

Climate change : the legal challenge

The « Built Environment »

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Cardiff -- September 19, 2008



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Introduction

- Communication of the European Commission:
 - ➔ « *Grasp the chance of Europe's climate change* ».
- Creation, in France in May 2007, of the Department of Ecology, Energy and Sustainable development, headed by Mr. Borloo.



Definition

- Built Environment = What the humans have changed or rearranged within the natural environment, from large-scale civic surroundings to personal places (Bartuska and Young, 1996).

→ Places like Central Park seem as natural surroundings whereas they are in fact completely artificial, *i.e.*, « built ».

Preliminary question

How has the built-environment legislation evolved?

→ Examples based on French law



There has been a three-step evolution

1. Initially, the law aimed at regulating certain activities – and the buildings in which they were conducted – in order to protect public health;
2. In a subsequent phase, the law aimed at regulating certain activities and buildings in order to better integrate these activities and buildings in the environment;
3. Now, the objective seems to be the protection of the natural environment, even at the expense of the built environment.



Three examples of these three steps

1. 1976 Act on industrial installations subject to specific rules for the protection of the environment;
2. 1983 Protection of coastal environment Act;
2000 Town Planning Act;
3. 2005 Environmental Charter;
2007 « Grenelle » of the Environment.



The « Grenelle » of the Environment (2007)

- Is there an antinomy between ecological imperatives and economic growth preservation?
 - ➔ Investing in environmental protection is « *the most profitable investment we could make today* » (President Sarkozy)
- General democratic consensus (State + Civil Society)
- Covers all the environmental themes: climate change, energy, biodiversity, natural resources, health, sustainable development or consumption, « environmental democracy ».



The « Grenelle » of the Environment

- Tackling climate change is a political priority.
- France has confirmed its goal of dividing by four its greenhouse gases between 1990 and 2050.
- Minister Borloo has submitted on June 11, 2008 the bill translating legally the conclusions of the « Grenelle » of the environment.
- Main propositions in terms of addressing climate change:
 - ➔ New isolation norms;
 - ➔ Measures in favour of rail transportation (as opposed to car and truck transportation)
 - ➔ Territorial « energy-climate » contribution: specific additional taxation of the consumption of fossil energies by 2010.



1. « Modernise the building and the town »

- The stakes:
 - The building field is the most energy-consuming sector in France: 42.5% of the total energy consumption.
 - It also discharges 123 Mt of CO² (23% of the national total).
 - Improvement in building methods could help divide by four French greenhouse gases discharges by 2050.
- ➔ Goal: reduce almost 40% of the current energy consumption.



- Measures:
 - The large-scale thermal improvement of the constructions will durably reduce the energetic expenditures, improve the purchasing power of the households and will contribute to the reduction of CO2 discharges.
 - ➔ Art. 4: « *Energy consumption of the new buildings inferior to 50 kilowathours per square meter a year* ».
 - ➔ Art. 5: « *Renovation of public buildings and social housing estates* ».
 - Fight against urban spread and the waste of energy resulting therefrom (with minimum density tresholds in certain areas).
 - ➔ Financial incentives: personal loans, tax credit...



« Mobility and transports »

- The stakes:
 - The transport sector has been responsible for a significant part of the growth of the greenhouse gases in France since 1990.
 - Its CO₂ discharges have reached 139.5 million tons in 2005 (+ 18% since 1990, first cause of CO₂ discharges).
 - Road traffic represents more than 90% of the CO₂ discharges in the transport sector.
 - Traveling by car/truck represents 83% of the movements of people and 89% of the movements of goods.
- ➔ Goal: reduce by 20% the discharges within 12 years



- **Art. 11: « the objective is to reduce the use of hydrocarbon, the discharges of greenhouse gases (-20%), (...) to increase the energetic efficiency through system of multimodal transports, favouring the rail ».**
- Transport of goods: priority of the fluvial, maritime and rail lanes (+ specific tax perceived on each kilometre by road rather than alternative transportation means)
 - Progressive extension of the rail network (high speed + new lines)
 - Improvement of the competitiveness of the French ports (« Motorways of the Sea » project)
 - Air transport: by 2020, reduction by 50% of fuel consumption, CO² discharges by passenger/km and noise pollution
 - Individual cars: reduction of CO² discharges to 130g CO²/km on average (currently: 176g CO²/km)



« Energy efficiency and carbon »

- Goals:
 - Contribute to the European goal « 3x20 in 2020 »
 - The « factor 4 » = a 3% yearly reduction to cut by four the emissions of CO² by 2050
 - Increase by an equivalent of 20 million tons of oil our non-carbon energies by 2020 (more than 20% in our total final energy consumption)



- Measures:
 - ➔ Art. 16: « *The State will contribute to incentive mechanisms to encourage the conception and of goods reducing the consumption of energy* ».
 - ➔ Art. 17: « *To widen the range of the sources of energy and bring up to at least 20% the amount of renewable energies in the final energy consumption by 2010, the State will encourage the development of the fields of renewable energies, in ecologically and economically affordable conditions* ».
- Carbon and ecological prices + edge of the « virtuous » goods over alternative goods
- The State will also favour the research effort



Conclusions / Questions

The new logic raises 3 difficulties:

- Economic rationality:
 - ➔ Cost
 - ➔ Competitiveness – national and international
- Social engineering
 - ➔ Anticipate and define the impacts of the structural reorganisation
 - ➔ How politically tolerable can it be to dictate social behaviour in areas where regulation already infringes individual liberty
- Is such logic not self-defeating if not global?
 - ➔ No loopholes in the obligations imposed is the condition of their acceptability
 - ➔ What about major polluters (China, India, Brazil, Russia...) that, for reasons linked to their economic and social priorities, do not accept to comply with the goals stated by others?



Conclusions / Questions

- Do we have the economic, juridical, social, environmental tools to evaluate :
 - ➔ the activity of the built environment ?
 - ➔ the impact on the environment itself ?
 - ➔ Ministry of the Environment's assessment tools for checking the adequation of projects with the original strategy
- Since everybody needs to accept the responsibility for environmental legislation, how to find out an enforceable regulating mode for:
 - ➔ A political consensus ?
 - ➔ A global methodology ?



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