

Press release

5G

The Conseil d'Etat rejects all of the appeals filed against Arcep decisions regarding the assignment procedure for the 3.5 GHz band

Paris, Tuesday, 12 October 2021

In November 2020 and May 2021, two environmental protection associations and several members of the public requested that the Conseil d'Etat, France's highest administrative court, annul every decision that Arcep adopted as part of the procedure for assigning 3.5 GHz band frequencies (the "core" 5G band) in Metropolitan France.

These were decisions on the outcomes of the spectrum assignment procedure, and the licences awarded as a result to the country's four mobile network operators: Bouygues, Free, Orange and SFR.

In particular, the Conseil d'Etat ruled that the Authority's decisions of 31 March 2020 and 20 October 2020, regarding the outcomes of the procedure, constituted preparatory measures that were not subject to referral to a court for abuse of power, and thus rejected the appeals against these decisions, ruling them inadmissible.

Regarding the principles of precautionary action, protection of human health and public participation, the Conseil d'Etat upheld the procedure's validity

It ruled, notably, that the frequency licences awarded by Arcep did not constitute "plans and programmes" within the meaning of the Directive of the European Parliament and Council¹, and were thus not subject to an obligation of prior environmental assessment.

This Conseil d'Etat decision is in line with the one it took on 31 December 2020 regarding the legality of the Order of 31 December 2019, setting the rules for the procedure.

The Conseil d'Etat decision brings all litigation on the matter to a close, and confirms the frequencies' definitive assignment

Arcep welcomes the Conseil d'Etat decision. It upholds the assignment procedure for 3.5 GHz band frequencies, and the licences to use this band awarded to the four mobile operators in Metropolitan France. It thus puts an end to all the disputes regarding said procedure.

Associated documents:

- [The Conseil d'Etat decision](#)
- [The Conseil d'Etat decision of December 2020](#)
- [Assignment procedure for 3.4 – 3.8 GHz band frequencies in Metropolitan France](#)

Arcep at a glance





The Regulatory Authority for Electronic Communications, Postal Affairs and Print Media Distribution (Arcep), a neutral and expert arbitrator with the status of independent administrative authority (IAA), is the architect and guardian of internet, fixed and mobile telecoms and postal networks in France

¹ Directive of 27 June 2001

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