

# **French Administrative Supreme Court (Conseil d'Etat) Orders Change to Rules Authorizing Hydrocarbon Exploration Drilling**

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The Conseil d'Etat, in a July 17, 2013 ruling No.353589, ordered the French Prime Minister to repeal or modify within six months his June 2, 2006 Decree that authorized hydrocarbon exploration drillings on the basis of a mere declaration. France Nature Environnement(FNE), a non-governmental organization, had contested this aspect of the Decree. The Conseil's order is problematic for exploration and production companies currently drilling in France under authority of declarations, exposing them to potential litigation.

FNE had pointed out that deep water offshore and bedrock drilling for non-conventional hydrocarbon deposits is currently subject only to a declaration to French authorities. Considering the safety, health and the environmental risks associated with such work, FNE argued that exploration drilling should be subject to prior authorization under the Mining Code as an activity involving severe hazards for safety, health and the environment.

The Minister in charge of the Environment defended the challenged Decree, arguing that the Parliament had enacted a new Act on July 13, 2011 prohibiting the exploration and exploitation of hydrocarbons through hydraulic fracturing techniques. In his opinion, that Act's framework was sufficient to protect safety, health and the environment from all drilling activity.

The Conseil d'Etat did not share this viewpoint and ordered the Prime Minister to account for the severity of hazards and drawbacks likely to arise from exploratory drilling. Accordingly, it noted that the Decree should have made certain exploratory drilling subject to prior authorization depending on the assessment of the potential impact on the environment. The Conseil's order will likely force French authorities to accelerate Mining Code reform, which has been anticipated for many years.

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