

Translation by next-up.org (France)

No. 2491

NATIONAL ASSEMBLY

Constitution of 4th October 1958

Twelfth Legislature

Registered in the Precedence of the Assembly 13th July 2005

PROPOSED LAW

*Related to the reduction of public health risks from
mobile phone installations and apparatus,*

(Sent to the commission for cultural, family and social affairs in default of the constitution of a special commission in the light of delays foreseen by articles 30 and 31 of the Regulations)

Presented by

MM. JEAN-PIERRE BRARD, CHRISTIAN DECOCQ, JOËL GIRAUD, PIERRE GOLDBERG,
Mme NATHALIE KOSCIUSKO-MORIZET, MM. MAURICE LEROY, NICOLAS PERRUCHOT et
Mme CHANTAL ROBIN-RODRIGO

Members of Parliament.

EXPLANATION OF MOTIVES

LADIES AND GENTLEMEN

Mobile telephony is a recent technology: the first licenses were awarded in 1991 and its real development can be dated from the end of the 90s. This development, supported by very aggressive promotional campaigns, notably aimed at young consumers, has been extremely rapid since, today, it is estimated that some 40 million French men and women are equipped with a mobile.

The basic technology, terrestrially broadcast, takes effect through the creation of a network – one for each operator – of transmitting and receiving antennas which have invaded our roofs and more, our countryside and our villages. Today the official figures are in the order of between 35,000 and 40,000 base stations. It seems however that this figure is a serious under estimate. These installations have often been, in the name of efficiency and cost reduction, implanted without taking the least account of environmental constraints. Too many people have thus seen the erection of pylons from a few meters to dozens of meters from their windows and terraces. . . for others, veritable small industrial sites are over their heads

All this has been authorised by a set of regulations which constrains little, which do not truly take account of the health aspects in the documentation about mobile telephones. Thus the decree of 3rd May 2002, which defines the value limits for public exposure has been strictly calculated based on a European recommendation, itself strongly criticised, on health grounds, by the European Parliament (Tamino Report, 1999).

The objections of those living nearby have become increasingly numerous, often leaving mayors in the front line, without giving them the tools to intervene usefully. As a result, each local representative acts, in response to his conscience, based on their state of knowledge . . . conflicting choices are translated, in fact, into an unequal treatment for citizens. Thus Parisians benefit from the application of a charter which fixes exposure value limits much lower than those to which other French citizens can be exposed. Only a national law can therefore re-establish equality between the citizens of our country.

These disputes by citizens put health problems increasingly to the forefront and request that the development of mobile telephony might be made to respect their lifestyle and health.

The objective of this proposed law is to take account of all the dimensions of the complex documentation which presents at the same time, questions linked to the defence of the countryside environment , the problems of democratic citizens, of public health and which are also of interest to those living near antennas as well as to users of mobile phones. It therefore concerns a vast and varied domain such as urbanisation, co-ownership, telecommunications and above all, health. The urban aspects of this law will take account of three dimensions: the necessary defence of the countryside environment, the powers of locally elected representatives and the problems of information and transparency.

The visual pollution generated by the proximity of a certain number of mobile telephone relay antennas, installed in violation of a minimum respect for the conditions of life of those living nearby, is one of the essential dimensions of the problem. Setting aside the existence of the worrying uncertainties of health consequences, there remains a real aesthetic problem. When you choose the place where you are going to live, the things that you see through the windows and from the terrace are a determining element. All attacks on this environment thus become an attack on the quality of life and the well being of the individual. It is a question of an attack of the most serious kind on the daily life of each person, at the heart of his home, that is to say on his most intimate life, that is to say at the same time his refuge, the place where he expects to find peace and serenity.

To that it is useful to add that the existence of such installations in proximity to a property or to an apartment weigh with evident immediate effect on the financial valuation of personal wealth. That is to say, not only are those in the neighbourhood subject to daily effects but that an added effect is that they are unable to resell so as to move further away, unless they accept a substantial financial loss.

It is worth remembering that France is a signatory to the European Convention for the Countryside, signed in Florence on the 20th October 2000 by the 18 member states of the Council of Europe. This convention stipulates that *“the countryside participates in an important way in cultural, ecological, environmental and social plans . . . it is an important element in the quality of life for urban and countryside populations, in high quality urban environments, in sites of special interest as well as in those of daily life”*.

The same text adds that, *“the essential element of individual and social well being, its protection, its management and its organisation imply rights and responsibilities for everyone”*. It recalls, amongst other things, that, *“the countryside must not be subject as it has been possible to make it in the past, to the exclusive works of an elite and of experts”*.

The law must permit strict respect for this convention. It already exists, certainly, in the actual regulations, which are concerned with the defence of our environment. Besides the guidelines relating to classified, protected sites and others, a guideline which governs the activities of mobile telephones touches on concerns about the protection of the environment:

- Article 45-1 of the code for Post and Telecommunications states, for its part, that the installation of infrastructure and equipment must be undertaken with respect for the environment, the aesthetic quality of locations and in the least damaging conditions for private property and the public domain.

Manifestly, these guidelines are insufficiently precise or insufficiently restrictive and allow for a lax interpretation.

The redefinition of urban regulations to which mobile telephone base stations are subject, must allow the correct interpretation to be extracted from this set of regulations and must provide for areas where resides a legal recourse, for neighbours of antennas as well as for local representatives, an exceptional recourse.

The actual procedure for administrative authorisation is manifestly too slight. It is why we are proposing the return of the traditional route for building permits. The latter must be obligatory whatever the height and characteristics of the pylons and antennas, whether they concern a new installation or the modification of an existing site . . .

This return to a normal administrative procedure is justified amongst other things by the prerogatives and responsibilities of mayors finding themselves addressed by that which concerns the security of their administrative area, including the security of public health. Now, the question of public health is without doubt the most serious aspect of this documentation, that which necessitates the most urgent measures. Numerous neighbours of relay antennas complain of health problems appearing from the moment when the mobile telephone relay antennas were implanted near to their house or to their place of work. . . Parents worry to see antennas implanted near to schools or near to their children's nurseries.

These anxieties draw on the results of a certain number of research studies which bear on the effects of non-ionising radiation on health, whether it is a question of low or high frequencies. The specificity of the waves radiated by mobile telephony is based, in fact, on a combination between high and extremely low frequencies. Now, extremely low frequencies (up to 300 Hz) have been classified in June 2002, after a good number of years of debate, in the category of *“potentially carcinogenic”* by the WHO.

It is true that official reports do not shrink from recognising the existence of a risk for those living near to antennas. They are already much more prudent about the effects of the mobile itself. Above all, besides these official reports, other publications reveal results and analyses of much more concern. The most recent scientific results seem, alas, to give them cause. Concerning those living nearby to antennas, one study carried out at the request of the Dutch government discovered anomalies in human organisms after a short exposure (3/4 of an hour) to a weak magnetic field (0.7 volts / metre), these effects were even more rapid and manifest for the frequencies used by the Universal Mobile Telephone System (UMTS). More recently, a Swedish study carried out within the framework of a vast enquiry led by the World Health Organisation (WHO) showed that from the age of 10 the use of mobile phones multiplied by four, the risks of tumours in the auditory nerves. More recently still, the results of the European REFLEX research programme (12 teams of researchers in 7 European countries) confirmed the effects of mobile telephone waves on the structure of DNA. To all this is added the health enquiry led by some German doctors around a base station which concluded that there was a prevalence of cancer cases around this station. These are the four studies which have informed the nature of the advice and surveillance, put in place by the British government and presided over by Professor Stewart, which encouraged the British authorities to apply the principle of precaution in relation to users of mobiles, notably the youngest, and in relation to those living near to antennas.

One finds oneself, in effect, clearly in the context where the principle of precaution must be applied: There is a debate at the heart of the scientific community, it is the responsibility of the elected representatives of the nation not to wait for scientific certainty before taking measures to protect people, as we are invited by the Charter for the Environment, inscribed within our Constitution, which specifies, in article 1: *“Everyone has the right to live in a balanced environment which is favourable to their health”*.

It is quite obviously not a question of renouncing the use of mobile telephones. It is a question of avoiding their uncontrolled development and making the next big public health problem of them and once more not being able to express regret for failing to have been sufficiently attentive to the signals given by a certain number of scientists and to the complaints of citizens.

Several specific elements in this documentation must dictate our conduct here:

- The number of users of mobiles is more and more important and the population concerned more and more young. The attempts to commercialise mobiles, in France, specifically aims at young children from 4 to 8 years which shows where a too lax policy can lead;
-
- Take account of the configuration of the networks in use, it is an extremely important part of the population which is affected by or is going to be affected by the magnetic fields emitted by relay antennas. If there is a health problem, it thus risks being of unequal extent ;
-
- This population - on which this risk is imposed without having asked their opinion about it – is chronically subject to the beams from the antennas. Now a certain number of research studies have produced evidence on the cumulative effects of electromagnetic radiation including the effect of exposure to weak emissions;
-
- This population is touched at its heart, even in their own homes, that is to say, in their personal retreat where everyone can claim the right to get in touch with their inner self. There is an attack on the fundamental right of everyone to well being and health.
-

Such is the objective of the proposed law which we lay before you for adoption.

- PROPOSED LAW -

FIRST TITLE

ABOUT THE LIMITATION OF ELECTROMAGNETIC EMISSIONS

Article 1

The top level of people exposure to electromagnetic fields broadcast by equipments used by telecom networks or by radio-electric installations is set 0.6 volt a meter.

SECOND TITLE

ABOUT MOBILE TELEPHONY RELAY-ANTENNAS

Article 2

It is forbidden to install the equipments that are mentioned in article 1 no less than 300 meters far from houses or sensitive buildings. In urban areas and thanks to authorisation, it is forbidden to install them no less than 100 meters far from a sensible building. The buildings meant to be sensitive are especially schools and school-related buildings, nursery schools, hospitals and old people's home.

Article 3

Every new technological application that can broadcast non ionizing radiations must receive full attention concerning its consequences on human health and environment. At first, it must be put up.

Article 4

After three years of operation, a report will be given to the Parliament about the consequences of mobile telephony networks called "of third generation" (UMTS) on human health and environment.

Article 5

Studies mentioned in above articles are made by scientific teams free from the companies which are interested in the creation of these new technologies. To the members of these teams, it means that there won't be any studies or missions before 10 years in the context of contracts partly or totally paid by at least one of these companies. It also means that there won't be any participation in actions of communication paid in the same way and within the same period.

Article 6

The French agency of sanitary health will be seized by the mayor or by a health professional after having checked their opinion upon the competent commissions mentioned in article 9 as far as nuisances or pathologies linked to the functioning of mentioned equipments in article 1 can be observed.

Article 7

The frequency national Agency makes it public and gives every mayor each year a map of his town showing the places and the fields of emission of equipments described in article 1. An appendix will be added to this map, which will confirm the date of installation, the technical and physical characteristics of the equipments as well as the date of the latest technical controls.

Article 8

Towns or at least their common-interest groups define one or several areas in which the installation of the mentioned equipments are allowed. Previously, people will be questioned about it as well as associations protecting the environment and commissions mentioned in article 9. This topic can be reviewed according to the same methods and at least every three years.

Article 9

Commissions that are meant to follow the project are installed at local and departmental levels. They must be constituted by elected persons from the concerned associations, with representatives of network operators and with representatives of associations for the protection of the environment and national health.

These commissions are meant to follow and evaluate the rules related to the equipments mentioned in article 1, to stipulate and plan annual campaigns concerning the measure of the intensity of the electromagnetic waves in places mentioned in article 2. Their reports and opinions will be presented to the deliberative community assemblies or to the groups of towns related to.

Article 10

Before any installation or modification of the equipment mentioned in article 1 about a renting house-building, the lodgers will be sent a letter about the project. Missing the consultation means that the lease between one or several building landowners and the network operator will be cancelled.

Article 11

A planning permission is compulsory to be allowed to set up the equipment mentioned in article 1.

Article 12

The lease duration related to the equipment as mentioned in article 1 cannot exceed three renewable years. The lease has to confirm the precise area of the equipment as well as its technical and physical characteristics.

Article 13

In co-renting buildings the final decision to renew or to modify the lease related to the equipment mentioned in article 1 is submitted to the rule of unanimity.

Article 14

The presence in a building of the equipment mentioned in article 1 has to be mentioned by the landowner if the building is to be sold or rent, as a whole or as a part of it.

THIRD TITLE

ABOUT MOBILE PHONES

Article 15

It is compulsory to write in French the debit of specific absorption (DSA) with an obvious and clear mention of it, inciting the user to limit the duration of using the equipment regarding sanitary problems on every mobile phone which is meant to be sold.

Article 16

The advertising, the directions for use and the mobile phones packing must show an obvious and clear information concerning the risks related to an intense use of them.

Article 17

Any advertisement mentioning unsuitable or prohibited advice against mobile phone is forbidden.

Article 18

The Department of Social Security as well as the Department of Education regularly organize campaigns for information concerning health risks related to the use of mobile phone and especially on children's health.

Article 19

The use of mobile phones is forbidden to pupils in primary schools and high schools.

Article 20

It is totally forbidden to make, to import or to sell mobile phones that are especially made or adapted to young children' use.