

## 1 The law on transparency and security in the nuclear field

The law of 13 June 2006 on transparency and security in the nuclear field, known as the “TSN law”, constitutes an in-depth overhaul of the legislative framework applicable to nuclear activities and their supervision. It creates the Nuclear Safety Authority, an independent administrative authority in charge of supervising nuclear safety and radiation protection and responsible for informing the public on these subjects. It contains significant advances in terms of transparency.

### The long march towards independence and transparency

The adoption of the TSN law is the culmination of a movement that started more than ten years ago and in which Parliament played a key role.

In the early 1990s, some members of Parliament put forward the idea of overhauling legislation and tabled a number of bills.

In 1998, Jean-Yves Le Déaut, the Member for Meurthe-et-Moselle and Chairman of the Parliamentary office for the assessment of scientific and technological options, presented the situation in his report to the Government entitled “The French system for radiation protection, supervision and nuclear safety”, which also carried the evocative sub-title “The long march towards independence and transparency”. The legislative basis for supervising the safety of the major nuclear installations, consisting of several articles dating back to 1961, was out of date and incomplete and there was inadequate interfacing between supervision of nuclear safety and that of radiation protection. Having said this, supervision in France was on a par with the best international practices and transparency had made significant progress over the years. The report already proposed creating an independent administrative authority in charge of supervising nuclear safety and radiation protection.

On the basis of this report, the Government in 1999 envisaged creating an independent administrative authority of this type and then abandoned the idea. In 2002 it created the General directorate for nuclear safety and radiation protection (DGSNR) and the Institute for radiation protection and nuclear safety (IRSN), in charge of supervisory and expert appraisal duties respectively. At the same time, it tabled the TSN bill before the National Assembly in 2001 and trans-

ferred it to the Senate after the legislative elections of 2002.

In early 2006, following the wish expressed by the President of the Republic, the Government introduced two new points into the TSN bill: the creation of the Nuclear Safety Authority, an independent administrative authority, and significant strengthening of the tools for supervising the safety of the major nuclear installations.

The TSN bill was adopted by the Senate after its second reading on 1 June 2006 and was promulgated on 13 June 2006.

The law in particular takes account of the lessons learned from examination of foreign legislation. French legislation is now among the most complete in the world.

It provides for about fifteen implementing decrees, most issued after an opinion by the Conseil d'Etat, the highest administrative authority in France. ASN has begun drafting some of these decrees, prior to submitting proposals to the Government.

### The main principles applicable to nuclear activities

The law confirms that the four main environmental protection principles apply to nuclear activities: principles of prevention, precaution, polluter-pays and participation. In this respect it applies the Environment Charter, which is today an integral part of the Constitution. It also reaffirms the three leading principles of radiation protection, which are justification, optimisation and limitation.

It lays down the fundamental principle of the prime responsibility of the licensee for the day to day safety of its installation, as enshrined in international law, and essential to ensuring that each party, both licensee and supervisory authority, is fully aware of its responsibilities.

These leading principles, as well as the obligation for supervision and information of the public, also apply to defence-related activities and installations. These are the subject of specific regulations which take account of the requirements specific to the defence field.

### The Nuclear Safety Authority

The law gives the Nuclear Safety Authority (ASN) the status of an independent administra-



A meeting of parliamentarians at the National Assembly, Mrs Nelly Olin, the minister of Ecology and Sustainable Development, presents the TSN law to Parliament

tive authority which, within the State, is in charge of supervising nuclear safety and radiation protection.

ASN is run by a board of five commissioners appointed for six years, three by the President of the Republic and one by the President of each parliamentary assembly. These commissioners may only be revoked in exceptional circumstances and are bound by a duty of impartiality. ASN reports to Parliament, to which it transmits its annual report.

By decree or by order, the Government defines the general regulations applying to nuclear activities. It takes a limited number of key individual decisions, concerning the major nuclear installations, in particular creation and dismantling authorisations. It is responsible for civil protection in emergency situations.

ASN is in charge of supervising nuclear activities, both within the major nuclear installations (“basic nuclear installations”) and “small-scale” nuclear installations (industrial installations, research laboratories and medical installations using ionising radiation).

ASN has to be consulted about the drafts of regulatory decrees and orders issued by the Government and may itself issue regulatory decisions to clarify these decrees and orders. It takes individual decisions concerning nuclear ac-

tivities (for example a basic nuclear installation authorisation decree, authorisation to use radioactive material transport packaging, authorisation to use a radioactive source, etc.) and may impose individual requirements on the licensees. It is responsible for inspection and may pronounce sanctions, in particular suspension of operation of an installation. It organises a permanent watch on radiation protection (surveillance of the environment, of worker exposure, etc.) and assists the Government in the event of an emergency.

ASN is responsible for contributing to informing the public about nuclear safety and radiation protection.

### **Transparency in nuclear safety and radiation protection**

The aim of the TSN law is to give greater substance to this notion.

The right of access to information about nuclear safety and radiation protection in the possession of the public authorities already exists by virtue of the Environment Code. The law takes this requirement further by creating a right of access by the public to information in the possession of basic nuclear installation licensees and those in charge of transporting radioactive materials. This major innovation sets nuclear activity apart from

other industrial activities that are not subject to such an obligation of transparency.

By giving them a legal basis, the law consolidates the local information committees (CLIs) which were set up over the years around the major nuclear installations, in application of a 1981 circular from the Prime Minister. It endorses the involvement of the local authorities, particularly the General Councils, in their working. It gives them the right to create an association and maintains their funding. It lays the foundations for a CLI federation, to give a solid base for the national association of local information committees.

The law creates a High Committee for transparency and information on nuclear safety, which will be taking over from the High council for nuclear safety and information. The High Committee is a forum for debate and takes part in informing the public nationwide. Its composition is open and its members in particular include representatives of parliament, of CLIs, associations and trade unions, as well as qualified personalities.

### **Overhaul of the legislation concerning the safety of major nuclear installations and radioactive material transports**

The law more clearly defines the interests to be protected, by creating an integrated system based on a broader view of nuclear safety, taking in

both prevention of accidents and protection of human health and the environment.

It specifies the pre-conditions for issue of an authorisation for creation or dismantling of a basic nuclear installation, ensuring that adequate importance is given to prevention and limitation measures, in accordance with the Environment Charter. It in particular notes that in this field as in any other, zero risk does not exist, and that the purpose of the steps taken is to prevent and limit risks on the basis of current scientific and technical know-how.

The law gives ASN powers to impose requirements on the licensee for the entire life of the installation, including during dismantling, for example to ask for correction of an anomaly or prevent a particular identified risk. It gives a legal basis for the periodic safety reviews and for management of urban development around nuclear sites.

It creates a nuclear safety inspectorate and upgrades the range of available administrative and penal sanctions against any defaulting licensees. The works inspectorate role in the nuclear power plants is entrusted to ASN personnel, under the authority of the Ministry of labour.

The law also reinforces the role of the employees in risk prevention in basic nuclear installations (information of the health, safety and working conditions committees, involvement of subcontractors in these committees, etc.).