

## HEADLINE - Public Information and Participation: Public Consultation

A public consultation is open until 3 March 2017 inclusive in order to allow the public to comment on the draft decree specifying the terms of application of the decree 2016-1060 of 3 August 2016. As a reminder, This order, which came into force on January 1, 2017, included reform of procedures to ensure information and public participation in the development of certain decisions that may have an impact on the environment. A comparative table has thus been drawn up in order to indicate more clearly the future regulatory developments. This public consultation is important since it allows a decision to be taken on a draft decree clarifying the scope of a principle of constitutional value. Principle giving the population the opportunity to participate in the democratic game. To our comments so!

## ENERGY – Implementation of 39 hydro-turbines in the Rhône

In 2018, the Rhone should be equipped with a farm of 39 hydro-turbines immersed in the river near the Swiss border, in a sector where the current is important.

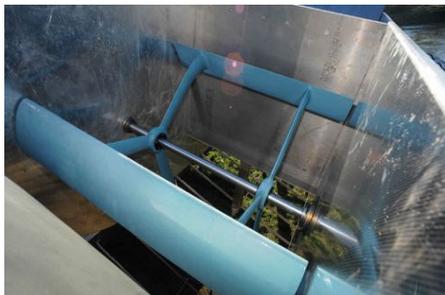
The tidal turbine is a sort of paddle wheel immersed in the river bed. Connected to an alternator the rotation produces electric current.

It is the National Company from Rhone (CNR), the second French producer of electricity, which will commission these hydro-turbines. Originally, this project is part of a call for projects launched by the Environment and Energy Management Agency (ADEME) in 2015.

The manufacture of the machines will be carried out by the company of mechanic Constructions from Normandie (CMCN). CNR will be responsible for the operation, maintenance and hydroelectric engineering.

This facility will produce on average the consumption of 2,700 inhabitants per year and thus avoid the emission of 2,000 tons of CO2 each year

This project, presented on 9 February 2017 as "a world first" by CNR, represents a global budget of 12 million euros.



## CLIMATE & ENERGY – Energy policy of the European Union for 2020

As part of its energy policy, the European Union has drawn up a roadmap for 2020 to reduce greenhouse gas emissions in all Member States, to increase the share of energy from Renewable sources and improve energy efficiency. At three years from the deadline, the 20% target for each of these areas is fully achievable. In 2015, the share of renewables in final energy consumption was 16.4%. France was at 14.4%, ie above the annual forecast target of 13.8% for 2015/2016 but below the intermediate target of 16% for 2020. The positive In addition, the reduction in greenhouse gas emissions that has been correlated with it. In terms of energy efficiency, final energy consumption is currently 2.2% below the target set for 2020. This is a welcome news. France, however, is one of the bad pupils in that it is not among the States which have achieved the imposed objective. The big black dot is in the transportation sector. It would seem that the objective is far from being achieved for all the states for renewables as well as for energy efficiency.

## DIESELGATE - MEPs' commitment to reform of approval procedures

The European Commission had proposed a reform aimed at tightening and making more realistic the vehicle approval procedures in the European Union. This proposal was considered in January 2016 in response to the revelations about the existence of software allowing cheating to the anti-pollution tests integrated in certain Volkswagen diesel engines.

On 9 February 2017 it was adopted by a very large majority by Parliament's Committee on Internal Market and Consumer Protection. However, it still needs to be validated in plenary in the coming weeks. Once validated, it will serve as a basis for negotiation with the Member States and the European Commission.

The aim of the reform of the approval procedures is to give the Commission powers of supervision and sanction both of the market and of the national authorities conducting the tests. Moreover, with this legislative revision, Member States would be obliged to monitor 20% of the car models in circulation each year in their countries.

In this sense, the European Consumers' Bureau (BEUC) welcomed the "courageous positioning" of MEPs. It should also be noted that other brands, such as Fiat and Renault, have also been accused of exceeding the limits of polluting gases.



## JURISPRUDENCE

### Court of Cassation, 1st Civil Division, 25 January 2017, No. 15-25.256:

In that judgment the Court of Cassation stated that a dispute relating to the dismantling and removal of wind turbines falls within the jurisdiction of the administrative court.

In this case, in 2007, Compagnie du Vent put into operation two wind farms, each consisting of five wind turbines with a height of more than 50 meters. SCI Freka and its associates brought an action before the court on the basis of the theory of abnormal neighborhood disturbances to obtain the removal of the disputed facilities and the payment of damages. They invoked the visual, aesthetic and sound nuisance resulting from their establishment near the castle of Flers, as well as the depreciation of this property, which it owns.

The Court of Cassation dismisses the appeal, according to which the judicial court is competent to hear applications for the cessation of nuisances related to such a device, which does not have the character of a public work. The Court of Cassation held that the request to obtain the removal of the wind turbines involved the interference of the judicial judge in the exercise of this special administrative police and therefore, pursuant to Article 92 of the Code of Civil Procedure, the incompetence of The judicial jurisdiction is confirmed.

### Court of Cassation, 3rd Civil Division, January 19, 2017, n ° 15-25.230: Is an aircraft wreck under seal a waste?

Following a crash, an aircraft was sealed by the state for the purpose of a criminal investigation. After returning the property to its new owner, a company specialized in the valorization of aircraft, the latter sought compensation for the degradation of the aircraft. He argued that the State was obliged to ensure the preservation, management and valorization of the aircraft in compliance with the regulations in force. In order to dismiss the appeal, the Court of Cassation naturally questioned the destination of the property in order to determine whether the State was bound to comply with the legal obligations normally inherent in the holding of a waste. The sole purpose of sealing was to determine the causes of the accident. The State could not therefore be considered as the holder of a waste.



## ENERGY & HEALTH – THE NATIONAL ASSEMBLY FOR THE INDEMNIFICATION OF VICTIMS OF NUCLEAR TESTS IN POLYNESIA

On 9 February 2017, the National Assembly favored compensation for victims of nuclear tests carried out in Polynesia from 1966 to 1999, unanimously abolishing the notion of "negligible risk" hitherto in force. This vote has been described as "historic" by several MEPs. After the end of the tests decided by Jacques Chirac in 1996, the Morin law of 2010 had instituted a compensation scheme. This system was expanded several times but remained too restrictive. The concept of negligible risk, which precluded most claims for compensation for victims of nuclear tests, has been removed from the law. In 2016, François Hollande recognized the environmental and health impact of the fifty years of testing and made a series of commitments including improving the compensation process. This vote was not an easy one. In January, when the bill on "real equality overseas" was examined, the government favored a simple lowering of the risk threshold taken into account for compensation. On 9 February, the government finally agreed to the adoption of this measure after discussions during an interruption of more than one hour. A commission was charged with ensuring that compensation was awarded to the persons concerned.



## ENERGY – By 2016, wind power exceeds coal in Europe



According to data published on 9th February by manufacturers in the sector, the wind power capacity installed in Europe exceeded last year those of the coal-fired power plants. "With a total installed capacity of 153.7 GW (gigawatts), wind power now exceeds coal to become Europe's second largest generating capacity," WindEurope wrote in its annual sector.

Last year, 12.5 GW of new wind capacity was installed. This represents a decrease of 3% over one year, but they accounted for more than half of all new electricity generating capacity put into service in 2016, all energies combined (51%). More precisely, 10.9 GW were installed on land and 1.56 GW at sea. The wind farm nevertheless remains behind the gas power plants, in terms of capacity on the continent.

Despite this prominent position, wind energy accounted for only 10.4% of European electricity consumption, due to a lower efficiency than conventional energies.

Five European Union countries broke their record of new installations: France (1.6 GW), the Netherlands (887 MW), Finland (570 MW), Ireland (384 MW) and Lithuania (178 MW).



## POLITIC – Macron unveils its environmental program on Facebook

The presidential candidate finally unveiled his draft environmental policy. While he does not favor declining growth, he refers to "selective growth" with major investments in ecology.

Agriculture will be its battlefield with an investment of 5 billion euros in 5 years to modernize farms and promote quality production.

Macron also says it wants to allocate loans to households to finance the renovation works including "heat strain". It wants to simplify the energy transition tax credit and replace it with direct subsidies for the most precarious households.

With regard to energy policy, all coal-fired power plants are scheduled to close within 5 years and new hydrocarbon exploration and development licenses will be banned. He nevertheless announced a compensation for the tax losses for Guyana. If it intends to retain the framework of the law on energy transition, it is more moderate on the reduction of nuclear energy.

In response to the Trump government's climate-skeptical policy, the former minister invited US researchers working on climate and environmental issues to join France by offering them a special status. The remainder of the candidate's program is announced in early March.