

Press release

OPTICAL FIBRE

The Conseil d'État validates the Arcep decision imposing a penalty on Orange for failing to meet its "AMII area" rollout commitments

Paris, 31 October 2024

On 7 November 2023, having ascertained Orange's failure to comply with the first of its fibre rollout commitment deadlines (made in 2018) in those municipalities in France where the Government had issued a call for investment letters of intent – referred to as "zones AMII" – Arcep's Restricted (aka Sanctioning) Body imposed a [financial penalty of](#) 26 million euros on the carrier. In its Decision of 28 October 2024, the Conseil d'État (Council of State) rejected the appeal that Orange filed against the penalty decision from Arcep's Restricted Body. Arcep welcomes this decision from the Conseil d'État, which supports the commitment control analysis that the Authority conducted on Orange.

The Conseil d'État validates the penalty decision by the Authority's Restricted Body

In particular, the Conseil d'État issued a reminder that, *"the commitments made by the applicant company, which pertained not to an estimated number of residential and business premises based on assessments or forecasts, but to providing coverage to all existing residential and business premises in the designated municipalities, for which it provided the list [...] and which was accepted by Ministerial decision, were sufficiently clear that it was reasonable to foresee that disregarding them was liable to be penalised."*

The Conseil d'État also concluded that *"given the gravity of the failure to comply [...] when the commitments made were sufficiently clear for the company Orange to be able to fully appreciate the consequences of failing to meet them for operators providing electronic communication services and for end users, and given the reduction of the pace of meeting the commitments before and during the deadline extension granted in the notice to comply, the amount of the financial penalty of 26 million euros imposed on the company Orange does not seem disproportionate"*.

Background on the appeal filed by Orange

In 2018, Orange made a series of legally binding commitments to provide fibre to the home (**FttH**) coverage in around 3,000 municipalities in France where the Government had issued a call for investment letters of intent (called "zones AMII" in French). On 31 December 2020¹, which was the first deadline set for these commitments, 100% of residential and commercial buildings were to have been passed for fibre or made eligible for fibre access upon request, with a maximum 8% of these residential and business premises being eligible for fibre upon request (except for those premises for which a refusal was made by the concerned owners or co-owners).

On the basis of Article L. 36-11 of the French Postal and Electronic Communications Code (**CPCE**), the Arcep body responsible for settling disputes, legal proceedings and investigations (**RDPI**) had ascertained that Orange had missed the first deadline stipulated in its commitments, and on 17 March 2022 had issued the operator with a formal notice to comply with those commitments by 30 September 2022².

Orange had contested this Decision to the Conseil d'État, which had rejected this appeal and upheld Arcep's Decision of formal notice in a ruling dated 21 April 2023³.

¹ Deadline postponed to 14 April 2021 pursuant to [Order No. 2020-306 of 25 March 2020 on prolonging deadlines expired during the Covid-19 crisis and adapting procedures during this same period](#)

² [Arcep RDPI Decision No. 2022-0573-RDPI of 17 March 2022 issuing Orange with a formal notice to comply with the commitments it made, pursuant to CPCE Article L. 33-13 and accepted by the Decree of 26 July 2018](#)

³ [Arcep press release of 24 April 2023: "Preliminary ruling on constitutionality raised by Orange"](#)

On 6 July 2023, Arcep's "RDPI" body ascertained that Orange had failed to comply with the Decision of formal notice. It therefore notified its complaints to the operator and forwarded the dossier to the Arcep Restricted Body responsible for ruling on penalties.

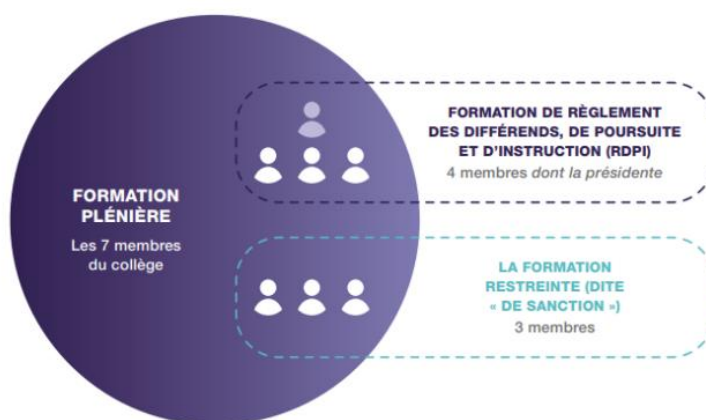
Having ascertained Orange's failure to meet the first deadline for its FttH rollout commitments in "AMII" areas, which it had been formally notified to meet by 30 September 2022, the Arcep Restricted Body imposed a financial penalty of 26 million euros on the carrier.

Le fonctionnement du Collège de l'Arcep

Les différentes compétences de l'Arcep sont exercées au sein de trois formations distinctes de son collège :

- la formation plénière qui rassemble les sept membres du collège ;
- la formation de règlement des différends, de poursuite et d'instruction (dite « RDPI ») composée de quatre des sept membres du collège (dont le président) qui a la responsabilité d'ouvrir une procédure d'instruction préalable, mettre en demeure, notifier les griefs et de se prononcer en règlement de différend ;
- la formation restreinte (dite « de sanction »), composée des trois autres membres du collège, chargée de prononcer (ou non) une sanction.

LE COLLÈGE DE L'ARCEP



Associated documents

- [Conseil d'Etat decision](#)
- [Press release of 8 November 2023 : "Arcep imposes penalties on Orange for failing to meet the first deadline of its "AMII area" rollout commitments"](#)

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 communications, postal networks and press distribution in France.