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Wind turbines and Unesco sites Evaluation criteria and administrative practices



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Introductory remarks

Under French law, the decision to classify a Unesco site has no legal effect and does not confer any special legal protection to the classified sites.

The French Environmental Code (cf. article L. 511-1) and the town planning code (cf. article R. 111-27) do not contain any special provisions protecting Unesco sites.

However, the issuance of environmental permit for the construction and operation of a wind farm is subject to an environmental impact assessment which will be closely considered by the environmental authority, including the impact of the wind farm project to the Unesco site.

Impact assessment methodology

In reviewing the applications for wind turbine permits, the licensing authority will proceed as follows :

- First step : Analysis of the environment in its original state

The authority issuing the license will be very vigilant if there is an Unesco property in the project area.

- Second step : Evaluation of whether the wind farm and the Unesco property (as well as historical protected monuments) are visible at once (co-visibility).

This assessment is based on urban planning documents, such as directives on the protection and development of the landscapes, which lay down requirements on the positioning of wind turbines.

Evaluation criteria and the administration's scope for discretion (1/3)

The impact of wind turbines on Unesco properties is evaluated according to the following cumulative criteria :

- Distance between the wind farm and the Unesco property ;
- If there is any co-visibility between the wind farm and the Unesco property.

The impact of a wind power project on an Unesco property is generally assessed in a concrete and specific manner, on a project-by-project basis.

- The distance criterion must be considered carefully : even a distance (over than 10 kms) from the Unesco property was considered as prejudicing the property.

Evaluation criteria and the administration's scope for discretion (2/3)

- The criterion of co-visibility is particularly complex to define.
 - If the wind power project and the Unesco property is partially visible at once : the permit can be delivered or refused ;
 - The co-visibility may be mitigated thanks to natural obstacles (such as wooded areas, rising terrain, etc.) or any mitigative measures proposed by the project proponent ;
 - But in any case wind turbines appear as the landmarks in the landscape.

This criterion leaves a substantial scope for discretion to the licensing authority as well as the courts.

Evaluation criteria and the administration's scope for discretion (3/3)

In order to limit the margin of discretion left to the authorities, the project proponent must carry out a thorough assessment of the visual impact of wind turbines on the Unesco property :

- Complete description of the environment in its original state ;
- Several photomontages of the proposed wind farm ;
- Recommendations in terms of landscape integration, provided in the relevant planning documents, could be taken account.

In general, more the establishment area of the wind farm has a remarkable architectural, urban and landscape ensemble, more thoroughly the landscaping study must be carried out.

Wind power projects located some 15 km off the Chartres Cathedral

The Chartres Cathedral affords many protections provided by several planning documents :

- Project of directive on protection and enhancement of landscapes (perimeter of protection of 25 km around this monument) ;
- Departmental blueprint for wind energy projects published by the Eure-et-Loir authorities (wind farms should only be licensed if it is demonstrated that wind turbines and the monument will not be visible at once within a radius of 25 km).

Several applications submitted for the construction and exploitation of wind farms have been refused by authorities due to the fact that wind turbines and the Cathedral were visible at once, even though the wind power project was located some 15 km off or even more.

Recent decisions reached by administrative courts demonstrate that the impact of wind turbines on the Chartres Cathedral is assessed in a very rigorous way (cf. CAA Nantes, 18 December 2018, n°18NT01208 and 11 January 2019, n°17NT03863)

Wind farm project / listed as a Unesco World Heritage, Vineyard of Champagne

This particular wind farm project is located some 10 to 18 km off the Vineyard of Champagne

According to the authorities, this project could be a major threat to the immediate vicinity of the listed site.

The administrative court (of first instance) has recently rescinded the administrative authority's decision (TA Châlons-en-Champagne, 25 January 2019, n°1700657 et 1700658) :

- The wind farm project is not located on the hillsides of the border of the listed site and would not be a major threat to the immediate vicinity of this site ;
- There are many others wind farms in this area ;
- In the foreground, the hillsides of the border presents an outstanding landscape interest. On the contrary, the flat landscape in the background is shaped by intensive agricultural utilisation.

Wind farm project / Unesco site and historical monuments protected by French law

In the project area, there are many historical monuments (17 over an area of 10 km) and a Unesco World Heritage site, Basilica of Neuvy Saint-Sépulchre

Authority refused to issue the license to the wind farm.

The administrative courts (first instance, its decision was upheld on appeal) have rescinded the administrative authority's decision. Interestingly, the latest decision (CAA Bordeaux, 8 February 2018, n°16BX02973, 16BX03065, 16BX03352) notes that :

- If wind turbines and others protected monuments located in a radius of 2-3 km are partially visible at once, many photomontages of the proposed wind farm demonstrate that the impact of the project on those monuments and listed site was to be very low ;
- The Court has taken account the distance between the wind farm project and the protected and listed monuments and the fact that visual impact can be mitigated thanks to natural obstacles.

Recent change in French Government's position regarding the setting of wind turbines within the perimeter of Unesco sites (1/2)

Last November 2018, in reply to a parliamentary question, the Minister of energy transition pointed out that :

- The installation of wind turbines is normally not incompatible with the inscription of a property on the World Heritage List
- However, the operation of a wind farm should be compatible with the Unesco World Heritage site - such compatibility must be demonstrated (which is not provided by the law).

Recent change in French Government's position regarding the setting of wind turbines within the perimeter of Unesco sites (2/3)

- The environmental impact assessment must include an analysis of the effect of the project on the Unesco site
 - The Environmental Code does not require such analysis

- For outstanding universal value properties, the Minister recommends the creation of a landscape's area of influence around those properties, which can result in :
 - **Greater vigilance areas** : the development of wind power will be considered very carefully on the preservation of their outstanding value properties

 - **Wind turbines exclusion zone** (which is also not provided by law).

In conclusion

Unesco World Heritage list has not been designed to impede the development of wind energy.

Nevertheless this recent change in French ministry's position on this matter there is definitely a current tendency to the « sanctuarization » of Unesco properties in France.

This is particularly true for outstanding value properties, such as Mont Saint-Michel and Chartres Cathedral.

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Merci pour votre attention
Vielen Dank für Ihre Aufmerksamkeit

