

Albatros Symposium: Criminal non-liability and addiction, where do we go now?

Moderator: Nidal Nabhan Abou

- 1. General context and role of forensic psychiatry**
 - a. Cyril Azif
- 2. Good use of substances in expert matters**
 - a. Mathieu Lacambre
- 3. Legislative evolution; regression or progress?**
 - a. Cyril Manzanera

Since the Revolution, criminals in a “state of dementia” are not punished in France. These individuals, although identified as guilty of the charges assigned to them and condemned by the civil court, are not deemed legally responsible secondary to a mental disorder since ‘their judgment and control of their actions were abolished at the time of their acts’ (article 122-1 a.1 of the French Penal Code).

For patients suffering from psychiatric disorders, fluctuations in the level of consciousness, perceptual alterations, judgment alteration or abolition, are frequent, fluctuating and worsened by substance use. This makes us question the liability of the vulnerable individual, who uses substances and commits a crime: Did he intentionally use substances? Was he not aware of the risks related to substance use and to non-compliance to treatment? Is he responsible of a mistake (substance use) preceding a crime, committed in a substance-induced psychotic state, thereby completely abolishing judgment?

The court of cassation reports, on one hand, that “the use of cannabis, carried out without awareness of the possible consequences of the effect of this drug, cannot justify the criminal liability of the accused” (decree n°10-80279 of the 12th of May 2010). On the other hand, the court of cassation reports that “the provisions of article 122-1, paragraph 1, of the penal code, do not differentiate based on the origin of the mental disorder that led to the abolition of judgment” (decree n°404 of the 14th of April 2021).

Nevertheless, our penal legislation might have become inadequate since, in the course of a new decision of criminal non-liability of a delusional murderer, who was under the effect of substances, the French society and the political power expressed their wish for a legislative evolution...In a key moment of a new legislative era of criminal liability, we propose to highlight the stakes and the basis of the upcoming changes.