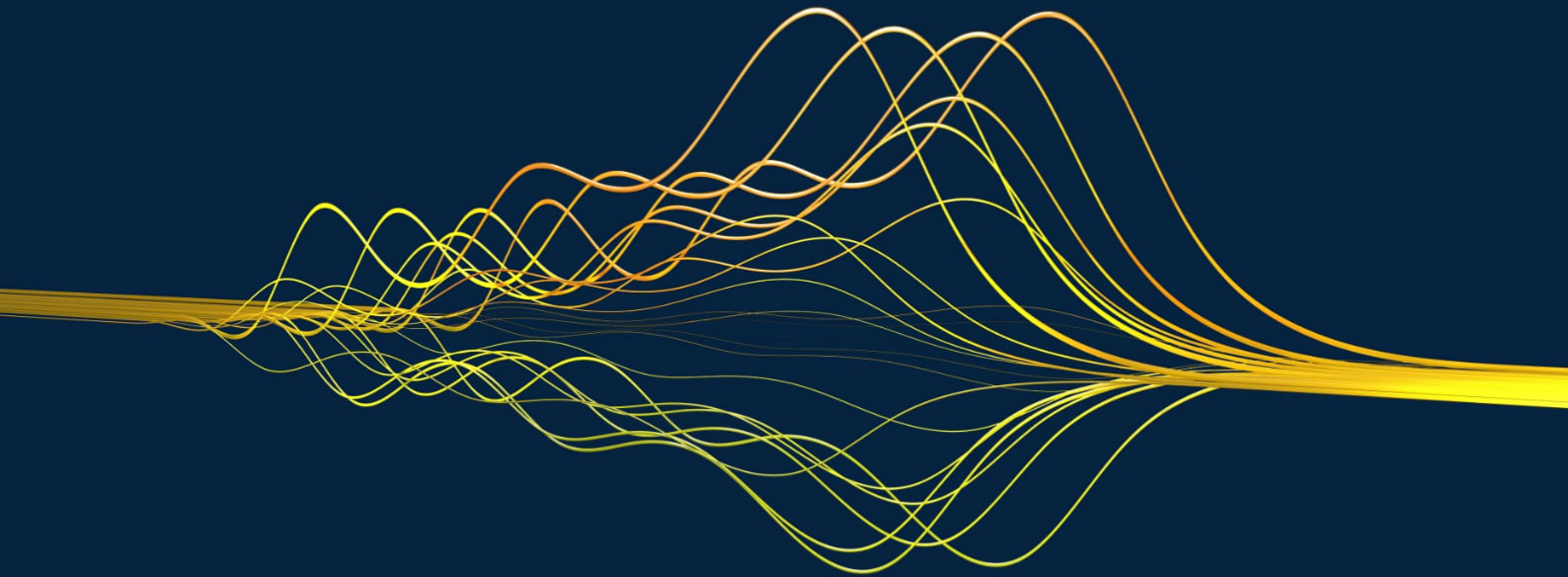


FRANCE

Global Renewable Energy Guide



About

In a world where the demands for energy are growing exponentially, those operating in the energy sector are looking to their lawyers to provide more than legal skill; they are also seeking in-depth sector know-how and innovative solutions to the challenges they face. DLA Piper's energy lawyers deliver to our clients the focused, innovative sector advice they need, wherever in the world they need it.

In a sector of relentless change, demand and complexity, private and public corporations wisely rely on experienced, global legal counsel for any matter involving energy.

We are entering an era of unprecedented demand for power generation and transmission, especially within emerging economies. This dynamic, together with the challenges we all face from climate change, is creating new opportunities for alternative energies and new technologies.

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France

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Overview

Topic	Details
Key facts	<ul style="list-style-type: none"> • Jurisdiction: Civil Law • Language: French
Population	67.8 million (as of January 1, 2022)
Gross national income (GNI) per capita	GNI Per capita: USD 46,700
Business environment	<ul style="list-style-type: none"> • 2018 Global Competitiveness Index: 15 of 138 (plus 2 rankings) • 2020 Index of Economic Freedom: 64 of 180 (no change) • 2020 Corruption Perceptions Index: 23 of 176 (no change) • 2020 UN Development Programme Human Development Index: 26 of 189 (no change)
Profile	<p>France comprises a mainland area located in western continental Europe, plus the island of Corsica in the Mediterranean Sea and several overseas territories in North and South America, the Indian Ocean and the Pacific Ocean. Covering a total of 543,965 km², mainland France is the largest country in the European Union.</p> <p>France is a semi-presidential republic with a head of government - the prime minister - appointed by the president who is the directly elected head of state. The president is elected for a five-year term and can serve for two consecutive terms if re-elected. The legislative power is in the hands of the French Senate (348 senators) and the National Assembly (577 deputies).</p>

France plays an influential global role as a permanent member of the United Nations Security Council, NATO, the G-7, the G-20, the EU, as well as other multilateral organizations.

The French economy is diversified across all sectors. Many large companies were partially or fully privatized. However, the state maintains a strong presence in some sectors, particularly energy, public transport, and defence.

Key industrial sectors in France are mechanical industries (including metallurgy and the manufacture of metal products, machinery, and equipment), agri-food industries, automotive, chemical industry, aeronautics and pharmaceutical.

Tourism accounted for 7.4% of GDP in 2018. France is ranked as the most visited country in the world with 91 million foreign visitors in 2019.

Electricity industry overview

Electricity industry overview

- In 2021, 522.9 TWh of electricity was generated in France, a 2.7% drop compared to 2019.
- Electricity generation consisted of:
 - 69% from nuclear power
 - 12% from hydropower
 - 7% from wind power
 - 7% from fossil fuels
 - 3% from solar power
 - 2% from bioenergy
- Nuclear generation and fossil fuel thermal generation were respectively 4% (18.8 TWh) and 8% (3.4 TWh) lower than in 2019. This sharp drop is in the context of the economic crisis due to the COVID-19 pandemic, which was characterized by a drop in consumption and a deterioration in the availability of nuclear power generation.
- A 0.6% growth per annum is expected in the electricity demand until 2030.

Electricity laws

- European directives 96/92/EC, 2003/54/EC and 2009/72/EC concerning common rules for the internal market in electricity were transposed into French law by:
 - law 2000-108 of February 10, 2000, on the public service of electricity
 - law 2003-8 of January 3, 2003, on gas and electricity markets and the public service of energy
 - law 2004-803 of August 9, 2004, on electricity and the public service of gas and electricity and gas companies
 - law 2006-1537 of December 7, 2006, governing the energy sector
 - ordinance 2011-504 of May 9, 2011.
- The other main legislation that applies:

- law 2010-1488 of December 7, 2010, on the new organization of the electricity market
 - law 2015-992 of August 17, 2015, on energy transition for green growth
 - law 2019-1147 of November 8, 2019, on energy and climate
 - decree 2020-456 of April 21, 2020, on the multi-year program for energy
 - law 2021-1104 of August 22, 2021, on climate and resilience
- Since 2011, the main measures relating to the energy sector are consolidated in the Energy Code.
 - EDF is the largest electricity generator and retailer in France. A former fully state-owned company, it was transformed in 2004 into a joint stock company operating under private commercial law and which is listed on the Euronext Paris stock market. In July 2022, the French State announced its decision to nationalize EDF and intends to bring it back into full state ownership by the end of October 2022.
 - The electricity regulations are implemented by the minister responsible for energy, the Directorate General for Energy and Climate (*Direction générale de l'énergie et du climat* or "DGEC") and other national authorities.
 - The minister responsible for energy is currently the Minister for Energy Transition. The minister has certain prerogatives in terms of determining electricity tariffs, control, and penalties. More specifically, said minister has a right of access to the accounts of electricity undertakings and is also vested with powers of investigation and inspection. Competence in relation to raw materials and onshore mining activities is shared between the Minister for Energy Transition and the Minister for Industry.
 - The DGEC is the ministerial department in charge of all energy matters. It determines and implements the energy policy, controls the performance of the public service missions in the energy field, and implements the state's policy on renewable and nuclear energy.
 - The energy markets are regulated by the Energy Regulation Commission (*Commission de régulation de l'énergie* or CRE). The CRE is an independent administrative authority. The CRE has both an advisory role (with powers to make proposals and give opinions) and a decision-making role (with approval and regulatory powers).

Generation

- Three companies generate almost all non-imported electricity: EDF, Engie and Uniper.
- With total installed power of 86.4 GW in mainland France by December 31, 2021, EDF has the largest generation fleet in Europe. It owns and operates 80% of all generation capacity in France.

Distribution and transmission

- Two of EDF's subsidiaries, *Réseau de transport d'électricité* (RTE) and Enedis, are respectively in charge of transmission and distribution networks. Other historical distribution companies operate regionally.
- The French electricity transmission network is the largest transmission network in Europe, with more than 100,000 km of high- and extra-high-voltage circuits and 47 cross-border lines. The transmission network is operated by RTE under a concession agreement entered into with the state due to expire on December 31, 2051.
- Local authorities own electricity distribution networks and enter into concession agreements for their development and operation as well as electricity distribution. Enedis manages most of the electricity distribution activities in France. It operates a network of 1.4 million km and distributes 95% of the volume of electricity distributed in France.
- Energy production sites with a capacity of less than 12 MW are directly connected to the grid through the entities distributing power to end-users.
- When energy production sites have a capacity of more than 12 MW, they are connected to the grid through the entity responsible for power transmission (RTE).
- Network operators must guarantee access to the public transmission and distribution networks.
- Access to the networks is ensured through standard form agreements that are entered into between the transmission and distribution network operators and the users of these networks.
- Regulated tariffs for transmission and distribution networks and for supply are set by the CRE.

Supply

- Electricity supply has been fully open to competition since July 1, 2007, when the right to choose an electricity supplier (a right previously enjoyed only by the largest electricity consumers) was extended to all customers, including residential customers.
- EDF's main competitors on the electricity supply side are Total Direct Energie, Engie, Alpiq, Uniper and Enel.
- As of March 31, 2022, alternative suppliers held a 31% market share.

Government plans

- France has an ambitious objective: to become Europe's first major decarbonized economy by achieving carbon neutrality by 2050. Reducing the impact of France's economic activity on the environment, the *France Relance* recovery plan launched in 2020 committed EUR30 billion to speed up the ecological transition. According to this plan, France will notably support the thermal renovation of buildings, the decarbonization of industry, green hydrogen (with a EUR 9 billion investment from the State by 2030) and cleaner transport. In particular, to be at the cutting-edge of renewable hydrogen production and low-carbon technologies, France will support projects led by companies across the country to encourage the emergence of French hydrogen solutions. It will set up a mechanism to support hydrogen produced by water electrolysis and will create an Important Project of Common European Interest to support industrialization in France and develop projects.
- In addition, in October 2021, the authorities announced a new investment plan called "France 2030." The plan, worth EUR30 billion until 2027, would complement *France Relance* and especially target further investment in the energy sector (EUR8 billion). Pursuant to this plan, France aims at becoming a leader in green hydrogen and plans massive investments for industrial decarbonization through nuclear power (particularly development of small modular reactors) and renewable energy.

Renewable energy overview

Summary of the renewables industry in country

- In 2021, 22,5% of electricity generated in France was from renewable sources.
- In 2020, electricity generation from renewable sources is made up of:
 - 49.5 % from hydro power
 - 32.4 % from wind power
 - 10.8 % from solar power
 - 2.9 % from biomass
 - 2.2 % from biogas
 - 1.7 % from renewable waste
 - 0.4 % from geothermal electricity
 - 0.1 % from tidal power
- In 2021, the proportion of renewable energies as a percentage of France's gross final energy consumption was 19.3%. Renewable energies in France have enjoyed significant growth since 2005, mainly because of the development of biofuels, biomass, wind power and solar energy. While the proportion of renewable energies in France's gross final energy consumption was 24.2% in 2020, thus above France's 2020 target of 23% set out by the EU Directive 2009/28/EC on the promotion of the use of energy from renewable sources, this proportion decreased below this target in 2021 due to unfavorable weather conditions for hydropower and wind power, and this occurred despite an increase in the generation fleet.
- France aims to boost the share of renewable energy to at least 33% of total energy consumption and 40% of electricity production by 2030 and these targets are set out by law.
- The government set out specific near-term targets under the 10-year energy investment plans (*programmation pluriannuelle de l'énergie* or PPE) enacted in 2020. The following targets were set for the development of renewable electricity generation:

Installed capacity as of 31 December (in GW)	2023	2028	
		Low target	High target
Onshore wind	24.1	33.2	34.7
Solar	20.1	35.1	44.0
Hydro	25.7	26.4	26.7
Offshore wind	2.4	5.2	6.2
Biomethane	0.27	0.34	0.41

Solar

- In 2021, solar electricity accounted for 3% of France's electricity production.
- At the end of March 2022, the total installed capacity was 14.6 GW.
- The government expects that photovoltaic solar will be proportionately more developed in big solar power plants than it is today, because it is the most competitive channel and big projects (over 50 MW) will progressively be developed without subsidies, which will increase the average size of the systems. The government announced that it will ensure these projects respect biodiversity and agricultural land by prioritizing the use of industrial wasteland, neglected motorway space, military areas or even the big roof areas which will gradually become mandatory.

Wind

- In 2021, wind power accounted for 7 % of France's electricity production.
- At the end of March 2022, total installed capacity was 19.2 GW.
- The government expects that wind power will be developed partly through renovation of existing systems that have reached expiration, enabling an increase in the energy produced while keeping an identical or smaller number of masts.

Hydropower

- Hydropower is the second most important form of electricity generation in France after nuclear energy. It represents 12% of the electricity generated in France and is the first source of renewable electricity, accounting for 53% of the country's total gross renewable electricity production in 2021.
- France has one of the largest hydropower plants in Europe with about more than 25.7 GW deployed on its territory. The government intends to upgrade the existing facilities enabling additional generation of 200 MW by 2023 and increasing capacity by 900 - 1200 MW by 2028.

Geothermal

- Geothermal energy is a minor source of electricity generation in France, representing only 0.1% of renewable electricity production and 2.3% of renewable energies for thermal use in 2020.
- France essentially uses low and medium power geothermal energy for heating networks.
- The high-power geothermal energy for electricity generation is currently only used in two geothermal power plants. One of these plants is in Guadeloupe and uses the volcanic heat of an active stratovolcano named "*La Grande Soufrière*."

Bio energy/Biomass

- The main sources for bio energy generation in France are (i) solid biomass (wood energy and other solid components), (ii) renewable waste (household waste, paper waste, agricultural waste) and (iii) biogas (produced by the fermentation of biological materials).
- In 2020, the total bio energy installed capacity amounted to nearly 2.2 GW (950 MW for waste incineration, 680 MW for solid biomass and 540 MW for biogas).
- The solid biomass energy is mainly used for the basic consumption of heat, essentially in the residential sector, only a minor part being used for electricity generation (8%).

Government plans

Changes for calls for tenders award winning projects

On August 30, 2022 the CRE announced amendments to the specifications of 17 past and ongoing calls for tenders, which is one of the Government incentives schemes for the renewable energy sector (see [Government incentive schemes](#)). This measure is taken in the context of the energy crisis and aims at allowing a quicker commissioning for 6 GW of award-winning projects (which relate to wind – 3.4 GW, solar – 2.7 GW, hydropower and self-consumption projects). These amendments will enable renewable electricity producers to:

- sell the electricity generated on the market for a 18-month period before locking in the FIP contracts (see [Government incentive schemes](#)) in order to benefit from high market prices and amortize part of the increase in costs;
- request an extension of the deadlines for completion of the facilities;
- increase the projects' initial capacity mentioned in the call for tenders by up to 40%.

Since September 1, 2022, the producers have been able to request from the Minister responsible for energy the application of these amendments.

Speeding up the development of renewable energy projects

A draft law, which is currently under consultation and should be discussed before the Parliament in October 2022, aims to shorten the time required for commissioning renewable energy projects, by simplifying the applicable permitting requirements. Other provisions aim to facilitate the installation of solar panels on abandoned road and highway sites or in run-down areas, such as former landfills. The Government also intends to require existing outdoor parking lots of more than 2,500 square meters to install solar canopies on at least half of their surface.

Renewables laws

Several laws relating to renewables have been enacted in France. Their main provisions are consolidated in the Energy Code.

Current issues in the renewables industry

Retroactive cut-off of solar tariffs

- In 2020, the government decided to reconsider the FIT rates for power purchase agreements (PPAs) entered into prior to a revision of the support scheme which occurred in 2011, based on their alleged excessive profitability. Accordingly, the 2021 Finance Law provided for the reduction of the amount of the FITs of these PPAs aimed at limiting the projects to a reasonable return on capital. The reduction of the FIT is intended to be applied to all projects with an installed capacity of more than 250 KW, irrespective of the technology used (photovoltaic or thermodynamic). The reduction affects 436 facilities. The average reduction of the tariff is 47%, while 4% of the projects would suffer a 95% reduction. Broadly speaking, for ground-mounted solar projects located in mainland France, the FIT will be reduced from EUR 570 per MWh to EUR 30 per MWh. The minimum FIT will be in the range of EUR 18 to EUR 50 per MWh, and the average FIT will be around EUR 30 per MWh.
- The 2021 Finance Law provides, in addition, for a safeguard mechanism allowing producers to request the CRE to grant a FIT higher than that which has been notified to them. This mechanism is available to producers who can demonstrate that the revised FIT is likely to endanger their economic viability. Producers will need to show that all available steps have been taken to mitigate the financial impact, including seeking support from their direct and indirect shareholders. Producers were required to submit requests

for the safeguard mechanisms to be applied within three months of being notified of the new FIT. By 16 December 2021, 320 such requests had been submitted to the CRE. This means that 73% of the producers impacted by the measures took the position that the revised FIT are likely to endanger their economic viability. Once a request for the safeguard mechanism has been registered by the CRE, the application of the new FIT is suspended for a maximum period of 16 months. The CRE has 12 months to evaluate the request and make a proposal to the Ministers of Energy and Budget. If the producer's request is accepted, a ministerial order, adopted within one month after the CRE's proposal, will set out the new level of the FIT, its effective date and, as the case may be, the new duration of the PPA. If the request for the implementation of the safeguard mechanism is rejected, the revised FIT will apply retrospectively to the date set out in the ministerial order establishing the revised FIT. Given the timelines described above, the decisions rejecting or approving the implementation of the safeguard mechanism are expected to be issued between the end of 2022 and the first quarter of 2023.

Repayments under the FIP contracts

- In the context of the very significant rise in prices on the electricity market, renewable energy producers which entered into FIP contracts are liable for "negative premiums" to the State, i.e. the difference between the wholesale market price and the reference price set out in their contracts which is guaranteed by the State. Some of these contracts, however, set out mechanisms for capping these repayments which could create a windfall effect for these producers. The Amending Finance Law for 2022, enacted on August 16, 2022, provides for a removal of this cap, applicable retroactively to January 1, 2022. A ministerial order will set out, on a yearly basis, a "threshold price", which will serve as a reference for either a full removal or a partial removal of the cap.

Early termination by renewable energy producers of FIT or FIP contracts

- In a deliberation of July 13, 2022, the CRE indicated that renewable energy producers holding FIT or FIP contracts for some 1.3 GW, notably wind and hydropower projects, applied for the early termination of their FIT or FIP contracts in order to be able to benefit from the high market prices. The CRE recommended that the State engage quickly in order to set out a specific taxation mechanism for these producers, since they benefitted from the State's support in order to develop these projects.

Low power generation levels

- The nuclear output was of 154.1 TWh for the first half of 2022, which is 27.6 TWh less than in the same period in 2021. This is mainly due to a lower availability of the nuclear fleet following the detection of stress corrosion indications.
- Hydroelectric generation is also below the 2021 generation level, in a context of historically low water levels as a consequence of the drought in France.

Government incentive schemes

- The main support schemes that have been implemented for the promotion of renewable energies are the feed-in tariff (FIT) and feed-in premium (FIP).
 - The FIT scheme relies on the obligation imposed on EDF, and certain other local distribution operators (LDOs), to purchase electricity generated by independent power producers from renewable sources at a preferential tariff - the FIT. This price, set by the minister of economy, is higher than the market price.
 - Under the FIP scheme, producers selling electricity from renewable sources on the market at market prices receive compensation based on an agreement to be entered into with EDF or an LDO.
- Under these schemes, the extra charges imposed on EDF or on the LDOs are compensated through a contribution (payment) toward the electricity as a public service (*contribution au service public de l'électricité* or CSPE), which is collected in full and directly from end-users.
- These support schemes are made available as follows:
 - Small-size renewable plants may be granted the possibility to enter into either FIT or FIP contracts, depending on their size, through the so-called "open-counter" procedure (*guichet ouvert*).
 - Large-scale facilities may only benefit from the FIP scheme if they are awarded such incentive in the context of calls for tenders, launched from time to time by the state.

Major projects and companies

Offshore wind

Seven offshore wind farms projects are currently under development:

Project	Company / Shareholders	Capacity	Targeted commissioning
Saint-Nazaire (Pays de la Loire Region)	EDF Renouvelables, Enbridge, CPP Investments	480 MW	2022
Saint-Brieuc (Brittany Region)	Ailes Marines (a 100% subsidiary of Iberdrola)	496 MW	2023
Courseulles-sur-Mer (Normandy Region)	EDF Renouvelables, EIH (consortium composed of Enbridge and CPP Investments), wpd	448 MW	2024
Fécamp (Normandy Region)	EDF Renouvelables, wpd, Enbridge, CPP Investments	500 MW	2023
Iles d'Yeu & Noirmoutier (Pays de la Loire Region)	EMYN (Engie, EDP Renewables, Sumitomo Corporation, La Banque des territoires - Caisse des dépôts et consignations)	496 MW	2025
Dieppe – Le Tréport (Normandy Region)	EMDT (Engie, EDP Renewables, Sumitomo Corporation, La Banque des territoires - Caisse des dépôts et consignations)	496 MW	2025
Dunkerque (Hauts-de-France Region)	EMD (EDF Renouvelables, Enbridge, RWE Renewables)	600 MW	2027

The following calls for tenders are currently ongoing:

Project	Capacity	Timeline	Type
Zone to be defined offshore Normandy region	900 – 1050 MW	Call for tenders launched in January 2021 Award projected for February 2023	Fixed
South of Brittany region	230 - 270 MW	Call for tenders launched in April 2021 Award scheduled for September 2022	Floating
Mediterranean Sea	2 wind farms each of a capacity of 230 MW – 280 MW	Call for tenders launched in March 2022 Award projected for mid-2023	Floating

The Minister for Energy Transition announced on August 9, 2022 that a call for tender for a new offshore wind farm project with a capacity of up to 1.5 GW will be launched by the end of the year in the “Centre Manche” area.

Other ongoing calls for tenders

The table below sets out the calls for tenders for solar projects launched in 2021 which are scheduled within the next years.

Energy	Project type	Capacity	Date
Solar	Ground-mounted; specific eligibility requirements as set out in the call for tenders	925 MW	9 calls for tenders to be launched between 2021 and 2026
Solar	Projects exceeding 500 kW in size deployed on greenhouses or carports	300 MW for 4 of the calls for tenders 400 MW for 9 of the calls for tenders	13 calls for tenders to be launched between 2021 and 2026
Onshore wind	Projects which are not eligible to a FIT PPA pursuant to the “open-counter” procedure	925 MW for each call for tenders	9 calls for tenders to be launched between 2021 and 2026

Solar/wind	Individual and community self-consumption projects ranging from 500 kW to 10 MW in size installed within a single building, and community projects with capacity between 500 kW and 3 MW that are spread across several buildings, all projects to be located in mainland France	50 MW for each call for tenders	13 calls for tenders to be launched between 2020 and 2026
Solar, wind or hydropower	Specific eligibility requirements as set out in the call for tenders, all projects to be located in mainland France	500 MW for each call for tenders	5 calls for tenders to be launched between 2020 and 2026
Solar	Innovative ground-mounted projects or projects deployed on greenhouses or carports, without storage	140 MW for each call for tenders	4 calls for tenders to be launched between 2020 and 2025

Major companies

EDF Renouvelables, Engie, Voltalia, Neoen and Compagnie Nationale du Rhône are among the major renewable energy producers in France.

Foreign investment ownership

- Prior authorization from the Minister of Economy is required for foreign investments if they are made in respect of certain "sensitive industries".
- Foreign investments in relation to technologies involved in renewable energy generation are subject to prior authorization from the Minister of Economy since January 1, 2022.

UNFCCC – Paris Commitments and beyond

In the Paris Agreement, the European Union and France undertook to tackle the effects of climate change induced in particular by the increase in greenhouse gas emissions (GHG). To implement this commitment, the European Union and its Member States have decided to reduce their emissions by 30% by 2030 compared to 2005 levels, with a target of 37% for France. In addition, France has set itself, through a 2015 law, an even more ambitious target of reducing its emissions by 40% in 2030 compared to 1990 levels as well as an objective of reaching carbon neutrality by 2050.

To achieve the 40% reduction target, France adopted a reduction path extending over 4 periods (2015-2018, 2019-2023, 2024-2028 and 2029-2033), each of them with an emission ceiling (called "carbon budget"), progressively decreasing. Three five-year "carbon budgets" were set out within the National Low-Carbon Strategy (*Stratégie nationale bas carbone* or SNBC), which also sets emission reduction targets for each sector.

In 2021, the Council of State, France's supreme court for administrative matters, had to rule on a case regarding the fulfilment of France's commitments to reduce GHG. Grande-Synthe, a city in the North of France, referred a matter to the Council of State after it received a refusal from the government to take additional measures as to meet the objectives of the Paris Agreement. The Council of State upheld the application, noting that (i) the decrease in emissions in 2019 was small, (ii) the decrease in 2020 was not significant because economic activity had been reduced by the COVID-19 pandemic, and (iii) compliance with the trajectory, which provides for a 12%

decrease in emissions over the period 2024-2028, does not appear to be achievable if new measures are not adopted quickly. The Council of State therefore ordered the government, on July 1, 2021, to take by March 31, 2022, additional measures to reach the reduction target of GHG by 40% by 2030.

On May 2, 2022, the Government published a summary of the response submitted to the Council of State, containing details of all measures to achieve the reduction target which have been taken since the court's 2021 decision. The Council of State's final decision on this matter is pending.

Relevant resources and references

Websites

- [French Energy Code](#)
- [Ministry for Energy Transition](#)
- [Directorate General for Energy and Climate](#)
- [Energy Regulation Commission](#)
- [Key statistics on renewable energies](#)
- [National Low-Carbon Strategy](#)
- [Overview of renewable electricity in France \(December 31, 2021\)](#)
- [Electricity report \(February 24, 2022\)](#)
- [International Energy Agency – France 2021 Energy Policy Review](#)
- [Renewable energy calls for tenders](#)

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