Test with suspicion.	Yes in the forthcoming months	Blood, at hospital. Saliva and urine under certain conditions	Substances or plants classed as narcotics	If drug detected	No limits specified
Hungary	Criminal Code Art.188	Stop at random. Test with suspicion.	No	Blood, at police station	Any	Impairment	No limits specified
Ireland	Road Traffic Acts 1961 ? 2016, ss4(1), 4(1A). SI 536 of 2014 The Road Traffic Act (Impairment Testing) (Commencement) Order	Stop at random if designated checkpoint. Test with suspicion.	Yes from April 2017	Blood, at police station. Urine under certain conditions	s.4(1A): cannabis, cocaine, heroin S.4(1): Any	S.4(1A) impaired per se. Medicinal product ? impairment s.4(1) Impairment.	s.4(1A): THC=1 cocaine=10 Morphine (6-AM)=5 (Whole blood)

	Legal basis	Police power to stop / test:	Oral fluid testing at roadside?	Evidentiary test	Substances to which law applies	Offence impairment level	Blood drug limits ng/ml (THC, amphetamine, cocaine, morphine)
Italy	Law 285/1992 (Highway Code) and updates, Art 186 and 187	Stop at random. Test with suspicion.	Yes	Blood, at hospital	Any	If drug detected	No limits specified
Latvia	Administrative Violations Code (AVC) , 149.15 2012 Cabinet Regulation No 296 ?On Amendments to Cabinet Regulation No. 103 of 2 February 2010 ?Procedures for obtaining and renewing driving licences? Criminal Code (CC) s.262	Stop at random. Test with suspicion.	No	Blood, at hospital	(AVC) Any / medicinal (CC) Any	(AVC) Any drug ? If drug detected. Medicinal product - impairment. (CC) If drug detected	No limits specified

	Legal basis	Police power to stop / test:	Oral fluid testing at roadside?	Evidentiary test	Substances to which law applies	Offence impairment level	Blood drug limits ng/ml (THC, amphetamine, cocaine, morphine)
Lithuania	Code of Administrative Offences Art.422 Governmental Resolution No. 452, December 12, 2006 ,?The rules for identifying of intoxication or drunkenness for vehicle drivers and other persons?	Stop at random. Test with suspicion.	No	Blood/urine, at hospital	Any	If drug detected	No limits specified

	Legal basis	Police power to stop / test:	Oral fluid testing at roadside?	Evidentiary test	Substances to which law applies	Offence impairment level	Blood drug limits ng/ml (THC, amphetamine, cocaine, morphine)
Luxembourg	Loi modifiant la loi du 14 février 1955 concernant la réglementation de la circulation sur toutes les voies publiques, Art 12 Loi 18 septembre 2007 Règlement grand-ducal du 18 novembre 2011 concernant les critères techniques et les conditions d'homologation des appareils	Stop at random. Test with suspicion.	Yes ? after physical test	Blood, at hospital	All controlled substances	Impairment and impaired per se	THC=1 amphetamine=25 cocaine=25 Morphine=10
Malta	Traffic Regulation Ordinance, Sections 15A, 15H, 15I	Stop at random. Test with suspicion.	No	[TBC]	Any	Impairment	No limits specified

	Legal basis	Police power to stop / test:	Oral fluid testing at roadside?	Evidentiary test	Substances to which law applies	Offence impairment level	Blood drug limits ng/ml (THC, amphetamine, cocaine, morphine)
Netherlands	Road Traffic Law 1994, Art.8 [New law with per se limits expected to come into force July 2017.]	Stop at random. Test at random	No	Blood, at hospital or police station	Any	Impairment	No limits specified
Norway	Road Traffic Act of 18 June 1965 No.4, ss 21-22a, 31, 33 Regulation of 20 Jan 2012 on fixed limits for influence of intoxicating substances	Stop at random. Test at random.	Yes ? before or after physical test	Blood, at hospital or police station	Any	Impairment, and impaired per se for 28 substances	[In Micromols, not ng/ml:] THC=0.4 or 1 amphetamine=30 cocaine=8 Morphine=3 or 8
Poland	Criminal Code, Art. 178a	Stop with suspicion. Test at random	Yes	Blood, at hospital or police station	Any	If drug detected	No limits specified

	Legal basis	Police power to stop / test:	Oral fluid testing at roadside?	Evidentiary test	Substances to which law applies	Offence impairment level	Blood drug limits ng/ml (THC, amphetamine, cocaine, morphine)
Portugal	Road Law Decree?Law 44/2005 Art. 81; Regulation 1006/98 Criminal Code (CC), Art 291	Stop at random. Test with suspicion.	Yes	Blood, at hospital	(Road Law) Substances legally considered as narcotic or psychotropic (CC) Any	If drug detected	No limits specified
Romania	Criminal Code, arts. 336-337. Ministry of Health Order no 1512/12.12.2013	Stop at random. Test at random	Yes	Blood, at hospital	All controlled substances	If drug detected	No limits specified
Slovenia	Act of rules in road transport 82/13 (articles 22, 107/7, 107/8)	Stop at random. Test with suspicion.	Yes	Blood or urine, at hospital	Any	If drug detected	No limits specified

	Legal basis	Police power to stop / test:	Oral fluid testing at roadside?	Evidentiary test	Substances to which law applies	Offence impairment level	Blood drug limits ng/ml (THC, amphetamine, cocaine, morphine)
Slovakia	<p>Act 372/1990 Coll. on Administrative Offences (AAO) S.22(1)(f)</p> <p>Criminal Code (CC) S. 289</p> <p>Act 8/2009 Coll. on Road Traffic S. 4(2)(b,c) (obligations of driver); S. 69 (1)(d)(testing); S. 70(1)(c) (licence suspension)</p>	<p>Stop at random. Test at random</p>	No	Blood, at hospital	Any	<p>(AAO) If drug detected</p> <p>(CC) Impairment</p>	No limits specified
Sweden	<p>Act on Punishment for some Traffic Crimes (1951:649), s.4 and 4a</p>	<p>Stop at random. Test with suspicion.</p>	No	[TBC]	<p>Any, but no liability if in accordance with medical prescription</p>	<p>If drug detected</p>	No limits specified

	Legal basis	Police power to stop / test:	Oral fluid testing at roadside?	Evidentiary test	Substances to which law applies	Offence impairment level	Blood drug limits ng/ml (THC, amphetamine, cocaine, morphine)
					(s.5A) 17 specified		
					(s.4) Any for impairment	(s.5A) impaired per se	(s.5A) THC=2 amphetamine=10 cocaine=10 Morphine=80
United Kingdom (England and Wales only)	Road Traffic Act s.4 & s.5A.	Stop with suspicion. Test with suspicion.	Yes	Blood, at police station		(s.4) Impairment	

¹) In general, countries may either operate policies of 'zero tolerance', in which any trace of drug found is penalised no matter what the effect on the driver; or 'impairment', when drivers will be punished only if their driving skills were obviously affected. This is due to lack of scientific agreement up to now about what levels of concentration of the drug in the body may show impairment, and lack of suitable equipment for roadside testing. As science starts to converge on approximate levels of impairment, laws have started to specify blood-drug levels above which a driver will be considered guilty, but these may still fit the existing typology; a low threshold may be considered 'zero tolerance' while a higher threshold may be considered 'impairment'.

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[6] http://ec.europa.eu/transport/sites/transport/files/road_safety/pdf/com_20072010_en.pdf

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