

## HEADLINE - REGULATION - COMPLICITY OF CONTRAVENTIONS TO THE ENVIRONMENTAL CODE

The end of 2016 marked the adoption of Decree No. 2016-1792 of 20 December 2016 on the complicity of contraventions of the Environment Code.

By the provisions of the decree is defined the notion of complicity in contravention, within a new section 2 of article R.173-5. "The person who by gift, promise, threat, order, abuse of authority or power has caused an offense or issued instructions for the commission of an offense under the Environmental Code commit ; The person who knowingly, by aid or assistance, facilitated its preparation or consumption ". This definition of complicity is taken from the letter of article 121-7 of the Penal Code. Under article 121-6 of the Penal Code, the accomplice of an offense will be punished as the author.

A general criminal law mechanism thus enriches the Code of the Environment with respect to complicity in the commission of offenses of a contravention nature. This addition contributes to the increased transposition of the principles contained in Directive 2008/99 on the protection of the environment through criminal law, which provides for the punishment of complicity in Article 4.

## PESTICIDES - TOWARDS GLYPHOSATE RELEASE BY CIVIL SOCIETY?

On 25 January 2017, the European Citizens' Initiative to ban glyphosate in the internal market will be officially registered. The Treaty on the Functioning of the European Union provides for this possibility in Article 24, the details of which are set out in the Regulation of 16 July 2011 on the citizens' initiative.

This participatory democracy mechanism allows one million citizens in at least seven Member States to invite the European Commission to present a legislative proposal in a field where the Union is competent, such as the environment. L

From its registration, the European Citizens' Initiative will have a year to collect the million signatures needed. If the signatures are met, the Commission will have three less to follow up (or not) the citizens' initiative by means of a communication first, then a legislative proposal where appropriate. The success of this initiative would thus make it possible to take a step towards reducing pesticides, reforming the approval procedure and banning Glyphosate, a potent herbicide that is possibly carcinogenic to humans (WHO). Had been extended by 18 months in June 2016.

## SUSTAINABLE DEVELOPMENT - GARDEN OF FLOATING SANITATION



The companies Aquatiris and Aquashell respectively specialized in the phyto-purification and in the construction of floating houses have set up a system of phyto-purification for the floating habitats and for the flood zones. Phyto-purification is a non-collective sewage treatment system, in which plants known for their purification capacity act as a filter. This prototype, called "Floating Phyto" was installed on a houseboat in Brittany and its effectiveness is the subject of a one-year test. A docking station, a hose and a lifting pump allow the waste water from the barge to reach this sanitation garden. Originally, phyto-purification is a system used onshore, so it has been necessary to make modifications for it to be applicable on water. This system, approved by the Ministry of Health and Environment, is carried by floats, measuring 9 square meters and the gravel used for the terrestrial system have been replaced by cork to allow it to be lighter. This floating purification plant offers various advantages such as its way of blending into the landscape or its ecological and sustainable aspect.

## HEALTH – THE PRESENCE OF ENDOCRINE DISRUPTORS IN WATER

Often pointed out in the products we use on a daily basis (such as cosmetics), endocrine disruptors still talk about them. This time it is the presence of endocrine disruptors in the water that is denounced.

It is the OGN Future Generations which will evoke this observation in a report. According to the report, more than half of the pesticides found in groundwater or streams are suspected of being endocrine disruptors. The NGO claims the presence of 50% of pesticides or degradation products that led to a non-compliance of water in 2014. Thus, tap water could contain endocrine disruptors.

This report is the result of official surveys, namely a report by the General Commissariat for Sustainable Development and the Assessment of the water quality of the consumer's tap with regard to pesticides in 2014.

These endocrine disruptors represent a real danger to health. Indeed it would have an influence on the hormonal system .. That is why on January 26 the European union will have to pronounce on a definition of the endocrine disruptors, which until now is very vague. This clarification is more than necessary to alert consumers and protect their health. France also claims the Commission's proposal because the threshold of harmfulness requested is far too high and may never be reached.



## JURISPRUDENCE

### RISKS

#### **Decision Council of State, 16 December 2016, Société Ligérienne aggregates SA, Minister for Ecology, Sustainable Development and Energy, No. 391452**

In a decision rendered on December 16, 2016, the Conseil d'Etat changed its jurisprudence on planning rules applicable to installations classified in a favorable direction to operators.

Thus, the Conseil d'État held that the objection of illegality of a planning document, invoked before the judge of full litigation against an authorization to operate a classified installation, Of the urban planning provisions reinstated as a result of this illegality.

#### **Decison of Council of State 5 Dec. 2016, req. N ° 394592**

The Council of State dismissed the actions of the commune of Lannion and several environmental associations seeking to annul the decree of 14 September 2015 authorizing the Compagnie Armoricaine de Navigation to operate for a period of 15 years the Sands limestone shells off the Côtes-d'Armor.

The Council of State defeats the applications by applying its classic case-law on the substantive nature of the modification of a project following a public inquiry. He recalled that it was open to the Government to modify the characteristics of the Armor Point concession at the end of the public inquiry, provided, on the one hand, that the economy would not be called into question Of the project and, secondly, that this change is the result of the investigation.



## **TRANSPORTATION – LOW-EMISSION VEHICLES ARE NOW REGULATED**

According to the recommendations of the Energy Act of 2015, three decrees published on Thursday 12 January in the Official Journal define "low emissions" and "very low emissions" vehicles within the meaning of the Environment Code and the road. They make it possible to identify the vehicles affected by the obligations to purchase or use own vehicles imposed on public authorities and certain private fleets by the energy transition law.

State fleets (excluding the police, gendarmerie and the army) will have to buy 50% of vehicles of this type by 2017 in their new acquisitions.

For light vehicles (less than 3.5 tonnes), the government has set the threshold of 60 grams of carbon dioxide (CO2) per kilometer.

The "very low emissions" category includes electrical and hydrogen models.

If state fleets are to comprise 50% of low emission vehicles, local authorities and public companies will have to buy 20% of their own models from now on. From 2020, renters, taxis and VTC will also have to comply with them at 10%.

The obligation to purchase 50% of clean vehicles also extends to more than 3.5 tons. This particularly affects public transport, which will now have to be able to run in an all-electric mode in urban areas with more than 250,000 inhabitants. However, generalization is not for tomorrow. Public carriers will have to confirm this 50% rule in 2020, which will cover all purchases by 2025.



## **POLLUTION – RECOURSES AGAINST ALTEO AND ITS REJECTS**

The Alteo de Gardanne alumina production plant rejects in the Calanques National Park the toxic residues of its production, also called "red mud".

Over the past 50 years, it has rejected nearly 20 million tonnes. On December 28, 2015, it had obtained by a prefectural decree a period of six years to bring its liquid discharges to standards. This decision, although disapproved of by the Minister of Ecology, was supported by Manuel Valls. Several environmental associations then filed an application for interim measures seeking



the suspension of the order. The Marseilles Administrative Court had rejected it. Although there is a reduction in the flux of metals contained in the red mud, the latter remains loaded with chemical components. Thus, a new legal action was initiated by the FNE, Surfrider Foundation Europe, the LPO and Sea Shepherd in order to obtain the annulment of the decree and the same fact the respect of the Barcelona Convention. On January 6, 2017, the Paris Administrative Court ruled in favor of the environmental associations. It requires the disclosure of the minutes of an interdepartmental meeting held on November 13, 2015, during which Manuel Valls would have required that the 6-year waiver be granted to Alteo.



## **ENERGY - THE SEVENTH EDITION OF THE BAROMETER OF ELECTRIC RENEWABLE ENTERPRISES IN FRANCE**

With the support of the European Commission, the ADEME and the Caisse des Dépôts, the Observatory of renewable energies produces and publishes the EurObserv'ER barometer every two months. Recently, Observ'ER presented the seventh edition of the Barometer of Electrical Renewable Chains in France. The barometer covers each sector of renewable energies. To summarize, the wind is rising, as well as photovoltaic and solid biomass. However, the balance sheet, although positive, remains to be qualified. For example, biogas has slowed somewhat during 2016. Moreover, although land-based wind is on the rise, this will not be enough to achieve the objectives of PEP. As for photovoltaics, the pace slowed down but stability could be envisaged. The achievement of EPP objectives remains uncertain for solid biomass also due to heavy tendering procedures. Concerning hydroelectricity, there is a potential but nothing is certain.

What to remember about this edition? First of all, renewable electricity accounts for 23% of electricity consumption in France in 2016. It is clear that renewable electricity in France is growing and is growing year after year. They are at the heart of the Energy Transition Act. This barometer is then the synthesis of a single tool, including a set of energy and industrial indicators. This barometer is a valuable tool for industry professionals.