

the use of prescribed medicines if there are no symptoms of impairment. This approach – not being strictly zero tolerance – correlates highly with the two-tier system. Advantages of each single approach may be neutralized by the disadvantages of that approach, so that the sheer quantity of both advantages and disadvantages plays a minor role. However, neither advantages nor disadvantages are weighed against each other or at specific criteria; this is and will be the need for further research. The impairment approach certainly shows the highest number of disadvantages; on the other hand it is often combined with subsequent measurement, thus overlapping with the two-tier approach.

#### 4.4 Résumé

This section will summarize the information of all three parts of the questionnaire by answering the research questions originally phrased by the Dutch Ministry of Transport, Public Works and Water Management and the Ministry of Justice. In case additional questions - not included in the original set of research questions - were asked, questions and answers are only given in the pertaining Chapters 2, 3 and 4.1 - 4.3 of this report.

In order to ease reading, the research questions from Chapter 2, page 6, are repeated in this résumé; answers are printed in bold:

##### 1. Limit values

1.1 Which countries have limit values in their traffic law for alcohol, drugs and medicine? What are these limit values and what are they based on?

**A: All countries which were selected for the present survey apply limit values for alcohol. These values are documented in the respective traffic and/or criminal laws as well as in administrative laws and regulations. They are mainly based on decades of international research on the driving impairment by alcohol. Concerning drugs, limit values are applied in Belgium (by law), Germany (Commission of the Transport Ministry), Portugal (not in the law) and in the Australian state of Victoria (in the Road Safety Act). In Finland, for the time being, limit values are only applied for research purposes and are expected to be legislated in the future. Limit values for drugs are mainly based on past research (e.g. the ROSITA project). For medicines none of the countries has introduced limit values (analytical cut-offs). One of the comments of the respondents states: "Abuse levels of illicitly used and misused medicines during treatment are detected by established proven psychomotor-tests as toxicologists cannot agree on impairment levels to the extent required for legislation".**

1.2 Has there been research conducted considering the concentration of a used drug/or medicine and the influence on the driving ability? If so what are the results of this research?

**A: All countries claim to have conducted research – most of them both epidemiological and experimental – with the exception of Portugal. It is impossible**

within the frame of this report to summarize the results of this research; this may be easily understood looking at the amount of references provided by respondents. On the other hand, most of the countries claim that research has had an impact on the legislation in their countries (Australia, Belgium, Germany, Portugal); Spain judges their participation in the ROSITA project as fundamental for future legislative change.

## 2. Saliva testers

2.1 What countries use saliva testers for detection of drugs? What countries use them for detection as a first indication (pre selection device) and what countries use saliva testers as legal evidence?

**A:** Except for Sweden saliva testing is applied in all countries. In Norway, however, this is only allowed for research purposes. In Belgium, Australia, Germany, Portugal and Spain saliva testing is used as a first indication. Only one state in Australia (Victoria) uses saliva testing as a legal evidence whereas in Queensland a laboratory confirmation is necessary. In Spain preliminary tests have been conducted; positive results in a saliva sample did have administrative consequences.

2.2 What is the motivation for using saliva testers as a pre selection device and to use saliva as evidence or blood as evidence?

**A:** The answer to this question is closely linked to the national legislation. The use of saliva testers provides quick results, is easily applicable and generates less cost. Constitutional law in some countries has created a barrier to invasive testing (i.e. taking a blood/serum/plasma sample) without sufficient indication that the person stopped at the roadside is under the influence. Therefore, dependent on national legislation suspicion has to be substantiated by a non-invasive test (saliva) before an invasive test (blood etc.) may be conducted and thus final substantiation be established by laboratory analysis. Of the nine on-site saliva-testing devices evaluated by the EU's Rosita-2 project between 2003 and 2005, not one could be recommended for roadside screening of drivers. Only one country (Victoria) may use saliva testing as legal evidence, two others may use it in the future Portugal and Spain). Most countries apply saliva testers as a pre-selection device.

2.3 In the countries that use saliva testers, has it been prescribed in legislation for which drugs they can be used?

**A:** Four countries (Belgium, Victoria, Germany and Portugal) claim that their law names the drugs for which saliva testing may be used.

2.4 In these mentioned countries, how are other drugs being detected that cannot be detected by a saliva tester? By coordination test for example?

**A: Drugs not detectable by saliva testing are found through coordination tests (carried out by a police officer), Standard Field Sobriety test, horizontal gaze nystagmus, walk the straight line and balance test) normally done to establish a reason for taking a blood sample.**

2.5 In the countries that use saliva testers, how is the detection done of usage of medicines by a driver?

**A: The most common approaches to the detection of driving under the influence of medicinal drugs are either observed impairment (additionally substantiated by coordination tests, quick test for morphine) or other symptoms of impairment.**

3. Criminal/Administrative charges

3.1 Is there a distinction in the maximum punishment between alcohol, drugs and medicines in other countries?

**A: Yes; sanctions for substance related offenses like imposing penalty points, driving bans, fines or imprisonment differ substantially. This is valid for all substances.**

3.2 Is the maximum criminal/administrative charge of combined use of drugs and alcohol, and or medicines higher or lower than the criminal/administrative charge for single use of alcohol, drugs and medicines? If so to what degree and what is the motivation?

**A: The maximum criminal/administrative charge of combined use of substances may indeed be higher than that for single use. In Belgium for example there is a higher sanction although the law does not provide for the term "combined usage"; the offender is punished because of two different infractions (e.g. alcohol + drugs) and receives the added amount of sanction for each single infraction. Depending on degrees of impairment and circumstances of the offense, Germany and Norway are the only other countries raising charges for combined usage.**

3.3 If your country has implemented a zero tolerance legislation , please indicate the year it was introduced and explain the reasoning behind this legislation:

**A: A majority of six countries have adopted a zero tolerance legislation. However, "zero tolerance" is obviously defined nationally in different ways: it may be valid for all motor-vehicle drivers or for specified subgroups of drivers (Queensland, Australia). It may be combined with the impairment approach (Finland), thus overlapping with the two-tier system. The reasoning (as summarized in Tables 15 and 17) is manifold, mainly referring to enable punishment for all driving under the influence regardless of impairment evidencing, to ease handling of criminal/administrative procedures, results of research which have generally demonstrated the impairing effects of drugs on driving.**

3.4 If your country has not implemented a zero tolerance law after expert and/or political discussion what was the reasoning behind that?

**A: Three countries in the survey have no explicit zero tolerance legislation. The implementation of zero tolerance in Germany failed as a consequence of a Constitutional Court decision ('substances in blood do not justify assumption of unfitness to drive'). Norway and Spain take up the position that further research is needed.**

## 5 Discussion and Conclusions

The survey conducted with a questionnaire and additional interviews in seven European countries and two states of Australia did not aim at achieving a representative picture of the legislation on limit values for alcohol, drugs and medicines in Europe or elsewhere. The selection of countries was primarily based on the knowledge of their legislative attempts to combat drink and drug driving in the past and their current debates on possible improvements of their systems.

Concerning *alcohol limits* (admittedly the most extended development history of limit values) a clear trend towards lower limits is observed. Whereas some countries prefer uniform lower limits, others have developed a highly sophisticated approach by defining different levels for various groups with enhanced risk and for specific circumstances of the driving offenses.

Questions on the *limit values for drugs and medicines* yielded insight in the nationally preferred approaches. As mentioned earlier, there are three different approaches to combat drug driving: the zero tolerance approach (any driving with the presence of any drug, prescribed licit and/or illicit drug in oral fluid or blood, and driving while impaired by any such drug will be prosecuted), the impairment approach (prosecution only if impairment is verified; e.g. by coordination-test) and, finally, the two-tier system (prohibiting impairment by any drug but also identifying certain substances for zero tolerance).

The preference for one of the named specified approaches depends on a variety of factors. As research has not (yet) been able to establish and propose a clear-cut solution to link substance use to distinct levels of impairment, legislations have decided and will have to decide after weighing up the advantages and disadvantages with respect to constitutional law, accident reduction, overall risk and public risk acceptance.

The countries in the survey have accordingly chosen different approaches. Legislations with an impairment approach normally face the problem of explicit evidence. As the two-tier approach combines zero tolerance legislation with impairment, the problem of explicit evidence is present as well. Only the zero tolerance approach does not "suffer" from the necessity to deliver clear evidence for impairment. On the other hand, this approach faces the fact that some of those convicted for driving under the influence will not have been impaired at the time of driving. This is, however, also the case for zero BAC limits. Moreover,



under strict zero tolerance legislation, drivers under the influence of prescribed medicines (often not impaired) will be punished in the same way as drivers driving under the influence of illicit drugs. The EMCDDA has mentioned this problem in a recent survey: "National laws and their enforcement need to strike a balance between concerns about ensuring road safety and the therapeutic needs of individuals." Driving under the influence of (prescribed) medicines therefore seems to be a far more complicated issue as the current situation in toxicology does not allow to define cut-offs for impairment. On this background some legislations have turned to the tiered approach.

Although the different approaches may be defined as "strictly" zero tolerance or impairment only, they tend to be redefined and entangled in national legislations in order to meet the safety needs of the public, the drivers and the therapeutic needs of individuals.

## 6 References

EMCDDA (2009): <http://eldd.emcdda.europa.eu/html.cfm/index19034EN.html>  
<http://www.emcdda.europa.eu/themes/driving>;  
<http://www.emcdda.europa.eu/publications/insights/driving>  
<http://www.emcdda.europa.eu/publications/drugs-in-focus/driving>

Swann, P (2009): personal communication, Oct. 30, 2009

## Appendix 1

### Questionnaire

#### **Legislation on Driving under the Influence of Illicit Drugs and Illicitly Used Medicines**

Drug abuse impacts on morbidity and mortality in a variety of ways. Among the unrecognised casualties are dead and injured individuals in vehicular crashes caused by or associated with operating a motor vehicle under the influence of drugs other than alcohol. Driving under the influence of "illegal" drugs appears to be increasingly common among those arrested for DUI but it is less frequently detected, discouraged, or treated when compared with drunk-driving. It is the scientific and technical parameters that have restrained prevention/deterrence strategies to deal with drugged driving.<sup>1</sup>

Developing strategic initiatives to deal with this problem are hampered by the fact that there are significant gaps in our knowledge about the way in which illegal drug use affects driving performance, and further complicated by the complexities of DUI laws.

***This questionnaire was designed on behalf of the Ministry of Transport, Public Works and Water Management of the Netherlands and it is mainly addressing the topic of legislation and enforcement. More specific questions on limit values and saliva testing are added.***

The questionnaire is divided into three parts – (1) Limit values (analytical cut-offs), (2) Saliva testers and (3) Criminal/administrative charges

**Please answer the following questions to the best of your knowledge. We would appreciate if you returned the questionnaire by October 5<sup>th</sup>, 2009 via email to [w.nickel@t-online.de](mailto:w.nickel@t-online.de) or surface mail to Wolf-R. Nickel, Mannheimstr. 19, D-38112 Braunschweig, Germany.**

Thank you very much for your cooperation.

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<sup>1</sup> Based on: Illegal Drugs and Driving, International Council on Alcohol, Drugs and Traffic Safety (ICADTS); ICADTS Working Group on Illegal Drugs and Driving, Chaired by Dr. J. Michael Walsh, May 2000

## Part 1: (Limit values)

1. Does your country apply limit values for alcohol, illicit drugs and medicines?

### 1.1 alcohol

--

1.1.1 Are there other BAC thresholds or more severe consequences under the following circumstances?

Circumstances	NO	YES (If yes please specify BAC level (g/L or g/kg))	More severe consequences
Young drivers			
Novice drivers			
Professional drivers			
Repeat offenders / recidivists			
Making an unsafe manoeuvre			
Involvement in an accident			
Other			

### 1.2 Illicit drugs

Limit values (analytical cut-offs) for drugs are applied

Yes [ ] No [ ]

1.2.1 If yes, please indicate, where they are mentioned (law, other documents):

.....

1.2.2 If limit values are applied, please specify by marking the matrix (serum, plasma, whole blood, saliva) which is measured:

Substance	Serum	Plasma	Whole blood	Saliva	Cut-off (ng/ml)
THC					
Amphetamine					
MDMA (Ecstasy)					
Morphine or 6-acetylmorphine					
Cocaine					
Benzoylcegonine					
Other: .....					
.....					

### 1.3 medicines

Limit values for medicines are applied	For prescribed medicines		for medicinal drugs used illegally	
	Yes [ ]	No [ ]	Yes [ ]	No [ ]
Based on analytical thresholds	Yes [ ]	No [ ]	Yes [ ]	No [ ]
Based on danger thresholds	Yes [ ]	No [ ]	Yes [ ]	No [ ]

If yes, please specify:

.....  
 .....

If questions 1.2 and/or 1.3 were answered "no", what is the underlying motivation/reasoning?

- For illicit drugs:.....

- For medicines:.....

#### 1.4 Research on concentration of drugs/medicine

1.4.1 Has there been research conducted in your country considering the concentration of a consumed drug and/or medicine and their impact on driving performance?

Epidemiological research      Yes ☐      No ☐

Experimental research      Yes ☐      No ☐

If yes, please specify by stating references or contact details of a leading researcher in your country:

.....

.....

.....

1.5 Have any research results (national or international) had an impact on your country's legislation?

Yes ☐      No ☐

If yes, please specify:

.....

.....

#### Part II: (Saliva testing)

2.1 Is there any saliva testing (roadside or in the lab) being conducted in your country?

Roadside testing: Yes ☐ No ☐;      lab testing:    Yes ☐      No ☐

If yes, please indicate (several answers are applicable):

☐ Saliva testing is used as a first indication of the presence of drug consumption  
Road side ☐    Lab ☐

☐ Saliva testing is used to produce legal evidence  
Road side ☐    Lab ☐

☐ Saliva testing is used to initiate blood/serum testing  
Road side ☐ Lab ☐

2.2 What is the procedure in case of a drug positive result in saliva testing (roadside or in the lab?)

By the police:.....

.....

By the prosecutor:.....

2.3 Does legislation in your country name the type of drug for which saliva testing should be applied?

Yes ☐ No ☐

If yes, how are drugs discovered which are not specifically referred to in legislation?

☐ the person cannot be sanctioned if another drug is present (and he was not impaired)

☐ coordination test (carried out by a police officer)

☐ only by blood sample

☐ only by urine sample

☐ **other (please specify):**

.....

.....

2.4 (please answer this only if your country is using saliva testing)

How is the consumption of (prescribed) potentially driver impairing medicines assessed by the police in your country?

.....

.....

**Part 3: (Criminal/administrative charges)**

**3.1 Maximum punishment**

3.1.1 Is there a distinction in the maximum punishment after consumption of either alcohol, drugs or medicines before driving a motor vehicle? Please use the table below:

	Maximum punishment			
	Demerit/ penalty points <sup>1</sup>	Driving ban (years/ months)	Fine (please indicate currency)	Imprisonment (years/months)
<b>alcohol</b>				
<b>drugs</b>				
<b>medicines</b>				

<sup>1</sup> only if your country has implemented a demerit/penalty points system

3.2 In case of any combination in the consumption of alcohol, drugs and medicines, is there a different administrative/criminal charge as compared to single use of any of those substances?

Yes [ ]                      No [ ]

If yes, please specify to what extent charges may be raised

.....

.....

.....

Please indicate the reasoning behind this procedure:

.....

.....

### 3.3. Zero tolerance legislation

3.3.1 If your country has implemented a zero tolerance legislation<sup>2</sup>, please indicate the year it was introduced and explain the reasoning behind this legislation:

Year .....

Reasoning (please use an extra sheet of paper, if necessary):

.....  
.....

3.4 If your country has **not** implemented a zero tolerance law after expert and/or political discussion what was the reasoning behind that?

.....

***Thank you very much for answering all the questions!***

In case of any questions with regard to your responses – may I contact you either by email or telephone?

Yes [ ]

No [ ]

**Please give your contact details:**

Name:

Office hours:

Telephone:

Email:

Wolf-Rüdiger Nickel  
Mannheimstr. 19  
D-38112 Braunschweig  
T: +49 531 311677  
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<sup>2</sup> driving with the presence of a prescribed licit and/or illicit drug in oral fluid or blood, and driving while impaired by any such drug will be prosecuted.



## Fragebogen

### **Gesetzgebung zum Fahren unter Einfluss von Betäubungsmitteln und nach illegalem Medikamentenkonsum**

Drogenmissbrauch beeinflusst die Morbidität und Sterblichkeit in unterschiedlicher Form. Unter die z.T. nicht erkannten Unfallfolgen sind Tote und Verletzte nach Verkehrsunfällen infolge des Führens eines Fahrzeugs unter Drogeneinfluss zu zählen. Das Fahren unter dem Einfluss "illegaler" Drogen nimmt anscheinend stark zu, wird aber gleichzeitig im Unterschied zum Fahren unter Alkoholeinfluss weniger häufig entdeckt, bestraft oder behandelt. Die wissenschaftlichen und technischen Parameter haben allerdings auch Abschreckungs- und Präventionsstrategien eingeschränkt.<sup>3</sup>

Die Entwicklung strategischer Initiativen zur Lösung dieses Problems werden durch die Tatsache behindert, dass es bedeutsame Lücken in unserem Wissen über die Wirkung illegaler Drogen auf das Fahrverhalten gibt sowie durch die Komplexität der Gesetze zum Führen von Fahrzeugen unter Drogeneinfluss.

***Dieser Fragebogen wurde für das niederländische Ministerium für Verkehr, öffentliche Arbeiten und Wasserwirtschaft entwickelt; er befasst sich hauptsächlich mit den Themen „Gesetzgebung“ und „Strafverfolgung“. Darüber hinaus enthält er eine Reihe von speziellen Fragen zu Grenzwerten und zum Speicheltest.***

Der Fragebogen hat drei Teile: – (1) Grenzwerte (analytische cut-off-Werte), (2) Verfahren beim Speicheltest und (3) strafgesetzliche/verwaltungsrechtliche Verfahren.

**Bitte beantworten Sie die folgenden Fragen so gut es Ihnen möglich ist. Ich wäre für eine Rücksendung des Fragebogens per email bis zum 5. Oktober 2009 an [w.nickel@t-online.de](mailto:w.nickel@t-online.de) oder per Post: Wolf-R. Nickel, Mannheimstr. 19, D-38112 Braunschweig, sehr dankbar.**

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<sup>3</sup> Nach: Illegal Drugs and Driving, International Council on Alcohol, Drugs and Traffic Safety (ICADTS); ICADTS Working Group on Illegal Drugs and Driving, Chaired by Dr. J. Michael Walsh, May 2000

## Teil 1: (Grenzwerte)

2. Werden in Ihrem Land Grenzwerte für das Fahren unter Alkoholeinfluss, unter Einfluss von illegalen Drogen und illegal konsumierten Medikamenten angewendet?

### 1.1 Alkohol

- 1.1.1 Gibt es weitere BAK-Grenzwerte oder werden für die im folgenden genannten Umstände ernstere Konsequenzen gezogen?

Umstände	Nein	Ja (Falls ja, bitte den BAK-Wert angeben (g/L or g/kg))	Ernstere Konsequenzen
Junge Fahrer			
Fahranfänger			
Berufskraftfahrer			
Wiederholt Auffällige / Rückfalltäter			
Unsichere Fahrweise			
Unfallbeteiligung			
andere			

### 1.2 Illegale Drogen

Grenzwerte (analytische Cut-off-Werte) für das Fahren unter Drogeneinfluss werden angewendet

Ja [ ]

Nein [ ]

- 1.2.1 Falls ja, geben Sie bitte an, wo die Grenzwerte festgelegt sind (Gesetz, andere Bestimmungen):

.....

1.2.2 Falls Grenzwerte angewendet werden, markieren Sie bitte die zu messenden Grundsubstanzen (Serum, Plasma, Blut, Speichel):

Betäubungsmittel	Serum	Plasma	Blut	Speichel	Grenzwert (ng/ml)
THC					
Amphetamin					
MDMA (Ecstasy)					
Morphium oder 6-Acetylmorphin					
Kokain					
Benzoylcegonin					
andere: .....					
.....					

### 1.3 Medikamente

Grenzwerte für Medikamente werden angewendet	Für verordnete Medikamente		Für illegal konsumierte Medikamente	
	Ja [ ]	Nein [ ]	Ja [ ]	Nein [ ]
auf der Basis analytischer Grenzwerte	Ja [ ]	Nein [ ]	Ja [ ]	Nein [ ]
auf der Basis von Gefahrengrenzwerten	Ja [ ]	Nein [ ]	Ja [ ]	Nein [ ]

Falls ja, würden Sie hier bitte nähere Angaben machen?

.....

.....

Falls die Fragen 1.2 und/oder 1.3 mit "nein" beantwortet wurden, welches ist die zugrunde liegende Motivation/Argumentation?

- für illegale Drogen:.....

- für Medikamente:.....

### 1.5 Forschung zu den Konzentrationen von Drogen/Medikamenten

1.4.1 Ist in Ihrem Land Forschung im Hinblick auf die Konzentration konsumierter Drogen und/oder Medikamente sowie deren Einfluss auf das Fahrverhalten durchgeführt worden?

Epidemiologische Forschung                      Ja [ ☐ ]                      Nein [ ☐ ]

Experimentelle Forschung                      Ja [ ☐ ]                      Nein [ ☐ ]

Falls ja, geben Sie bitte einen Hinweis auf die entsprechende Fachliteratur oder die Kontaktdaten eines führenden Forschers in Ihrem Land:

.....  
.....  
.....

1.5 Haben Forschungsergebnisse (nationale oder internationale) eine Auswirkung auf die Gesetzgebung in Ihrem Lande gehabt

Ja [ ☐ ]                      Nein [ ☐ ]

Falls ja, würden Sie das bitte kurz erläutern?:

.....  
.....

### Teil II: (Speicheltests)

2.1 Gibt es in Ihrem Land Speicheltests (vor Ort oder Labor)?

vor Ort: Ja [ ☐ ]                      Nein [ ☐ ];                      Labor: Ja [ ☐ ]                      Nein [ ☐ ]

Falls ja, bitte geben Sie zusätzlich an (mehrere Antworten sind möglich):

[ ☐ ] Speicheltests werden als erster Anhaltspunkt für Drogenkonsum benutzt  
vor Ort [ ☐ ]                      Labor [ ☐ ]

☐ Speicheltests werden benutzt um den gesetzlich geforderten Nachweis zu erbringen

vor Ort ☐ Labor ☐

☐ Speicheltests werden benutzt, um anschließend Blut- bzw. Serumuntersuchungen durchzuführen

vor Ort ☐ Labor ☐

2.2 Wie wird im Falle eines positiven Speicheltests (vor Ort oder im Labor) verfahren?

Verfahren der Polizei:.....

.....

Verfahren der Staatsanwaltschaft:.....

2.3 Nennt die Gesetzgebung Ihres Landes die Art der Drogen für welche Speicheltests angewendet werden sollen?

Ja ☐

Nein ☐

Falls ja, wie werden solche Drogen entdeckt die nicht ausdrücklich im Gesetz erwähnt werden?

☐ der/die Betreffende kann in einem solchen Fall nicht sanktioniert werden (wenn er auch kein auffälliges Verhalten zeigte)

☐ mittels Koordinationstest (durchgeführt von der Polizei)

☐ nur mittels Blutprobe

☐ nur mittels Urinprobe

☐ andere (bitte machen Sie dazu ggf. nähere Angaben):

.....

.....

2.4 (bitte beantworten Sie diese Frage nur wenn in Ihrem Land Speicheltests durchgeführt werden)

Wie wird der Konsum (verordneter) potentiell das Fahrverhalten beeinträchtigender Medikamente durch die Polizei in Ihrem Land festgestellt?

.....

.....

### Teil 3: (Strafverfolgung/verwaltungsrechtliches Vorgehen)

#### 3.1 Höchststrafen

3.1.1 Gibt es bei den Höchststrafen einen Unterschied nach dem Konsum von entweder Alkohol oder Drogen /Medikamenten vor dem Führen von Kraftfahrzeugen? Bitte benutzen Sie für Ihre Angaben die folgende Tabelle::

	Höchststrafe			
	Punktsystem <sup>1</sup>	Fahrverbot (Jahre/ Monate)	Geldbuße/- strafe (bitte Währung angeben)	Gefängnis (Jahre/Monate)
<b>Alkohol</b>				
<b>Drogen</b>				
<b>Medikamente</b>				

<sup>1</sup> nur, wenn in Ihrem Land ein Punktsystem angewendet wird

3.2 Gibt es im Falle des kombinierten Konsums von Alkohol, Drogen und/oder Medikamenten eine andere gesetzliche Verfahrensweise sowie Strafhöhe als bei einfachem Konsum der genannten Substanzen?

Ja [ ]

Nein [ ]

Falls ja, bitte geben Sie an, bis zu welcher Höhe sich bei kombiniertem Konsum Strafen erhöhen können:

.....

.....

.....

Bitte geben Sie an, welche Überlegungen hinter diesem Verfahren stehen:

.....

.....

### 3.3. Gesetzgebung zu "Nulltoleranz"

3.3.1 Falls Ihr Land eine Gesetz zu Nulltoleranz<sup>4</sup> hat, geben Sie bitte an, in welchem Jahr es in Kraft gesetzt wurde und erläutern Sie kurz die Argumentation für dieses Gesetz:

Jahr der Inkraftsetzung .....

Argumentation:.....  
.....

.....

3.4 Falls Ihr Land trotz Experten-und politischer Diskussion **keine** Nulltoleranz-Gesetzgebung hat, was waren die Gründe dafür?

.....

***Vielen Dank für die Beantwortung aller Fragen!***

Sollten sich im Zusammenhang mit Ihren Antworten Rückfragen ergeben, – darf ich Sie entweder per Email oder telefonisch kontaktieren?

Ja [ ]

Nein [ ]

**Bitte geben Sie im zustimmenden Fall Ihre Kontaktdaten:**

Name:

Bürostunden/Erreichbarkeit:

Telefon:

Email:

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<sup>4</sup> Fahren unter dem Einfluss eines das Fahrverhalten beeinträchtigenden verordneten Medikaments und/oder einer illegalen Droge – festgestellt in Körperflüssigkeit bzw. Blut - wird strafrechtlich verfolgt.





## Appendix 2 Tables

### 1) EMCDDA overview of legislation to combat drug driving in Europe

	Status of offence	Police may stop to test:	Substances specified	Tolerance (zero / impairment)	Licence Suspension period	Fine range	Prison	Legal basis
<b>Belgium</b>	Criminal	At random	Any	Impairment	1 mth – 5 years	€1000-10 000	No	Loi du 16 mars 1999 modifiant la loi relative à la police de la circulation routière. Arrêté royal du 4 juin 1999 relatif au prélèvement sanguin
			7 named substances	Zero				
<b>Czech Republic</b>	Criminal	At random	Any	Impairment	1-10 years (general range for all criminal offences)	CZK 2 000-5 000 000 (€70-179 000) (general range for all criminal offences)	Up to 1 year; 6 mths-3 years if previously sentenced, accident etc.	Penal Code (140/1961), § 201
	Non-criminal		Any	Zero	6 mths to 1 year	CZK 10 000-20 000 (€357-714)	No	Law on Misdemeanours (200/1990), § 22
				Impairment	1-2 years	CZK 25 000-50 000 (€893-1786)	No	Law on Misdemeanours (200/1990), § 22
<b>Denmark</b>	Criminal	At random	Any	Impairment	6 mths – 10 years or for life	No fixed fine range	Up to 1 year	Road Traffic Act (LBK 1079 of 14 November 2005), §§ 54, 55, 117d, 125, 126, 128
<b>Germany</b>	Criminal	At random	Any	Impairment	1-3 mths	range for all criminal offences: according to income of offender	§ 315c (if endangering others): up to 5 years § 316: up to 1 yr	Criminal Code (StGB) §§ 315c, 316,
	Non-criminal		7 named substances	(Zero but Fed. Constitutional Court 2004:.) Impairment	1 mth		No	Road Traffic Code (StVG) § 24a(2)
<b>Estonia</b>	Non-criminal	At random	Any	Zero	Up to 1 year	Up to €1150	Administrative arrest in police detention house up to 30 days instead of fine	Traffic Act (adopted 14 Dec 2000, entered into force 1 Feb 2001; later amendments include §20 <sup>1</sup> ): §20, §20 <sup>1</sup> Penal Code (6 June 2001), §50
	Criminal if recent recidivist (+ alc.)				Up to 3 years	30-500 daily rates (average daily income)	Up to 3 years	Traffic Act (see above); Penal Code (see above): §50, §424

	Status of offence	Police may stop to test:	Substances specified	Tolerance (zero / impairment)	Licence Suspension period	Fine range	Prison	Legal basis
<b>Greece</b>	Criminal	On basis of Any suspicion	Any	Impairment	3-6 mths	From €167	2 mths	Law 2696/99, § 2, completed by Law 2963/2001(art.43) and Ministerial Accord 43500/5691/2002
<b>Spain</b>	Criminal Non-criminal	At random	Any Any	Impairment Impairment	1-4 years 1-3 mths	€301-600	3-6 mths No	Penal Code art.379 Law 17/2005 of 19 July, Arts 5-6
<b>France</b>	Criminal	On basis of suspicion	Substances or plants classed as narcotics	Zero	Up to 3 years	€4500. €9000 if also under the influence of alcohol	2 years. 3 yrs if also under the influence of alcohol	Law 2003-87 of 3 Feb, law 99-505,(Art.L. 235-1 and L. 235-2 of code de la route) decree 2001-751 of 27 Aug
<b>Ireland</b>	Criminal	On basis of Any suspicion	Any	Impairment	Minimum 1 year	Up to €2500	Up to 6 mths	Road Traffic Acts 1961 - 2002
<b>Italy</b>	Criminal	On basis of Any suspicion	Any	Impairment	15 days – 3 months. If more offences in same year period goes from 1 - 6 months.	€ 258 – 1.032	Up to 1 mth	Law 285/1992 updated to may 2006 (New Highway Code), Art 186 and 187
<b>Cyprus</b>	Criminal	At random. Testing on suspicion.	Any	Impairment	Not specified. Up to court's discretion	No fixed fine range.	Up to 1 year	Motor vehicle and Road Traffic Law of 1972, § 9. Usually prosecution under the Narcotics Law of 1977, since use and possession is a criminal offence. No need to prove that ability to drive safely was affected under the Narcotics Law.
<b>Lithuania</b>	Non-criminal	On basis of Any suspicion	Any	Zero	1-3 years	€435-870	No	Administrative Infringements Code of the Republic of Lithuania (§ 10))
<b>Luxembourg</b>	Criminal	Suspicion-based. At random if ordered by Public Prosecutor	All controlled substances	Impairment	1 mth - life	€250-5000	8 days – 3 years	Loi modifiant la loi du 14 février 1955 concernant la réglementation de la circulation sur toutes les voies publiques, Art 12

	Status of offence	Police may stop to test:	Substances specified	Tolerance (zero / impairment)	Licence Suspension period	Fine range	Prison	Legal basis
<b>Hungary</b>	Criminal	At random for alcohol	Any	Impairment	1-10 years or life	No determinate fine	Up to 1 year without aggravating circumstances	Criminal Code Art.188
<b>Netherlands</b>	Criminal	On basis of Any suspicion	Any	Impairment	Up to 5 years	€6700 If accident causing bodily injury – up to € 16 750 If fatality – € 16 750, or €67 000 if reckless	up to 3 mths If accident causing bodily injury - 2 year and 3 months, or 4.5 years if reckless if fatality – 4.5 years, or 9 years if reckless	Road Traffic Law 1994, Art.8
<b>Austria</b>	Non-criminal	Assumption (less specific than suspicion)	"Suchtgift"; generally drugs under UN61 and Schedules I+2 of UN71	Impairment	At least 4 weeks	€581-3633	No	Road Traffic Act, Arts.5, 99
<b>Poland</b>	Criminal	On basis of Any suspicion	Any	Zero	From 1 to 10 years	Up to 360 day fines	Up to 2 years	Criminal Code, Art.178a
<b>Slovenia</b>	Non-criminal	At random	Any	Zero	at least 10 penal points * 18 penal points mean withdrawal of driving licence and re-test	From €500	No	Road Safety Law 83/2004 (Articles 131-133)
<b>Slovakia</b>	Non-criminal	At random	Any	Zero	Up to 1 yr	Up to SKK10 000 (€270), or up to SKK 100 000 (legal person)	No	Act 372/1990 Coll. on Administrative Offences § 22(1)(g)
	Criminal (if recidivist or public transport)				1-10 years (general ban on activity)	5000-10million SKK (€130 - €260 700) (general fine)	Up to 1 yr (recidivist) Up to 5 yrs (public transport)	Criminal Code S. 289 Act 315/1996 Coll. on Road Traffic S. 4(3)(a,b) (obligations of driver); S. 65 (1)(c)(testing); S. 66(1)(b,c) (licence suspension)
<b>Sweden</b>	Criminal	On basis of suspicion	Any, but no liability if with medical prescription	Zero	1 mth – 3 years	Day fines	Up to 2 years	Act on Punishment for some Traffic Crimes (1951:649), § 4

	Status of offence	Police may stop to test:	Substances specified	Tolerance (zero / impairment)	Licence Suspension period	Fine range	Prison	Legal basis
<b>Finland</b>	Criminal	At random	Any	Impairment	Up to 5 years	Up to 120 day-fines	Up to 2 years	Penal Code Ch.23, § 3, 4, 8
	Criminal		Narcotic substance other than medicinal product which a person has a right to use	Zero		At least 60 day-fines if seriously intoxicated	Up to 6 mths	
<b>United Kingdom</b>	Criminal	On basis of Any suspicion	Any	Impairment	Minimum 1 year (unlimited maximum)	Up to £5000	Up to 6 mths, or up to 14 years if fatality	Road Traffic Act § 4
<b>Norway</b>	Criminal	On basis of Any suspicion	Any	Impairment	Minimum 1 year	1.5 x gross monthly income. Rarely under NOK 10 000,-	Up to 1 year	Road Traffic Act of 18 June 1965 No.4, §§ 21-22, 31, 33



## **2) Tables and additional information from respondents**

**1.1.1 Are there other BAC thresholds or more severe consequences under the following circumstances?**

	Belgium		Australia (QLD)		Victoria		Sweden		Germany		Finland		Portugal		Norway		Spain	
	Yes	More severe	Yes	More severe	Yes	More severe	No	More severe	Yes	More severe	Yes	More severe	Yes	More severe			Yes <sup>1)</sup>	More severe
Circumstances																		
Young drivers			Under 25 years and/or on a provisional license the BAC level is Zero		Yes zero BAC (administrative level of 0.02BAC)	Penalties such as fines demerit points, licence suspension, cancellation on alcohol interlocks	No				No						No	
Novice drivers		(in negotiation, a change in traffic law is being prepared introducing a BAC of 0,2 for a driver who has his licence for less than two years)	Under 25 years and/or on a provisional license the BAC level is Zero		Yes zero BAC (administrative level of 0.02BAC)	=	No		zero	Rehab seminar; Extension of learner period	No						0.15 g/L	No
Professional drivers		(in negotiation, a change in traffic law is being prepared introducing a BAC of 0,2 for a driver of, a vehicle > 3,5 t, of a vehicle used for the paid transport of	The BAC level is Zero		Yes zero BAC (administrative level of 0.02BAC)	=	No				No						0.15 g/L	No





[illegible]

1)(Spain): YES. The penal law established a value of 1.2 g/L Blood alcohol. Also if “under influence” is demonstrated 0.5 mg/L in breath could be considered as penal punishment. Nevertheless, there is administrative fine if the breath alcohol level is 0,25 mg/L in normal drivers, and 0,15 mg/L in:

- 1) Freight transport to exceed 3,500 Kg
- 2) Passenger transport more than 9 seats
- 3) Public transport
- 4) School transportation or child
- 5) Transport of dangerous goods
- 6) Emergency service or special transportation

During the two years following the granting of the permit or license (computed seniority of a license for vehicles for which the license is sufficient)

**Portugal :** The official unit in Portugal is g/l. The BAC threshold is the same for all drivers: 0,5 g/l. Sanctions for the driver detected for the first time under influence of alcohol or illicit drugs are: fine, driving ban, licence withdrawal, imprisonment, driver rehabilitation and treatment programme.

For novice drivers there are special provisions. Drivers have the status of a novice driver for the first three years after having gained the driving licence. If a novice driver is considered guilty of a road crime (considered as a very serious offence), or of two serious offences, his driving licence is annulled (cassation). Repeated offenders are not exempted of accessory penalties, namely, driving licence suspension for a minimum period of one month.

Involvement in an accident or making unsafe manoeuvre might be considered according to the offence as a serious or very serious offence involving a driving licence suspension; it can even be considered as a road crime. In case of alcohol, fine can be imposed from 0,5 g/l on. For 0,5-0,8 g/l the minimum fine, which can be imposed, is 250 € and the maximum fine is 1.250 €. For 0,8-1,2 g/l the minimum fine, which can be imposed, is 500 € and the maximum fine is 2.500 €. Driving ban can be imposed from 1 to 6 months in case if the BAC threshold is between 0,5 and 0,8 g/l. In case if the BAC threshold is between 0,8-1,2 g/l, then the driving ban can be imposed from 2 months to 12 months. Licence withdrawal can be applied after an accumulation of penalties that can involve DUI of alcohol. A driver caught for the first time with alcohol in his blood (0,5 g/l) might be withdrawn for a minimum period of one month. If he shows 0,5-0,8 g/l the withdrawal period may be graduated from 1 month till one year. If he shows 0,8-1,2 g/l the withdrawal period may be graduated from 2 months until 2 years. Imprisonment is legally possible if the offence is judged as a crime (when BAC threshold is  $\geq 1,2$  g/l). Sanction fine and driving ban are as well used in cases when the BAC is higher than 1,2 g/l. Apart from that, driver rehabilitation and treatment programme can be as well applied as sanction.

**Table 1.2 Illicit drugs**

Limit values (analytical cut-offs) for drugs are applied

Country	Yes	No	Comment	1.2.1 Where mentioned?
<b>Belgium</b>	<b>x</b>		16 maart 1999- Wet tot wijziging van de wet betreffende de politie over het wegverkeer, gecoördineerd op 16 maart 1968.	Moniteur Belge-30.03.1999-Belgisch Staatsblad <a href="http://www.wegcode.be/wet.php?wet=42">http://www.wegcode.be/wet.php?wet=42</a>
<b>Australia by States</b>				
Queensland		<b>X</b>	The BAC is zero for illicit drugs (1)	No answer (2)
Victoria	<b>X</b>			In Road Safety Acts and Regulations legislation based on both Impairment legislation using psychomotor tests and oral fluid legislation
Western Australia				
<b>Sweden</b>		<b>X</b>	There is zero level legislation for illicit drugs and also illicit use of medicinal narcotic drugs if used outside a doctor's prescription	
<b>Germany</b>	<b>X</b>			Publication of "limit values commission"
<b>Finland</b>	<b>X</b>			
<b>Portugal</b>	<b>X</b>			The analytical cut-offs are not included in legislation All blood samples are analysed only by the three labs of the National Institute of Legal Medicine, using the same methodology and the same analytical cut- offs corresponding to the LOQ (Limit of Quantitation)
<b>Spain</b>		<b>X</b>		
<b>Norway</b>		<b>X</b>		We still have an impairment law If illicit drugs are detected- the drivers can be sentenced according to the narcotic use law

(1) If answered "no" – what is the underlying reasoning?

There is no prescribed level and detected presence confirmed by laboratory testing results in similar penalties to low level drinking driving

#### **Interview information**

- (1) Interview question: As "BAC" is not used for drugs, is this an error?
- (2) Is this documented in criminal law? Is there an individual law for illicit drugs in driving?
- (3) What exactly does the comment on underlying reasoning mean?

**Germany:** Three provisions in the German Criminal Code (Strafgesetzbuch, StGB) address drugs and driving:

1) § 315 c StGB, "Endangering road traffic", which prohibits driving while not in a condition to do so safely due to consumption of intoxicants, thereby endangering life, limb or property of significant value.

2) § 316 StGB, "Drunkenness in traffic", which prohibits driving while not in a condition to do so safely due to consumption of intoxicants, but without the risk of endangerment in s.315c.

The provisions in the Criminal Code refer to "alcoholic drinks or any other intoxicating substances", which includes all controlled drugs. These offences result in a fine or imprisonment for up to five years, and for breach of §316 a fine or up to one year in prison. In both cases the driving licences will be withdrawn according to § 69 Criminal Code. They operate on an impairment level - there is no specified limit as there is no scientific proof of them yet, but this area is currently under research.

**Finland:** To combat driving under the influence of drugs the Finnish government pursues a combination of an analytical and an impairment approach. Since 1977 the penal code has regulated driving under the influence of drugs. Until 2003 law reform for punishment of a driver it had to be demonstrated that the driving capability was impaired and significant amounts of drugs were present in the bloodstream of the respective driver. Included were all substances that can cause impairment of performance.

Since 2003 under the Penal Code an offence of "driving while intoxicated" is committed by a person who, after having used other narcotic substances than alcohol, so that there is a narcotic drug or its metabolite in his or her blood during or right after driving. The punishment for driving while intoxicated is a fine or to imprisonment for at most six months. Narcotic substance includes performance-reducing pharmaceuticals. However, medical products, which the driver has had the right to use, are excluded from the zero-tolerance approach.

The offence of "driving while seriously intoxicated" is committed due to impairment: if his/her ability to perform as required in the operation is significantly reduced, and the conditions are such that the offence is conducive to causing a hazard to others. The punishment for this is at least 60 day-fines or imprisonment for at most two years. This does not have the same exclusion for medical products, suggesting that trace amounts are acceptable but impairing driving ability is not.

The Penal Code defines a separate offence of relinquishing a vehicle to a person "who is apparently in such a state that he/she is guilty of an offence mentioned in sections 3 - 7", which is punishable by a fine or imprisonment for at most one year.

A driver found guilty of driving while intoxicated, having been under the influence of a drug specified in the Narcotics Act may also be found guilty of a drug-user offence.

The offences are the type "zero-tolerance", with any detection of drug or metabolite. They have been changed from "impairment", where no precise figures for blood/drug levels were given, only

the verbal descriptions (reduced and seriously reduced ability, respectively). In the preparatory materials of the previous legislation it was explained that the levels of reduction should be comparable to those caused by the given levels of alcohol, in order to be punishable. According to the Ministry of Interior directions to the police the intoxication shall be detected by an analysis of a blood sample and a clinical medical examination, which includes filling an observation form on the suspect's performance.

**Sweden:** In the Swedish Traffic law it is forbidden to drive a vehicle when the driver is unfit to drive caused by alcohol or another substance.

The Act on Driving Licences (1998:488) chapter 5 contains rules on cancellation of driving licences; and chapter 10 section 2 stipulates that a physician shall report to the county administrative board if he finds a patient obviously unsuitable to hold a driving licence for medical reasons (a drug abuser may be medically unsuitable to hold a driving licence), if he believes that the patient will not follow instructions to restrain from driving.

No distinction is made between substances, but driving when using a narcotic or psychotropic substance in accordance with a doctor's prescription does not constitute liability for driving under influence. However, some other crime may have been committed, for example reckless driving. There is zero-tolerance for using narcotic or psychotropic substances (1999); if the substance used is traceable in the driver's blood during or after the drive, the driver has committed a criminal offence. According to the Swedish Road Traffic Offence Act, a person driving a motor vehicle or a trolley car who has been drinking alcoholic beverages resulting in a concentration of alcohol during or after driving equal to at least 0,2 ‰ in the blood or 0,1 milligrams per litre of in the breath shall be sentenced for drink driving (Sw: rattfylleri), to 'day-fines' (Sw: dagsböter) or imprisonment for six months at the most. In addition, a person who is so affected by alcoholic beverages or some other substance, that it can be assumed that he cannot drive the vehicle in a satisfactory way or; a person who has used narcotics in so large quantities that any bit of substance of narcotic remains in the blood during the driving, shall be sentenced for drink driving.

On July 1, 1999 the rule regarding zero quantities of narcotics and gross drunkenness at sea entered into force. A person reasonably suspected of an offence for which imprisonment may be imposed may be subjected to leave a blood sample for examination (the Code of Judicial Procedure (1942:740), chapter 28, section 12). Penalties for driving under the influence vary between day-fines and maximum two years imprisonment. Besides a penalty there may be an endorsement or cancellation of the driving licence. Cancellations of driving licences vary between one month and three years.

**Table 1.2.2 If limit values are applied, please specify by marking the matrix (serum, plasma, whole blood, saliva) which is measured:**

**(1) Australia QLD**

Limit values are not applied

**(2) Australia (Victoria)**

Substance	Serum	Plasma	Whole blood	Saliva	Cut-off (ng/ml)
THC			X	X	
Amphetamine					
MDMA (Ecstasy)			X	X	
Morphine or 6-acetylmorphine					
Cocaine			X		
Benzoyllecgonine					
Other: .....					

**Comments:** Major problem here is that the major illicit drug of abuse is methamphetamine which is not mentioned in the table (*see: other!!*)

For example in our State, although we have legislation for both Random Roadside Breath Testing (RBT) for alcohol and also Random Roadside Drug Testing (RDT) for Drugs in fact in a population of approx 4 million drivers, the State Police undertake 3,700,000 RBT test per year and 20,000 RDT that is for every RDT drug screening test done there are 185 RBT alcohol screening test done

**More valuable information (received October 30, 2009) on page 92**

**(3) Sweden**

Limit values are not applied

**(4) Spain:**

Limit values are not applied

**(5) Portugal**

Substance	Serum	Plasma	Whole blood	Saliva	Cut-off (ng/ml)
THC			X		3 ng/ml
Amphetamine			X		5 ng/ml
MDMA (Ecstasy)			X		5 ng/ml
Morphine or 6-acetylmorphine			X		5 ng/ml
Cocaine			X		5 ng/ml
Benzoyllecgonine			X		5 ng/ml
Other: Metamphetamine.....			X		5 ng/ml
6MAM; MBDB; 11-OH-THC .....			X		5 ng/ml

**(6) Germany**

Substance	Serum <sup>1)</sup>	Plasma	Whole blood	Saliva	Cut-off (ng/ml)
THC	X				1
Amphetamine	X				25
MDMA (Ecstasy)	X				25
Morphine or 6-acetylmorphine	X				10
Cocaine	X				10
Benzoylcegonine	X				75
Other: methamphetamine	X				25

<sup>1)</sup> The values for serum and plasma are comparable, analytical cut-offs have only been defined for serum by the "limit-value commission" of the ministry of transport

#### (7) Belgium

Substance	Serum	Plasma	Whole blood	Saliva	Cut-off (ng/ml)
THC		X			2
Amphetamine		X			50
MDMA (Ecstasy)		X			50
Morphine or 6-acetylmorphine		X			20
Cocaine		X			50
Benzoylcegonine		X			50
Other: .....					

**Comment:** The traffic law was changed (by the law of 31 juli 2009) and has introduced saliva tests. This change of law will come into force on 1 octobre 2010.

<http://www.dekamer.be/kvvcr/showpage.cfm?section=flwb&language=nl&cfm=flwb.cfm?lang=N&dossierID=1985&legislat=52>

**(8) Norway:** As Norway has an impairment law, limit values are not applied.

For the impairment law: All analyses are performed in whole blood

**(9) Finland:** Not mentioned in law, but applied by the laboratory

**(10)**

Substance	Serum	Plasma	Whole blood	Saliva	Cut-off (ng/ml)
THC	1 ng/ml				
Amphetamine	6 ng/ml				
MDMA (Ecstasy)	6,5 ng/ml				
Morphine or 6-acetylmorphine	8 ng/ml				
Cocaine	15 ng/ml				
Benzoylcegonine	10 ng/ml				
Other: .....					
.....					

**Table 1.3 Medicines**

**(1) Australia (QLD)**

Limit values for medicines are applied	For prescribed medicines		for medicinal drugs used illegally	
	Yes [ ]	No [ x ]	Yes [ ]	No [ x ]
Based on analytical thresholds	Yes [ ]	No [ x ]	Yes [ ]	No [ x ]
Based on danger thresholds	Yes [ ]	No [ x ]	Yes [ ]	No [ x ]

If question was answered „no“, underlying reasoning?

The medicines must but be found to impair the driving. It can be argued that small amounts have not impaired the driving but this is difficult to argue in the event of an accident and legally drugs that could possibly impair driving are found in the blood

**(2) Australia (Victoria)**

Limit values for medicines are applied	For prescribed medicines		for medicinal drugs used illegally 1)	
	Yes [ ]	No [ ]	Yes [ ]	No [ x ]
Based on analytical thresholds	Yes [ ]	No [ ]	Yes [ ]	No [ ]
Based on danger thresholds	Yes [ ]	No [ ]	Yes [ ]	No [ ]

1) Yes but legislation is based firstly on impairment using psychomotor testing then on LOQ limits of evidentiary equipment used in laboratories

If yes, please specify: for medicinal drugs used illegally Yes but legislation is based firstly on impairment using psychomotor testing then on LOQ limits of evidentiary equipment used in laboratories

If questions 1.2 and/or 1.3 were answered “no”, what is the underlying motivation/reasoning?

- For illicit drugs:...Illicit drugs are by definition illegal and you cannot have a legal limit for an illegal drug



- For medicines: Abuse levels are detected by established proven psychomotor-tests as toxicologists cannot agree on impairment levels to the extent required for legislation

### (3) Sweden

	For prescribed medicines		for medicinal drugs used illegally 1)	
	Yes [ ]	No [X ]	Yes [ ]	No [X ]
Limit values for medicines are applied				
Based on analytical thresholds	Yes [ ]	No [X ]	Yes [ ]	No [X ]
Based on danger thresholds	Yes [ ]	No [X ]	Yes [ ]	No [X ]

If questions 1.2 and/or 1.3 were answered "no", what is the underlying motivation/reasoning?

- For illicit drugs: **Zero level**.....

- For medicines: If a person is obviously unfit to drive a car and deemed to be drugged by the police, blood samples may be taken. If these show legal narcotics that are explained by a doctor's prescription the driver has a responsibility himself to be in a condition fit to drive according to sickness, sleepiness, use of drugs and so on, but there are no specific levels indicated in legislation. Sometimes there are discussions about levels in blood compared to the dose prescribed, but the legal condition to be "fit enough" applies anyway. This legislation is outside the rules on drunk driving.

Questions: Where is the regulation mentioned??? Where is zero legislation mentioned: the law, which one? OK, answered.

### (4) Spain

	For prescribed medicines		for medicinal drugs used illegally	
	Yes [ ]	No [ X ]	Yes [ ]	No [X ]
Limit values for medicines are applied				
Based on analytical thresholds	Yes [ ]	No [ ]	Yes [ ]	No [ ]
Based on danger thresholds	Yes [ ]	No [ ]	Yes [ ]	No [ ]

If questions 1.2 and/or 1.3 were answered "no", what is the underlying motivation/reasoning?  
Not yet. After the DRUID project the Directorate of Traffic is considering to propose to parliament the drug limits. At the moment the Spanish situation is in standby

- For illicit drugs:....The penal law establishes that anyone driving a motor vehicle or moped while under the influence of toxic drugs, narcotics, psychotropic substances or alcohol, but it is necessary that the police agent complete a form with the clinical symptoms of being under the influence. The judge will evaluate the case, but the reality is that without the analytical data the possibilities to penalized are limited

- For medicines:....It is similar that the illicit drug case

#### (5) Portugal

Limit values for medicines are applied	For prescribed medicines		for medicinal drugs used illegally	
	Yes [ ]	No [X]	Yes [ ]	No [X]
Based on analytical thresholds	Yes [ ]	No [X]	Yes [ ]	No [X]
Based on danger thresholds	Yes [ ]	No [X]	Yes [ ]	No [X]

#### (6) Germany

Grenzwerte für Medikamente werden angewendet	Für verordnete Medikamente		Für illegal konsumierte Medikamente	
	Ja [ ]	Nein [X]	Ja [ ]	Nein [X]
auf der Basis analytischer Grenzwerte	Ja [ ]	Nein [X]	Ja [ ]	Nein [X]
auf der Basis von Gefahrengrenzwerten	Ja [ ]	Nein [X]	Ja [ ]	Nein [X]

**Comment:** Use of medicines is legal

#### (7) Belgium

Limit values for medicines are applied	For prescribed medicines		for medicinal drugs used illegally	
	Yes [ ]	No [X]	Yes [ ]	No [X]
Based on analytical thresholds	Yes [ ]	No [X]	Yes [ ]	No [ ]
Based on danger thresholds	Yes [ ]	No [ ]	Yes [ ]	No [ ]

**Comment:** -For medicines:....no roadside screening tests available at the moment for medicine screening (to diminish costs)

**(8) Norway:**

	For prescribed medicines		for medicinal drugs used illegally	
Limit values for medicines are applied	Yes [ ]	No [ x ]	Yes [ ]	No [ x ]
Based on analytical thresholds	Yes [ ]	No [ x ]	Yes [ ]	No [ x ]
Based on danger thresholds	Yes [ ]	No [ x ]	Yes [ ]	No [ x ]

**Comment:** Norway has an impairment law

If medicines on the narcotic lists are detected – and the drivers have no prescription – the drivers can be sentenced according to the narcotic use law.

- **For illicit drugs:**.....New law (low-concentration -- zero limit) has been proposed and will probably be decided by the Parliament next year. .

- **For medicines:** . New law (impairment concentration limit ) has been proposed and will probably be decided by the Parliament next year.. If the driver has a prescription - the doses are used according to the prescription - no sentences. Without prescription the driver can be sentenced (low – concentration – zero tolerance)

If using several medicinal drugs in combination – the driver can be sentenced based on impairment.

**(9) Finland:**

Laboratory is using analytical thresholds (depends on the laboratory)

**Table 1.4 Research on concentration of drugs/medicine**

1.4.1 Has there been research conducted in your country considering the concentration of a consumed drug and/or medicine and their impact on driving performance?

Country	Epidemiological research		Experimental research	
	Yes	No	Yes	No
Australia (QLD)	X		X	
Australia (Victoria)	X		X	
Belgium	X			
Sweden	X			
Finland	X		X	
Germany	X		X	
Spain	X			X
Portugal		X		X
Norway	X		X	